An act to amend add Section 47605 of 49550.6 to the Education Code, relating to charter schools: pupil nutrition.

LEGISLATIVE COUNSEL’S DIGEST

AB 1508, as amended, Bonta. Charter schools: petitions. Pupil nutrition: Breakfast After the Bell Program.

Existing law requires each school district or county superintendent of schools maintaining kindergarten or any of grades 1 to 12, inclusive, and, commencing with the 2019–20 school year, each charter school, to provide each needy pupil with one nutritionally adequate free or reduced-price meal during each schoolday. Existing law authorizes a school district or county office of education, in order to comply with that requirement, to use funds made available through any federal or state program the purpose of which includes the provision of meals to a pupil, including, among other programs, the federal School Breakfast Program.

This bill would establish the Breakfast After the Bell Program to be administered by the State Department of Education, consisting of awarding grants, contingent upon an annual appropriation by the
Legislature in the annual Budget Act, to school districts, direct-funded charter schools, and county offices of education for schoolsite breakfast after the bell programs that provide breakfast to pupils after the schoolday has begun. The bill would establish criteria for awarding grants and would require the department to collaborate with stakeholders in developing the grantmaking process. The bill would require the department to modify existing processes and systems used to collect schoolsite-level data about school nutrition programs in order to collect data about school breakfast service models at each schoolsite operating a school breakfast program.

The Charter Schools Act of 1992 provides for the establishment and operation of charter schools. The act authorizes the governing board of a school district to approve a petition for the establishment of a charter school and to act as a chartering authority. Existing law prohibits the governing board of a school district from denying a petition unless it makes written factual findings in support of one or more specific findings.

This bill would add to the list of reasons justifying denial of a charter petition that the governing board of the school district finds that the petition does not contain a clear explanation of why the proposed model cannot be accomplished within the school district structure of neighborhood public schools and that the charter school would have a negative financial, academic, or facilities impact on neighborhood public schools or the school district.


The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Across California, at least two million children live in low-income households affected by food insecurity. Food insecurity means having limited, uncertain, or inconsistent access to the quality and quantity of food necessary to live a healthy life. Having sustained access to enough food is tied to positive social, physical, and mental health outcomes.

(b) Each schoolday, two million of the state’s low-income pupils miss out on the health and academic benefits of school breakfast.
(c) Given the academic, health, and fiscal benefits of school
breakfast programs, all pupils, particularly socioeconomically
disadvantaged pupils, should have optimal access to school
breakfast programs during the schoolday.
SEC. 2. Section 49550.6 is added to the Education Code, to
read:
49550.6. (a) The Breakfast After the Bell Program is hereby
established and shall be administered by the department. Funding
for the program shall be contingent upon an annual appropriation
by the Legislature in the annual Budget Act.
(b) The objective of the program is to increase the reach and
efficiency of school breakfast programs in order to impart related
health and academic benefits to pupils, particularly
socioeconomically disadvantaged pupils.
(c) The department shall award grants under the program to
local educational agencies for programs at schoolsites within the
jurisdiction of the local educational agencies.
(d) (1) In awarding grants, the department shall give first
priority to local educational agencies that will use the funds to
start up or expand a breakfast after the bell program at a schoolsite
at which at least 60 percent of enrolled pupils are needy children.
(2) In awarding grants, the department shall give consideration
to local educational agencies that meet some or all of the following
criteria:
(A) The local educational agency will start up or expand a
breakfast after the bell program at a schoolsite at which less than
20 percent of pupils who are needy children were served by a
school breakfast program in the school year before applying for
grant funds.
(B) Upon starting up or expanding a breakfast after the bell
program at a schoolsite with a grant award, the local educational
agency agrees to operate that program for a period of at least
three years.
(C) In applying for the grant award, the local educational
agency demonstrates preparedness to implement a breakfast after
the bell program.
(e) A grant awarded under this section may be used for any
costs associated with the startup or expansion of a breakfast after
the bell program in accordance with allowable uses of the
schoolsite’s cafeteria fund.
Participation in the program shall not prohibit a schoolsite from also making breakfast available to pupils before the school day begins for a majority of pupils enrolled at the schoolsite.

The department shall collaborate with stakeholders, including, but not limited to, school food service department leadership and child nutrition advocates, in developing the grantmaking process.

To ensure accountability for the effective use of Breakfast After the Bell Program grant funds and to track improvement among schoolsites that receive grant funds relative to schoolsites that do not receive grant funds, the department shall modify existing processes and systems used to collect schoolsite-level data about school nutrition programs in order to collect data about school breakfast service models at each schoolsite operating a school breakfast program.

For purposes of this section, the following definitions apply:

(1) “Breakfast after the bell program” means a schoolsite providing a nutritionally adequate breakfast that is available to pupils after the school day has begun for a majority of pupils enrolled at the schoolsite and allowing pupils to consume that breakfast after the school day has begun for a majority of pupils enrolled at the schoolsite.

(2) “Cafeteria fund” means the nonprofit school food service account, as defined in Section 210.2 of Title 7 of the Code of Federal Regulations.

(3) “Local educational agency” means a school district, direct-funded charter school, or county office of education.

(4) “Nutritionally adequate breakfast” has the same meaning as described in subdivision (a) of Section 49553.

SECTION 1. Section 47605 of the Education Code is amended to read:

47605. (a) (1) Except as set forth in paragraph (2), a petition for the establishment of a charter school within a school district may be circulated by one or more persons seeking to establish the charter school. A petition for the establishment of a charter school shall identify a single charter school that will operate within the geographic boundaries of that school district. A charter school may propose to operate at multiple sites within the school district if each location is identified in the charter school petition. The
petition may be submitted to the governing board of the school
district for review after either of the following conditions is met:

(A) The petition is signed by a number of parents or legal
 guardians of pupils that is equivalent to at least one-half of the
number of pupils that the charter school estimates will enroll in
the charter school for its first year of operation;

(B) The petition is signed by a number of teachers that is
equivalent to at least one-half of the number of teachers that the
charter school estimates will be employed at the charter school
during its first year of operation.

(2) A petition that proposes to convert an existing public school
to a charter school that would not be eligible for a loan pursuant
to subdivision (c) of Section 41365 may be circulated by one or
more persons seeking to establish the charter school. The petition
may be submitted to the governing board of the school district for
review after the petition is signed by not less than 50 percent of
the permanent status teachers currently employed at the public
school to be converted.

(3) A petition shall include a prominent statement that a
signature on the petition means that the parent or legal guardian
is meaningfully interested in having their child or ward attend the
charter school, or in the case of a teacher's signature, means that
the teacher is meaningfully interested in teaching at the charter
school. The proposed charter shall be attached to the petition.

(4) After receiving approval of its petition, a charter school that
proposes to establish operations at one or more additional sites
shall request a material revision to its charter and shall notify the
authority that granted its charter of those additional locations. The
authority that granted its charter shall consider whether to approve
those additional locations at an open, public meeting. If the
additional locations are approved, there shall be a material revision
to the charter school's charter.

(5) A charter school that is unable to locate within the
jurisdiction of the chartering school district may establish one site
outside the boundaries of the school district, but within the county
in which that school district is located, if the school district within
the jurisdiction of which the charter school proposes to operate is
notified in advance of the charter petition approval, the county
superintendent of schools and the Superintendent are notified of
the location of the charter school before it commences operations, and either of the following circumstances exists:

(A) The school has attempted to locate a single site or facility to house the entire program, but a site or facility is unavailable in the area in which the school chooses to locate.

(B) The site is needed for temporary use during a construction or expansion project.

(6) Commencing January 1, 2003, a petition to establish a charter school shall not be approved to serve pupils in a grade level that is not served by the school district of the governing board considering the petition, unless the petition proposes to serve pupils in all of the grade levels served by that school district.

(b) No later than 30 days after receiving a petition, in accordance with subdivision (a), the governing board of the school district shall hold a public hearing on the provisions of the charter, at which time the governing board of the school district shall consider the level of support for the petition by teachers employed by the school district, other employees of the school district, and parents. Following review of the petition and the public hearing, the governing board of the school district shall either grant or deny the charter within 60 days of receipt of the petition, provided, however, that the date may be extended by an additional 30 days if both parties agree to the extension. In reviewing petitions for the establishment of charter schools pursuant to this section, the chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that the establishment of charter schools should be encouraged. The governing board of the school district shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice. The governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings:

(1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.

(2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
(3) The petition does not contain the number of signatures required by subdivision (a).

(4) The petition does not contain an affirmation of each of the conditions described in subdivision (d).

(5) The petition does not contain reasonably comprehensive descriptions of all of the following:

(A) (i) The educational program of the charter school, designed, among other things, to identify those whom the charter school is attempting to educate, what it means to be an “educated person” in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.

(ii) The annual goals for the charter school for all pupils and for each subgroup of pupils identified pursuant to Section 52052, to be achieved in the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school, and specific annual actions to achieve those goals. A charter petition may identify additional school priorities, the goals for the school priorities, and the specific annual actions to achieve those goals.

(iii) If the proposed charter school will serve high school pupils, the manner in which the charter school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable and courses approved by the University of California or the California State University as creditable under the “A to G” admissions criteria may be considered to meet college entrance requirements.

(B) The measurable pupil outcomes identified for use by the charter school. “Pupil outcomes,” for purposes of this part, means the extent to which all pupils of the charter school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the charter school’s educational program. Pupil outcomes shall include outcomes that address increases in pupil academic achievement both schoolwide and for all groups of pupils served by the charter school, as that term is defined in subparagraph (B) of paragraph (3) of subdivision (a) of Section 47607. The pupil outcomes shall align with the state priorities, as described in
subdivision (d) of Section 52060, that apply for the grade levels
served, or the nature of the program operated, by the charter school.
(C) The method by which pupil progress in meeting those pupil
outcomes is to be measured. To the extent practicable, the method
for measuring pupil outcomes for state priorities shall be consistent
with the way information is reported on a school accountability
report card.
(D) The governance structure of the charter school, including,
but not limited to, the process to be followed by the charter school
to ensure parental involvement.
(E) The qualifications to be met by individuals to be employed
by the charter school.
(F) The procedures that the charter school will follow to ensure
the health and safety of pupils and staff. These procedures shall
require all of the following:
(i) That each employee of the charter school furnish the charter
school with a criminal record summary as described in Section
44237.
(ii) The development of a school safety plan, which shall include
the safety topics listed in subparagraphs (A) to (H), inclusive, of
paragraph (2) of subdivision (a) of Section 32282 and procedures
for conducting tactical responses to criminal incidents.
(iii) That the school safety plan be reviewed and updated by
March 1 of every year by the charter school.
(G) The means by which the charter school will achieve a racial
and ethnic balance among its pupils that is reflective of the general
population residing within the territorial jurisdiction of the school
district to which the charter petition is submitted.
(H) Admission—policies—and—procedures,—consistent—with
subdivision (d).
(I) The manner in which annual, independent financial audits
shall be conducted, which shall employ generally accepted
accounting principles, and the manner in which audit exceptions
and deficiencies shall be resolved to the satisfaction of the
chartering authority.
(J) The procedures by which pupils can be suspended or expelled
from the charter school for disciplinary reasons or otherwise
involuntarily removed from the charter school for any reason.
These procedures, at a minimum, shall include an explanation of
how the charter school will comply with federal and state
constitutional, procedural, and substantive due process requirements that is consistent with all of the following:

(i) For suspensions of fewer than 10 days, provide oral or written notice of the charges against the pupil and, if the pupil denies the charges, an explanation of the evidence that supports the charges and an opportunity for the pupil to present the pupil's side of the story.

(ii) For suspensions of 10 days or more and all other expulsions for disciplinary reasons, both of the following:

(I) Provide timely, written notice of the charges against the pupil and an explanation of the pupil's basic rights.

(II) Provide a hearing adjudicated by a neutral officer within a reasonable number of days at which the pupil has a fair opportunity to present testimony, evidence, and witnesses and confront and cross-examine adverse witnesses, and at which the pupil has the right to bring legal counsel or an advocate.

(iii) Contain a clear statement that no pupil shall be involuntarily removed by the charter school for any reason unless the parent or guardian of the pupil has been provided written notice of intent to remove the pupil no less than five schooldays before the effective date of the action. The written notice shall be in the native language of the pupil or the pupil's parent or guardian or, if the pupil is a foster child or youth or a homeless child or youth, the pupil's educational rights holder, and shall inform the pupil, the pupil's parent or guardian, or the pupil's educational rights holder of the right to initiate the procedures specified in clause (ii) before the effective date of the action. If the pupil's parent, guardian, or educational rights holder initiates the procedures specified in clause (ii), the pupil shall remain enrolled and shall not be removed until the charter school issues a final decision. For purposes of this clause, "involuntarily removed" includes disenrolled, dismissed, transferred, or terminated, but does not include suspensions specified in clauses (i) and (ii).

(K) The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.

(L) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.

(M) The rights of an employee of the school district upon leaving the employment of the school district to work in a charter...
school, and of any rights of return to the school district after employment at a charter school.

(N) The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.

(O) The procedures to be used if the charter school closes. The procedures shall ensure a final audit of the charter school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of pupil records.

(P) A clear explanation of why the proposed model cannot be accomplished within the school district structure of neighborhood public schools.

(6) The petition does not contain a declaration of whether or not the charter school shall be deemed the exclusive public employer of the employees of the charter school for purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

(7) The charter school would have a negative financial, academic, or facilities impact on neighborhood public schools or the school district.

(e) (1) Charter schools shall meet all statewide standards and conduct the pupil assessments required pursuant to Section 60605 and any other statewide standards authorized in statute or pupil assessments applicable to pupils in noncharter public schools.

(2) Charter schools shall, on a regular basis, consult with their parents, legal guardians, and teachers regarding the charter school’s educational programs.

(d) (1) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations; shall not charge tuition, and shall not discriminate against a pupil on the basis of the characteristics listed in Section 220. Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of that pupil’s parent or legal guardian, within this state, except that an existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.
(2) (A) A charter school shall admit all pupils who wish to attend the charter school.

(B) If the number of pupils who wish to attend the charter school exceeds the charter school’s capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the school district except as provided for in Section 47614.5.

Preferences, including, but not limited to, siblings of pupils admitted or attending the charter school and children of the charter school’s teachers, staff, and founders identified in the initial charter, may also be permitted by the chartering authority on an individual charter school basis. Priority order for any preference shall be determined in the charter petition in accordance with all of the following:

(i) Each type of preference shall be approved by the chartering authority at a public hearing.

(ii) Preferences shall be consistent with federal law, the California Constitution, and Section 200.

(iii) Preferences shall not result in limiting enrollment access for pupils with disabilities, academically low-achieving pupils, English learners, neglected or delinquent pupils, homeless pupils, or pupils who are economically disadvantaged, as determined by eligibility for any free or reduced-price meal program, foster youth, or pupils based on nationality, race, ethnicity, or sexual orientation.

(iv) In accordance with Section 49011, preferences shall not require mandatory parental volunteer hours as a criterion for admission or continued enrollment.

(C) In the event of a drawing, the chartering authority shall make reasonable efforts to accommodate the growth of the charter school and shall not take any action to impede the charter school from expanding enrollment to meet pupil demand.

(3) If a pupil is expelled or leaves the charter school without graduating or completing the school year for any reason, the charter school shall notify the superintendent of the school district of the pupil’s last known address within 30 days, and shall, 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 is subsequently expelled or leaves the school district without graduating 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 demonstrates that the pupil had been enrolled in the charter school. This paragraph applies only to pupils subject to compulsory full-time education pursuant to Section 48200.

(e) The governing board of a school district shall not require an employee of the school district to be employed in a charter school.

(f) The governing board of a school district shall not require a pupil enrolled in the school district to attend a charter school.

(g) The governing board of a school district shall require that the petitioner or petitioners provide information regarding the proposed operation and potential effects of the charter school, including, but not limited to, the facilities to be used by the charter school, the manner in which administrative services of the charter school are to be provided, and potential civil liability effects, if any, upon the charter school and upon the school district. The description of the facilities to be used by the charter school shall specify where the charter school intends to locate. The petitioner or petitioners also shall be required to provide financial statements that include a proposed first-year operational budget, including startup costs, and cashflow and financial projections for the first three years of operation.

(h) In reviewing petitions for the establishment of charter schools within the school district, the governing board of the school district shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low achieving pursuant to the standards established by the department under Section 54032, as that section read before July 19, 2006.

(i) Upon the approval of the petition by the governing board of the school district, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition, to the applicable county superintendent of schools, the department, and the state board.

(j) (1) If the governing board of a school district denies a petition, the petitioner may elect to submit the petition for the establishment of a charter school to the county board of education. The county board of education shall review the petition pursuant to subdivision (b). If the petitioner elects to submit a petition for establishment of a charter school to the county board of education
and the county board of education denies the petition, the petitioner may file a petition for establishment of a charter school with the state board, and the state board may approve the petition, in accordance with subdivision (b). A charter school that receives approval of its petition from a county board of education or from the state board on appeal shall be subject to the same requirements concerning geographic location to which it would otherwise be subject if it received approval from the entity to which it originally submitted its petition. A charter petition that is submitted to either a county board of education or to the state board shall meet all otherwise applicable petition requirements, including the identification of the proposed site or sites where the charter school will operate.

(2) In assuming its role as a chartering authority, the state board shall develop criteria to be used for the review and approval of charter school petitions presented to the state board. The criteria shall address all elements required for charter approval, as identified in subdivision (b), and shall define “reasonably comprehensive,” as used in paragraph (5) of subdivision (b), in a way that is consistent with the intent of this part. Upon satisfactory completion of the criteria, the state board shall adopt the criteria on or before June 30, 2001.

(3) A charter school for which a charter is granted by either the county board of education or the state board based on an appeal pursuant to this subdivision shall qualify fully as a charter school for all funding and other purposes of this part.

(4) If either the county board of education or the state board fails to act on a petition within 120 days of receipt, the decision of the governing board of the school district to deny the petition shall be subject to judicial review.

(5) The state board shall adopt regulations implementing this subdivision.

(6) Upon the approval of the petition by the county board of education, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition, to the department and the state board.

(k) (1) The state board may, by mutual agreement, designate its supervisory and oversight responsibilities for a charter school approved by the state board to any local educational agency in the
county in which the charter school is located or to the governing board of the school district that first denied the petition.

(2) The designated local educational agency shall have all monitoring and supervising authority of a chartering authority, including, but not limited to, powers and duties set forth in Section 47607, except the power of revocation, which shall remain with the state board.

(3) A charter school that is granted its charter through an appeal to the state board and elects to seek renewal of its charter shall, before expiration of the charter, submit its petition for renewal to the governing board of the school district that initially denied the charter. If the governing board of the school district denies the charter school’s petition for renewal, the charter school may petition the state board for renewal of its charter.

(f) Teachers in charter schools shall hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold. These documents shall be maintained on file at the charter school and are subject to periodic inspection by the chartering authority. It is the intent of the Legislature that charter schools be given flexibility with regard to noncore, noncollege preparatory courses.

(m) A charter school shall transmit a copy of its annual, independent financial audit report for the preceding fiscal year, as described in subparagraph (I) of paragraph (5) of subdivision (b), to its chartering authority, the Controller, the county superintendent of schools of the county in which the charter school is sited, unless the county board of education of the county in which the charter school is sited is the chartering authority, and the department by December 15 of each year. This subdivision does not apply if the audit of the charter school is encompassed in the audit of the chartering authority pursuant to Section 41020.

(n) A charter school may encourage parental involvement, but shall notify the parents and guardians of applicant pupils and currently enrolled pupils that parental involvement is not a requirement for acceptance to, or continued enrollment at, the charter school.