

County Board Policy 0420.4: Authorization Of County Charter Schools Status: ADOPTED

Original Adopted Date: 04/04/2024 | **Last Reviewed Date:** 04/04/2024

The County Board of Education recognizes that charter schools are an integral part of the California education system. In considering any petition to establish a charter school within its jurisdiction, the County Board shall give thoughtful consideration to the ability of the charter school to provide students with a high-quality education that enables them to achieve to their fullest potential.

A petition to establish a charter school shall be submitted directly to the County Board in either of the following circumstances:

1. When the petition seeks to establish a charter program that will serve students who would otherwise receive direct education and related services from the county office of education (COE) (Education Code 47605.5)
2. When the petition seeks to establish a charter program that will serve as a countywide charter school, to provide instructional services that are not generally provided by the COE (Education Code 47605.6)

The County Board may also consider granting a charter school petition that was previously denied by the governing board of a school district within the County Board's jurisdiction, in accordance with BP 0420.44 - Appeals of District Decisions Regarding Charter Schools.

All meetings of the County Board at which the granting of a charter petition is to be discussed shall be subject to the state open meeting laws (the Brown Act). (Education Code 47608)

The County Board shall request and consider recommendations of the County Superintendent of Schools or designee regarding the completeness of a charter petition, any concerns that should be addressed by petitioners, any proposed arrangement to provide COE services to the charter school, and the development of memoranda of understanding (MOUs) to clarify financial and operational arrangements.

Required Petition Signatures

To be considered by the County Board, a charter petition must be signed by either of the following: (Education Code 47605, 47605.5, 47605.6)

1. A number of parents/guardians equivalent to at least one-half of the number of students that the charter school estimates will enroll in the school for its first year of operation
2. A number of teachers equivalent to at least one-half of the total number of teachers that the charter school estimates will be employed at the school during its first year of operation

The petition shall include a prominent statement explaining that a parent/guardian's signature means the parent/guardian is meaningfully interested in having a child attend the charter school, or a teacher's signature means that the teacher is meaningfully interested in teaching at the charter school. (Education Code 47605, 47605.6)

A petition that calls for an existing public school to be converted to a COE charter school must also be signed by at least 50 percent of the permanent status teachers currently employed at the school. (Education Code 47605, 47605.6)

Components of the Charter Petition

All charter petitions shall comply with the applicable requirements of Education Code 47605 or 47605.6, other state and federal laws, and County Board policies. A copy of the proposed charter shall be attached to the petition. (Education Code 47605, 47605.6)

The charter petition shall include affirmations of the conditions described in Education Code 47605(e) or 47605.6(e) as applicable, as well as reasonably comprehensive descriptions of: (Education Code 47605, 47605.6)

1. The educational program of the proposed school, designed, among other things, to identify those whom the 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 students to become self-motivated, competent, and lifelong learners.
2. The charter school's annual goals for all students and for each numerically significant subgroup of students identified pursuant to Education Code 52052, including ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students. These goals shall be aligned with the state priorities listed in Education Code 52060 that apply to the grade levels served. The petition also shall describe specific annual actions to achieve those goals. The petition may include additional priorities established by the charter school, goals aligned with those priorities, and specific annual actions to achieve those goals.

If the proposed charter school will serve high school students, the petition shall describe the manner in which the school will inform parents/guardians 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-G" admissions criteria may be considered to meet college entrance requirements.

3. The measurable student outcomes identified for use by the charter school.

Student outcomes means the extent to which all students of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program, including outcomes that address increases in student academic achievement both schoolwide and for each numerically significant subgroup of students served by the charter school. The student outcomes shall align with the

state priorities identified in Education Code 52066 that apply for the grade levels served by the charter school.

4. The method by which student progress in meeting the identified student outcomes is to be measured. To the extent practicable, the method for measuring student outcomes for state priorities shall be consistent with the way information is reported on a school accountability report card.
5. The governance structure of the charter school, including, but not limited to, the process to be followed by the school to ensure parent/guardian involvement.
6. The qualifications to be met by individuals to be employed by the charter school.
7. The procedures that the charter school will follow to ensure the health and safety of students and staff, including the following requirements:
 - a. Each charter school employee shall furnish the school with a criminal record summary as described in Education Code 44237.
 - b. The charter school shall develop a school safety plan which includes the topics listed in Education Code 32282(a)(2)(A)-(J).
 - c. The charter school's safety plan shall be reviewed and updated by March 1 each year.
8. The means by which the charter school will achieve a balance of racial and ethnic students, special education students, and English learner students, including redesignated fluent English proficient students, that is reflective of the general population residing within the COE's territorial jurisdiction.
9. Admission policies and procedures in accordance with Education Code 47605(e) and 47605.6(e), including procedures for determining enrollment when the number of applicants exceeds the school's capacity.
10. The manner in which annual, independent financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the County Board's satisfaction.
11. The procedures by which students can be suspended or expelled for disciplinary reasons or otherwise involuntarily removed for any reason, including, an explanation of how the charter school will comply with federal and state constitutional procedural and substantive due process requirements as specified in Education Code 47605.

Such procedures shall contain a clear statement that no student shall be involuntarily removed by the charter school for any reason unless written notice of the intent to remove the student is given to the student's parent/guardian at least five school days before the effective date of the removal. In the case of a homeless student or foster youth, the notice shall be given to the student's educational rights holder. Additionally, a foster youth's attorney and county social worker, and an Indian child's tribal social

worker, and if applicable, the county social worker shall be given such notice.

The notice shall inform the student, the student's parent/guardian, and any other specified individual, as applicable, of the right to initiate a hearing as described in Education Code 47605, before the effective date of the removal. The notice shall be provided in the student's, parent/guardian's, or other applicable person's language, and if such hearing is initiated, shall include the student's right to remain enrolled in the charter school until a final decision is made by the charter school.

In addition, the procedures shall contain a statement pertaining to the provision of homework assignments to suspended students as specified in Education Code 47606.2.

Such procedures shall also include processes by which the charter school will notify the County Superintendent of the student's last known address and, upon request, provide the student's cumulative record to the COE when a student is expelled or leaves the charter school without graduating or completing the school year for any reason. In addition, the procedures shall describe the means by which the COE can contact the charter school if the student is subsequently expelled or leaves the COE without graduating or completing the school year for any reason.

Involuntarily removed means disenrolled, dismissed, transferred, or terminated, but does not include suspensions. (Education Code 47605, 47605.6)

12. The manner by which staff members of the charter school will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.
13. The public school attendance alternatives for students who choose to not attend the charter school.
14. A description of the rights of any COE employee upon leaving COE employment to work in the charter school and of any rights of return to the COE after employment at the charter school.
15. The procedures to be followed by the charter school and the County Board to resolve disputes relating to charter provisions.
16. A declaration as to whether the charter school will be deemed the exclusive public school employer of the school's employees for purposes of collective bargaining under Government Code 3540-3549.3.
17. Consistent with 5 CCR 11962, the procedures to be used if the charter school closes, including, but not limited to:
 - a. Designation of a responsible entity to conduct closure-related activities
 - b. Notification to parents/guardians, the County Board, the special education local plan area in which the charter school participates, the retirement systems in

which the school's employees participate, and the California Department of Education (CDE), providing at least the following information:

- i. The effective date of the closure
 - ii. The name(s) and contact information of the person(s) to whom reasonable inquiries may be made regarding the closure
 - iii. The students' districts of residence
 - iv. The manner in which parents/guardians may obtain copies of student records, including specific information on completed courses and credits that meet graduation requirements
- c. Provision of a list of students at each grade level, the classes they have completed, and their districts of residence to the responsible entity designated in accordance with Item #17a above
 - d. Transfer and maintenance of all student records, all state assessment results, and any special education records to the responsible entity designated in accordance with Item #17a above, except for records and/or assessment results that the charter may require to be transferred to a different entity
 - e. Transfer and maintenance of personnel records in accordance with applicable law
 - f. Completion of an independent final audit within six months after the closure of the charter school that may function as the annual audit, which includes an assessment of the disposition of any restricted funds received by or due to the school and an accounting of all financial assets and liabilities pursuant to 5 CCR 11962
 - g. Disposal of any net assets remaining after all liabilities of the charter school have been paid or otherwise addressed pursuant to 5 CCR 11962
 - h. Completion and filing of any annual reports required pursuant to Education Code 47604.33
 - i. Identification of funding for the activities identified in Item #17a-h above

Charter school petitioners shall provide information to the County Board regarding the proposed operation and potential effects of the school, including, but not limited to: (Education Code 47605, 47605.6)

1. The facilities to be used by the charter school, including where the school intends to locate

2. The manner in which administrative services of the charter school are to be provided
3. Potential civil liability effects, if any, upon the charter school and the COE
4. Financial statements that include a proposed first-year operational budget, including start-up costs and cash-flow and financial projections for the first three years of operation
5. If the charter school is to be operated by or as a nonprofit public benefit corporation, the names and relevant qualifications of all persons whom the petitioner nominates to serve on the governing body of the charter school

Location of Charter School

A charter petition submitted directly to the County Board may only establish charter school operations within the geographical boundaries of the County Board's jurisdiction. A charter school may propose to operate at multiple sites within those geographic boundaries as long as each location is identified in the petition. This requirement does not apply to charter schools that provide instruction exclusively to juvenile court school students or that provide instruction exclusively in partnership with certain other federal, state, or county programs exempted by Education Code 47605.1. (Education Code 47605, 47605.1)

Approval of Petition

Within 60 days of the receipt of the charter petition, the County Board shall hold a public hearing on the provisions of the charter, at which time the County Board shall consider the level of support for the petition by COE teachers, other COE employees, parents/guardians, and, for a proposed countywide charter school, the school district(s) where the charter school petitioner proposes to place school facilities. A petition is deemed received on the day the petitioner submits a petition to the COE office, along with a signed certification that the petitioner deems the petition to be complete. (Education Code 47605, 47605.6)

The County 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 County Board. (Education Code 47605, 47605.6)

At least 15 days before the public hearing at which the County Board will grant or deny the charter, the County Board shall publish all staff recommendations, including the recommended findings, regarding the petition. During the public hearing, petitioners shall have equal time and opportunity to present evidence and testimony to respond to the staff recommendations and findings. (Education Code 47605, 47605.6)

The hearing shall be audio or video recorded and transcribed in order to maintain an accurate record of the proceedings and the findings upon which the County Board's decision is based.

A petition for a COE charter school shall be granted only if the County Board is satisfied that doing so is consistent with sound educational practice and with the interests of the community in which the school is proposing to locate. The County Board shall consider the academic needs of the students the school proposes to serve. (Education Code 47605)

In granting charter petitions, the County Board shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to academically

low-achieving students according to CDE standards. (Education Code 47605, 47605.6)

Prior to authorizing any charter, the County Board shall verify that the charter includes adequate processes and measures for monitoring and holding the charter school accountable for fulfilling the terms of its charter and for complying with all applicable laws, including Education Code 47604.1. Such processes and measures shall include fiscal accountability systems, multiple measures for evaluating the educational program, regular reports to the County Board, and inspections and observations of any part of the charter school.

Upon County Board approval of any charter petition, it is the responsibility of the petitioners to provide written notice of the approval, including a copy of the petition, to the Superintendent of Public Instruction, the State Board of Education (SBE), and, if the petition is for a countywide charter school, the school districts in the county. (Education Code 47605, 47605.6)

Charter schools approved by the County Board shall operate under the provisions of their respective charters, the relevant policies and procedures of the County Board, and applicable state and federal laws.

All charters approved by the County Board shall be for a specified term of no more than five years. (Education Code 47607)

Denial of Petition

The County 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. Offer nonclassroom-based instruction (Education Code 47612.7)

In addition, the County Board shall deny a petition for a countywide charter, and may deny a petition serving COE students, if the County Board makes written factual findings specific to the petition to support one or more of the following: (Education Code 47605, 47605.6; 5 CCR 11967.5)

1. The charter school presents an unsound educational program that presents a likelihood of physical, educational, or psychological harm to, or which is not likely to provide an educational benefit for the students who attend the school.
2. The petitioners are unlikely to successfully implement the program set forth in the petition.
3. The petition does not contain the required signatures as described in the section "Required Petition Signatures" above.
4. The petition does not contain a clear, unequivocal statement described in Education Code 47605(e) or 47605.6(e), as applicable, 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 or 47605.6 as described in the section "Components of the Charter Petition" above.
6. The petition does not contain a declaration of whether the charter school shall be deemed the exclusive public employer of the employees of the charter school for purposes of the Educational Employment Relations Act.
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 COE, 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 COE is not positioned to absorb the fiscal impact of the proposed charter school. The COE meets this criterion if it has a negative interim certification pursuant to Education Code 1240, has a qualified interim certification and the County Superintendent certifies that approving the charter school would result in the COE having a negative interim certification, or is under state receivership.

A petition to establish a charter school serving COE students that is denied by the County Board may be appealed to SBE within 180 days of the denial. (Education Code 47605; 5 CCR 11967)

Additional Requirements for Countywide Charters

In addition to the requirements described above, the following conditions apply to countywide charter school petitions: (Education Code 47605.6)

1. The County Board shall only consider a petition for a countywide charter if each of the school districts where the petitioner proposes to operate a facility has received at least 30 days' notice of the intent to operate a charter school.
2. An existing public school may not be converted to a countywide charter school.
3. The County Board shall only approve a petition for a countywide charter if it finds that the charter school will provide educational services to a student population that will benefit from those services, and the petition includes a reasonable justification why its students cannot be served as well by a charter school that operates in only one school

district in the county.

4. In addition to the components described in the section "Components of the Charter Petition" above, the County Board may require any elements that it considers necessary to the sound operation of a countywide charter school.
5. In addition to the reasons specified in the section "Denial of Petition" above, a countywide petition may be denied for any other basis that the County Board finds justifies the denial.

Memoranda of Understanding

The County Board shall collaborate with the County Superintendent or designee, and/or with the County Board's designated representative contracted or employed pursuant to Education Code 1042, to develop one or more MOUs with the charter school to clarify financial and operational arrangements, such as how and when the charter school will establish governing bylaws, policies, and procedures or implement additional requirements that the County Board considers necessary for the sound operation of a charter school. Any such MOU shall be annually reviewed by the County Board and the charter school governing body and be amended as necessary.

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.

Federal

20 USC 7221-7221j

Description

Charter schools

Management Resources

Attorney General Opinion

Description

72 Ops.Cal.Atty.Gen. 25 (1989)

Attorney General Opinion

101 Ops.Cal.Atty.Gen. 92 (2018)

Attorney General Opinion

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

Attorney General Opinion

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

Attorney General Opinion

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

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

CSBA Publication

Uncharted Waters: Recommendations for Prioritizing
Student Achievement and Effective Governance in

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| | California's Charter Schools, September 2018 |
| CSBA Publication | Charter Schools: A Guide for Governance Teams, rev. 2021 |
| CSBA Publication | Charter Schools and Board Member Responsibilities, Education Insights Legal Update Webcast, March 2016 |
| U.S. Department of Education Publication | Dear Colleague Letter: Guidance Regarding the Oversight of Charter Schools Program and Regulatory Requirements, August 2016 |
| U.S. Department of Education Publication | Charter Schools Program: Title V, Part B of the ESEA, Nonregulatory Guidance, January 2014 |
| Website | U.S. Department of Education |
| Website | National Association of Charter School Authorizers |
| Website | CSBA |
| Website | California Department of Education, Charter Schools |
| Website | California Charter Schools Association |
| State | Description |
| 5 CCR 11700.1-11705 | Independent study |
| 5 CCR 11960-11968.5.5 | 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 |

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| 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 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 7920.000-7930.170 | California Public Records 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 |

Cross References

| Code | Description |
|--------------|--|
| 0420.41 | Oversight Of County Charter Schools |
| 0420.41-E(1) | Oversight Of County Charter Schools |
| 0420.42 | Renewal Of County Charter Schools |
| 0420.43 | Revocation Of County Charter Schools |

