

Policy 0420.4: CHARTER SCHOOL AUTHORIZATION

Status: ADOPTED

Original Adopted Date: 10/1998

Last Revised Date: 05/15/2024

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 charter school to be established within the district or for the conversion of an existing district school to a charter school. (Education Code 47605)

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 Board 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

Within 60 days of 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 district teachers, other district employees, 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)

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.

Approval of Petition

A charter petition shall be granted only if the Board is satisfied that 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 consider the academic needs of the students the charter school proposes to serve and shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences for students who are identified by the petitioner as academically low-achieving, based on standards established by California Department of Education (CDE). (Education Code 47605) 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 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 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. The Board may initially grant a charter for a specified term not to exceed five years. (Education Code 47607)

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 petition to the County Superintendent of Schools, 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:
 - 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, 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)

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)

10/98
 11/99
 11/02
 07/09/03
 11/02
 11/03
 03/06
 07/12
 04/11/18
 02/26/20
 05/15/2024

Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
5 CCR 11960-11969.10	Charter schools

Corp. Code 5110-6910
 Ed. Code 1240
 Ed. Code 17078.52-17078.66
 Ed. Code 17280-17317
 Ed. Code 17365-17374
 Ed. Code 200

 Ed. Code 220
 Ed. Code 32280-32289.5
 Ed. Code 33126
 Ed. Code 41365
 Ed. Code 42131
 Ed. Code 42238.02-42238.52
 Ed. Code 44237
 Ed. Code 44830.1

 Ed. Code 45122.1

 Ed. Code 46201
 Ed. Code 47600-47616.7
 Ed. Code 47640-47647
 Ed. Code 47650-47655
 Ed. Code 49011
 Ed. Code 51744-51749.6
 Ed. Code 51745
 Ed. Code 52052
 Ed. Code 52060-52077
 Ed. Code 56026
 Ed. Code 56145-56146
 Gov. Code 1090-1099
 Gov. Code 3540-3549.3
 Gov. Code 54950-54963
 Gov. Code 7920.000-7930.215
 Gov. Code 81000-91014
 W&I Code 224.1

Federal

20 USC 7221-7221j

Management Resources

Attorney General Opinion
 Attorney General Opinion
 Attorney General Opinion
 Attorney General Opinion
 California Charter Authorizing Professionals
 Pub.
 Court Decision

 Court Decision

 Court Decision

 CSBA Publication

[Nonprofit public benefit corporations](#)
[County superintendent of schools; duties](#)
[Charter schools facility funding; state bond proceeds](#)
[Field Act; approval of plans and supervision of construction](#)
[Field Act; fitness for occupancy; liability of board members](#)
[Equal rights and opportunities in state educational](#)
[institutions](#)
[Prohibition of discrimination](#)
[School safety plans](#)
[School accountability report card](#)
[Charter school revolving loan fund](#)
[Interim certification](#)
[Funding for charter districts](#)
[Criminal record summary](#)
[Certificated employees; conviction of a violent or serious](#)
[felony](#)
[Classified employees; conviction of a violent or serious](#)
[felony](#)
[Instructional minutes](#)
[Charter Schools Act of 1992](#)
[Special education funding for charter schools](#)
[Funding of charter schools](#)
[Student fees](#)
[Independent study](#)
[Independent study](#)
[Accountability; numerically significant student subgroups](#)
[Local control and accountability plan](#)
[Special education](#)
[Special education services in charter schools](#)
[Prohibitions applicable to specified officers](#)
[Educational Employment Relations Act](#)
[The Ralph M. Brown Act](#)
[California Public Records Act](#)
[Political Reform Act](#)
[Indian child; definition](#)

Description

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101 Ops.Cal.Atty.Gen. 92 (2018)
 78 Ops.Cal.Atty.Gen. 297 (1995)
 89 Ops.Cal.Atty.Gen. 166 (2006)
 80 Ops.Cal.Atty.Gen. 52 (1997)
 Memorandum of Understanding (MOU) Resource, September
 2022
 Napa Unified School District v. California State Board of
 Education, Case No. 34-2022-80004051
 CSBA'S Education Legal Alliance v. California State Board of
 Education, Case No. 34-2018-80002834
 Ridgecrest Charter School v. Sierra Sands Unified School
 District (2005) 130 Cal.App.4th 986
 Uncharted Waters: Recommendations for Prioritizing
 Student Achievement and Effective Governance in
 California's Charter Schools, September 2018

CSBA Publication	Charter Schools: A Guide for Governance Teams, rev. February 2016
CSBA Publication	Charter Schools and Board Member Responsibilities, Education Insights Legal Update Webcast, March 2016
CSBA Publication	Charter Schools in Focus, Issue 1: Managing the Petition Review Process, Governance Brief, November 2016
U.S. Department of Education Publication	Charter Schools Program: Title V, Part B of the ESEA, Nonregulatory Guidance, January 2014
U.S. Department of Education Publication	Dear Colleague Letter: Guidance Regarding the Oversight of Charter Schools Program and Regulatory Requirements, August 2016
Website	CSBA District and County Office of Education Legal Services
Website	National Association of Charter School Authorizers
Website	California Charter Schools Association
Website	California Department of Education, Charter Schools
Website	CSBA
Website	U.S. Department of Education

Cross References

Code	Description
0420.41	Charter School Oversight
0420.41-E(1)	Charter School Oversight
0420.42	Charter School Renewal
0420.43	Charter School Revocation
0430	Comprehensive Local Plan For Special Education
0430	Comprehensive Local Plan For Special Education
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
0510	School Accountability Report Card
2230	Representative And Deliberative Groups
4116	Probationary/Permanent Status
4116	Probationary/Permanent Status
6146.3	Reciprocity Of Academic Credit
6146.3	Reciprocity Of Academic Credit
6158	Independent Study
6158	Independent Study
6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests
6178	Career Technical Education
6178	Career Technical Education
6184	Continuation Education
6184	Continuation Education
7160	Charter School Facilities
7160	Charter School Facilities
9320	Meetings And Notices