

BOARD POLICY
Placentia-Yorba Linda Unified School District

Philosophy/Goals/Objectives

0420.4 - BP

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 will give thoughtful consideration to the potential of the charter school to provide students with a high-quality education that enables them to achieve their fullest potential.

These schools shall operate under the provisions of their charters, federal laws, specific state laws, and general oversight of the board. In considering any petition to establish a charter school within the district, the Board shall give consideration to the potential of the charter school to provide students with a high-quality education that enables them to achieve their fullest potential. The Board also recognizes that authorizing charter schools includes a rigorous, comprehensive application process and that charters should be granted to petitioners who demonstrate strong potential for establishing and operating a high-quality charter school over the lifetime of the charter, including, but not limited to, the charter schools' ability effectively to administer a public agency.

The Charter Schools Act of 1992 ("Act"), Education Code § 47600 et seq., authorizes the establishment of public charter schools. To establish a charter school, petitioners must submit to the Governing Board for approval a petition that includes all components required by law and AR 0420.4. Charter schools are generally exempt from the laws and rules that regulate non-charter public schools and, instead, the parameters for their operation, including the manner in which they educate students, maintain transparency, and ensure public accountability, must be set forth in their individual charter petitions and any memorandum of understanding with the district. As such, the Governing Board will hold charter school petitioners strictly accountable for compliance with all aspects of the Act, though the district does not repeat each requirement of the Act in its Board Policies or Administrative Regulations.

Submission of a Petition

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(a)) District staff will provide the board copies of all new or renewal charter petitions and supporting materials submitted within three (3) business days of submission. Additionally, District staff will provide the board copies of all notifications submitted in accordance with Education Code § 47605.6 of the intent to submit a countywide charter and potentially establishing a site within district boundaries as well as copies of countywide charter petitions submitted to the Orange County Board of Education for the establishment of a countywide petition.

Any petition for a charter school shall contain all components, signatures and statements required by law, this policy and the accompanying administrative regulation, as well as the signed certification that the charter is complete. (Education Code § 47605). The petition must contain reasonably comprehensive descriptions of the 15 required elements as fully set forth in Education Code § section 47605(c) and summarized here as follows:

A. The educational program as required by Education Code § 47605(c)(5)(A).

1. The educational program of the charter school, designed, among other things, to identify those whom the charter school is attempting to educate, what it means to be an "educated person" in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.

2. The annual goals for the charter school for all pupils and for each subgroup of pupils identified pursuant to Section 52052, to be achieved in the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, and specific annual actions to achieve those goals. A charter petition may identify additional school priorities, the goals for the school priorities, and the specific annual actions to achieve those goals.
 3. If the proposed charter school will serve high school pupils, the manner in which the charter school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable and courses approved by the University of California or the California State University as creditable under the "A to G" admissions criteria may be considered to meet college entrance requirements.
- B. Measurable pupil outcomes as required by Education Code § 47605(c)(5)(B). The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes," for purposes of this part, means the extent to which all pupils of the charter school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the charter school's educational program. Pupil outcomes shall include outcomes that address increases in pupil academic achievement both schoolwide and for all pupil subgroups served by the charter school, as that term is defined in subdivision (a) of Section 52052. The pupil outcomes shall align with the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served by the charter school.
- C. The method by which pupil progress is to be measured as required by Education Code § 47605(c)(5)(C). The method by which pupil progress in meeting those pupil outcomes is to be measured. To the extent practicable, the method for measuring pupil outcomes for state priorities shall be consistent with the way information is reported on a School Accountability Report Card.
- D. The governance structure of the charter school, including, but not limited to, the process to be followed by the charter school to ensure parental involvement as required by Education Code § 47605(c)(5)(D).
- E. The qualifications to be met by individuals to be employed by the charter school as required by Education Code § 47605(c)(5)(E).
- F. The procedures that the charter school will follow to ensure the health and safety of pupils and staff as required by Education Code § 47605(c)(5)(F). These procedures shall require all of the following:
1. That each employee of the charter school furnish the charter school with a criminal record summary as described in Section 44237.
 2. The development of a school safety plan, which shall include the safety topics listed in subparagraphs (A) to (J), inclusive, of paragraph (2) of subdivision (a) of Section 32282.
 3. That the school safety plan be reviewed and updated by March 1 of every year by the charter school.
- G. The means by which the charter school will achieve a balance of racial and ethnic pupils, special education pupils, and English learner pupils, as required by Education Code § 47605(c)(5)(G), including redesignated fluent English proficient pupils, as defined by the evaluation rubrics in Section 52064.5, that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted. Upon renewal, for a charter school not deemed to be a local educational agency for purposes of special education pursuant to Section

47641, the chartering authority may consider the effect of school placements made by the chartering authority in providing a free and appropriate public education as required by the federal Individuals with Disabilities Education Act (Public Law 101-476), on the balance of pupils with disabilities at the charter school.

- H. Admission policies and procedures as required by Education Code § 47605(c)(5)(H) and consistent with Education Code § 47605(e).
- I. The manner in which annual, independent financial audits shall be conducted, as required by Education Code § 47605(c)(5)(I), which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority.
- J. The procedures by which pupils can be suspended or expelled from the charter school, as required by Education Code § 47605(c)(5)(J), for disciplinary reasons or otherwise involuntarily removed from the charter school for any reason. These procedures, at a minimum, shall include an explanation of how the charter school will comply with federal and state constitutional procedural and substantive due process requirements that is consistent with all of the following:
 - 1. For suspensions of fewer than 10 days, provide oral or written notice of the charges against the pupil and, if the pupil denies the charges, an explanation of the evidence that supports the charges and an opportunity for the pupil to present the pupil's side of the story.
 - 2. For suspensions of 10 days or more and all other expulsions for disciplinary reasons, both of the following:
 - a. Provide timely, written notice of the charges against the pupil and an explanation of the pupil's basic rights.
 - b. Provide a hearing adjudicated by a neutral officer within a reasonable number of days at which the pupil has a fair opportunity to present testimony, evidence, and witnesses and confront and cross-examine adverse witnesses, and at which the pupil has the right to bring legal counsel or an advocate.
 - c. Contain a clear statement that no pupil shall be involuntarily removed by the charter school for any reason unless the parent or guardian of the pupil has been provided written notice of intent to remove the pupil no less than five schooldays before the effective date of the action. The written notice shall be in the native language of the pupil or the pupil's parent or guardian or, if the pupil is a foster child or youth or a homeless child or youth, the pupil's educational rights holder, and shall inform the pupil, the pupil's parent or guardian, or the pupil's educational rights holder of the right to initiate the procedures specified in clause (ii) before the effective date of the action. If the pupil's parent, guardian, or educational rights holder initiates the procedures specified in clause (ii), the pupil shall remain enrolled and shall not be removed until the charter school issues a final decision. For purposes of this clause, "involuntarily removed" includes disenrolled, dismissed, transferred, or terminated, but does not include suspensions specified in clauses (i) and (ii).
- K. The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security as required by Education Code § 47605(c)(5)(K).
- L. The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools as required by Education Code § 47605(c)(5)(L).

- M. The rights of an employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school as required by Education Code § 47605(c)(5)(M).
- N. The procedures to be followed by the charter school and the chartering authority to resolve disputes relating to provisions of the charter as required by Education Code § 47605(c)(5)(N).
- O. The procedures to be used if the charter school closes as required by Education Code § 47605(c)(5)(O). The procedures shall ensure a final audit of the charter school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of pupil records.

The proposed charter shall be attached to the petition when the petition is circulated, and signatures are gathered.

The Superintendent or designee may consult with legal counsel as appropriate, regarding compliance of the charter petition with legal requirements and take other steps the Superintendent or designee determines to be appropriate in reviewing a submitted petition.

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)

1. Timelines for Board Action

The board recognizes the seriousness and complexity of and the time required for staff's task in reviewing and analyzing a charter petition (initial petition, request for material revision, and/or renewal) and determining and publishing recommendations and recommended findings in accordance with the standards and requirements of the Charter Schools Act. As such, absent extenuating circumstances, the board expects the District to make use of the full time allotted in the Charter Schools Act for the scheduling of the public hearing, publication of staff's recommendations and recommended findings, and board action on any charter petition submitted to the board. Such actions generally should not be unnecessarily rushed or combined at the same board meeting.

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. The district may maintain appropriate forms to be used by charter school petitioners/operators for such signed certifications for initial petitions, renewal petitions, and requests for material revision. The Superintendent or designee may update and revise these certification forms in a manner consistent with the law and this policy (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(b))

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. (Education Code § 47605)

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)

2. 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. 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, 47601)

The Board will verify that any charter it approves 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 may include, but are not limited to, fiscal accountability systems, 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 with any District Board-authorized charter school to outline the District's and charter school's agreements governing their respective fiscal, operational, and administrative responsibilities, their legal relationship, and other matters not otherwise addressed or resolved by the terms of the particular charter. Any such memorandum of understanding may be amended, as necessary, Any such memorandum of understanding may be amended, as necessary by mutual agreement of the parties through action of the respective governing boards.

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 petitioners responsibility to provide written notice of the Board's approval and a copy of the petition to the County Superintendent of Schools and the State Board of Education (SBE). (Education Code § 47605)

3. Denial of Petition

The Board shall 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 during the period of the moratorium on new charters for such purposes. (Education Code § 47612.7)

Any other charter petition shall be denied only if the Board makes written factual findings specific to the petition that one or more of the following conditions exist. (Education Code § 47605(c) (1)-(8))

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 number of signatures required.
4. The petition does not contain an affirmation of each of the conditions described in Education Code § 47605(e).
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, the Educational Employment Relations Act.
7. For a new charter, 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. For a new charter, the district is not positioned to absorb the fiscal impact of the proposed charter school in which case the charter petition shall be subject to a rebuttable presumption of denial. 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. 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)

4. 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). If the petition is denied on appeal by the County Board and the petitioner plans to appeal to SBE, at the request of the petitioner, the Board shall prepare the documentary record, including a written transcript of the public hearing at which the Board denied the charter, no later than 10 business days after the petitioner makes the request. The Board delegates responsibility for preparing the documentary record to the Superintendent or Superintendent's designee. (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 The Board delegates responsibility for preparing and submitting any such opposition to the Superintendent or Superintendent's designee. (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).

Legal Reference:

EDUCATION CODE §

200 Equal rights and opportunities in state educational institutions

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

42100 Annual statement of receipts and expenditures

42238.51-42238.53 Funding for charter districts

42238.02 and 42238.03 Local Control Funding Formula

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, as amended

47640-47647 Special education funding for charter schools

47650-47652 Funding of new and expanding charter schools

48000 Minimum age of admission (kindergarten)

48010 Minimum age of admission (first grade)

48011 Minimum age of admission from kindergarten or other school

49013 Pupil fee complaints

49011 Student Fees

51745-51749.6 Independent study

52052 Accountability; numerically significant student subgroup

52060-52077 Local control and accountability plan

53300-53303 Parent Empowerment Act

56026 Special education

56145-56146 Special education services in charter schools

CORPORATIONS CODE §

5110-6910 Nonprofit public benefit corporations

60600-60649 California Assessment of Academic Achievement

60640-60649 California Assessment of Student Performance and Progress

GOVERNMENT CODE §

1090-1099 Prohibition applicable to specified officers

3540-3549.3 Educational Employment Relations Act

7920.000-7931.000 California Public Records Act

54950-54963 The Ralph M. Brown Act

81000-91014 Political Reform Act of 1974

PENAL CODE §

667.5 Definition of violent felony

1192.7 Definition of serious felony

CODE § OF REGULATIONS, TITLE 5

4600-4687 Uniform Complaint Procedures
4800-4808 Parent Empowerment Act
11700.1-11705 Independent study
11960-11969 Charter schools

CODE § OF REGULATIONS, TITLE 24
101 et seq. California Building Standards Code §

UNITED STATES CODE, TITLE 20
Every Student Succeeds Act
6301 Program improvement
7221-7221j Charter schools

CODE § OF FEDERAL REGULATIONS, TITLE 34
200.1-200.78 Accountability
300.18 Highly qualified special education teachers

COURT DECISIONS

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

ATTORNEY GENERAL OPINIONS

101 Ops.Cal.Atty.Gen. 92 (2018)
89 Ops.Cal.Atty.Gen. 166 (2006)
80 Ops.Cal.Atty.Gen. 52 (1997)
78 Ops.Cal.Atty.Gen. 297 (1995)

Management Resources:

CSBA PUBLICATIONS

The Role of the Charter School Authorizer, Online Course Charter Schools: A Manual for Governance Teams, rev. 2009
Uncharted Waters: Recommendations for Prioritizing Student Achievement and Effective Governance in California's Charter Schools, September 2018
Charter Schools in Focus, Issue 1: Managing the Petition Review Process, Governance Brief, November 2016
Charter Schools and Board Member Responsibilities, Education Insights Legal Update Webcast, March 2016
Charter Schools: A Manual for Governance Teams, rev. Feb. 2016

CSBA ADVISORIES

Charter School Facilities and Proposition 39: Legal Implications for School Districts, September 2005

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Sample Copy of a Memorandum of Understanding
Special Education and Charter Schools: Questions and Answers, September 10, 2002

U.S. DEPARTMENT OF EDUCATION GUIDANCE

Dear Colleague Letter: Guidance Regarding the Oversight of Charter Schools Program and Regulatory Requirements, including the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Aug. 2016
Charter Schools Program: Title V, Part B of the ESEA, Nonregulatory Guidance, January 2014
Guidance on the Voluntary Use of Race to Achieve Diversity and Avoid Racial Isolation in Elementary and Secondary Schools, Dec. 2011
Charter Schools Program, July 2004
The Impact of the New Title I Requirements on Charter Schools, July 2004

WEB SITES

CSBA: <http://www.csba.org>

California Building Standards Commission: <http://www.bsc.ca.gov>

California Charter Schools Association: <http://www.ccsacalcharters.org>

California Department of Education, Charter Schools: <http://www.cde.ca.gov/sp/chs> Education

Commission of the States: <http://www.ecs.org>

National Association of Charter School Authorizers: <http://www.qualitycharterscharterauthorizers.org>

National School Boards Association: <http://www.nsba.org>

U.S. Department of Education: <http://www.ed.gov>

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