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 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)
Petitions must be delivered to the Superintendent's office to receive a time-

stamp authenticating delivery. The time-stamp date will begin the statutory time period.

(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 (MOU) to clarify the financial and operational agreements between the district and the charter school. Any such MOU 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, 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)

Material Revisions to Charter

Material revisions to a charter may only be made with Board approval. Material revisions shall be governed by the same standards and criteria that apply to petitions for the authorization of charter schools as set forth in Education Code 47605 and shall include, but not be limited to, a reasonably comprehensive description of any new requirement for charter schools enacted into law after the charter was originally granted or last renewed. (Education Code 47607)

The Board shall determine whether a proposed change in charter school operations would constitute a material revision of the approved charter.

If an approved charter school proposes to expand operations to one or more additional sites or grade levels, whether concurrently with or unrelated to a renewal, the charter school shall request a material revision to its charter and shall notify the Board of those additional locations or grade levels. The Board shall consider approval of the additional locations or grade levels at an open, public meeting. (Education Code 47605, 47607)

The Board may deny a proposed material revision if it finds that the proposed material revision would render the charter school demonstrably unlikely to serve the interests of the entire community in which the school is located or proposes to locate. In making this finding, the Board shall consider all of the following: (Education Code 47605)

1. The fiscal impact of the proposed expansion on the district

2. The extent to which the expansion would substantially undermine existing services, academic offerings, or programmatic offerings

3. Whether the expansion would duplicate a program currently offered within the district that has sufficient capacity for the students proposed to be served within reasonable proximity to where the charter school intends to locate

Additionally, the Board may deny a proposed material revision if it finds that the district is not positioned to absorb the fiscal impact of the proposed material revision. The Board shall make this finding if the district has a qualified interim certification pursuant to Education Code 42131 and the County Superintendent, in consultation with the County Office Fiscal Crisis and Management Assistance Team, certifies that approving the charter school would result in the district having a negative interim certification pursuant to Education Code 42131, the district has a negative interim certification pursuant to Education Code 42131, or the district is under state receivership. (Education Code 47605

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 Governing 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	*Nonprofit public benefit corporations*
Ed. Code 1240	*County superintendent of schools; duties*
Ed. Code 17078.52-17078.66	*Charter schools facility funding; state bond proceeds*
Ed. Code 17280-17317	*Field Act; approval of plans and supervision of construction*
Ed. Code 17365-17374	*Field Act; fitness for occupancy; liability of board members*
Ed. Code 200	*Equal rights and opportunities in state educational institutions*
Ed. Code 220	*Prohibition of discrimination*
Ed. Code 32280-32289.5	*School safety plans*
Ed. Code 33126	*School accountability report card*
Ed. Code 41365	*Charter school revolving loan fund*
Ed. Code 42131	*Interim certification*
Ed. Code 42238.02-42238.52	*Funding for charter districts*
Ed. Code 44237	*Criminal record summary*
Ed. Code 44830.1	*Certificated employees; conviction of a violent or serious felony*
Ed. Code 45122.1	*Classified employees; conviction of a violent or serious felony*
Ed. Code 46201	*Instructional minutes*
Ed. Code 47600-47616.7	*Charter Schools Act of 1992*
Ed. Code 47640-47647	*Special education funding for charter schools*

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Ed. Code 47650-47655	*Funding of charter schools*
Ed. Code 48900	*Suspension or expulsion; use of controlled substances*
Ed. Code 49011	*Student fees; definition*
Ed. Code 51744-51749.6	*Independent study*
Ed. Code 51745	*Independent study*
Ed. Code 52052	*Accountability; numerically significant student subgroups*
Ed. Code 52060-52077	*Local control and accountability plan*
Ed. Code 56026	*Special education*
Ed. Code 56145-56146	*Special education services in charter schools*
Gov. Code 1090-1099	*Prohibitions applicable to specified officers*
Gov. Code 3540-3549.3	*Educational Employment Relations Act*
Gov. Code 54950-54963	*The Ralph M. Brown Act*
Gov. Code 7920.000-7930.215	*California Public Records Act*
Gov. Code 81000-91014	*Political Reform Act*
W&I Code 224.1	*Indian child; definition*
Federal	***Description***
20 USC 1400-1482	*Individuals with Disabilities Education Act*
20 USC 7221-7221j	*Charter schools*
29 USC 794	*Rehabilitation Act of 1973; Section 504*
42 USC 12101-12213	*Americans with Disabilities Act*
Management Resources	***Description***
Attorney General Opinion	*101 Ops.Cal.Atty.Gen. 92 (2018)*
Attorney General Opinion	*78 Ops.Cal.Atty.Gen. 297 (1995)*
Attorney General Opinion	*89 Ops.Cal.Atty.Gen. 166 (2006)*
Attorney General Opinion	*80 Ops.Cal.Atty.Gen. 52 (1997)*
California Charter Authorizing Professionals Pub.	*Memorandum of Understanding (MOU) Resource, September 2022*
Court Decision	*Napa Valley Unified School District v. State Board of Education, Case No. C099068*
CSBA Publication	*Charter Schools: A Guide for Governance Teams, rev. 2021*
CSBA Publication	*Uncharted Waters: Recommendations for Prioritizing Student Achievement and Effective Governance in California's Charter Schools, September 2018*
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*
Website	*CSBA District and County Office of Education Legal Services*

CHARTER SCHOOL AUTHORIZATION

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

Policy	***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*
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*

CHARTER SCHOOL AUTHORIZATION

Policy **PASADENA UNIFIED SCHOOL DISTRICT**
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