

Matters of Concern to Nevada Charter School Governing Body Members

Revised July 26, 2007

Charter Schools are Public Schools

A charter school is a public school, supported by public funds, and is subject to most of the terms and conditions applicable to other publicly funded entities, including traditional public schools. A charter school's freedom from regulation is the freedom to use educational methods that are allowable by law, but not available in the school district in which the pupil resides.

The goal of all public schools, including charter schools, is to enable pupils to achieve the academic content standards identified by the state. State and federally mandated testing is the ultimate measure of whether schools have achieved this goal. Just as poorly performing traditional schools may be restructured, or even closed, by authorities outside the school, so may charter schools be restructured or closed. Additionally, charter schools:

- “Belong” to the public, the sponsor, and the governing body of the school. Charter schools do not belong to the “founder” of the school, or to any individual, group, foundation, educational management organization or other entity that was instrumental in the formation of the school; they do not belong to the school’s administrator. Charter schools do not belong to individuals or other entities that donate funds to the school, regardless of the size of the donation.
- Must be non-religious in their programs, admission policies, governance, employment practices, and all other operations. The curriculum must be secular, and charter schools may not provide religious instruction.
- Must inform students in the community of the school’s existence, and give all pupils an equal opportunity to attend the school. They may not discriminate on the basis of race, color, national origin, gender or disability. They may not “screen out,” “counsel out,” otherwise exclude, or inappropriately withdraw academically low-performing pupils. Except where specifically stated in law or regulation, they are subject to the same open-enrollment requirements as traditional public schools. Enrollment lotteries may be used only if the school is over-subscribed, and may not be manipulated to exclude low-performing pupils.
- May not require pupils and/or their parents or guardians to sign “contracts,” “commitments,” or other documents that can result in the removal, withdrawal, suspension or expulsion of the pupil from the school for reasons other than the reasons for suspension or expulsion stated in NRS 392.466. Those reasons are battery on an employee of the school, possession of a firearm or dangerous weapon, sale or distribution of a controlled substance, or status as a habitual disciplinary problem as defined by NRS

392.4655. Removal of a pupil from a charter school, except for suspension or expulsion pursuant to NRS 392.466, is solely the decision of the parent or guardian of the pupil. Any removal of a pupil from a charter school against the wishes of the parent or guardian must comply with NRS 392.467.

- Must provide special education services to pupils who qualify for such services.

Role of the Governing Body

The governing body of a charter school governs the school, maintains overall control of the school, and is responsible for the operation of the school. The school's administrator and all other employees and contractors, including educational management organizations, serve under the governing body, and are subject to the rulings of the governing body. The governing body critically evaluates the performance of the school's administrator and any contractors with the school, and replaces the administrator or contractor if he is not performing duties or providing services in a satisfactory manner.

Personal Liability

The Nevada Department of Education can only give general advice regarding personal liability for charter school governing body members; governing body members are advised to consult their legal counsel for specific legal advice.

In general, charter school governing body members receive the same protection from personal liability that school district boards of trustees members receive. These protections are stated in Chapter 41 of the Nevada Revised Statutes (NRS). Interested parties are referred to:

- NRS 41.307, which adds employees of charter schools to the definition of "employee" as used in Chapter 41 (as used in NRS 41.0305 – 41.039, the word "employee" includes employees of charter schools), and;
- NRS 41.032 and 41.0337. Charter school governing body members, like school board trustees, are protected by these statutes from personal liability and provided immunity if they are acting within the scope of their public duties as charter school governing body members.

Open Meeting Law

Charter school governing bodies must comply with the provisions of Nevada's Open Meeting Law. A guide to the Open Meeting Law may be obtained from the Nevada Attorney General's website: ag.state.nv.us

Compliance with the Local Government Purchasing Act and Avoidance of Conflict of Interest

A conflict of interest is defined as an actual or perceived interest in an action that results in, or has the appearance of resulting in, personal, organizational or professional gain. A conflict of interest occurs when a governing body member acts on a school matter that could benefit or harm him or his immediate family members personally. This means:

- No employees of the school or their spouse may serve on the governing body of the school;
- No contractors with the school or their spouse may serve on the governing body of the school;
- The school may not purchase anything from a governing body member, and may not lease a facility from a governing body member.

Furthermore:

- There may be no more than two persons representing any particular organization or business on the governing body of the school;
- No governing body may serve more than one charter school. There may be no more than one person who serves on the governing body of two or more charter schools.

Use of Advisory Committees

A charter school may have an advisory committee that advises the governing body. For example, a Finance Advisory Committee could meet regularly and advise the governing body. Such a committee, appointed by the governing body and advising or making recommendations to the governing body, must abide by the Open Meeting Law. It is irrelevant whether all the persons on any *advisory* committee are affiliated with the same business or organization. There is nothing prohibiting any employee such as a classroom teacher from being on an advisory committee.

Miscellaneous

- Governing body members may not receive stipends for their service on charter school governing bodies unless authorized by law that defines the amount of the stipend.
- Diverse segments of the local community should be included in the initial organization and operation of the charter school's governing body. A governing body on which a majority of members are parishioners of a particular church, for example, or are related, should be avoided.