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# CHARGING FOR ACCESS:

How California Charter Schools Exclude Vulnerable Students by Imposing Illegal Family Work Quotas

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**Charging for Access: How California Charter Schools Exclude Vulnerable Students**

**By Imposing Illegal Family Work Quotas**

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**I. Introduction**

Maria was thrilled when her son Max was chosen by lottery to attend sixth grade at an Oakland charter school. But when Maria learned that the school required her to work at least 30 hours per year at the school as a condition of Max’s enrollment, she became frustrated. She could not easily get time off from her factory job to work those hours. And, as she explains, “Because I don’t speak English it was hard for me to read the board where they posted the jobs they needed parents to do.” Her conclusion was simple: “I decided just not to do the hours.” But this decision had a consequence: when she brought Max to school on the first day of seventh grade, his name did not appear on the class list. Max had been un-enrolled because Maria had not worked her quota of hours. Maria was told she could either pay the school \$300 on the spot — a \$10 per hour price to fulfill the work quota — or she could buy three large boxes of a specific brand of printer paper from Costco, which cost \$80. Maria quickly jumped in her car and drove to Costco to buy the printer paper. When she brought it back to the office, the school allowed Max to enroll in seventh grade.

At another charter school near Sacramento, Kristen was looking forward to her fifth grade class’s end-of-year field trip to a water park. But on the Friday before the field trip, her teacher told Kristen that she could not go because her mother had not worked at school for the required 40 annual “service” hours. Kristen went home in tears. Her mother, Raquel, became furious. She drove to the school immediately and asked the teacher to give her work to do. “I’ll volunteer right now,” Raquel said. “What can I do so that Kristen can go on the trip?” “She made me clean her room. I had to take posters down from the walls. I had to climb up on a small children’s desk to pull the nails off the wall by hand. I felt like I was a mother one minute and a cleaning lady the next.” At the teacher’s instruction, Raquel went to a paint store to buy paint in a specific shade of blue, and then painted the classroom shelves. Finally, the teacher decided that Raquel had worked for enough hours to fulfill her quota, and Kristen was allowed to go on the field trip.<sup>1</sup>

“I felt like I was a mother one minute and a cleaning lady the next.”

These parents’ stories are not unique. Throughout California, public charter schools regularly force parents to work at the school for a set quota of hours per year in exchange for educating their child. At many schools, if parents do not perform the required work, they must pay the school in money or goods or else face the risk that their child will be un-enrolled or unable to participate in school activities. We investigated 555 charter schools in California — nearly half of all charters — and found at least 168 (30% of the sample) clearly require a parent work quota. The number of required work hours varies. The

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<sup>1</sup> Names in both stories have been changed.

most extreme policy we found required parents to work at the school one day per *week*.<sup>2</sup> The most lenient policy on our list requires work at one event during the school year.<sup>3</sup> But the majority of schools require 40 hours of parent work per year, and many schools require more hours of work for every additional child a family has in that school.

While schools can and should encourage that parents play an active role in their children's education, not all children are fortunate enough to have parents who can afford to take time off from work, or who have access to childcare or transportation that would allow them to do so. Some children may not be lucky enough to live with a stable adult guardian at all. Thus, while schools should *encourage* parental participation, public schools, including charters, must not *force* parents to do work at the school as a condition of their child's enrollment or participation in educational activities. Such policies discriminate against poor families, single-parent families, non-traditional households and working parents, and thereby exclude children who may stand to benefit significantly from attending nurturing public schools. Most importantly, as we will discuss in this report, requiring parents to perform work at a public school violates California law.

In this report, we first outline the results of our investigation into the extent of forced work policies in California's public charter schools. We then explain why the practice violates both Constitutional and statutory law prohibiting public schools from charging fees.<sup>4</sup> We end with recommendations for charter schools, charter school authorizers and policymakers to ensure that no child is discriminated against by any public school on the basis of whether or not his or her parent or guardian can do work for the school.

## **II. Rampant Instances of Forced Labor: Public Charter Schools in California Routinely Require Parents to Perform Unpaid Work at School.**

Policies requiring charter school parents to perform unpaid work are widespread throughout the state.<sup>5</sup> We reviewed nearly half of all 1,130 charter schools in California.<sup>6</sup> We found that 168, or almost one-third of the 555 charter schools we surveyed, explicitly require unpaid parent or family "service hours."<sup>7</sup> But this does not mean that schools in the rest of our sample do *not* require parent work quotas. Of almost all the remaining charter schools we researched, there was simply not enough information

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<sup>2</sup> Bridges Charter School Handbook at 34 (Appendix B at 2), also available at <http://www.publicadvocates.org/forced-parent-work-policies>

<sup>3</sup> Rise Kohyang Charter School policy available at <http://www.publicadvocates.org/forced-parent-work-policies>

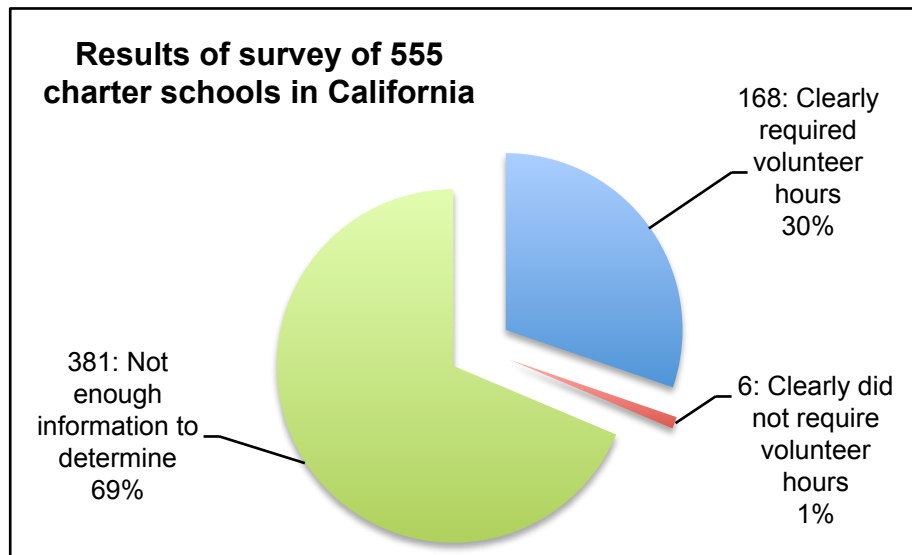
<sup>4</sup> This report does not discuss whether requiring parents to do unpaid work violates federal or state labor laws, but that remains a possibility depending on the nature and beneficiaries of the tasks performed. See *Alamo Found. v. Sec'y of Labor*, 471 U.S. 290 (1985); *Solis v. Laurelbrook Sanitarium & Sch.*, 642 F.3d 518 (6th Cir. 2011).

<sup>5</sup> We focused only on policies requiring *parent* work hours, not policies requiring the student to do work.

<sup>6</sup> According to the California Charter Schools Association, as of fall 2013 there were 1,130 charter schools in California. California Charter Schools by the Numbers, <http://www.calcharters.org/understanding/numbers/> (last visited Oct. 13, 2014).

<sup>7</sup> A note about nomenclature: charter schools often call these policies "volunteer hours." Because we believe that work ceases to be voluntary when it is required, we refer to the practice as "forced service hours," "forced work," "unpaid work" or "work quotas" throughout this report. Professor Kevin Welner has referred to the practice as "sweat equity contracts." Kevin G. Welner, *The Dirty Dozen: How Charter Schools Influence Student Enrollment*, Teachers College Record (2013).

available publicly to conclude whether or not the school required work hours.<sup>8</sup> Only six schools in our sample had policies clearly stating that working at the school was *not* required.<sup>9</sup>



We found work quota policies at charter schools across the state. Prevalent approaches include: (1) requiring parents to sign a contract promising to volunteer for the required number of hours at the school as a condition of enrollment; (2) requiring parents to log or “track” their volunteer hours; and (3) allowing parents to “buy” the hours for some amount (ranging from \$6 to \$25 per hour), or with donations of goods to the school, if the parent cannot fulfill the work quota.<sup>10</sup>

Such policies are evidence of schools that truly require, rather than simply encourage, parents to do unpaid work. If parents do not complete the hours or “buy” them, charter schools threaten consequences for the child such as “los[ing]...enrollment status for the following year,” or being unable to graduate.<sup>11</sup> A copy of every policy statement we found in our investigation is available on our website at <http://www.publicadvocates.org/forced-parent-work-policies>.

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<sup>8</sup> More information regarding methodology is available in Appendix A.

<sup>9</sup> Schools in this category made clear statements to the effect of “[f]ailure to agree to or to abide by [the volunteer hours] will not affect a student’s admission or enrollment status.” Valley Arts & Science Academy Application (authorized by Fresno Unified), available at <http://vasaelementary.com/documents/VASA%20Student%20Application.pdf> (last visited Oct. 13, 2014).

<sup>10</sup> See Encore Charter School (located in San Bernardino County), Parent and Student Mandatory Volunteer Program letter: “\$20 worth of Donations equals 1 Hour of Time” and “Families not available to volunteer hours can donate specific goods for volunteer credit.” (Appendix B at 4 - 6) also available at <http://www.publicadvocates.org/forced-parent-work-policies>

<sup>11</sup> For each of the 17 Green Dot charter schools that use the same handbook, 35 parent service hours are required each year, and a total of 140 hours (for four years), appears on the “Graduation Requirements” list. (Appendix B at 7-12); Encore Charter School makes clear that “[i]f a family does not participate in the volunteer program, they can lose their enrollment status for the following year.” (Appendix B at 4). Both policies are also viewable at <http://www.publicadvocates.org/forced-parent-work-policies>.

## The Types of Work That Charter Schools Require

In our investigation we found that charter schools force parents to do diverse types of work, ranging from those tasks traditionally thought of as suitable for parent volunteers — such as chaperoning field trips or helping in the classroom — to work seemingly more suited for paid staff. Some of the work parents are asked to do may rely on their skills, such as IT or translation work, while other work may be menial, such as yard work, janitorial work, and, as in Raquel’s case, being made to serve as a “cleaning lady.”

Here are just a few examples of charter school policies throughout the state.

### *Bay Area*

- **Manzanita Charter Middle School**, authorized by **West Contra Costa Unified School District**, states in its parent handbook that parents must volunteer for at least 96 hours per school year and participate in two “mandatory school cleanings.” A family must do the required volunteer work to remain “in good standing.” A family “not in good standing...will not receive priority admission for a sibling the following school year.”<sup>12</sup>
- **Vallejo Charter School**, chartered by **Vallejo City Unified School District**, requires parents to volunteer for 20 hours per year doing such tasks as “assist with classroom maintenance...clean up...provide child care for meetings...”<sup>13</sup> If the family cannot do the required hours, they must submit an “appeal” letter. If they do not prevail on their “appeal,” the child loses her place and “will be required to re-apply to the school.”<sup>14</sup>

### *Greater Sacramento*

- **Creative Connections Arts Academy**, authorized by **Twin Rivers Unified School District**, requires 30 hours of parent work per year or allows parents to purchase 10 of the hours for \$10 each.
- **Buckingham Charter Magnet High School**, authorized by **Vacaville Unified School District**, requires 10 hours of service per family per year, and allows parents to pay \$20 per hour instead.<sup>15</sup> Parents can request an exemption, which is “reserved for illness, childbirth, and unforeseen circumstances that would reasonably prevent you and/or your family from maintaining your hours

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<sup>12</sup> Manzanita Charter Middle School Student Family Handbook at 21 (Appendix B at 14); *also available at* <http://www.publicadvocates.org/forced-parent-work-policies>.

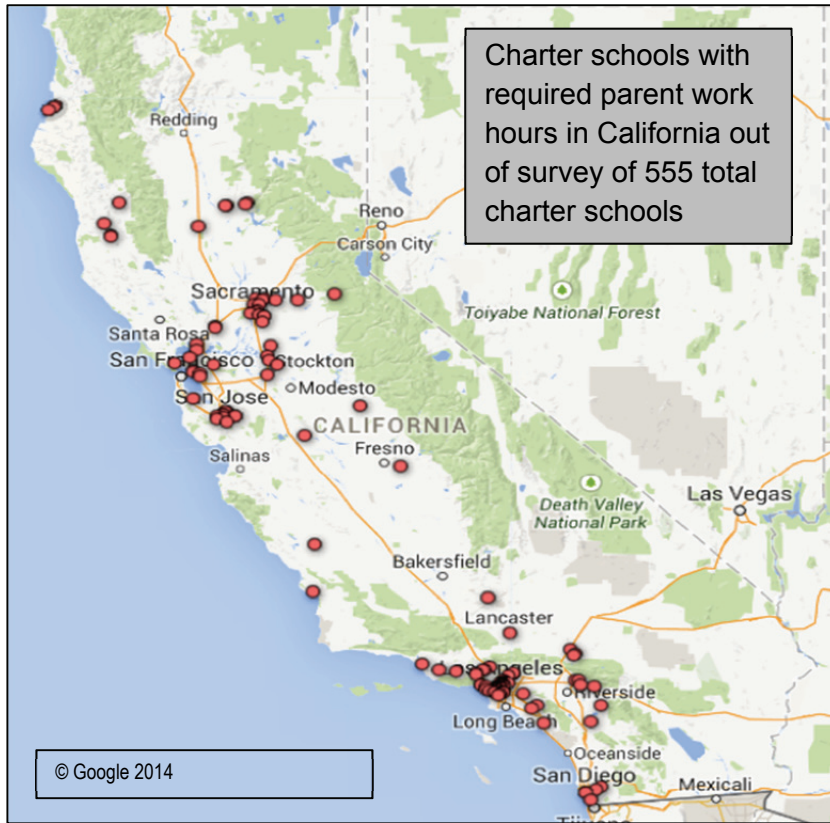
<sup>13</sup> Vallejo Charter School Volunteer Policy Manual. (Appendix B at 22), *also available at* <http://www.publicadvocates.org/forced-parent-work-policies>.

<sup>14</sup> Vallejo Charter School Volunteer Policy Manual. (Appendix B at 18), *also available at* <http://www.publicadvocates.org/forced-parent-work-policies>.

<sup>15</sup> Buckingham Charter Magnet High School (Appendix B at 30) (“All or part of your 10 hours may be contributed through donations. Donations are calculated at a rate of \$20 per hour.”) *Also available at* <http://www.publicadvocates.org/forced-parent-work-policies>.



commitment.”<sup>16</sup> The school’s charter provides that “failure to complete the service hour requirement may result in revocation of the Enrollment Master Agreement and student dismissal.”<sup>17</sup>



### Los Angeles

- **Academia Moderna**, authorized by the **Los Angeles Unified School District**, provides in its Parent-Student Handbook that “Academia Moderna parents must comply with ... 20 annual volunteer hours per family,” and “parents who fail to comply with parent school obligations will place their child/children’s placement for the following school year at risk.”<sup>18</sup>
- The **Academy of Science and Engineering** charter school, also authorized by **LAUSD**, states in its handbook that “parents are required to complete 20 hours of parent volunteer hours per year. Here is a partial list of activities for which parents may receive volunteer hour credit: Back-To-

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<sup>16</sup> Buckingham Charter Magnet High School Request for Hours Exemption (Appendix B at 26), *also available at* <http://www.publicadvocates.org/forced-parent-work-policies>.

<sup>17</sup> Buckingham Charter School Renewal Petition at 23 (Appendix B at 28), *also available at* <http://www.publicadvocates.org/forced-parent-work-policies>.

<sup>18</sup> Academia Moderna Parent-Student Handbook at 16 (Appendix B at 32), *also available at* <http://www.publicadvocates.org/forced-parent-work-policies>.

School Night ... Translate Documents ... Help Clean the School ... Main Office/School Support ... Campus Maintenance/Facilities Support ....<sup>19</sup>

### *Orange County*

- **Santiago Charter School**, authorized by **Orange Unified School District**, requires 12 “service hours” and that parents fill out a form indicating whether they would like to volunteer for those hours or donate money: “**for every \$10 donated you will receive 1 service hour credit.**”<sup>20</sup>

### *Inland Empire*

- **Encore High School**, authorized by **Hesperia Unified School District**, tells parents “as a condition of enrollment ... every family is required to volunteer 8 hours per semester ... this helps keep campus costs down .... If a family does not participate in the volunteer program, they can lose their enrollment status for the following year.”<sup>21</sup> The volunteer hours can be purchased: “**\$20 worth of donations equals 1 Hour of Time.**”<sup>22</sup>

### *Central Valley*

- **Sanger Academy Charter School**, authorized by **Sanger Unified School District**, requires parents to sign a compact agreeing to “volunteer at least 10 hours of time during the school year to assist in school functions ... field trips, carnivals, fundraisers, school supervision, classroom assistance,” and provides that “students/parents who consistently fail to meet the compact requirements will be considered for transfer back to their home school at the end of the school year.”<sup>23</sup>
- **Abernathy Collegiate**, authorized by **Tehachapi Unified School District**, says that “each family is asked to make a commitment to provide 30 service hours annually to support the activities of the Charter School .... Failure to participate in volunteer hours may result in loss of priority enrollment rights for the following year.”<sup>24</sup>

### *San Diego area*

- **EJE Academies**, authorized by **Cajon Valley Union School District**, require parents to do 30 hours of work a year. The requirement is waived if “your child has perfect attendance the entire school year.”<sup>25</sup>

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<sup>19</sup> Academy of Science and Engineering Handbook at 14. (Appendix B at 34), *also available at* <http://www.publicadvocates.org/forced-parent-work-policies>.

<sup>20</sup> Santiago Charter Middle School Parent Volunteer Information Form, (Appendix B at 35), *also available at* <http://www.publicadvocates.org/forced-parent-work-policies>.

<sup>21</sup> Encore Charter School, Parent and Student Mandatory Volunteer Program letter (Appendix B at 4, 6).

<sup>22</sup> *Id.* (emphasis added).

<sup>23</sup> Sanger Academy School Compact (Appendix B at 36), *also available at* <http://www.publicadvocates.org/forced-parent-work-policies>.

<sup>24</sup> Abernathy Collegiate Charter School Parent Student Handbook at 39 (Appendix B at 38).

<sup>25</sup> EJE Academies 2013-2014 Handbook at 14. (Appendix B at 41).

- **Chula Vista Learning Community Charter School**, authorized by **Chula Vista Elementary School District**, provides that “all parents must volunteer 30 hours per year.” The school is quite specific about how the hours must be worked. Fifteen hours are “mandatory hours,” which means they must be spent on the following: “3 hrs: Traffic. 2 hrs: Curriculum Nights. 2 hrs: Town Hall Meeting ... 2 hrs: Volunteer in festivals ....”<sup>26</sup> Parents that “have not met volunteer hours” receive a “probation” and a warning letter “indicating possibility of leaving CVLCC.”<sup>27</sup> After two “probations,” a parent who fails to do the required work will have to meet “with board [*sic*] to decide future enrollment of the student at CVLCC .... Failure to complete parent volunteer expectations results in returning to your home school.”<sup>28</sup>

### III. The Legal Framework: Requiring Parents to Work in Public Schools Is Illegal under the California Constitution and Education Code.

Requiring parents or family members of a student to work at a public charter school violates both the California Constitution and the California Education Code.

- a. Forcing parents to volunteer at a public school violates the California Constitution’s free schools clause.

Forcing parents to do unpaid work at a public school violates the California Constitution’s “free schools” clause. The California Constitution makes education a fundamental right guaranteed to all California children<sup>29</sup> and requires the state to establish a system of free public schools.<sup>30</sup> Courts in California have interpreted the word “free” strictly to mean that public schools cannot impose any financial burden on any activity that is an “integral component of public education.”<sup>31</sup> According to the California Supreme Court, the free schools clause “reflects the people’s judgment that a child’s public education is too important *to be left to the budgetary circumstances and decisions of individual families.*”<sup>32</sup> Whether a family lacks the money to pay a fee or simply decides not to pay a fee does not matter. In either case, a public school may not deny the children of these families their right to a free public education by requiring payment of a fee.

Requiring a parent to do volunteer work at a public school violates the Constitution’s “free schools” guarantee because the requirement to do unpaid labor is simply a non-monetary fee.<sup>33</sup> A parent

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<sup>26</sup> Chula Vista Learning Community Charter School Parent Handbook 2013-2014 at 21. (Appendix B at 45 - 46).

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Serrano v. Priest*, 5 Cal. 3d 584, 607-09 (1971).

<sup>30</sup> *Hartzell v. Connell*, 35 Cal. 3d 899, 905-08 (1984); Cal. Const. Art. IX, § 5.

<sup>31</sup> *Hartzell*, 35 Cal. 3d at 909.

<sup>32</sup> *Id.* at 911 (emphasis added).

<sup>33</sup> Charter schools explicitly acknowledge that parent volunteering is analogous to giving something of value to the school. For example, Valley Charter Elementary School requires 50 hours per year, or 75 per year if the parents have more than one child. This school states in its handbook that “parent volunteers ... keep our operational costs down ... Volunteer hours must be tracked in the school office (please complete the volunteer log each time you finish volunteering).” Valley Charter Elementary School Handbook at 10-12. (Appendix B at 49); also available at <http://www.publicadvocates.org/forced-parent-work-policies>



who is forced to work is compelled to give up her labor instead of dollars in exchange for her child's enrollment or participation in educational activities.

Moreover, laboring for a charter school as opposed to spending that time on other activities of the parent's choosing carries with it obvious opportunity costs. A parent who does unpaid yard work or acts as an unpaid teacher's aide for an hour at her child's school must forego an hour of paid work somewhere else; must pay for childcare for that hour; or must otherwise incur costs and forego economic opportunity for that hour. Charter schools expressly acknowledge this opportunity cost. For example, one school policy states that to comply with the service-hours requirement, "parents who work outside their homes are asked to look into any arrangements that can be made with employers, such as flex-time schedule, working through lunch time to make up for classroom time, and/or using accumulated vacation time."<sup>34</sup>

Just as "[a] school which conditions a student's participation in educational activities upon the payment of a fee clearly is *not* a 'free school,'"<sup>35</sup> a school which conditions a student's participation upon a parent's donation of time and service clearly is not a free school. Nor can a waiver from required volunteer hours, which some charter schools offer, cure a practice that constitutes an unconstitutional pupil fee, because the California Supreme Court has held that public schools may not charge fees even if they can be waived based on financial hardship or otherwise.<sup>36</sup>

b. Forced parental service policies impermissibly discriminate against children whose parents cannot or choose not to do unpaid work.

Allowing children to enroll in a public school only if their parents agree to do unpaid work offends the egalitarian principles behind the free schools clause. Work quotas create a filter that selects for: (1) families that can afford to spend time doing unpaid work and/or pay for the hours in lieu of expending the time; (2) children who have committed, stable adult guardians in their lives; and/or (3) parents who are especially motivated to do the work even in the face of financial or other obstacles. Many charter schools characterize their work quotas as having precisely this discriminatory purpose — they want to enroll only those families who are willing and able do the required amount of volunteer work.<sup>37</sup>

One charter school's enrollment information web page says: "[p]lease read the following information about us, consider our parent involvement policies, and review the commitments we expect from students and families. If this seems like a good fit for your family, then [move forward with the

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<sup>34</sup> Bridges Charter School Parent Handbook at 34 (Appendix B at 2).

<sup>35</sup> *Hartzell*, 35 Cal. 3d at 911.

<sup>36</sup> *Id.* at 912-913.

<sup>37</sup> Inland Leaders Charter School prefaces its parent work contract by stating: "ILCS is a school of choice not a school of entitlement." Inland Leaders Charter School Parent Contract (Appendix B at 51). Abernathy Collegiate Charter School says "students, parents, and staff ... make a choice to be part of the school community ... Parents who choose to enroll their students at ACCS will commit to supporting their child ...". Abernathy Collegiate Charter School Handbook at 1 (Appendix B at 37). The handbook from Oxford Preparatory Academy says: "Parents of children attending OPA understand the importance of their role and involvement in their child's education. Therefore, parents and students attending OPA sign the *Learning Partnership Agreement* as a prerequisite for their enrollment. This agreement outlines the parent requirements for service hours, involvement in school functions, and attendance at in-services and workshops." Oxford Prep Handbook at 54, *available at* <http://oxfordchampions.org/parentresources/chino-handbook-2013-2014.pdf> (emphasis added).

application process].”<sup>38</sup> Unfortunately, this work filter punishes children for something that is not their fault: who their parents are and whether their parents possess the resources, time or motivation to volunteer at the school. As the U.S. Supreme Court has long recognized, however, “no child is responsible for his birth,” and depriving a child of public education because of his parents’ behavior “does not comport with fundamental conceptions of justice.”<sup>39</sup>

Prohibiting schools from using this kind of filter is exactly the point of the free schools clause. As the California Supreme Court recognized in quoting John Swett, one of the founding fathers of the California public school system: “[if] left to their own unaided efforts, a great majority of the people will fail through want of means to properly educate their children; *another class, with means at command, will fail through want of interest.*”<sup>40</sup> The free schools guarantee solves this problem. Schools must be truly free to ensure their availability for all children regardless of who their parents are and what their parents can do or choose to do with their time. Attempting to select for only those parents who have the “interest” or the “means” to do volunteer work puts those charter schools out of reach for children without well-resourced or motivated parents. But those are often the children who most need high-quality public schools, including charter options. Such policies violate both the text and purpose of the “free schools” clause as well as sections of California’s Education Code, as discussed below.

c. Requiring parents to do work at the school also violates Education Code § 49011(b)(4).

Forced parent service policies at a public school violate section 49011(b)(4) of the California Education Code. In 2011, in response to a lawsuit by the ACLU, the California legislature codified the Constitution’s “free schools” guarantee by adding sections 49010, 49011, 49012 and 49013 to the Education Code. Most applicable here, Education Code § 49011(b)(4) provides that a public school

shall not offer course credit or privileges related to educational activities in exchange for money or donations of goods or services from a pupil or a pupil’s parents or guardians, and a school shall not remove course credit or privileges related to educational activities, or otherwise discriminate against a pupil, because the pupil or the pupil’s parents or guardians did not or will not provide money or donations of goods or services to the school district or school. (Emphasis added).

The Education Code is clear: Public schools cannot require donations of services from parents. The statute goes on to emphasize that the free schools clause does not “prohibit solicitation of voluntary donations of funds or property, voluntary participation in fundraising activities, or school districts, schools, and other entities from providing pupils prizes or other recognition for voluntarily participating

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<sup>38</sup> Laurel Tree Charter School (Humboldt County), Enrollment Information (emphasis added), <http://www.laureltreecl.org/Enrollment.html> (last visited Oct. 14, 2014).

<sup>39</sup> *Plyler v. Doe*, 457 U.S. 202, 219-220 (1982) (citing in part *Weber v. Aetna Cas. & Surety*, 406 U.S. 164, 175 (1972)). The U.S. Constitution forbids depriving children of a government-conferred benefit as a means of expressing disapproval for the conduct of the parents. *Levy v. Louisiana*, 391 U.S. 68, 72 (1968) (striking down state law denying recovery to illegitimate children for mother’s wrongful death); *Plyler*, 457 U.S. at 219-220 (holding that withholding state benefits to children as a means of punishing unauthorized immigrants cannot comport with equal protection because children are not responsible for parents’ conduct); *Weber*, 406 U.S. at 175 (striking down state law denying workers’ compensation proceeds to non-marital children, stating that to condemn a child for conduct of parent is “illogical and unjust.”).

<sup>40</sup> *Hartzell*. 35 Cal. 3d at 911-12 (alteration and emphasis in original).

in fundraising activities.”<sup>41</sup> The law thus distinguishes between *required* services, which are forbidden, and *voluntary* services, which are allowed. The law also distinguishes between methods by which a school might reward volunteerism: prizes or awards can be given, but “privileges related to educational activities” cannot.<sup>42</sup> Thus, requiring a parent to donate “services” to a public school as a condition of providing her child with a place in that school, or as a condition of her child’s receiving any educational activities or privileges, is illegal under Education Code § 49011(b)(4).



Charter schools in California are not exempt from the Constitutional and statutory prohibitions discussed above. The Constitution applies to charter schools,<sup>43</sup> and the Education Code provisions quoted above say explicitly: “This article applies to all public schools, including, but not limited to, charter schools and alternative schools.”<sup>44</sup> Moreover, charter schools are prohibited by the Charter Schools Act from charging tuition.<sup>45</sup> Charter schools that violate the no-fees law are also illegally charging tuition.

d. Charter schools should promote volunteerism without forcing parents to do unpaid work.

No one doubts that children flourish when parents play an active role in their education. Thus, public schools can and should encourage parents to help their children with homework, to volunteer at school, and to participate in school decision-making. These are not just nice ideas — both federal and state laws require schools to facilitate parent involvement.<sup>46</sup>

Under the federal Title I program, high-poverty schools receiving federal funds are required to have parent involvement plans.<sup>47</sup> And under state laws, including the Local Control Funding Formula and the Charter School Act, charter schools are required to prioritize and facilitate parent involvement, especially for parents of high-need students.<sup>48</sup> However, nothing in these laws allows schools to achieve

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<sup>41</sup> Cal. Ed. Code § 49011(c).

<sup>42</sup> *Id.*

<sup>43</sup> “[C]harter schools are part of California’s single, statewide public school system ... the Legislature has explicitly found that charter schools are ... part of the article IX ‘Public School System’ ....” *Wilson v. State Bd. of Ed.*, 75 Cal. App. 4th 1125, 1137 (1999).

<sup>44</sup> Cal. Ed. Code § 49011(d).

<sup>45</sup> *Id.* at § 47605(d)(1) (“a charter school . . . shall not charge tuition”).

<sup>46</sup> Title I, codified at 20 U.S.C. §§ 6301-6339 and 6571-6578, requires schools to plan and implement parent involvement programs “with meaningful consultation with parents” of high-need children. 20 U.S.C. § 6318(a)(1) (2002)

<sup>47</sup> 20 U.S.C. § 6318(b).

<sup>48</sup> Under California’s new Local Control Funding Formula (LCFF), schools must prioritize “[p]arental involvement, including efforts the school [] makes to seek parent input in making decisions for ... each individual schoolsite, and including how the school [] will promote parental participation in programs for” low-income students, English learners, foster youth, and students with special education needs. Cal. Ed. Code § 52060(d)(3). And under the Charter School Act, charter schools are required to regularly “consult with their parents, legal guardians, and teachers regarding the school’s educational programs.” Cal. Ed. Code § 47605(c)(2).

high levels of parent involvement by coercion — that is, by threatening to deny the parent’s child the ability to participate in educational activities or remain enrolled in the school.<sup>49</sup> In contrast, Title I and California law instruct schools to support *voluntary* parent engagement by building parents’ capacities for school participation and by breaking down barriers that stand in the way of parent involvement.<sup>50</sup> Forced work quotas are completely at odds with the spirit and the purpose of the state and federal laws that address parent engagement.

Fortunately, there are many ways public schools, including charters, can encourage and facilitate parent involvement without forcing parents to work, and charter schools can play a leadership role in developing innovative approaches to doing so.<sup>51</sup> For instance, charter school personnel can do home visits to understand the linguistic, cultural and socio-economic barriers that may impede family participation in the communities in which the school is or plans to be situated. The school can then build programs to accommodate socio-cultural needs and eliminate obstacles to participation (by, e.g., providing childcare, transportation and meals). Charter schools can ensure that their parental involvement strategies do not operate as a barrier to any family and do not penalize any family for not participating. Given the freedom charter schools have in creating their educational programs, and given that the legislature passed the Charter Schools Act in order to place a “special emphasis on expanding learning experiences for pupils who are ... academically low achieving,”<sup>52</sup> charter schools are uniquely poised to develop best practices for truly inclusive parent involvement.<sup>53</sup>

In the next section, we make policy recommendations for charter school operators, charter school authorizers and state-level policymakers who want to involve parents in schools while complying with the constitutional and statutory free schools guarantee.

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<sup>49</sup> See also Julian Vasquez Heilig, “Diversity is Hard”: Will Charter Schools in Your Locale Choose Equity?, Nov. 11, 2013, <http://cloakinginequity.com/2013/11/11/diversity-is-hard-will-charter-schools-in-your-locale-choose-equity/> (arguing that charters use policies such as compelling parental labor to choose their students rather than the other way around.)

<sup>50</sup> For instance, Title I requires schools to offer meetings at times that are convenient to parents, and suggests schools use their Title I funds to provide transportation, childcare, and home visits. 20 U.S.C. § 6318(c)(1)-(2). Schools are required to build parents’ “capacity for involvement,” *id.* at § 6318(e), by, for example, making relevant information available in a language parents understand. *Id.* at § 6318(e)(5). Schools are required to build parents’ capacity by, e.g., explaining state standards to parents, providing parents with literacy and technology training if necessary, and educating teachers, principals, and other school staff, “with the assistance of parents,” on “how to reach out to, communicate with, and work with parents as equal partners ... and build ties between parents and the school.” *Id.* at § 6318(e)(3).

<sup>51</sup> For example: Vaughn Next Century Learning Center provides an “on-site Family Center ... a one-stop shop of health and social services. It provides families with basic needs (clothing, food), drop-in counseling, prenatal care information, family literacy... families accessing services from the Center often give back by providing services to the school ... [such as] classroom assistance, morning valet service, and volunteering at the Center ....” Vaughn Next Century Learning Center Charter Renewal Petition (2013-2018) at 73, *available at* <http://laschoolboard.org/sites/default/files/Final-Renewal-Petition-Vaughn-Next-Century-01-15-13.pdf>. Similarly, Pathways Community Charter School’s charter details culturally-sensitive ways it will welcome and encourage parent participation in its primarily Spanish-speaking, low-income community by staffing a bilingual “Welcome Center” at the school, holding celebrations and events on Saturdays to accommodate work schedules, and having faculty members reach out to family members directly. See Pathways Community School Charter Petition at 44, *available at* <http://laschoolboard.org/sites/default/files/Petition-Pathways-Community-School-12-11-12.pdf>.

<sup>52</sup> This language comes from the statement of Legislative Intent in establishing charter schools. Cal. Ed. Code § 47601(b).

<sup>53</sup> See “Best Practices in Parent Engagement”—a handout created by a coalition of community and advocacy organizations working on LCFF implementation, *available at* <http://bit.ly/LCFFparents>.

#### IV. Policy Recommendations

Forcing parents to do work at a public charter school violates the free schools clause of the California constitution and related provisions of the Education Code. Charter schools, authorizers and state-level agencies must take the following steps to make clear to all families throughout the state that forced parental labor cannot be a condition of enrollment or of participating in any educational activity in any public school in California.<sup>54</sup>

a. Recommendations for Charter Schools

- **Stop requiring parents to work at the school or for the school.**
- **Stop requiring parents to buy unworked hours with money or goods.**
- **If parent service hours are not required but are only encouraged, make that clear to parents with language such as “no student will be denied enrollment, nor face penalties or dismissal, for failure of the parent to perform volunteer service.”<sup>55</sup>**
- **If a school wants to reward parent volunteerism, do so with awards or prizes for parents, not with educational activities or privileges for students.**
- **Develop and scale best practices to facilitate truly *voluntary* parent involvement, and to overcome barriers to participation for high-need families. Ensure that parent service is not perceived as a requirement by any family.**

b. Recommendations for Charter School Authorizers (School Districts, County Offices of Education and the State Board of Education)

- **Do not approve or renew any charter petition with a required parental work policy. Revoke charter schools’ charters if a school has a policy or practice of requiring parents to do work.**

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<sup>54</sup> Certain narrow exceptions for activities deemed not integral to the educational program have been established by the legislature and specifically extended to charter schools. For example, a charter school can charge field trip fees, so long as no student is precluded from attending for inability to pay. *See* Cal. Ed. Code § 35330(b) (allowing field trip fees subject to waiver) and § 35330(d) (extending this exception to charter schools).

<sup>55</sup> This sample language is loosely paraphrased from the charter of Achieve Charter School of Paradise, *available at* <https://www.achievecharter.org/docs/pdf/ACS-Charter.pdf>. *See also* Valley Arts and Science Academy (Fresno Unified): Parents are asked to volunteer 20 hours a year, but a “failure to do this will not affect a student’s admission or enrollment status,” Valley Arts and Science Academy Application, *available at* <http://vasaelementary.com/>.



- If charter authorizers approve, renew, or fail to revoke a charter school with an unconstitutional policy, the authorizer may be liable for the constitutional violation.<sup>56</sup>

→ **Investigate every charter school under your jurisdiction once a year to ensure that the charter school is not illegally requiring parents to do work at the school. If it is, begin the charter-revocation process if it refuses to correct its policy.**

c. Recommendations for the California Department of Education

→ **Issue guidance telling charter schools and authorizers that forced volunteerism is illegal, and disseminate this guidance to all charter schools and charter school authorizers throughout the state.**

- Section 49012(a) of the Education Code instructs the California Department of Education to issue guidance and post it on its website, beginning in fiscal year 2014-2015, for “county superintendents ... district superintendents, and charter school administrators regarding the imposition of pupil fees...” Cal. Ed. Code § 49012(a). To date, the CDE has not yet issued this guidance. The Department should promptly issue guidance to:
  - **State that requiring parents to do work as a condition of allowing their child to enroll at a charter school is an impermissible school fee** under the California Constitution and Education Code § 49011(b)(4).
  - **State that a waiver does not make a required service-hours policy permissible.**
  - **Instruct authorizers not to approve** any charter school petition containing a parent “volunteer hours” requirement as a condition of enrollment or of participation in any educational activity, nor any petition in which the charter school says it will require service hours but allow for a waiver.
  - **Instruct authorizers not to approve** any charter school petition wherein the charter school proponents state an intention to require parent service hours, even if that intent is not written in the petition.
  - **Instruct authorizers to revoke or refuse to renew** any charter school petition for a school that requires parent service hours.
  - **Instruct authorizers to investigate charter schools at least once a year** to ensure that even where a school does not have a written policy requiring parental service, there is no such policy in practice or “off the books.”

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<sup>56</sup> See *Wilson*, 75 Cal. App. 4th at 1140 (Cal. App. 1st Dist. 1999) (explaining that authorizers have “constitutional control over charter schools”); see also *Cal. Sch. Bds. Ass’n. v. State Bd. of Ed.*, 186 Cal. App. 4th 1298, 1326 -1327 (Cal. App. 1st Dist. 2010) (explaining that an authorizer could be compelled to revoke a charter school’s charter by writ of mandate). *C.f. In re Grant of Charter Sch. Application of Englewood on the Palisades Charter Sch.*, 164 N.J. 316, 328-29 (2000) (New Jersey Supreme Court holds that charter school authorizers must ensure that proposed charter schools do not offend state constitutional principles).

- **Make clear that the CDE has rescinded and revoked the memorandum of February 9, 2006**, sent by Michael Hersher (Deputy General Counsel) to Marta Reyes (Charter School Division), in which Mr. Hersher stated that “it is my opinion that a charter petition may lawfully include . . . a requirement that parents agree to do work for the charter school.” This memorandum is no longer available on the CDE’s website to our knowledge, but we believe it is being relied on by charter schools.<sup>57</sup> The memo fails to mention or discuss the free schools clause of the Constitution, and was written prior to the enactment of Education Code § 49011. It should thus no longer be considered an accurate statement of law, and the CDE should explicitly revoke it.
- **Stop giving grant money to charter schools with illegal forced-labor policies.**<sup>58</sup>
- **Take immediate steps to ensure that the 168 charter schools listed in Appendix C stop requiring parents to perform work.**
- **Investigate the remaining charter schools in California to determine if any are illegally forcing parents to do work. If any are, take immediate steps to stop the practice.**
- **Revisit this issue annually to assess whether charter schools are complying with the free schools clause in practice as well as on paper. If charter schools are still requiring parent service, take further steps with greater penalties at that time to abolish the practice.**

d. Recommendations for the State Board of Education

- **As a charter school authorizer, stop authorizing charter schools with work quotas.**

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<sup>57</sup> The memorandum is included as Appendix D to this report. It is also available at the website of Young, Minney, and Corr, a law firm that represents charter schools; thus, we assume it is relied upon by charter school attorneys when giving their client schools legal advice. *See*

[http://www.mymcharterlaw.com/pdf/CDE\\_Legal\\_Opinion\\_re\\_Parent\\_Participation\\_Requirements\\_022206.pdf](http://www.mymcharterlaw.com/pdf/CDE_Legal_Opinion_re_Parent_Participation_Requirements_022206.pdf)

<sup>58</sup> The CDE gives grant money to charter schools through the federal Charter Schools Program. *See* CDE, Public Charter Schools Grant Program, <http://www.cde.ca.gov/sp/cs/re/pcsgp.asp>. The CDE has given grants to several charter schools that have forced service policies, including: Rowland Heights Charter Academy, which requires three hours per month of parent service (*see* Appendix B at 53) and received \$375,000 from the CDE in 2013-2014 (*see* CDE, Funding Results: Public Charter Schools Grant Program Planning and Implementation Grant (Round 2), <http://www.cde.ca.gov/fg/fo/r1/pcsgp13rd2results.asp>) and Wildflower Open Classroom, which requires 75 hours per year (*see* Appendix B at 54), and received \$544,869.94 from the CDE in 2010-11 (*see* CDE, Funding Results: Public Charter Schools Grant Program, awardees for fiscal year 2010-11, <http://www.cde.ca.gov/fg/fo/r1/pcsgp10results.asp>).

→ **Amend the regulations governing charter school renewals, petitions, and appeals to make clear that a charter school with an unconstitutional policy such as work quotas cannot be renewed.**

e. Recommendations for the Legislature

→ **Amend the law governing charter approval to make clear that authorizers must not authorize a charter school that intends to implement a facially unconstitutional policy such as illegal fees or forced work quotas.**

→ **Amend the law on charter renewal to make clear that charter authorizers must not renew a charter school with an unconstitutional policy such as illegal fees or forced work quotas.**

→ **Amend the law on charter revocation to make clear that charter schools with unlawful policies and practices, such as illegal fees or forced work quotas, must be revoked.**

→ **Amend the law on charter school authorizers' oversight and monitoring duties to make clear that authorizers must annually monitor charter schools' compliance with state constitutional requirements, and must revoke the charter of any charter school with an unconstitutional practice.**

## V. Conclusion

Requiring parents to work at a public school as a condition of their child's participation in educational activities is illegal under the California Constitution and Education Code. Yet the practice is rampant in charter schools throughout the state. Charter schools must immediately stop forcing parents to do work at the school as a condition of their child's enrollment or as a condition of their child's receiving educational benefits. State-level agencies such as the CDE, the SBE and the legislature must also take immediate and affirmative steps to ensure that the practice does not persist. Failure to eliminate this practice could expose charter schools and the state to liability.

Schools seeking to achieve a high level of parent involvement should develop and implement programs that do not force parents to do work, but instead eliminate barriers to parent participation and increase parental capacity to meaningfully participate in their child's education. No public school should ever penalize or exclude a student because his or her parent or guardian cannot or chooses not to donate time or labor to the school.

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## TABLE OF APPENDICES

### APPENDIX A. Methodology & Results

### APPENDIX B. Policy statements from selected charter schools referenced in this report

### APPENDIX C. Table: Charter Schools with Forced Labor Policies by County

- Policy statements from each of these schools can be viewed through our online searchable appendix at <http://www.publicadvocates.org/forced-parent-work-policies>.

### APPENDIX D. 2006 Hersher Memorandum