

Policy 0420.4: Charter School Authorization

Status: DRAFT

Original Adopted Date: 12/12/2006 | **Last Revised Date:** 05/18/2021 | **Last Reviewed Date:** 05/18/2021

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 ~~charter petition~~ 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)
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~~ **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, ~~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)

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** ~~shall~~ or deny the petition within 30 days. (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 board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References	Description
5 CCR 11960-11969.10	Charter schools
Corp. Code 5110-6910	Nonprofit public benefit corporations - https://simbli.eboardsolutions.com/SU/up9YZpTJb4gRf50Hwlsish9Og==
Ed. Code 1240	County superintendent of schools; duties - https://simbli.eboardsolutions.com/SU/zxiNblNKXQ1Z3w2H1beZIA==
Ed. Code 17078.52-17078.66	Charter schools facility funding; state bond proceeds - https://simbli.eboardsolutions.com/SU/TQzJsnFNgK9C4FAujOZt4w==
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
Ed. Code 47650-47655	Funding of charter schools
Ed. Code 49011	Student fees
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 of 1974
W&I Code 224.1	Indian child; definition

Federal References

20 USC 7221-7221j

Description

Charter schools

Management Resources References

Attorney General Opinion
Attorney General Opinion
Attorney General Opinion
Attorney General Opinion

Description

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)

California Charter Authorizing Professionals Pub. Memorandum of Understanding (MOU) Resource, September 2022

Court Decision

Napa Unified School District v. California State Board of Education, Case No. 34-2022-80004051

Court Decision

CSBA'S Education Legal Alliance v. California State Board of Education, Case No. 34-2018-80002834

Court Decision

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

CSBA Publication

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 - https://simbli.eboardsolutions.com/SU/UdykszdmPETuDsIshXk6R5akQ==
Website	National Association of Charter School Authorizers - https://simbli.eboardsolutions.com/SU/9nzhOG5X2VVH42kMJnO6kg==
Website	California Charter Schools Association - https://simbli.eboardsolutions.com/SU/aplushtDM8pluszN2tpwTckx11kA==
Website	California Department of Education, Charter Schools - https://simbli.eboardsolutions.com/SU/PdGgkCs2YZ3fwPslshslshoGe7iQ==
Website	CSBA - https://simbli.eboardsolutions.com/SU/W3QxkK2FPsDsQBnMIENxGg==
Website	U.S. Department of Education - https://simbli.eboardsolutions.com/SU/XcSsJimosIsh3XhJKy4tplus7wplusA==

Cross References

Description

0420.41-E(1)	Charter School Oversight - https://simbli.eboardsolutions.com/SU/7swt4BxqQXZVIMQkUmRmww==
0420.41	Charter School Oversight - https://simbli.eboardsolutions.com/SU/EzslshGx0gvplusRz6HURsjaXsgQ==
0420.41-E PDF(1)	Charter School Oversight - https://simbli.eboardsolutions.com/SU/SYERo3Avfrpluspr6aJMw9Scg==
0420.42	Charter School Renewal - https://simbli.eboardsolutions.com/SU/P2sAZrvS7Nu4UUdFPwCrqA==
0420.43	Charter School Revocation - https://simbli.eboardsolutions.com/SU/RVMgtPWiq2o6slsh4KcojIXZQ==
0430	Comprehensive Local Plan For Special Education - https://simbli.eboardsolutions.com/SU/v4RslshNgwalreHoj7ZVXWm7w==
0430	Comprehensive Local Plan For Special Education - https://simbli.eboardsolutions.com/SU/9boBGUTIBZ4DgJEW4QQULQ==
0460	Local Control And Accountability Plan - https://simbli.eboardsolutions.com/SU/Oa8UxEDuhq6BH2zsd274XA==
0460	Local Control And Accountability Plan - https://simbli.eboardsolutions.com/SU/8eaD94eHfVAA8KylGL0hw==
0510	School Accountability Report Card - https://simbli.eboardsolutions.com/SU/IlinsdRy7GgR8Ac6plus39nlg==
2230	Representative And Deliberative Groups - https://simbli.eboardsolutions.com/SU/H1jm55LVwTPH4HOLqCVPqQ==
4116	Probationary/Permanent Status - https://simbli.eboardsolutions.com/SU/CRQ368mKUKXPkhabKVcNkQ==
4116	Probationary/Permanent Status - https://simbli.eboardsolutions.com/SU/p3UeTNzU5I2xnsIshhgHxo5xw==
6146.3	Reciprocity Of Academic Credit - https://simbli.eboardsolutions.com/SU/GOZjZy1jQRt3nrE11RrplusNg==
6146.3	Reciprocity Of Academic Credit - https://simbli.eboardsolutions.com/SU/ONBie0bZeM0SaJ6c5TJzsg==
6158	Independent Study - https://simbli.eboardsolutions.com/SU/ee2tkgHbbOh14xJ9J7h1rg==

- 6158 Independent Study -
<https://simbli.eboardsolutions.com/SU/aYZRmMkfXDLQZrXI6IFVOQ==>
- 6162.51 State Academic Achievement Tests -
<https://simbli.eboardsolutions.com/SU/NUVVRB6a69j7omFVQPA0iVw==>
- 6162.51 State Academic Achievement Tests -
<https://simbli.eboardsolutions.com/SU/DvplusGs1o9QPJTzyqtV9Jopw==>
- 6178 Career Technical Education -
<https://simbli.eboardsolutions.com/SU/w8PXmwwRW8m3f15GamoLGg==>
- 6178 Career Technical Education -
<https://simbli.eboardsolutions.com/SU/EB4BWyiNF9vM7HvAPWTDw==>
- 6184 Continuation Education -
<https://simbli.eboardsolutions.com/SU/yvxnNaJRq3tN2QNASpVDsg==>
- 6184 Continuation Education -
<https://simbli.eboardsolutions.com/SU/n2vXlrDOabjvPYtxuaplusQHg==>
- 7160 Charter School Facilities -
<https://simbli.eboardsolutions.com/SU/9ZdPeVMoiWkVrcHdkiBrA==>
- 7160 Charter School Facilities -
<https://simbli.eboardsolutions.com/SU/0OggerwUdsRB1YJEbWEeaw==>
- 9320 Meetings And Notices -
<https://simbli.eboardsolutions.com/SU/O70wY0BUVD9c14jLHNLjSQ==>