

## **Policy 0420.4: 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 Governing 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 Governing 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 Governing 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 Governing Board shall hold a public hearing on the charter provisions, at which time the Governing 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 Governing 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 Governing Board. (Education Code 47605)

At least 15 days before the public hearing at which the Governing 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 Governing Board's proceedings, and the findings upon which the Governing Board's decision is made.

### **Approval of Petition**

A charter petition shall be granted only if the Governing 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 Governing 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 Governing 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 Governing 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 Governing Board. (Education Code 47611.5)

The Governing Board may approve one or more memoranda of understanding (MOU) to clarify the financial and operational agreements between the district and the charter school. Any such MOU shall be annually reviewed by the Governing Board and charter school governing body and amended as necessary.

The Governing 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 Governing Board, it shall be the responsibility of the petitioners to provide written notice of the Governing Board's approval and a copy of the petition to the County Superintendent, CDE, and the State Board of Education (SBE). (Education Code 47605)

### **Denial of Petition**

The Governing 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 Governing Board shall deny a petition only if the Governing 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 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 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, 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 Governing 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 Governing 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 Governing Board shall prepare the documentary record, including a transcript of the public hearing at which the Governing 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 Governing Board may submit a written opposition to SBE, which may include supporting documentation, detailing, with specific citations to the documentary record, how the Governing 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 Governing Board because the petition on appeal contains new or different material terms, the Governing Board shall reconsider the petition and shall grant or deny the petition within 30 days. (Education Code 47605)

### **Material Revisions to Charter**

Material revisions to a charter may only be made with Governing Board approval. Material revisions shall be governed by the same standards and criteria that apply to petitions for the authorization of charter schools as set forth in Education Code 47605 and shall include, but not be limited to, a reasonably comprehensive description of any new requirement for charter schools enacted into law after the charter was originally granted or last renewed. (Education Code 47607)

The Governing Board shall determine whether a proposed change in charter school operations would constitute a material revision of the approved charter.

If an approved charter school proposes to expand operations to one or more additional sites or grade levels, whether concurrently with or unrelated to a renewal, the charter school shall request a material revision to its charter and shall notify the Governing Board of those additional locations or grade levels. The Governing Board shall consider approval of the additional locations or grade levels at an open, public meeting. (Education Code 47605, 47607)

The Governing Board may deny a proposed material revision if it finds that the proposed material revision would render the charter school demonstrably unlikely to serve the interests of the entire community in which the school is located or proposes to locate. In making this finding, the Governing Board shall consider all of the following: (Education Code 47605)

1. The fiscal impact of the proposed expansion on the district
2. The extent to which the expansion would substantially undermine existing services, academic offerings, or programmatic offerings

3. Whether the expansion would duplicate a program currently offered within the district that has sufficient capacity for the students proposed to be served within reasonable proximity to where the charter school intends to locate

Additionally, the Governing Board may deny a proposed material revision if it finds that the district is not positioned to absorb the fiscal impact of the proposed material revision. The Governing Board shall make this finding if the district has a qualified interim certification pursuant to Education Code 42131 and the County Superintendent, in consultation with the County Office Fiscal Crisis and Management Assistance Team, certifies that approving the charter school would result in the district having a negative interim certification pursuant to Education Code 42131, the district has a negative interim certification pursuant to Education Code 42131, or the district is under state receivership. (Education Code 47605