

Your Homework Assignment: Find a Safe and Healthy Charter School Facility by Considering These 8 Factors

Finding suitable facilities for a charter school can be a long, complicated process, and a miscalculation or misstep can set back the entire schedule. Few charter school administrators have dedicated facilities staff or much experience with handling all the processes involved. One of the most perplexing of these is establishing that the site or facility is a safe and healthy environment for children and staff. Nevertheless, it is essential that administrators know exactly what to expect from a site and how to go about getting approval. A process that may be voluntary now will be required if an unsafe condition or hazard surfaces after site purchase or the opening of the school. The eight factors outlined here can help charter administrators and developers effectively evaluate potential school facilities and avoid some unpleasant surprises.

FACTOR 1. UNDERSTAND THE NATURAL SETTING

Understanding the natural setting means knowing the potential for natural hazards. Whether you build a new building or convert an existing one, the land and natural environment are the same. Fortunately, the state mandates the disclosure of the risk and anticipated severity of natural hazards like floods, fire, and earthquakes. Any preliminary site evaluation should include a thorough examination of this information, which state agencies distribute to cities and counties, who in turn make it available to the public at the offices of the county or city assessor, recorder, or planning agency (e.g., in the General Plan). This material will tell you if your site is in an area with the potential for:

- + Flooding from a dam failure
- + High fire hazard severity
- + Wildland fire
- + Earthquake faults
- + Seismic hazards
- + Special flood hazards

Information about flood hazard areas is available from the Federal Emergency Management Agency through their online map service center at <http://msc.fema.gov>.

FACTOR 2. RIGOROUS SITE DUE DILIGENCE

Simply put, due diligence is checking out a business or property before you buy it, but it also implies a certain standard of care. Sometimes due diligence is a legal obligation, but it usually applies to voluntary investigations, as is often the case with charter school sites. Environmental due diligence often includes a Phase I Environmental Site Assessment (ESA), which determines the potential for certain kinds of hazards on the site or in the vicinity. A Phase I ESA can also reduce liability under the federal Superfund Act and if concerns are raised by parents, faculty, or other stakeholders because of previous land use, nearby waste sites, or similar factors.

The Phase I ESA researches the current and historical use of a property and identifies Recognized Environmental Conditions (REC). RECs are things like soil and water contamination, underground fuel tanks, leaking fuel tanks, a nearby waste storage or release site, etc. RECs can be left over from previous land uses or present on existing uses on the site or in the vicinity. For instance, if your site was used for agriculture, there may be pesticides in the soil, depending on the crops grown there. If there was a major chemical spill down the block, it may have contaminated the soil or groundwater on your site, depending on the direction it flowed. If RECs were discovered during a previous site acquisition, the Phase I will reveal how they were handled and if they still exist.

We can't overstate the benefits of rigorous and thorough due diligence. Whether you plan a new school or the conversion of an existing but different land use—such as a church, commercial/retail, former public school, etc.—sloppy research can delay its opening and burden the responsible party with cleanup or huge litigation expenses. Expect that going the extra mile on this step will pay dividends.



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FACTOR 3. ADVERSE EFFECTS OF NEARBY LAND USE

The mantra for realtors is “location, location, location,” but it applies equally well to siting a new charter school. Even if your site comes up clean for Factors 1 and 2, the neighborhood can also pose problems, some of which may not be immediately apparent. Even seemingly benign commercial properties may use hazardous substances or generate hazardous waste, and incompatible land uses can also have aesthetic, noise, and odor impacts. Safety hazards include nearby railroad tracks, high-pressure pipelines, or sources of electromagnetic fields (EMF)—cell phone and radio/TV transmission towers or high-voltage overhead electrical lines.



Unless the charter receives State Facility Program (SFP) funds, you have a lot of flexibility in how you deal with issues like these. One exception to this is airports: If there is an airport runway within 2 nautical miles (about 2.3 miles) of any proposed school—public, private, or charter—or if there are plans for one within that distance, it triggers state requirements for notification, review, and approval under Caltrans’ Office of Airports. This is true whether you have state or local funding.

Even a locally funded charter school can avoid unnecessary risks by considering the California Department of Education’s (CDE) site standards and study protocols (see the California Education Code, Public Resources Code, and Code of Regulations, Title 5). For instance, a nearby freeway, pipeline, or rail line may pose a hazard: CDE’s standard setback distances can help you decide whether to eliminate it or study it further.

FACTOR 4. QUANTIFYING POTENTIAL HAZARDS

Suppose you identify a potential safety or health hazard—an REC, incompatible land use, etc.—either on or near your school site. How do you determine the actual risk, and how far are you obligated to pursue it? The only way to determine whether it really is a hazard is to quantify the risk. That is, you need hard numbers, and for that you need experts. Follow-up may include testing or a human health risk assessment for soil, groundwater, or toxic air contaminants, or a safety assessment for pipeline, rail, or EMF.

Once again, obligation depends on funding. If the school does not have state funding, such a study is generally voluntary, but it may be prudent in order to ensure you thoroughly understand what you are getting into. State-funded charter schools require risk assessment as part of their site approval by the California Department of Toxic Substances Control.

FACTOR 5. EXTERNAL ENVIRONMENTAL FACTORS AND TRANSPORTATION

External environmental factors include noise, pedestrian access, and traffic. To sample the ambient noise environment, visit the site and pay attention to the kinds of noises you hear, and how loud they are. A school site should not be too loud, but how loud is too loud? Most sensitive uses (e.g., residences, schools) have an indoor noise threshold of 45 decibels (dB). Without getting too technical, the loudest it can be outside a school is 69 dB—about as loud as a vacuum cleaner ten feet away—and that’s with all the windows closed. If the windows are open, it can only be about as loud as a normal conversation. If you have to raise your voice to be heard above the traffic or other noise at the site, you might consider a quantitative noise study to determine if the site exceeds local noise thresholds.

Roadway traffic can be a major noise factor, and school traffic, especially in the morning peak hours, can also create or add to congestion on surrounding streets. You might need to resolve



concerns from neighbors and the local government, so you must know whether the site has enough on-site or on-street parking for students to be dropped off and picked up without traffic backing up into the street. School buses need their own area for loading and unloading. Some students may use public transportation, so determine where the nearest bus stops are. Also, don't forget about parking. Check with local zoning authorities for on-site parking requirements for faculty and staff.

For the students who walk or bicycle, it is important to determine which traffic signals, marked crosswalks, stop signs, and sidewalks they might use. Extend the survey area about one-quarter mile from the proposed school site—a typical walking distance for students—and consider any major hazards, such as missing sidewalks, limited crossings on a busy roadway, or a rail crossing. Can these be made safe? No matter what the conditions, always create a “safe route to school” map for students who walk or bike.

FACTOR 6. ASSESS SITE INFRASTRUCTURE

Does your site have sufficient infrastructure for the proposed school? If you are converting a building, it is essential to evaluate it carefully for compliance with building regulations and codes. Pay particular attention to the overall condition of the building. Are the configuration and floor plan suitable for school use? Check for signs of deferred maintenance, which could mean major repairs. Various licensed contractors can help you check for:

- + Potential for asbestos-containing materials, lead-based paint, and toxic mold
- + Site security (exterior lighting, fencing and gates, locks, and alarms)
- + Adequacy and condition of plumbing and sewer lines
- + Adequacy and condition of sidewalks, stairs, and paved areas
- + Compliance with the Americans with Disabilities Act

FACTOR 7. UNDERSTAND THE APPROVAL PROCESS

The approval process is slightly different, depending on whether or not you intend to use SFP funds. The chart (below) shows the main differences in entitlement and environmental requirements between state- and locally funded charter schools. In either case, you must comply with the California Environmental Quality Act (CEQA). (For more information regarding CEQA requirements, see <http://ceres.ca.gov/ceqa> or consider our Practical Guide to CEQA, available at <http://www.planningcenter.com/#/press-room/?stage=publications>.)

The differences in requirements for state- and locally funded charter schools affect the nature and extent of state involvement, building standards, and local requirements—for example, conditional use permits, conformance with zoning requirements, and the issuance of building permits and certificates of occupancy.

APPROVAL/REQUIREMENT	STATE-FUNDED CHARTER SCHOOL ¹	LOCALLY FUNDED CHARTER SCHOOL (Built on nondistrict property)
Is the school project subject to CEQA?	Yes	Yes
Who serves as CEQA lead agency?	Sponsoring district or city or county from whom approval is sought.	The city or county from whom approval is sought.
Do the requirements of Title 5 apply?	Yes	No
Is CDE approval required?	Yes	No
Is Department of Toxic Substances Control (DTSC) review/approval required?	Yes	No, although the DTSC offers its consultancy/advisory services through a reimbursable oversight program.
Is the school subject to local zoning?	Rarely occurs. Technically, answer is yes, but a 2/3 board vote will nullify. ²	Yes
Is a conditional use permit required from the local jurisdiction?	Rarely occurs. Only if zone requires it. And if required, board zoning override will nullify.	Yes
Whose building standards is the school subject to?	Division of the State Architect (DSA)	City or county
Who approves occupancy?	DSA	City or county

¹ Refers to SFP-funded facilities and charters on school district grounds (via Proposition 39).

² “School board” refers to the chartering school district board. The authority of a charter school to serve as lead agency and exempt itself from local zoning is unclear and therefore this is not advisable.

FACTOR 8. MATCH THE SITE WITH THE SCHOOL'S NEEDS

This is common sense and probably the first thing anyone does, but we would like to point out a few less obvious considerations about location, access, size, and joint uses. Ideally, the location of a proposed charter school should present minimum traffic impacts and maximum convenience for students (see Factor 5). It should also encourage or strengthen ties to the surrounding community. Evaluate the issue of access carefully; it can be difficult to balance adequate access with the harmful effects of traffic noise, air emissions, etc.

The capacity of a new charter school needs to match the anticipated enrollment. This is obvious, but not as easy as it seems. Changes in demographics and population, and increased competition from improved public schools or other charter schools, are difficult to anticipate. Whether there is enough capacity to match enrollment depends on the furniture, classroom setup, special-equipment rooms (e.g., labs), etc. It is easy to both over- and underestimate.

Sharing facilities with a church or even a small business is a common way to cut costs. Other joint-use opportunities involve sharing a park or recreational facilities with the municipality or school district. These kinds of partnerships interweave the charter with the rest of the community, and the closer the connections, the more support it is likely to have.

We owe our children a safe and healthy school environment, but it is not always easy to find someplace that is also affordable. As a charter school administrator, the more you understand of the history, setting, and approval process for particular school sites, the better able you will be to weigh your options and choose the best one. Sites may have secrets. Do your homework; don't be surprised.

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Questions related to this CENTERVIEWS may be directed to:
Stuart Michener at 310.670.9221
smichener@planningcenter.com
Dwayne Mears, AICP at 714.966.9220
dmears@planningcenter.com



1580 METRO DRIVE
COSTA MESA, CA 92626

RETURN SERVICE REQUESTED



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