

**CHARTER SCHOOLS**

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 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)

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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 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)

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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 or not 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 regarding:
  - 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, or 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.

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)

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**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 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 grant shall or deny the petition within 30 days. (Education Code 47605)

*Legal Reference:*

EDUCATION CODE

5 CCR 11700.1-11705 *Independent study*  
5 CCR 11960-11968.5.5 *Charter schools*  
*Corp. Code 5110-6910 Nonprofit public benefit corporations*  
1240 *County superintendent of schools, duties*  
17078.52-17078.66 *Charter schools facility funding; state bond proceeds*  
17280-17317 *Approval of plans and supervision of construction*  
17365-17374 *Fitness of buildings for occupancy; liability of board members*  
200 *Equal rights and opportunities in state educational institutions*  
220 *Prohibition of discrimination*  
32282 *School safety plans*  
33126 *School accountability report card*  
41365 *Charter school revolving loan fund*  
42131 *Interim certification*  
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*

*(Legal References continued on next page)*

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GOVERNMENT CODE:

*1090-1099 Prohibitions applicable to specified officers*

*3540-3549.3 Educational Employment Relations Act*

*54950-54963 The Ralph M. Brown Act*

*6250-6270 California Public Records Act*

*81000-91014 Political Reform Act of 1974*

*20 USC 7223-7225 Charter schools*

*Attorney General Opinion*

*Opinion No. 11-201 (2018)*

*78 Ops.Cal.Atty.Gen. 297 (1995)*

*80 Ops.Cal.Atty.Gen. 52 (1997)*

*89 Ops.Cal.Atty.Gen. 166 (2006)*

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATION

*Sample Copy of a Memorandum of Understanding*

COURT DECISION:

*Ridgecrest Charter School v. Sierra Sands Unified School District, (2005) 130 Cal.App.4th 986*

CSBA Publication:

*Charter Schools and Board Member Responsibilities, Education Insights Legal Update Webcast, March 2016*

*Charter Schools in Focus, Issue 1: Managing the Petition Review Process, Governance Brief, November 2016*

*Charter Schools: A Guide for Governance Teams, rev. February 2016*

*Uncharted Waters: Recommendations for Prioritizing Student Achievement and Effective Governance in California's*

*Charter Schools, September 2018*

*U.S. Department of Education Publication*

*Dear Colleague Letter: Guidance Regarding the Oversight of Charter Schools Program and Regulatory*

*Requirements, August 2016*

*Guidance on the Voluntary Use of Race to Achieve Diversity and Avoid Racial Isolation in Elementary and*

*Secondary Schools, December 2011*

*Charter Schools Program: Title V, Part B of the ESEA, Nonregulatory Guidance, January 2014*

WEBSITES:

*National Association of Charter School Authorizers*

*California Charter Schools Association*

*California Department of Education, Charter Schools*

CSBA

*U.S. Department of Education*

**Philosophy, Goals, Objectives, and Comprehensive Plans**

BP 0420.4 (f)

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