



**YOUNG, MINNEY & CORR, LLP**  
**EXPERT CHARTER SCHOOL**  
**LEGAL SERVICES**

# INDEPENDENT STUDY LEGAL REQUIREMENTS

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# FIRM OVERVIEW

**Young, Minney & Corr LLP** (YM&C) has been the leader in charter school law approaching three decades, representing well over half of California's charter schools with offices in Sacramento, Los Angeles, San Diego, and Walnut Creek. The firm principals have been working with charter schools since the inception of California's Charter Schools Act in 1992.

We offer superior legal expertise, as well as the technical know-how, to allow you to effectively resolve your problems and meet all of your charter school needs.

The YM&C team of experts can assist charter schools in every aspect of charter school creation, expansion, and operation including:

- **Labor & Employment**
- **Student Rights & Discipline**
- **Special Education**
- **Board Governance**
- **Facilities**
- **Granting Agency Relations**
- **Charter Development & Renewal**
- **Charter Defense**
- **Insurance Defense**
- **Charter Litigation**
- **Independent Study**
- **Corporate Law**
- **Public Law**
- **Fighting Charter School Revocation**

We emphasize a preventative approach to the law, helping our clients anticipate legal difficulties, minimize exposure to legal claims and fees, and prevent operational challenges.

With our main office located in Sacramento, YM&C is also uniquely positioned to influence the public policy debate in California – helping shape the future of charter schools.

For more information on our team of expert attorneys and services, please visit [www.mycharterlaw.com](http://www.mycharterlaw.com) or call us at **916-646-1400**.

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<p><b>Board Policy:</b>  A school district or county office of education (or charter school) may not be eligible to receive apportionments for independent study by pupils unless it has adopted policies that include the following:</p> <ul style="list-style-type: none"> <li>a) the maximum length of time, by grade level and type of program, that may elapse between the time an independent study assignment is made and the date by which the pupil must complete the assigned work</li> <li>b) (1)The level of satisfactory educational progress and the number of missed assignments that will be allowed before an evaluation is conducted to determine whether it is in the best interests of the pupil to remain in independent study, or whether the pupil should return to the regular school program. A written record of the findings of any evaluation made pursuant to this subdivision shall be treated as a mandatory interim pupil record. The record shall be maintained for a period of three years from the date of the evaluation and, if the pupil transfers to another California public school, the record shall be forwarded to that school.</li> <li>(2) Satisfactory educational progress shall be determined based on all of the following indicators: <ul style="list-style-type: none"> <li>(A) The pupil’s achievement and engagement in the independent study program, as indicated by the pupil’s performance on applicable pupil-level measures of pupil achievement and pupil engagement set forth in paragraphs (4) and (5) of subdivision (d) of Section 52060.</li> <li>(B) The completion of assignments, assessments, or other indicators that evidence that the pupil is working on assignments.</li> <li>(C) Learning required concepts, as determined by the supervising teacher.</li> <li>(D) Progressing toward successful completion of the course of study or individual course, as determined by the supervising teacher.</li> </ul> </li> <li>c) The provision of content aligned to grade level standards that is provided at a level of quality and intellectual challenge substantially equivalent to in-person instruction. For high schools, this shall include access to all courses offered by the local educational agency for graduation and approved by the University of California or the California State University as creditable under the A–G admissions criteria.</li> <li>d)<sup>2</sup> Procedures for tiered reengagement strategies for all pupils who are not generating attendance for more than three schooldays or 60 percent of the instructional days in a school week, or who are in violation of the written agreement pursuant to subdivision (g). These procedures shall include, but are not necessarily limited to, all of the following: <ul style="list-style-type: none"> <li>(1) Verification of current contact information for each enrolled pupil.</li> <li>(2) Notification to parents or guardians of lack of participation within one school day of the absence or lack of participation.</li> <li>(3) A plan for outreach from the school to determine pupil needs, including</li> </ul> </li> </ul>	<p>Education Code Section 51747(a)-(g)</p>

<sup>1</sup> Independent study law was written with school districts and county offices in mind – the following definitions are used to apply the laws to charter schools: Title 5 California Code of Regulations Section 11700.1. Additional Definitions Applicable to Charter Schools

- a. "Certificated employees," in charter schools, means employees meeting the requirements of subdivision (l) of Education Code Section 47605.
- b. "Classroom instruction," with reference to a charter school, means classroom instruction provided either by the charter school or by another public school that the pupil is eligible to attend.
- c. "School district" or "district," for the purposes of this subchapter and of Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 of the Education Code, means a school district or a charter school, unless the context clearly indicates otherwise.

<sup>2</sup> 51747(d)-(f) do not apply to pupils that participate in an independent study program for fewer than 15 schooldays in a school year.

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<p>connection with health and social services as necessary.</p> <p>(4) A clear standard for requiring a pupil-parent-educator conference to review a pupil’s written agreement, and reconsider the independent study program’s impact on the pupil’s achievement and well-being, consistent with the policies adopted pursuant to paragraph (4) of subdivision (g).</p> <p>e) (1) For pupils in transitional kindergarten and grades 1 to 3, inclusive, a plan to provide opportunities for daily synchronous instruction for all pupils throughout the school year.</p> <p>(2) For pupils in grades 4 to 8, inclusive, a plan to provide opportunities for both daily live interaction and at least weekly synchronous instruction for all pupils throughout the school year.</p> <p>(3) For pupils in grades 9 to 12, inclusive, a plan to provide opportunities for at least weekly synchronous instruction for all pupils throughout the school year.</p> <p>f) A plan to transition pupils whose families wish to return to in-person instruction from independent study expeditiously, and, in no case, later than five instructional days.</p> <p>g) a requirement that a current written agreement for each independent study pupil shall be maintained on file including all legal requirements (see <b>Master Agreement</b> below)</p>	
<p><b>Public Hearing:</b>  In setting the policy (described above), the local governing board must consider in a public hearing the scope of its existing or prospective use of independent study as an instructional strategy, its purposes in authorizing independent study, and factors bearing specifically on the maximum realistic lengths of assignments and acceptable number of missed assignments for specific populations of pupils. Adopted policies shall reflect an awareness that excessive leniency in their terms can result in pupils falling so far behind their peers as to increase, rather than decrease, the risk of their dropping out of school.</p>	<p>Title 5 California Code of Regulations  Section 11702</p>
<p><b>Master Agreement:</b>  A requirement that a current written agreement for each independent study pupil shall be maintained on file including, but not limited to, all of the following:</p> <p>(1) The manner, time, frequency, and place for submitting a pupil’s assignments, for reporting the pupil’s academic progress, and for communicating with a pupil’s parent or guardian regarding a pupil’s academic progress.</p> <p>(2) The objectives and methods of study for the pupil’s work, and the methods used to evaluate that work.</p> <p>(3) The specific resources, including materials and personnel, that will be made available to the pupil. These resources shall include confirming or providing access to all pupils to the connectivity and devices adequate to participate in the educational program and complete assigned work.</p> <p>(4) A statement of the policies adopted pursuant to subdivisions (a) and (b) regarding the maximum length of time allowed between the assignment and the completion of a pupil’s assigned work, the level of satisfactory educational progress, and the number of missed assignments allowed before an evaluation of whether or not the pupil should be allowed to continue in independent study.</p> <p>(5) The duration of the independent study agreement, including the beginning and ending dates for the pupil’s participation in independent study under the agreement. No independent study agreement shall be</p>	<p>Education Code Section 51747(g)(1)-(9)</p>

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<p>valid for any period longer than one school year.</p> <p>(6) A statement of the number of course credits or, for the elementary grades, other measures of academic accomplishment appropriate to the agreement, to be earned by the pupil upon completion.</p> <p>(7) A statement detailing the academic and other supports that will be provided to address the needs of pupils who are not performing at grade level, or need support in other areas, such as English learners, individuals with exceptional needs in order to be consistent with the pupil's individualized education program or plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils in foster care or experiencing homelessness, and pupils requiring mental health supports.</p> <p>(8) The inclusion of a statement in each independent study agreement that independent study is an optional educational alternative in which no pupil may be required to participate. In the case of a pupil who is referred or assigned to any school, class, or program pursuant to Section 48915 or 48917, the agreement also shall include the statement that instruction may be provided to the pupil through independent study only if the pupil is offered the alternative of classroom instruction.</p> <p>(9) (A) Each written agreement shall be signed, before the commencement of independent study, by the pupil, the pupil's parent, legal guardian, or caregiver, if the pupil is less than 18 years of age, the certificated employee who has been designated as having responsibility for the general supervision of independent study, and all persons who have direct responsibility for providing assistance to the pupil. For purposes of this paragraph "caregiver" means a person who has met the requirements of Part 1.5 (commencing with Section 6550) of Division 11 of the Family Code.</p>	
<p>Before signing a written agreement pursuant to this section, and upon the request of the parent or guardian of a pupil, the local educational agency shall conduct a phone, videoconference, or in-person pupil-parent-educator conference or other school meeting during which the pupil, parent or guardian, and, if requested by the pupil or parent, an education advocate, may ask questions about the educational options, including which curriculum offerings and nonacademic supports will be available to the pupil in independent study, before making the decision about enrollment or disenrollment in the various options for learning.</p>	Education Code Section 51747(h)(2)
<p><b>Signature &amp; Date &amp; Curriculum Requirements for Master Agreement:</b> Each signature required for an independent study agreement shall be dated. An agreement is not in effect until it is complete as to all terms, signed and dated.</p>	Title 5 California Code of Regulations Section 11702
<p><b>Funds or Things of Value:</b> A school district, county office of education or a charter school may not claim state funding for the independent study of a pupil, whether characterized as home study or otherwise, if the charter school has provided any funds or other thing of value to the pupil or his or her parent or guardian that a school district could not legally provide to a similarly situated pupil of the school district, or to his or her parent or guardian.</p> <p>Providing access to connectivity and local educational agency-owned devices adequate to participate in an independent study program and complete assigned work, consistent with paragraph (3) of subdivision (g) of</p>	Education Code Section 51747.3(a)

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Section 51747, shall not be considered funds or other things of value.	
<p><b>Daily Engagement:</b> Attendance means the attendance of charter school pupils while engaged in educational activities required of them by their charter schools on days when school is actually taught in their charter schools.</p>	Title 5 California Code of Regulations Section 11960(a)
<p><b>Time Value:</b> School districts and charter schools and county offices of education may claim apportionment credit for independent study only to the extent of the time value of pupil or student work products, as personally judged in each instance by a <b>certificated</b> teacher.<sup>3</sup> It is the intent of the Legislature that teachers be given access to digital assignment tracking systems to reduce workload associated with evaluating and accounting for pupil work.</p>	Education Code Section 51747.5(b)
<p><b>Enrollment Restrictions:</b> Independent study average daily attendance shall be claimed by school districts, county superintendents of schools, and charter schools only for pupils who are residents of the county in which the apportionment claim is reported, or who are residents of a county immediately adjacent to the county in which the apportionment claim is reported.</p>	Education Code Section 51747.3(b)
<p><b>Supervising Teacher:</b> The independent study by each pupil or student shall be coordinated, evaluated, and, notwithstanding subdivision (a) of Section 46300, shall be under the general supervision of an employee of the school district or county office of education who possesses a valid certification document pursuant to Section 44865 or an emergency credential pursuant to Section 44300, registered as required by law.</p>	Education Code Section 51747.5
<p><b>Supervising Teacher:</b> “General supervision” means the supervising teacher's (1) continuing oversight of the study design, implementation plan, allocation of resources, and evaluation of pupil or adult education student progress for any pupil's or adult education student's independent study; and (2) personal determination or personal review of the determination made by another certificated teacher of the time values for apportionment purposes of each pupil's or adult education student's work products.</p>	Title 5 California Code of Regulations Section 11700(b)
<p><b>Special Education:</b> No individual with exceptional needs, as defined in Section 56026, may participate in independent study, unless his or her individualized education program developed pursuant to Article 3 (commencing with Section 56340) of Chapter 4 of Part 30 specifically provides for that participation.</p>	Education Code Section 51745(c)

<sup>3</sup> The CDE sent around a memo in 2005 which opined that “daily engagement” attendance accounting and time value attendance accounting to apply to charter schools. In practice, this means a charter school only collects apportionment for any daily engagement of a student on work assigned by the teacher but only on days the school is in session (not holidays or weekends). Then, the credentialed supervising teacher is obligated to also judge the time value of the work product of the pupil.

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<p><b>Pupil to Teacher Ratio:</b>  The applicable average-daily-attendance-to-certificated-employee ratios described in subdivision (a) may, in a charter school, be calculated by using a fixed average-daily-attendance-to-certificated-employee ratio of 25 to 1, or by using a ratio of less than 25 pupils per certificated employee. A new higher or lower ratio for all other educational programs offered by a charter school may be negotiated in a collective bargaining agreement, or a memorandum of understanding indicating that an existing collective bargaining agreement contains an alternative average daily attendance ratio may be entered into by a charter school. All charter school pupils, regardless of age, shall be included in the applicable average-daily-attendance-to-certificated-employee ratio calculations.</p>	<p>Education Code Section 51745.6(d)</p>
<p><b>Pupil to Teacher Ratio:</b>  In a charter school, for the purposes of <u>Education Code Section 51745.6</u>, the ratio of average daily attendance for independent study pupils to full-time equivalent (FTE) certificated employees responsible for independent study shall not exceed a pupil-teacher ratio of 25:1 or the ratio of pupils to full-time equivalent certificated employees for all other educational programs operated by the largest unified school district, as measured by average daily attendance, as reported at the second principal apportionment in the prior year, in the county or counties in which the charter school operates. For purposes of this section, a "full-time certificated employee" means an employee who is required to work a minimum six-hour day and 175 days per fiscal year. Part-time positions shall generate a partial FTE on a proportional basis.</p>	<p>Title 5 California Code of Regulations Section 11704</p>
<p><b>Maintenance of Independent Study Records:</b>  Master Agreement: 3 years  Daily Attendance Credit Register: 3 years  Representative Work Samples: 3 years  Regular work assignments: 3 years  Student work records: 3 years  Teacher records: 3 years  Transcript: permanent  School apportionment records: 3 years</p> <p>A Class 3 - Disposable record shall not be destroyed until after the third July 1 succeeding the completion of the audit required by Education Code Section 41020 or of any other legally required audit, or after the ending date of any retention period required by any agency other than the State of California, whichever date is later. A continuing record shall not be destroyed until the fourth year after it has been classified as Class 3 - Disposable.</p>	<p>Title 5 California Code of Regulations Section 16023 and 16026 and 11703</p>
<p><b>Work Samples:</b>  Must maintain representative work samples of each pupil's work product bearing signed or initialed and dated notations by the supervising teacher indicating that he or she has personally evaluated the work or that he or she has personally reviewed the evaluations made by another certificated teacher.<sup>4</sup></p>	<p>Title 5 California Code of Regulations Section 11703</p>

<sup>4</sup> The Education Code and audit guide have removed the signature/initial/date notation on work samples. The regulation has not yet been revised to do the same.

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<p><b>Work Samples:</b> Samples of original work must be maintained that reasonably reflect the total scope of work assignments.</p>	Title 5 California Code of Regulations Section 11700(b)(2)
<p><b>Electronic File Storage</b> Signed written agreements, supplemental agreements, assignment records, work samples, and attendance records assessing time value of work or evidence that an instructional activity occurred may be maintained as an electronic file.</p> <ul style="list-style-type: none"> <li>• For purposes of this section, an electronic file includes a computer or electronic stored image of an original document, including, but not limited to, portable document format (PDF), JPEG, or other digital image file type, that may be sent via fax machine, email, or other electronic means.</li> <li>• Either an original document or an electronic file of the original document is allowable documentation for auditing purposes.</li> </ul>	Education Code Section 51747(g)(9)(B)
<p><b>Equitable Provision of Resources:</b> The independent study option is to be substantially equivalent in quality and in quantity to classroom instruction.</p>	Title 5 California Code of Regulations Section 11701.5
<p><b>Over Nineteen:</b> To remain eligible for generating apportionment, a pupil over 19 years of age shall be continuously enrolled in public school in pursuit of a high school diploma while 19 years of age and without a break in public school enrollment since that time, is enrolled in the charter school and is making satisfactory progress toward award of a high school diploma and the pupil is not over the age of 22 years.<sup>5</sup></p>	Education Code Section 47612 Title 5 California Code of Regulations 11960(c)
<p><b>Funding Determination:</b> All nonclassroom based charter schools must receive a funding determination from the State Board of Education in order to receive apportionment.</p>	Education Code Section 47612.5, 11963.2 – 11963.7

<sup>5</sup> There are exceptions for certain charter schools with exclusive partnerships with federal job corps, Conservation Corps, Workforce Innovation and Opportunity Act, Youth Build programs, and juvenile court school programs.



