

12-17-2003

PUBLICLY FUNDED, LICENSED SCHOOLS.
INITIATIVE CONSTITUTIONAL
AMENDMENT.

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PUBLICLY FUNDED, LICENSED SCHOOLS. INITIATIVE CONSTITUTIONAL AMENDMENT. California Initiative 1017 (2003).

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SECRETARY OF STATE
KEVIN SHELLEY
STATE OF CALIFORNIA

June 16, 2004

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS AND
PROPOSERS (04193)

FROM: Brianna Lierman
BRIANNA LIERMAN
ELECTIONS ANALYST

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SUBJECT: FAILURE OF INITIATIVE #1017

Pursuant to Elections Code section 9030(b), you are hereby notified that the total number of signatures to the hereinafter named INITIATIVE CONSTITUTIONAL AMENDMENT filed with all county elections officials is less than 100 percent of the number of qualified voters required to find the petition sufficient; therefore, the petition has **failed**.

TITLE: PUBLICLY FUNDED, LICENSED SCHOOLS.

SUMMARY DATE: 12/17/03

PROPOSER: Richard D. Ackerman





SECRETARY OF STATE
KEVIN SHELLEY
STATE OF CALIFORNIA

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December 17, 2003

TO: ALL REGISTRARS OF VOTERS OR COUNTY CLERKS AND PROPONENTS
(03385)

FROM: *Brianna Lierman*
BRIANNA LIERMAN
ELECTIONS ANALYST

SUBJECT: **Initiative #1017**

Pursuant to Elections Code section 9002, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**PUBLICLY FUNDED, LICENSED SCHOOLS.
INITIATIVE CONSTITUTIONAL AMENDMENT.**

The proponent of the above-named measure is:

Richard D. Ackerman
Lively, Ackerman & Cody
41690 Enterprise Circle North, 200M
Temecula, CA 92590

(909) 308-6454

ELECTIONS DIVISION

1500 11TH STREET - 5TH FLOOR • SACRAMENTO, CA 95814 • (916) 657-2166 • [WWW.SS.CA.GOV](http://www.ss.ca.gov)

#1017
Publicly Funded, Licensed Schools.
Initiative Constitutional Amendment.

CIRCULATING AND FILING SCHEDULE

1. Minimum number of signatures required: 598,105
California Constitution, Article II, Section 8(b)

2. Official Summary Date: Wednesday, 12/17/03

3. Petitions Sections:
 - a. First day Proponent can circulate Sections for
signatures (EC §336) Wednesday, 12/17/03

 - b. Last day Proponent can circulate and file
with the county. All sections are to be filed at the
same time within each county (EC §336, 9030(a)) Monday, 05/17/04*

 - c. Last day for county to determine total number of
signatures affixed to petitions and to transmit total
to the Secretary of State (EC §9030(b)) Thursday, 05/27/04

(If the Proponent files the petition with the county on a date prior to 05/17/04,
the county has eight working days from the filing of the petition to determine the
total number of signatures affixed to the petition and to transmit the total to the
Secretary of State) (EC §9030(b)).

 - d. Secretary of State determines whether the total number
of signatures filed with all county clerks/registrars of
voters meets the minimum number of required signatures,
and notifies the counties Saturday, 06/05/04**

 - e. Last day for county to determine total number of qualified
voters who signed the petition, and to transmit certificate
with a blank copy of the petition to the Secretary of State
(EC §9030(d)(e)) Friday, 07/16/04

*Date adjusted for official deadline, which falls on a Saturday (EC §15)

**Date varies based on the date of county receipt of verification.

INITIATIVE #1017
Circulating and Filing Schedule continued:

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 06/05/04, the last day is no later than the thirtieth day after the county's receipt of notification). (EC §9030(d)(e)).

f. If the signature count is more than 657,916 or less than 568,200 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 568,200 and 657,916 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of **all** signatures (EC §9030(f)(g); 9031(a)) Monday, 07/26/04*

g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (EC §9031(b)(c)). Tuesday, 09/07/04

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 07/26/04, the last day is no later than the thirtieth working day after the county's receipt of notification) (EC §9031(b)(c)).

h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (EC §9031(d); 9033) Saturday, 09/11/04*

*Date varies based on receipt of county certification.

IMPORTANT POINTS

- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitute a crime under California law. Elections Code section 18650; *Bilofsky v. Deukmejian* (1981) 124 Cal. App. 3d 825, 177 Cal. Rptr. 621; 63 Ops. Cal. Atty. Gen. 37 (1980).
- Please refer to Elections Code sections 100,101,104,9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

Enclosures

Date: December 17, 2003
File No.: SA2003RF0046,
Amdt. #1-S

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

PUBLICLY FUNDED, LICENSED SCHOOLS. INITIATIVE CONSTITUTIONAL AMENDMENT. Establishes optional, alternative school system for grades kindergarten through twelve under which privately operated schools would be licensed and regulated by the Department of Consumer Affairs. These schools would not be subject to regulation by the Superintendent of Public Instruction. Requires state funding of these schools equal to public schools based upon enrollment. Schools could develop curricula and methodologies and deliver educational services subject to standards applicable to private schools. They would be prohibited from engaging in sectarian or denominational instruction and would be subject to all state and federal nondiscrimination laws. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Over time, potential increase in state school funding costs in the billions of dollars annually.

BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125
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Phone: (916) 324-5490

December 17, 2003

FILED
in the office of the Secretary of State
of the State of California

Kevin Shelley
Secretary of State
1500 - 11th Street, 5th Floor
Sacramento, California 95814

DEC 17 2003

KEVIN SHELLEY, Secretary of State

By Brianna Lierman
Deputy Secretary of State

RE: Initiative Title and Summary
SUBJECT: PUBLICLY FUNDED, LICENSED SCHOOLS.
INITIATIVE CONSTITUTIONAL AMENDMENT.
FILE NO: SA2003RF0046, Amdt. #1-S

Dear Mr. Shelley:

Pursuant to the provisions of sections 9004 and 336 of the Elections Code, you are hereby notified that on this day we mailed our title and summary to the proponent of the above-identified proposed initiative.

Enclosed is a copy of our transmittal letter to the proponent, a copy of our title and summary, a declaration of service thereof, and a copy of the proposed measure.

According to information available in our records, the name and address of the proponent is as stated on the declaration of service.

Sincerely,


TRICIA KNIGHT
Initiative Coordinator

For BILL LOCKYER
Attorney General

TK
Enclosures

Sacramento Area:
5150 Sunrise Boulevard, Suite H4
Fair Oaks, California 95628
(916) 965-8925
(916) 965-8931 Fax

Lively, Ackerman & Cody

A PARTNERSHIP OF CHRISTIAN ATTORNEYS

Southern California:
41690 Enterprise Circle North, 200M
Temecula, California 92590
(909) 308-6454
(909) 308-6453 Fax

October 17, 2003

Initiatives Coordinator (Tricia Knight)
CALIFORNIA ATTORNEY GENERAL
1300 I Street, Suite 125
Sacramento, California 95814

SA2003RF0046,
AmDT. #1-S

RECEIVED
OCT 20 2003

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

RE : Equal Opportunity in Education Initiative
Your File No. SA2003RF0046

REQUEST FOR SUBSTANTIVE CHANGE

Dear Gentilepersons:

Please find enclosed substantive amendments to the above initiative. These changes are submitted to you as indicated in your correspondence of October 3, 2003.

Pursuant to *California Government Code* §§ 9002, et seq., you are hereby requested to prepare a title and summary for this initiative, as revised, so that we may begin the circulation process. Please advise once the title and summary are prepared.

With regard to the other portion of your letter, the purpose of the initiative is as follows: The purpose of the Equal Opportunity in Education Initiative is to provide parents with meaningful and equal choices as to where they send their children to school. The proponents of the initiative recognize that the diverse needs of California's families require a diverse range of educational opportunities for children. As indicated by publicly funded studies, traditional public schools are not providing the higher quality of education offered by privately operated schools. This initiative simply requires that the State of California provide, on an equal economic basis, a publicly funded education as guaranteed by the Constitution. This initiative further assures that students will receive more direct funding than offered by state operated schools with multi-leveled bureaucracies.

Should you have any other questions or concerns, please do not hesitate to contact the undersigned, counsel for the proponents herein.

Most Respectfully Yours:

LIVELY, ACKERMAN & CODY


RICHARD D. ACKERMAN, ESQ.,
Proponent.

STATE OF CALIFORNIA
EQUAL OPPORTUNITY IN EDUCATION INITIATIVE

This initiative measure is submitted to the People of the State of California in accordance with the provisions of Article II, Section 8, of the California Constitution.

PROPOSED LAW

This measure shall be commonly known as "The California Equal Opportunity in Education Initiative" and shall constitute an amendment to the California Constitution, Article IX, by adding Sections 17 through 17.6, as proposed herein.

FINDINGS AND DECLARATIONS

California Constitution, Article IX, Section 17

The California Constitution, Article IX, shall hereby be amended to include Section 17, as follows:

Section 17

The People of the State of California find and declare as follows:

- a.) Whereas, the State of California has declared education to be a priority of the state; and,
- b.) Whereas, the State of California is constitutionally required to provide a free and equal educational opportunity to all students; and,
- c.) Whereas, parents have a constitutional right to direct and control the moral and intellectual upbringing of their children; and,
- d.) Whereas, for lack of educational choice, many California parents have been forced to send their children to failing or mediocre, and overcrowded public schools; and,

- e.) Whereas, the California Department of Education has continually underperformed in its designated duty to provide a high quality and equal education to California's children; and,
- f.) Whereas, California's K-12 public education system would benefit from a competitive spirit similar to public colleges and universities, thereby driving the K-12 school system to a higher quality and broader range of choices for parents and their children; and,
- g.) Whereas, California's colleges, community colleges, and universities are world renowned due to their responsiveness to the rigors of consumer market competition, resulting in exceptional variety and quality of academic programs; and,
- h.) Whereas, the California Department of Consumer Affairs has an established and successful history of licensing schools and colleges, and has prevented fraud, corruption, and other illegal activities; and,
- i.) Whereas, California law allows for schools to be established and managed outside of the exclusive control of the California Department of Education.

THEREFORE be it resolved that the State of California, Department of Consumer Affairs, is instructed to license kindergarten through twelfth grade schools in California called Free Choice Schools. The Free Choice Schools program is to be designed in such a manner as to promote parents' authority and choice in the education of their children. Free Choice Schools shall be funded in the same amounts provided for California's public schools.

For purposes of this constitutional amendment, the Department of Consumer Affairs shall, effective January 1, 2005, be deemed an "officer of the public schools" within the meaning of Article IX, Section 8, of the California Constitution.

NON-DISCRIMINATION BY STATE OF CALIFORNIA

The California Constitution, Article IX, shall hereby be amended to include Section 17.1, as follows:

Section 17.1

A Free Choice School may not operate in violation of Article IX, Section 8, of the California Constitution by using public funding for sectarian or denominational purposes prohibited thereby.

(a) Any Free Choice School operating under this Act shall abide by any and all nondiscrimination laws of the State of California or the United States.

(b) The Department of Consumer Affairs, or any other agency of the State of California, shall not discriminate against the formation, existence of, funding of, or continued operation of a Free Choice School on the basis of the school founders' race, ethnicity, religion, ancestry, marital/domestic status, or national origin of any person or entity maintaining ownership, control, employment with, or management of any institution created as a result of this Act.

(c) California Constitution, Article IX, Section 8, is not rendered void or ineffective by enactment of this particular constitutional provision.

(d) It is the intention of the People that Free Choice Schools be given the freedom to develop curricula, scheduling, methodologies, and delivery of educational services which are consistent with the diversity of California's population.

(e) No parent shall be compelled by this Act to enroll his/her child in a Free Choice School.

ROLE OF THE DEPARTMENT OF CONSUMER AFFAIRS

The California Constitution, Article IX, shall hereby be amended to include Section 17.2, as follows:

Section 17.2

(a) The State of California, Department of Consumer Affairs, shall adopt a regulatory program designed to ensure that licensees, engaged in providing kindergarten through 12th grade education as a Free Choice School, abide by the same standards applicable to private kindergarten through 12th grade educational institutions operating in the State of California.

After licensing and the first quarter of a Free Choice School's operation, the school shall make available the following:

- (1) Truthful and accurate information concerning the background qualifications of any and all staff employed by the institution;
- (2) Regularly scheduled academic performance testing, reviews, and reports;
- (3) Adequate liability insurance and other commercially practicable measures to protect children attending such schools from the ordinary risks associated with attendance at an academic institution;
- (4) A free education as guaranteed by the California Constitution, Article IX, Section 5. No tuition charge, school fee, or other unlawful financial assessment shall be charged by a Free Choice School to any parent or child enrolled at a Free Choice School authorized to operate pursuant to this Act.

(b) The State of California, Department of Consumer Affairs, shall be entitled to collect against each Free Choice School, no more than one percent of the per student funding amounts provided to the Free Choice School by California Constitution, Article IX, Section 17.3, as a licensing fee.

FUNDING FOR CALIFORNIA FREE CHOICE ACADEMIC INSTITUTIONS

The California Constitution, Article IX, shall hereby be amended to include Section 17.3, as follows:

Section 17.3

(a) The California State Controller shall provide funding for each student of a Free Choice School in an amount equal to the State of California per student expenditures, as annually calculated, reported, and indexed by EdSource, Inc. In the event that EdSource, Inc., is not able to provide index data, then the State Controller's office shall calculate, by way of an independent audit conducted by a private certified public accounting firm, the annual per student expenditures by the State of California.

(b) Unless otherwise restricted by federal law, Free Choice Schools shall be entitled to apply for and receive, only where qualified and not already receiving such funds, general and supplemental public education and facilities funding made available to any and all other publicly funded schools in the State of California, including, but not limited to, public schools, charter schools, and private institutions responsible for providing public education services to California's disadvantaged and special needs children.

(c) Each parent or guardian of a student enrolled in a Free Choice School shall certify enrollment of his/her child in said school under penalty of perjury. No child shall enroll, or continue to be enrolled, in more than one school at a time.

(d) Each Free Choice School shall collect and compile enrollment data biweekly and shall report total school enrollment quarterly (beginning with the quarter ending March 31, 2005) to the office of the State Controller. Each quarterly report shall be submitted within ten calendar days

following the end of each calendar quarter.

(e) Based upon receipt of the quarterly total school enrollment data provided pursuant to Subsection (d) above, the State Controller shall release per student funding, within thirty calendar days, in an amount equal to one-fourth of the per student expenditure amount referenced in Subsection (a) above. Total school enrollment funding shall be distributed directly to the Free Choice School.

(f) Any Free Choice School licensed pursuant to this Act shall be subject to the California Public Records Act (*California Government Code* § 6550, et seq.) in the same scope and manner as any existing California public school.

SEVERABILITY

The California Constitution, Article IX, shall hereby be amended to include Section 17.4, as follows:

Section 17.4

If any part or parts of this statute are found to be in conflict with federal law, the United States Constitution or the California Constitution, the statute shall be implemented to the maximum extent that federal law, and the constitutions of the United States and California permit. Any provision held invalid shall be severed from the remaining portions of this statute.

OPERATIVE DATE

The California Constitution, Article IX, shall hereby be amended to include Section 17.5, as follows:

Section 17.5

(a) This initiative shall become operative beginning January 1, 2005.

(b) The provisions of this Act may only be amended by a statute that becomes effective upon approval by the electorate or in accordance with the same legal requirements necessary for a proposed amendment by the Legislature to the California Constitution.

INTERPRETATION

The California Constitution, Article IX, shall hereby be amended to include Section 17.6, as follows:

Section 17.6

(a) The provisions of this Act shall not be interpreted in any way that interferes with the right of a parent to determine the social, intellectual and academic upbringing of his or her child.

(b) This Act shall be deemed to contain the governing intent of its enactment and intended enforcement.

(c) Pursuant to Article IX, Section 1, of the California Constitution, this Act shall be deemed to provide a "suitable means" of promoting the "intellectual, scientific, moral, and agricultural" improvement of the State of California.

(d) The State Superintendent of Public Instruction shall not interfere with the provision of educational services allowed by this act in any manner that contravenes the express intent of this Act.
