

# CSBA Sample County Board Policy

## Philosophy-Goals-Objectives and Comprehensive Plans

BP 0420.4(a)

### CHARTER SCHOOLS

The County Board of Education believes that charter schools provide one opportunity to implement school-level reform and to support innovations which improve student learning. Charter schools shall operate under the provisions of this policy, their respective charters, applicable state and federal laws, and relevant regulations of the County Office of Education.

The County Board shall consider any petition submitted for the establishment of a charter school if:

1. The charter school will serve students for whom the County Office would otherwise be responsible for providing direct education and related services (Education Code 47605.5)
2. The charter school will operate as a countywide charter at one or more sites within the geographic boundaries of the county to provide instructional services not generally provided by the County Office (Education Code 47605.6)

In addition to other requirements, a countywide charter petition may only be approved if the County Board finds that the educational services to be provided by the charter school will offer services to a student 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. (Education Code 47605.6)

3. The charter petition was denied by the governing board of a school district within the County Board's jurisdiction and the petition is submitted to the County Board within 180 calendar days of the school district governing board's denial (Education Code 47605(j); 5 CCR 11967)

Note: The following **optional** paragraph may be revised to reflect county office practice. Although not required by law, CSBA's publication Charter Schools: A Manual for Governance Teams, recommends one or more memoranda of understanding (MOU) to clarify issues related to the charter petition and to establish expectations by which the charter school can be held accountable. The publication cites issues pertaining to business operations, administrative and support services, special education, and student assessment as examples of issues that might be addressed in an MOU.

The County Board shall ensure that every approved charter contains 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. Such processes and measures

**CHARTER SCHOOLS** (continued)

including, but not limited to, fiscal accountability systems, multiple measures for evaluating the educational program, and inspections and observations of any part of the charter school, may be included in one or more Memoranda of Understanding between the County Board and the charter school.

Any meeting of the County Board at which the granting, revocation, appeal, or renewal of a charter petition is to be discussed shall be subject to the state open meeting laws. (Education Code 47608)

**Charter Approval/Denial**

Note: Education Code 47605 and 47605.6 provide the standards and procedures for use by County Boards in considering charter petitions.

To be considered by the County Board, all charter petitions, except those for countywide charters, shall comply with the requirements of Education Code 47605. For all such charter petitions, the County Board shall: (Education Code 47605)

1. Within 30 days of receiving the charter petition, hold a public hearing to determine the level of support for the petition by parents/guardians, teachers and other employees of the district or County Office, as applicable

Note: Education Code 47605 requires County Boards to grant or deny charter petitions within 60 days of receiving them, or within 90 days with the consent of both parties. Education Code 47605 also provides that if the County Board fails to act within 120 days of its receipt of a charter petition that was denied by a school district governing board, the petitioners may seek judicial review of the district board's decision to deny the petition.

2. Within 60 days of receiving the petition, or within 90 days with the consent of both parties, either grant or deny the charter petition

To be considered by the County Board, a petition to establish a countywide charter school shall comply with the requirements of Education Code 47605.6. For a countywide charter petition, the County Board shall: (Education Code 47605.6)

1. Within 60 days of receiving the charter petition, hold a public hearing to determine the level of support for the petition by teachers, parents/guardians, and the school districts where the charter school facilities will be located
2. Within 90 days of receiving the petition, or within 120 days with the consent of both parties, either grant or deny the charter petition

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

**CHARTER SCHOOLS** (continued)

The County Board shall grant the charter if doing so is consistent with sound educational practice. A charter petition shall be denied only if:

1. Granting the petition would authorize the conversion of a private school to a charter school. (Education Code 47602)
2. The County Board makes written factual findings specific to the petition under review that at least one of the following conditions exists: (Education Code 47605, 47605.6)
  - a. The charter school presents an unsound educational program for the students to be enrolled in the charter school.
  - b. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
  - c. The petition does not contain the number of signatures required by Education Code 47605(a), or if the petition is one to establish a countywide charter, Education Code 47605.6(a).
  - d. The petition does not contain an affirmation of each of the conditions described in Education Code 47605(d), or if the petition is one to establish a countywide charter, Education Code 47605.6(e).
  - e. The petition does not contain reasonably comprehensive descriptions of the charter provisions stated in Education Code 47605(b), or if the petition is one to establish a countywide charter, Education Code 47605.6(b).

Note: In addition to items #1 and #2 above, a countywide charter petition may be denied if any of the conditions stated in item #3 exists.
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- 3 The petition is for the establishment of a countywide charter school pursuant to Education Code 47605.6 and one of the following conditions exists
  - a. The petition seeks to convert an existing public school to a charter school (Education Code 47605.6(a))
  - b. The petition does not contain reasonable justification for why the charter school could not be established by petition to a school district pursuant to Education Code 47605. (Education Code 47605.6(b))

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)

**CHARTER SCHOOLS** (continued)

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 standards established by the California Department of Education under Education Code 54032. (Education Code 47605, 47605.6)

As a condition for approving a countywide charter, the County Board may, at the expense of the charter school, enter into an agreement with a third party to oversee, monitor, and report to the County Board on any aspect of the operations of the charter school. (Education Code 47605.6)

Upon County Board approval of any charter petition, the petitioners shall provide written notice of the approval, including a copy of the petition, to the Superintendent of Public Instruction and the State Board of Education. (Education Code 47605, 47605.6)

In addition, whenever the County Board approves a countywide charter petition, the petitioners shall provide written notice of the approval, including a copy of the petition, to the school districts within the county. (Education Code 47605.6)

Except for a countywide charter, any charter petition denied by the County Board may be submitted to the State Board of Education within 180 days of the denial. (Education Code 47605.6; 5 CCR 11967)

**Material Revisions**

Note: As amended by AB 1610 (Ch. 543, Statutes of 2005), Education Code 47607 requires that any material revision to a charter include a reasonably comprehensive description of any new legal requirements of charter schools, as provided below.

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

Any charter school seeking to establish an additional site within the geographic boundaries of the County Board subsequent to approval of its initial petition shall request a material revision of its charter. (Education Code 47605, 47605.6)

Note: Though not required, County Boards should use the procedures and timelines used for the approval of charter petitions when considering material revisions since such revisions would involve substantive changes to charter provisions and/or charter school programs.

**CHARTER SCHOOLS** (continued)

County Boards that wish to adopt different procedures and/or timelines may revise the following **optional** paragraph.

In considering material revisions to the provisions of any charter granted by the County Board, applicable procedures stated above under “Charter Approval/Denial” shall be used.

**Renewal**

Note: The following **optional** timelines are suggested for considering applications for renewal of charters initially granted by the County Board. County Boards may revise the timelines to reflect their local practice.

Any charter school whose charter was initially granted by the County Board shall submit a written application to the County Board, at least 120 days before the expiration date of the charter. At least 90 days before the expiration date of the charter, the County Board shall conduct a public hearing to receive input on whether or not to renew the charter. At least 60 days before the expiration date, the County Board shall either grant or deny the request for renewal.

Note: A charter school whose renewal application is denied by a school district governing board may submit the denied renewal application to the County Board. Education Code 47607.5 makes the procedures stated in Education Code 47605(j) for review of charter petitions applicable to such denied renewal applications.

Any charter school whose application for renewal is denied by the governing board of a school district may submit the renewal application to the County Board using applicable procedures stated above under “Charter Approval/Denial.” (Education Code 47607.5)

Note: As amended by AB 1610 (Ch. 543, Statutes of 2005), Education Code 47607 requires that renewals include a reasonably comprehensive description of any new requirement of charter schools, as provided below.

All charter renewals shall be subject to the same standards and criteria that apply to new charter petitions as set forth in Education Code 47605 and shall include, but not be limited to, a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed. To be renewed, a charter school shall also have been in operation for four years shall meet at least one of the following criteria: (Education Code 47607)

1. Attained its Academic Performance Index (API) growth target in the prior year or in two of the last three years, or in the aggregate for the prior three years
2. Ranked in deciles 4-10 on the API in the prior year or in two of the last three years
3. Ranked in deciles 4-10 on the API for a demographically comparable school in the prior year or in two of the last three years

**CHARTER SCHOOLS** (continued)

4. Achieved an academic performance that, based on the County Board's determination, is at least equal to the academic performance of the public schools that the charter school students would otherwise have been required to attend, as well as the academic performance of schools within the district where the charter school is located, taking into account the composition of the student population that is served at the charter school

Note: Pursuant to Education Code 47607, the Superintendent of Public Instruction will make recommendations to the County Board following a review of materials submitted to him/her in accordance with the following paragraph. This review may be the basis for a revocation of the charter by the SBE.

The County Board's determination shall be based on documented, clear, and convincing data; student achievement data from the Standardized Testing and Reporting Program and any other available assessments for demographically similar student populations in comparison schools; and information submitted by the charter school. The County Board shall submit to the Superintendent of Public Instruction copies of supporting documentation and a written summary of the basis for its determination.

A charter renewal may not be granted to a charter school prior to 30 days after the school submits related materials.

5. Qualified for an alternative accountability system pursuant to Education Code 52052(h).

Any charter renewal granted by the County Board shall be for a period of five years. (Education Code 47607)

Except for countywide charters, any renewal application denied by the County Board may be submitted to the State Board of Education. (Education Code 47607.5, 47605.6)

**Revocation**

The County Board may revoke any charter that it granted whenever it finds that the charter school has done any of the following: (Education Code 47607)

1. Committed a material violation of any of the conditions, standards, or procedures set forth in the charter
2. Failed to meet or pursue any of the student outcomes identified in the charter

**CHARTER SCHOOLS** (continued)

3. Failed to meet generally accepted accounting principles or engaged in fiscal mismanagement
4. Violated any provision of law

Prior to revocation, the County Board shall notify the charter school of the violation and give the school a reasonable opportunity to correct the violation unless the County Board determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the students. (Education Code 47607)

Note: Education Code 47604.5 authorizes the State Board of Education to take action, including the revocation of the charter, whether or not it is the chartering authority, if it makes certain findings relating to gross financial mismanagement, illegal or improper use of funds, or substantial and sustained departure from measurably successful practice.

**Waivers**

Note: Education Code 33054 provides that, if the County Board fails to hold the hearing specified below, the charter school would then be permitted to hold the hearing prior to submitting the waiver request directly to the State Board of Education.

If a County Board-approved charter school submits an application to the County Board for a waiver of any Education Code provisions, the County Board shall hold a public hearing on the waiver request no later than 90 days following receipt of the request. (Education Code 33054)

The County Board shall subsequently prepare a summary of the public hearing to be forwarded with the waiver request to the State Board of Education. If the County Board recommends against approval of the waiver request, it shall set forth the reasons for its disapproval in written documentation that shall be forwarded to the State Board of Education. (Education Code 33054)

**Financial Relationship**

The County Board shall permit a charter school approved by it to use, at no cost, facilities not currently being used by the County Office for instructional or administrative purposes, or not historically being used for rental purposes, provided that the charter school shall be responsible for reasonable maintenance of those facilities. (Education Code 47614)

The County Board may charge for the actual costs of supervisory oversight of a charter school not to exceed one percent of the charter school's revenue. If the County Board is able to provide substantially rent-free facilities to the charter school, the County Board may charge actual costs up to three percent of the charter school's revenue for supervisory oversight. (Education Code 47613)

**CHARTER SCHOOLS** (continued)

The charter school may separately purchase administrative or other services from the County Board or any other source. (Education Code 47613)

When a charter school established under a charter approved by the County Board so requests, the County Superintendent of Schools or designee shall create and submit, on behalf of the charter school, any reports required by the State Teachers' Retirement System and the Public Employees' Retirement System. The charter school may be charged for the actual costs of the reporting services, but shall not be required to purchase payroll processing services from the County Office as a condition for creating and submitting these reports. (Education Code 47611.3)

*Legal Reference:*EDUCATION CODE17280-17317 *Field Act*17365-17374 *Field Act, fitness for occupancy*33054 *Waivers*41365 *Charter school revolving loan fund*42100 *Annual statement of receipts and expenditures*42238.51-42238.53 *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, as amended*47640-47647 *Special education funding for charter schools*47652 *Funding of first-year charter schools*48000 *Minimum age of admission (kindergarten)*48010 *Minimum age of admission (first grade)*48011 *Minimum age of admission from kindergarten or other school*51745-51749.3 *Independent study*52052 *Alternative accountability system*54032 *Limited English or low-achieving pupils*56026 *Special education*56145-56146 *Special education services in charter schools*60600-60649 *Assessment of academic achievement, including:*60605 *Academic content and performance standards; assessments*60640-60649 *Standardized Testing and Reporting Program*60850-60859 *High school exit examination*GOVERNMENT CODE3540-3549.3 *Educational Employment Relations Act*54950-54963 *The Ralph M. Brown Act*PENAL CODE667.5 *Definition of violent felony*1192.7 *Definition of serious felony*CODE OF REGULATIONS, TITLE 511700.1-11705 *Independent study*11960-11969 *Charter schools*

*Legal Reference continued: (see next page)*

## CHARTER SCHOOLS (continued)

### *Legal Reference: (continued)*

CODE OF REGULATIONS, TITLE 24

101 et seq. California Building Code

UNITED STATES CODE, TITLE 20

6311 Adequate yearly progress

6319 Qualifications of teachers and paraprofessionals

7223-7225 Charter schools

CODE OF FEDERAL REGULATIONS, TITLE 34

200.1-200.78 Accountability

ATTORNEY GENERAL OPINIONS

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

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

### *Management Resources:*

CSBA PUBLICATIONS

*Charter Schools: A Manual for Governance Teams*, rev. 2005

CSBA ADVISORIES

*Charter School Facilities and Proposition 39: Legal Implications for School Districts*, September 2005

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

*Special Education and Charter Schools: Questions and Answers*, September 10, 2002

U.S. DEPARTMENT OF EDUCATION GUIDANCE

*Charter Schools Program*, July 2004

*The Impact of the New Title I Requirements on Charter Schools*, July 2004

WEB SITES

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

California Building Standards Commission: <http://www.bsc.ca.gov>

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

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

Education Commission of the States: <http://www.ecs.org>

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

National School Boards Association: <http://www.nsba.org>

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

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