

Fresno Unified Board Policy (BP) 0420.43 Charter School Revocation

The Governing Board expects all charter schools it authorizes to provide a sound educational program that promotes student learning and to carry out their operations in a manner that complies with law and the terms of its charter. The Board may revoke a charter in accordance with law (Education Code 47607).

(cf. 0420.4 - Charter School Authorization)

(cf. 0420.41 - Charter School Oversight)

(cf. 0420.42 - Charter School Renewal)

(cf. 0500 - Accountability)

The Board may revoke a charter, if the Board finds, through a showing of substantial evidence that the charter school did any of the following: (Education Code 47607(f))

1. Committed a material violation of any of the conditions, standards, or procedures set forth in the charter
2. Failed to meet or pursue any of the student outcomes identified in the charter
3. Failed to meet generally accepted accounting principles or engaged in fiscal mismanagement
4. Violated any law

When the Board determines, in writing, that any violation under Education Code 47607(f) constitutes a severe and imminent threat to the health or safety of students, the Board may immediately revoke the school's charter by approving and delivering a Notice of Revocation by Determination of a Severe and Imminent Threat to Student Health or Safety to the charter school's governing body, the County Board of Education, and the California Department of Education (CDE) (Education Code 47607; 5 CCR 11968.5.3)

The Board shall also consider for revocation any charter school to which the California Collaborative for Educational Excellence (CCEE) has provided advice and assistance pursuant to Education Code 47607.3(c) and about which the CCEE has made either of the following findings, which shall be submitted to the Board: (Education Code 47607.3(d))

1. That the charter school, has failed or is unable, to implement the recommendations of the CCEE
2. That the inadequate performance of the charter school, based upon an evaluation rubric shown on the California School Dashboard, is either so persistent or so acute as to require revocation of the charter

In determining whether to revoke the charter, the Board shall consider increases in student academic achievement for all numerically significant student subgroups served by the charter school, as defined in Education Code 52052. (Education Code 47607, 47607.3)

Revocation Procedures

If the Board is considering revoking a charter, the Board shall deliver a Notice of Violation to the charter school's governing body. The Notice of Violation is the written notice of the Board's identification of one or more of the specific alleged violations by the charter school. This notice shall identify all of the following: (Education Code 47607; 5 CCR 11965, 11968.5.2)

1. The charter school's alleged specific violation(s).
2. All evidence relied upon by the Board in determining the charter school engaged in any of the acts or omissions identified including the date and duration of the alleged violation(s), showing the violation(s) are both material and uncured, and that the alleged violations(s) occurred within a reasonable period of time before the Notice of Violation is issued.
3. The period of time that the Board has concluded is a reasonable period of time for the charter school

to remedy or refute the identified violation(s). In identifying this time period, the Board shall consider the amount of time reasonably necessary to remedy each identified violation, which may include the charter school's estimation as to the anticipated remediation time.

At least 72 hours prior to any meeting in which the Board will consider issuing a Notice of Violation, the Board shall provide the charter school with notice and all relevant documents related to the proposed action. (5 CCR 11968.5.2)

(cf. 9320 - Meetings and Notices)

Upon receipt of the Notice of Violation, the charter school's governing body if it chooses to respond, shall take the following actions:

- (1) submit to the Board a detailed, written response addressing each identified violation, including, the refutation, remedial action taken, or proposed remedial action by the charter school specific to each alleged violation, which shall be due by the end of the remedy period identified in the Notice of Violation; and
- (2) attach to its written response supporting evidence of the refutation, remedial action, or proposed remedial action, if any, including written reports, statements, and other appropriate documentation. (5 CCR 11968.5.2)

After conclusion of the reasonable opportunity to remedy specified in the Notice of Violation, the Board shall evaluate the response of the charter school's governing body to the Notice of Violation and any supporting evidence, if submitted, and shall take one of the following actions: (5 CCR 11968.5.2)

1. If the Board has substantial evidence that the charter school has failed to refute to the Board's satisfaction, or remedy a violation identified in the Notice of Violation, continue revocation of the school's charter by issuing a Notice of Intent to Revoke to the charter school's governing body; or
2. Discontinue revocation of the school's charter and provide timely written notice of such action to the charter school's governing body

If the Board does not take one of the above actions within 60 calendar days of the conclusion of the remedy period specified in the Notice of Violation, the revocation process is terminated and the Notice of Violation is void. (5 CCR 11968.5.2)

If the Board chooses to continue revocation of the charter school by issuing a written Notice of Intent to Revoke due to the charter school's failure to remedy one or more violations identified in the Notice of Violation, the Notice of Intent to Revoke shall identify all of the following:

- (1) All evidence relied upon by the Board in determining that the charter school failed to remedy a violation.
- (2) The date and time at which the Board will hold a public hearing concerning revocation, which shall be held no more than 30 calendar days after the Board issues this notice (Education Code 47607; 5 CCR 11968.5.2)

No later than 30 days after providing the Notice of Intent to Revoke, the Board shall hold a public hearing, in the normal course of business, on the issue of whether evidence exists to revoke the charter. No later than 30 days after the public hearing, the Board shall issue a final decision to revoke or decline to revoke the charter, unless the Board and the charter school agree to extend the issuance of the decision by an additional 30 days. The Board shall not revoke a charter unless it makes written factual findings supported by substantial evidence, specific to the charter school, that supports its findings. (Education Code § 47607;

5 CCR § 11968.5.2)

If the Board does not act to issue a final decision within the specified timeframe, the revocation process is terminated and the Notice of Intent is void. (5 CCR 11968.5.2)

Within 10 calendar days of issuing the Board's final decision, the Superintendent or designee shall provide a copy of the final decision to the CDE and the County Board (Education Code 47604.32; 5 CCR 11968.5.2)

Appeals

If the Board revokes a charter, the charter school may appeal the revocation to the County Board within 30 days following the Board's final decision. The County Board may reverse the revocation decision if it determines that the findings made by the Board are not supported by substantial evidence. The Board may appeal the reversal to the State Board of Education (SBE). If the County Board does not issue a decision on appeal within 90 days' of receipt or if the County Board upholds the revocation, the charter school may appeal the revocation to the SBE (Education Code 47607; 47607.3; 5 CCR 11968.5.3-11968.5.5)

School Closure

If a charter school ceases operation due to revocation, the charter school shall implement the school closure procedures specified in the charter in accordance with Education Code 47605 and 5 CCR 11962.

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

47600-47616.7 Charter Schools Act of 1992, especially: 47607 Charter renewals and revocations

52052 Accountability: numerically significant student subgroup; definition

CODE OF REGULATIONS, TITLE 5

11960-11969 Charter schools, especially:

11968.5.1-11968.5.5 Charter revocations

COURT DECISIONS

Today's Fresh Start, Inc. v. Los Angeles County Office of Education (2013) 57 Cal.4th 197

Policy FRESNO UNIFIED SCHOOL DISTRICT

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