

# 0420.4 BP - Charter School Authorization

## Philosophy-Goals-Objectives and Comprehensive Plans

### Board Policy No. 0420.4

#### Date

#### CHARTER SCHOOL AUTHORIZATION

The Governing Board recognizes that charter schools may assist the district in offering diverse learning opportunities for students. In considering any petition to establish a charter school within the district, the Board shall give thoughtful consideration to the potential of the charter school to provide students with a high-quality education that enables them to achieve to their fullest potential.

One or more persons may submit a petition to the Board for a start-up charter school to be established within the district or for the conversion of an existing district school to a charter school. ~~In addition, an existing district school may be converted to a charter school when deemed beneficial by the district and community.~~ (Education Code 47605, ~~47606, 53300~~)

Any petition for a charter school shall include all components, signatures, and statements required by law, as specified in the accompanying administrative regulation. The proposed charter shall be attached to the petition. (Education Code 47605)

The Superintendent or designee shall consult with legal counsel, as appropriate, regarding compliance of the charter petition with legal requirements.

The Superintendent or designee may work with charter school petitioners prior to the formal submission of the petition in order to ensure compliance of the petition with legal requirements. As needed, the Superintendent or designee may also meet with the petitioners to establish workable plans for contracted services which the district may provide to the proposed charter school.

The district shall not require any district student to attend the charter school nor shall it require any district employee to work at the charter school. (Education Code 47605)

### **Timelines for Board Action**

~~Any petition for a start-up charter school or conversion charter school shall include all components and signatures required by law and shall be submitted to the Board. The Superintendent or designee shall consult with legal counsel, as appropriate, regarding compliance of the charter proposals with legal requirements.¶~~

~~The Superintendent or designee may work with charter school petitioners prior to the formal submission of the petition in order to ensure compliance of the petition with legal requirements. As needed, he/she also may meet with the petitioners to establish workable plans for technical assistance or contracted services which the district may provide to the proposed charter school.~~

Within ~~6~~30 days of receiving a petition to establish a charter school, the Board shall hold a public hearing ~~on the charter provisions, at which time the Board shall consider to~~ determine the level of support for the petition by ~~district~~ teachers, other ~~district~~ employees of the district, and parents/guardians. ~~A petition is deemed received on the day the petitioner submits a petition to the district office, along with a signed certification that the petitioner deems the petition to be complete.~~ (Education Code 47605)¶

~~(cf. 9320 Meetings and Notices)¶~~

The Board shall either grant or deny the petition at a public hearing held within 90 days of receiving the petition, or within 120 days with the consent of both the petitioner and the Board. (Education Code 47605)

At least 15 days before the public hearing at which the Board will grant or deny the charter, the district shall publish all staff recommendations regarding the petition, including any recommended findings and, if applicable, certification from the County Superintendent of Schools regarding the potential fiscal impact of the charter school on the district. During the public hearing, the petitioners shall have equal time and opportunity to present evidence and testimony in response to the staff recommendations and findings. (Education Code 47605)

The Superintendent or designee shall maintain accurate records, in relation to each charter petition, of documents submitted, the Board's proceedings, and the findings upon which the Board's decision is made.

~~Within 60 days of receiving a petition, or within 90 days with mutual consent of the petitioners and the Board, the Board shall either approve or deny the request to establish the charter school. (Education Code 47605) ¶~~

~~The approval or denial of a charter petition shall not be controlled by collective bargaining agreements nor subject to review or regulation by the Public Employment Relations Board. (Education Code 47611.5)~~

## **Approval of Petition**

A charter petition shall be granted only if the Board is satisfied that doing so ~~The Board shall approve the charter petition if doing so~~ is consistent with sound educational practice and the interests of the community in which the school is proposing to locate. In granting charters, the Board shall ~~shall consider the academic needs of the students the charter school proposes to serve and shall give~~ give preference to petitions that demonstrate the capability to ~~schools best able to~~ provide comprehensive learning experiences for students who are identified by the petitioner as academically low-achieving, based on the ~~academically low-achieving students according to~~ standards established by the California Department of Education (CDE) ~~under Education Code 54032.~~ (Education Code 47605)

The approval or denial of a charter petition shall not be controlled by collective bargaining agreements nor subject to review or regulation by the Public Employment Relations Board. (Education Code 47611.5)¶

The Board may initially grant a charter for a specified term not to exceed five years. (Education Code 47607)

Prior to authorizing any charter, the Board shall verify that the charter includes adequate processes and measures for monitoring and holding the school accountable for fulfilling the terms of its charter and complying with all applicable laws, including Education Code 47604.1. Such processes and measures shall include, but are not limited to, fiscal accountability systems, multiple measures for evaluating the educational program, inspection and observations of any part of the charter school, and regular reports to the Board. ~~The Board shall ensure that any approved charter contains adequate processes and measures for holding the school accountable for fulfilling the terms of its charter.~~

~~These shall include, but are not limited to, fiscal accountability systems, multiple measures for evaluating the educational program, including student outcomes aligned with state priorities as described in Education Code 52060, and regular reports to the Board.~~

The Board may approve one or more memoranda of understanding to clarify the financial and operational agreements between the district and the charter school. Any such memorandum of understanding shall be annually reviewed by the Board and charter school governing body and amended as necessary.

~~When a petition is approved by the Board, it~~ shall be the responsibility of the petitioners to provide written notice of the Board's approval and a copy of the charter to the County Superintendent of Schools, the CDE, and the State Board of Education (SBE). (Education Code 47605)

### **Denial of Petition**

The Board shall summarily deny any charter petition that proposes to:

1. Operate a charter school as or by a for-profit corporation, a for-profit educational management organization, or a for-profit charter management organization (Education Code 47604)
2. Convert a private school to a charter school (Education Code 47602)
3. Serve students in a grade level that is not served by the district, unless the petition proposes to serve students in all the grade levels served by the district (Education Code 47605)
4. Offer nonclassroom-based instruction (Education Code 47612.7)

Regarding all other charter petitions, the Board shall deny a petition only if the Board makes written factual findings specific to the petition that one or more of the following conditions exist: (Education Code 47605; 5 CCR 11967.5.1

1. The charter school presents an unsound educational program that has a likelihood of physical, educational, or psychological harm to, or which is not likely to provide an educational benefit for, the students to be enrolled in the charter school.
2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
3. The petition does not contain the number of signatures required.
4. The petition does not contain a clear, unequivocal statement described in Education Code 47605(e), including that the charter school will be nonsectarian and that the school shall not charge tuition or discriminate against any student based on the characteristics specified in Education Code 220.
5. The petition does not contain reasonably comprehensive descriptions of the charter provisions in Education Code 47605(c).
6. The petition does not contain a declaration as to whether the charter school shall be deemed the exclusive public employer of the school's employees for purposes of collective bargaining pursuant to Government Code 3540-3549.3.
7. The charter school is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate. Analysis of this finding shall include consideration of the fiscal impact of the proposed charter school. A written factual finding shall detail specific facts and circumstances that analyze and consider the following factors:

- The extent to which the proposed charter school would substantially undermine existing services, academic offerings, or programmatic offerings
  - Whether the proposed charter school would duplicate a program currently offered within the district, when the existing program has sufficient capacity for the students proposed to be served within reasonable proximity to where the charter school intends to locate
8. The district is not positioned to absorb the fiscal impact of the proposed charter school. The district meets this criterion if it has a negative interim certification, has a qualified interim certification and the County Superintendent certifies that approving the charter school would result in the district having a negative interim certification, or is under state receivership.

The Board shall not deny a petition based on the actual or potential costs of serving students with disabilities, nor shall it deny a petition solely because the charter school might enroll students with disabilities who reside outside the special education local plan area in which the district participates. (Education Code 47605.7, 47647)

~~The Board shall deny any petition to authorize the conversion of a private school to a charter school. The Board shall also deny any petition for a charter that proposes to serve students in a grade level that is not served by the district, unless the petition proposes to serve students in all the grade levels served by the district. (Education Code 47602, 47605)¶¶~~

~~Any other charter petition shall be denied only if the Board makes written factual findings specific to the petition that one or more of the following conditions exist: (Education Code 47605)¶¶~~

~~1. The charter school presents an unsound educational program for the students to be enrolled in the charter school.¶¶~~

~~2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.¶¶~~

~~3. The petition does not contain the number of signatures required.¶¶~~

~~4. The petition does not contain an affirmation of each of the conditions described in Education Code 47605(d).¶¶~~

~~5. The petition does not contain reasonably comprehensive descriptions of the charter provisions in Education Code 47605(b).¶¶~~

~~6. The petition does not contain a declaration as to whether or not the charter school shall be deemed the exclusive public school employer of the school's employees for purposes of collective bargaining pursuant to Government Code 3540-3549.3.¶¶~~

~~The Board shall not deny a petition based on the actual or potential costs of serving students with disabilities, nor shall it deny a petition solely because the charter school might enroll students with disabilities who reside outside the special education local plan area in which the district participates. (Education Code 47605.7, 47647)¶¶~~



~~If the Board denies a petition, the petitioners may choose to submit the petition to the County Board of Education and, if then denied by the County Board, to the SBE. (Education Code 47605)~~

## **Appeals**

If the Board denies a petition, the petitioner may choose to submit the petition to the County Board of Education and, if then denied by the County Board, to SBE. (Education Code 47605)

At the request of the petitioner, the Board shall prepare the documentary record, including a transcript of the public hearing at which the Board denied the charter, no later than 10 business days after the petitioner makes the request. (Education Code 47605)

Within 30 days of receipt of an appeal submitted to SBE, the Board may submit a written opposition to SBE, which may include supporting documentation, detailing, with specific citations to the documentary record, how the Board did not abuse its discretion in denying the petition. (Education Code 47605)

If either the County Board or SBE remands the petition to the Board because the petition on appeal contains new or different material terms, the Board shall reconsider the petition and shall grant or deny the petition within 30 days. (Education Code 47605)

*Legal Reference:*

*EDUCATION CODE*

*200 Equal rights and opportunities in state educational institutions*

*220 Nondiscrimination*

*17078.52-17078.66 Charter schools facility funding; state bond proceeds*

*17280-17317 Field Act*

*17365-17374 Field Act, fitness for occupancy*

*33126 School Accountability Report Card*

*41365 Charter school revolving loan fund*

*42238.51-42238.2 Funding for charter districts*

*44237 Criminal record summary*

*44830.1 Certificated employees, conviction of a violent or serious felony*

*45122.1 Classified employees, conviction of a violent or serious felony*

*46201 Instructional minutes*

*47600-47616.7 Charter Schools Act of 1992*

*47640-47647 Special education funding for charter schools*

*47650-47652 Funding of charter schools*

*49011 Student fees*

*51745-51749.6 Independent study*

*52052 Accountability; numerically significant student subgroups*

*52060-52077 Local control and accountability plan*

*56026 Special education*

*56145-56146 Special education services in charter schools*

*CORPORATIONS CODE*

*5110-6910 Nonprofit public benefit corporations*

*GOVERNMENT CODE*

*3540-3549.3 Educational Employment Relations Act*

*CODE OF REGULATIONS, TITLE 5*

*11700.1-11705 Independent study*

*11960-11968.5.5 Charter schools*

*CODE OF REGULATIONS, TITLE 24*

*Part 2 California Building Standards Code*

*UNITED STATES CODE, TITLE 20*

*7223-7225 Charter schools*