

## **Fresno Unified Board Policy (BP) 0420.4 Charter School Authorization**

The Governing Board recognizes that charter schools offer diverse learning opportunities for students. In considering any petition for the establishment of a charter school within the district, the Board shall give thoughtful consideration to the ability of the charter school to provide students with a sound educational that enables them to achieve to their fullest potential. They shall consider whether the proposed charter school may accomplish the following: (a) improve pupil learning; (b) increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low-achieving; (c) encourage the use of different and innovative teaching methods; (d) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site; (e) provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system; (h) hold the charter school accountable for meeting measurable pupil outcomes, and provide the school with a method to change from rule-based to performance-based accountability systems; and (g) provide vigorous competition to stimulate continual improvements in all public schools. (Education Code 47601)

One or more persons seeking to establish a charter school may submit a petition to the Board for the establishment of a charter school that will operate within the geographic boundaries of the district or to convert an existing public school of the district. (Education Code 47605)

Any petition for a charter school shall include the required number of parents or legal guardians meaningful interested in having their child or ward attend the charter school or teachers meaningfully interested in teaching at the charter school. The petition must also contain reasonably comprehensive descriptions of all of the elements required by law and, the accompanying administrative regulations. 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 with legal requirements. If the charter petition is granted, the Superintendent or designee may also establish a Memorandum of Understanding with the charter operators for contracted services the district may provide to the approved charter school.

### Timelines for Board Action

No later than 60 days after receiving a charter petition, the Board shall hold a public hearing on the charter provisions, at which time the Board shall consider the level of support for the petition by teachers employed by the district, other district employees, and parents/guardians. A petition is deemed received by the Board on the day the petitioner submits a petition to the district's Charter office, along with a signed certification that the petitioner deems the petition to be complete. (Education Code 47605)

Following review of the petition and the public hearing, the Board shall either grant or deny the charter petition at a public hearing held within 90 days of receipt of the petition. That date may be extended an additional 30 days if the petitioner and the Board agree to the extension. (Education Code 47605)

*(cf. 9320 - Meetings and Notices)*

At least 15 days before the public hearing at which the Board will either grant or deny the charter, the Board 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. At the public hearing to either grant or deny the charter, the petitioners shall have equivalent time and procedures to present evidence and testimony to respond 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 to grant or deny the charter is made.

### **Approval of Petition**

The Board shall grant a charter for the operation of a charter school only if the Board is satisfied that granting the charter is consistent with sound educational practice and with the interests of the community in which the school is proposing to locate. The Board shall consider the academic needs of the students the charter school proposes to serve and shall not deny a petition for the establishment of a charter school unless it makes written factual findings specific to the petition. The Board shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to students identified by the petitioners as academically low-achieving, pursuant to the standards established by the California Department of Education (CDE). (Education Code 47605)

Prior to granting a charter petition, the Board shall verify the charter includes adequate processes and measures for oversight 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 measures for evaluating the educational program, inspection and observation of the charter school, and regular reports to the Board.

*(cf. 0420.41 - Charter School Oversight)*

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)

After a charter petition is granted the Board may enter into a Memorandum of Understanding with the charter operator for the term of the charter to clarify the financial and operational agreements between the district and the charter school. Any such Memorandum of Understanding may be amended as necessary per the terms of the Memorandum of Understanding.

*(cf. 0420.42 - Charter School Renewal)*

*(cf. 0420.43 - Charter School Revocation)*

Upon approval of the petition by the Board, the petitioners it shall be the responsible for providing written notice of the Board's approval and a copy of the charter petition 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 of 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 not deny a petition for the establishment of a charter school unless the Board makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings: (Education Code 47605; 5 CCR 11967.5.1)

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 required number of signatures.
4. The petition does not contain an affirmation that the charter school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against a pupil on the basis of the characteristics listed in Education Code 47605(e). (Education Code 220)
5. The petition does not contain reasonably comprehensive descriptions of all of the following:
  - A. The educational program of the charter school.
  - B. The measurable student outcomes identified by the charter school.
  - C. The method by which student progress is to be measured.
  - D. The governance structure of the charter school.
  - E. The qualifications to be met by individuals to be employed by the charter school.
  - F. The procedures the charter school will follow to ensure the health and safety of students and staff.
  - G. The means by which the charter school will achieve a balance of racial and ethnic students, special education students, and English learner students that is reflective of the general population residing within the territorial jurisdiction of the District.
  - H. Admissions policies and procedures.
  - I. The manner in which annual, independent financial audits shall be conducted.
  - J. The procedures by which students can be suspended or expelled from the charter school.
  - K. The manner by which staff members of the charter school will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.
  - L. The public school attendance alternatives for students residing within the District who choose not to attend the charter school.
  - M. The rights of a District employee upon leaving the District's employment to work in the charter school and any rights of return to the District after employment at the charter school.
  - N. The procedures to be followed by the charter school and the chartering authority to resolve disputes relating to provisions of the charter.
  - O. The procedures to be used if the charter school closes.
6. The petition does not contain a declaration of 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.
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:
  - a. The extent to which the proposed charter school would substantially undermine existing services, academic offerings, or programmatic offerings
  - b. Whether the proposed charter school would duplicate a program currently offered within the district and whether, 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 satisfies this criterion if it 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, has a negative interim certification, or is under the state receivership. (Education Code 47605.7, 5 CCR 11967.5.1)

The Board shall not deny a petition based on the actual or potential costs of serving students with exceptional needs, which is defined in Education Code 56026, nor shall it refuse to grant 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)

*(cf. 0430 - Comprehensive Local Plan for Special Education)*

### Appeals

If the Board denies a petition, the petitioners may elect to submit the charter petition to the County Board of Education within 30 days of the denial by the district. If the County Board denies the petition, the petitioners may appeal that denial, to the SBE within 30 days of the denial by the County Board. (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 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)

*Fresno Unified School District prohibits discrimination, harassment (including sexual harassment), intimidation, and bullying based on actual or perceived race, color, ethnicity, national origin, immigration status, ancestry, age (40 and above), religious creed, religion, political belief or affiliation, gender, gender identity, gender expression, genetic information, mental or physical disability, sex, sexual orientation, marital status, pregnancy or parental status, childbirth, breastfeeding/lactation status, medical condition, military and veteran status, or association with a person or a group with one or more of these actual or perceived characteristics or any other basis protected by law or regulation, in its educational program(s) or employment.*

### Legal Reference:

EDUCATION CODE  
200 Equal rights and opportunities in state educational institution  
220 Nondiscrimination  
1240 Duties of County Superintendent  
17078.52-17078.66 Charter schools facility funding; state bond proceeds  
17280-17317 Field Act  
17365-17374 Field Act, fitness for occupancy  
32282 Comprehensive safety plan  
33126 School Accountability Report Card  
41365 Charter school revolving loan fund  
42131 Interim certification  
42238.51-42238.532 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

51745-51749.36 Independent study  
52052 Accountability: numerically significant student subgroups, definition  
53300-53303 Parent Empowerment Act  
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  
1090-1099 Prohibitions applicable to specified officers  
3540-3549.3 Educational Employment Relations Act  
6250-6270 California Public Records Act  
54950-54963 Ralph M. Brown Act  
81000-91014 Political Reform Act of 1974  
CODE OF REGULATIONS, TITLE 5  
11700.1-11705 Independent study  
11960-11968.5.5 Charter schools  
UNITED STATES CODE, TITLE 20  
7223-7225 Charter schools  
COURT DECISIONS  
Ridgecrest Charter School v. Sierra Sands Unified School District, (2005) 130 Cal.App.4th 986  
ATTORNEY GENERAL OPINIONS  
89 Ops.Cal.Atty.Gen. 166 (2006)  
80 Ops.Cal.Atty.Gen. 52 (1997)  
78 Ops.Cal.Atty.Gen. 297 (1995)

Policy FRESNO UNIFIED SCHOOL DISTRICT  
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*Policy Section: 0000 Philosophy, Goals, Objectives and Comprehensive Plans*