

(AR) #0420.4 CHARTER SCHOOL AUTHORIZATION

GUIDELINES FOR ESTABLISHING A CHARTER SCHOOL

The Legislature established the Charter Schools Act of 1992 (Chapter 781, Statutes of 1992), as amended (Chapter 34, Statutes of 1998, and Chapters 78 and 162, Statutes of 1999), to provide opportunities for students, teachers, parents, and community members to establish and maintain nonsectarian schools that operate independently from the existing school district structure and as a method to accomplish all of the following:

- Improve student learning.
- Increase learning opportunities for all students, with special emphasis on expanded learning experiences for academically low achieving students.
- Encourage the use of different and innovative teaching methods.
- Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.
- Provide parents and students with expanded choices in the types of educational opportunities available within the public school system.
- Hold the charter schools accountable for meeting measurable student outcomes and demonstrate student improvement subject to the same accountability standards as traditional schools.
- Provide vigorous competition within the public school system to stimulate continued improvement in all public schools.
- Provide the charter schools with a method to change from rule-based to performance-based accountability systems.
- Address how services for students with special needs will be provided either as a local agency (LEA) or as a public school within its sponsoring LEA.

- Provide a plan for effective parental involvement in curricular and extracurricular (school related) activities, as noted in the Charter School Petition Review Checklist (Exhibits 3 and 4).
- Provide equivalent operational funding and/or funding for special education in a manner that is consistent with state and federal law.

STEPS TO ESTABLISHING A COUNTYWIDE CHARTER SCHOOL (EC 47605.6)

Step One: Develop the School Charter

A charter petition shall contain specified educational elements as well as compliance-based components before it can be approved by the Board. These elements include, among other things, clearly defined goals and measurable pupil outcomes, and the governance structure of the charter school. Components include: required number of signatures, affirmations of specified conditions, and reasonably comprehensive description of the elements of the charter school specified in Education Code section 47605.6 (Exhibit 1). The petition shall present a sound educational program for pupils to be enrolled in the charter school, which is likely to be successfully implemented by the charter school.

Step Two: Circulate the Charter School Petition

Any one or more persons may circulate a petition for the establishment of a countywide charter school or conversion of an existing public school to a charter. No charter shall be granted under this administrative regulation that authorizes the conversion of any existing public or private school to a charter school. The petition shall include a prominent statement that the parent/guardian is meaningfully interested in having his/her child/ward attend the charter school, or the teacher is meaningfully interested in teaching at the charter school. The charter shall be attached to the petition.

Education Code Section 47605.6(a)(1)(A) establishes the minimum required signatures. A petition must be signed by a number of parents/guardians residing within the county equivalent to not less than one-half of the number of pupils estimated to enroll in the school the first year of operation, or by not less than one-half of the number of teachers estimated to be employed at the school during its first year of operation. Additionally, each of the school districts where the charter school petitioner proposes to operate a facility has received at least 30 days notice of the petitioner's intent to operate a charter school.

Step Three: Submit Charter Petition to the County Board of Education

A charter petition will be considered "submitted" to the County Board of Education for purposes of the Education Code and this Administrative Regulation when received by the San Luis Obispo County Board of Education ("SLOCBE" or "Board") at a regularly scheduled Board meeting. The statutory timeline for the countywide charter petition process shall commence once the SLOCBE receives a verified complete charter petition packet at a regularly scheduled Board

meeting. Prior to submission of a charter petition to the Board, the San Luis Obispo County Office of Education staff will verify that the petitioner(s) have submitted a complete charter petition packet as specified in Exhibit 2 of this Administrative Regulation.

Step Four: Public Hearing

Within 60 days after receiving the petition, the Board must hold a public hearing on the charter petition, at which time the county board of education shall consider the level of support for the petition by teachers, parents or guardians, and the school districts where the charter school petitioner proposes to place school facilities.

Step Five: Board Approval/Denial

Within 90 days of receipt of the petition, the Board must review the petition, determine whether the charter contains all of the elements specified by law, consider the level of support for the petition by teachers, parents or guardians, and the school districts where the charter school petitioner proposes to place school facilities, and either grant or deny the petition. The deadline may be extended by an additional 30 days as long as both the Board and the petitioner(s) agree to the extension.

The Board shall deny a petition for the establishment of a charter school if it finds one or more of the following:

1. The charter school presents an unsound educational program for the pupils 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 following conditions:
 - a. The charter school shall meet all statewide standards and conduct pupil assessments pursuant to Education Code 60605 and any other mandated statewide standards authorized in statute or pupil assessment applicable to pupils in non-charter public schools. The charter school shall certify that its pupils have participated in the state testing programs specified in Education Code 60600 et seq., as a condition of apportionment of state funding.
 - b. The charter school shall consult regularly with its parents and teachers regarding the school's educational program
5. The petition does not contain reasonably comprehensive descriptions of all of the elements in Education Code 47605.6(b)(5) (See Exhibit 1).

6. The petition does not contain a declaration of whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for purposes of the Educational Employment Relations Act (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code).
7. Any other basis that the Board finds justifies the denial of the petition.

The Board may grant a charter for the operation of a school only if the Board is satisfied that granting the charter is consistent with sound educational practice and that the charter school has reasonable justification for why it could not be established by petition to a school district pursuant to Section 47605.

The Board may only approve a countywide charter if it finds, in addition to the other requirements of this section, that the educational services to be provided by the charter school will offer services to a pupil population that will benefit from those services and that cannot be served as well by a charter school that operates in only one school district in the county.

The Board shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to academically low achieving students.

Before granting a charter petition, the Board shall receive the following assurances:

1. The charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations; shall not charge tuition; and shall not discriminate against any student or person on the basis of ethnicity, national origin, gender or disability. The charter school shall offer at least the minimum amount of instructional time at a grade level or levels specified in Education Code 46201.
2. Admission to a charter school shall not be determined according to the student's place of residence, or that of his/her parent/guardian, within California except that any existing public school converting partially or entirely to a charter school shall adopt and maintain a policy giving admission preference to students who reside within the school's former attendance area.
3. The charter school shall admit all pupils who wish to attend the charter school except when the number of pupils who wish to attend exceeds the school's capacity. However, only pupils who are residents of the county in which the charter is located or a county immediately adjacent to that county shall be eligible to participate in the charter school independent study program.
4. The petitioner(s) shall provide information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be utilized by the school, the manner in which administrative services of the school

are to be provided, and potential civil liability effects, if any, upon the school and the county office of education.

5. The petitioner(s) shall provide financial statements that include the proposed first-year operational budget, including start-up costs, and cash flow and financial projections for the first three years of operation.
6. Teachers in the charter school shall be required to hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold. These documents shall be maintained on file at the charter school and shall be subject to periodic inspection by the chartering authority.
7. The petitioner(s) shall comply with collective bargaining laws and declare whether it will be the exclusive public school employer of the employees at the charter school.
8. A charter school shall transmit a copy of its annual, independent, financial audit report for the preceding fiscal year, as described in subparagraph (I) of paragraph (5) of subdivision (b), to the County Office of Education, State Controller and the State Department of Education by December 15 of each year. This subdivision shall not apply if the audit of the charter school is encompassed in the audit of the chartering entity pursuant to Section 41020.

The Board may, as a condition of approval of a petition for the operation of a countywide charter, enter into an agreement with a third party, approved by the Board, at the expense of the charter school, to oversee, monitor, and report to the county board of education on the operations of the charter school. The Board may prescribe the aspects of the charter school's operations to be monitored by the third party and may prescribe appropriate requirements regarding the reporting of information concerning the operations of the charter school to the Board.

The Board may impose any additional requirements that it considers necessary for the sound operation of a countywide charter school.

Step Six: Provide Notice to State Board of Education

Once the charter petition has been approved by the County Board of Education, the petitioner(s) must provide written notice of the approval, including a copy of the petition, to the school districts within the county, the Superintendent of Public Instruction, and to the State Board of Education.

Step Seven: State Board of Education Assigns Numbers

The State Board of Education has the responsibility of making sure that the submitted charter petition has the appropriate signatures, has been approved by the County Board of Education,

and contains all the provisions specified by law. If approved by the State Board, each charter school receives an assigned number and the charter school officially may begin operation.

REVIEW OF CHARTER SCHOOL PETITION SUBMITTED TO THE COUNTY BOARD OF EDUCATION

The Superintendent shall conduct the required review and findings and may recommend approval or denial of charter school petitions submitted directly to the Board or received after denial by a school district. The Charter School Petition Compliance Checklists (Exhibits 3 and 4) reflects detailed components required to be met under current law. The appropriate Charter School Petition Compliance Checklist (Exhibit 3 or 4) may be used to evaluate each charter petition presented to the Board. Following is a list of the steps to take to review a charter school petition that is submitted to the Board:

1. The Superintendent shall determine the sufficiency of signatures to support the statement that the signatories are meaningfully interested in participating in the charter.
2. The Superintendent may use a designee to coordinate the review of the petition for a charter school.
3. The staff designated to evaluate the merits of the petition will be at the discretion of the Superintendent or his/her designee to facilitate the review and evaluation of the charter petition within required timelines.
4. The staff may use the appropriate Charter School Petition Compliance Checklist to report findings to the Superintendent and Board subsequent to review of the charter petition.
5. For petitions to establish a countywide charter school directly submitted to the SLOCBE pursuant to Education Code section 47605.6, the petition shall be placed on the Board agenda for action within 90 days of receipt of the petition unless the petitioner(s) and the Board agree to an extension of 30 additional days.
6. For petitions to the SLOCBE representing an appeal of a denial by a local school district or for petitions submitted directly to the SLOCBE pursuant to Education Code section 47605.5, the petition shall be placed on the Board agenda for action within 60 days of receipt of the petition unless the petitioner(s) and the Board agree to an extension of 30 additional days.
7. If the Board approves the petition, it may be contingent upon the execution of a Memorandum of Understanding acceptable to the Board and petitioners. If the petition is approved, the Board will assume the mandated functions and responsibilities of the chartering authority, including the authority to renew or revoke the charter.
8. If the Board denies a petition to establish a Countywide Charter School, the petitioner(s) may not elect to submit the petition for the establishment of the charter school to the State Board of Education.

CHARTER PETITIONS SUBMITTED ON APPEAL OF A LOCAL SCHOOL DISTRICT'S DENIAL

A charter school petition that has been previously denied by the governing board of a school district may be submitted to the SLOCBE not later than 180 calendar days after the denial.

When filing a petition with the Board for the establishment of a charter school, petitioner(s) shall provide all documents detailed in section "A" of the attached Exhibit 2. The charter petition will be considered complete only upon verified receipt by the SLOCOE of all items specified in Exhibit 2, Section A.. The statutory timeline for the charter petition process shall commence once the SLOCBE receives a verified complete charter petition packet at a regularly scheduled Board meeting.

Designated SLOCOE staff may elect to meet with petitioners following an initial review of the petition to discuss details regarding the requirements and process associated with the Board's pending review. Any subsequent submission of materials by petitioners must be received by SLOCOE staff no less than 1 week prior to the public hearing. Following the public hearing, no additional materials will be accepted or reviewed by SLOCOE staff.

CONDITIONS IF THE COUNTY BOARD OF EDUCATION APPROVES A CHARTER SCHOOL

The Board as the chartering authority may inspect or observe any part of the charter school at any time. The Board shall hold the charter school accountable for fulfilling the terms of its charter. A charter school shall promptly respond to all reasonable inquiries, including, but not limited to inquiries regarding its financial records, from its chartering authority or from the Superintendent of Public Instruction and shall consult with the chartering authority or the Superintendent of Public Instruction regarding any inquiries. A charter school shall maintain written contemporaneous records that document all pupil attendance and shall make these records available for audit and inspection.

The charter must specify that the charter school shall hold harmless and indemnify the Board and its officers, and the Superintendent and his/her officers and employees from any claim or demand of whatever nature, including those based upon the negligence of the Board and its officers, and the Superintendent and his/her officers and employees brought by any person, institution, or organization.

The charter school at its own cost, expense, and risk shall defend any legal proceedings that may be brought against the Board and its officers, and the Superintendent and his/her officers and employees, by any person, including any institution or organization, on any claim or demand of whatever nature arising out of the Board granting a charter and shall satisfy any judgment that may be rendered against any of them. The Board and the Superintendent shall notify the charter school of the receipt of any such claims or demands.

REVISION TO AN APPROVED COUNTYWIDE CHARTER

After receiving approval of its petition, a charter school that proposes to establish operations at additional sites within the geographic boundaries of the Board shall notify the school districts where those sites will be located. The charter school shall also request a material revision of its charter by the Board that approved its charter and the Board shall consider whether to approve those additional locations at an open, public meeting, held no sooner than 30 days following notification of the school districts where the sites will be located.

If approved, the location of the approved sites shall be a material revision of the school's approved charter.

AMENDMENTS TO CHARTER SCHOOLS ACT.

In the event the Charter Schools Act or other applicable law(s) are amended or interpreted by court decision binding on the SLOCOE or SLOCBE after the effective date of this Administrative Regulation so that the regulation is inconsistent with applicable law, this Administrative Regulation shall be deemed amended to accord with such amendment(s) or binding court decision(s).

Legal References:

EDUCATION CODE

41365, 44237, 44830.1, 45122.1, The Charter Schools Act of 1992, 47600 et seq., 48000, 48010, 48011, 51747.3, 56026, 56145 - 56146, 60605, 60640 – 60647

CORPORATIONS CODE

5110 et seq.

GOVERNMENT CODE

3540-3549.3, 6500 et seq., 54950 – 54963

PENAL CODE

667.5, 1192.7

CALIFORNIA CODE OF REGULATIONS, TITLE 5

11960 et seq.

ATTORNEY GENERAL OPINIONS

80 Ops. Cal. Atty. Gen. 52 (1997), 78 Ops. Cal. Atty. Gen. 253 (1995),
78 Ops. Cal. Atty. Gen. 297 (1995)

REVISED BY COUNTY BOARD OF EDUCATION: MARCH 3, 2016