

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 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 for a start-up 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)

(cf. 9320 - Meetings and Notices)

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)

(cf. 9320 - Meetings and Notices)

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

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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.

(cf. 0420.41 - Charter School Oversight)

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)

(cf. 0420.42 - Charter School Renewal)

(cf. 0420.43 - Charter School Revocation)

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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 California Department of Education, 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(b).
6. The petition does not contain a declaration as to whether or not the charter school shall be deemed the exclusive public school employer of the school's employees for purposes of collective bargaining pursuant to Government Code 3540-3549.3.

CHARTER SCHOOL AUTHORIZATION (continued)

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)

(cf. 0430 - Comprehensive Local Plan for Special Education)

Appeals

If the Board denies a petition, the petitioners 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)

CHARTER SCHOOL AUTHORIZATION (continued)

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*
42131 *Interim certification*
41365 *Charter school revolving loan fund*
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*

CORPORATIONS CODE

5110-6910 *Nonprofit public benefit corporations*

GOVERNMENT CODE

1090-1099 *Prohibitions applicable to specified officers*
3540-3549.3 *Educational Employment Relations Act*
6250-6270 *California Public Records Act*
54950-54963 *Ralph M. Brown Act*
81000-91014 *Political Reform Act of 1974*

CODE OF REGULATIONS, TITLE 5

11700.1-11705 *Independent study*
11960-11968.5.5 *Charter schools*

UNITED STATES CODE, TITLE 20

7223-7225 *Charter schools*

COURT DECISIONS

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

ATTORNEY GENERAL OPINIONS

Opinion No. 11-201 (2018)
89 *Ops. Cal. Atty. Gen. 166 (2006)*
80 *Ops. Cal. Atty. Gen. 52 (1997)*
78 *Ops. Cal. Atty. Gen. 297 (1995)*

Legal Reference Continued: (Next Page)

CHARTER SCHOOL AUTHORIZATION (continued)

Legal References Continued:

Management Resources:

CSBA PUBLICATIONS

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 Guide for Governance Teams, rev. February 2016

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Sample Copy of a Memorandum of Understanding

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

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, August 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, December 2011

WEB SITES

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

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

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

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

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

Policy

adopted: September 12, 2000

revised: May 25, 2004

revised: May 22, 2007

revised: August 14, 2012

revised: November 13, 2012

revised: November 8, 2016

revised: June 26, 2018

revised: October 29, 2019

revised: October 27, 2020

VISALIA UNIFIED SCHOOL DISTRICT

Visalia, California

CHARTER SCHOOL AUTHORIZATION

Petition Signatures

A petition for the establishment of a start-up charter school must be signed by either of the following: (Education Code 47605)

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

A petition that proposes to convert an existing public school to a charter school must be signed by at least 50 percent of the permanent status teachers currently employed at the school. (Education Code 47605)

(cf. 4116 - Probationary/Permanent Status)

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

Advisory Committee

The Superintendent or designee may establish a staff advisory committee to evaluate the completeness of a charter petition based on the requirements in Education Code 47605 and to identify any concerns that should be addressed by the petitioners.

(cf. 2230 - Representative and Deliberative Groups)

Components of Charter Petition

All charter petitions shall comply with the applicable requirements of Education Code 47605, other state and federal laws, and district policies.

The charter petition shall include affirmations that the charter school will be nonsectarian in its programs, admission policies, employment practices, and operations; will not charge tuition; and will not discriminate against a student on the basis of characteristics listed in Education Code 220. The petition shall also contain reasonably comprehensive descriptions of: (Education Code 47605)

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.

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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 identify additional priorities established for the proposed school, goals aligned with those priorities, and specific annual actions to achieve those goals.

(cf. 0420.41 - Charter School Oversight)

(cf. 0460 - Local Control and Accountability Plan)

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 52060 that apply for the grade levels served or the nature of the program operated 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.

(cf. 0510 - 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:

CHARTER SCHOOL AUTHORIZATION (continued)

- 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 district's territorial jurisdiction.
 9. The charter school's student admission policy. The petition shall, in accordance with Education Code 47605(e), specify procedures for determining enrollment when the number of applicants exceeds the school's capacity, including requirements for the use of a public random drawing, admission preferences, and priority order of preferences as required by law and subject to Governing Board approval.
 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 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 schooldays 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 a 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.

CHARTER SCHOOL AUTHORIZATION (continued)

Such procedures shall also include processes by which the charter school will notify the Superintendent of the district of the student's last known address and, upon request, provide the student's cumulative record to the district, 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 district can contact the charter school if the student is subsequently expelled or leaves the school district 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)

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 residing within the district who choose to not attend the charter school.
14. A description of the rights of any district employee upon leaving district employment to work in the charter school and of any rights of return to the district after employment at the charter school.
15. The procedures to be followed by the charter school and the Board to resolve disputes relating to charter provisions.
16. A declaration as to whether or not 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 Board, the county office of education, 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, providing at least the following information:
 - (1) The effective date of the closure
 - (2) The name(s) and contact information of the person(s) to whom reasonable inquiries may be made regarding the closure

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- (3) The students' districts of residence
- (4) 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 custody of 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 includes an accounting of all financial assets and liabilities pursuant to 5 CCR 11962 and an assessment of the disposition of any restricted funds received by or due to the school
- 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-g above

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

- 1. The facilities to be used by the charter school, including where the school intends to locate
(*cf.* 7160 - Charter School Facilities)
- 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 district
- 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

CHARTER SCHOOL AUTHORIZATION (continued)

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

Unless otherwise exempted by law, the charter petition shall identify a single charter school that will operate within the geographic boundaries of the district. A charter school may propose to operate at multiple sites within the district as long as each location is identified in the petition. (Education Code 47605, 47605.1)

A charter school may establish a resource center, meeting space, or other satellite facility within the jurisdiction of the school district where the charter school is physically located if both of the following conditions are met: (Education Code 47605.1)

1. The facility is used exclusively for the educational support of students who are enrolled in nonclassroom-based independent study of the charter school.
2. The charter school provides its primary educational services in, and a majority of the students it serves are residents of, the county in which the school is authorized.

Regulation
approved: September 12, 2000
revised: April 26, 2004
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VISALIA UNIFIED SCHOOL DISTRICT
Visalia, California