

MODESTO CITY SCHOOLS

Board Policy

BP 0420.4

PHILOSOPHY, GOALS, OBJECTIVES AND COMPREHENSIVE PLANS

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.

The District 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)

One or more persons may submit a petition to the Board 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 start-up charter school or conversion 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 when submitted to the Board. (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 technical assistance or contracted services which the District may provide to the proposed charter school.

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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 District teachers, other employees of the District, 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 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 mutual consent of both the petitioner and the Board. (Education Code 47605)

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 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

The Board shall approve the charter petition 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)

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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 including student outcomes aligned with state priorities as described in Education Code 52060, and regular reports to the 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 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)

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 petition to the County Superintendent of Schools, the California Department of Education (CDE), 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)

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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(c).
6. The petition does not contain a declaration as to whether or not 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:

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- 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 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 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 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, which may include supporting documentation, detailing, with specific citations to the documentary record, how the Board did not abuse its discretion in denying the petition. (Education Code 47605)

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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 shall grant or deny the petition within 30 days.
(Education Code 47605)

Legal References:

EDUCATION CODE

200 Equal rights and opportunities in state educational institutions
220 Prohibition of nondiscrimination
1240 County superintendent of schools; duties
17078.52-17078.66 Charter schools facility funding; state bond proceeds
17280-17317 Field Act; approval of plans and supervision of construction
17365-17374 Field Act, fitness for occupancy; liability of board members
32280-32289.5 School safety plans
33126 School Accountability Report Card
41365 Charter school revolving loan fund
42131 Interim certification
42238.02-42238.52 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
47650-47655 Funding of charter schools
49011 Student fees
51744-51749.6 Independent study
51745 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
54950-54963 Ralph M. Brown Act
7920.000-7930.215 California Public Records Act
81000-91014 Political Reform Act of 1974

CODE OF REGULATIONS, TITLE 5

11700.1-11705 Independent study
11960-11969.10 Charter schools

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Legal References (cont.):

EDUCATION CODE (cont.)

UNITED STATES CODE, TITLE 20

7221-7221j Charter schools

WELFARE AND INSTITUTIONS CODE

224.1 Indian child; definition

Management Resources:

COURT DECISIONS

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

Napa Unified School District v. California State Board of Education, Case No. 34-2022-80004051

CSBA's Education Legal Alliance v. California State Board of Education, Case No. 34-2018-80002834

ATTORNEY GENERAL OPINIONS

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

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

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

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

CALIFORNIA CHARTER AUTHORIZING PROFESSIONALS PUBLICATIONS

Memorandum of Understanding (MOU) Resource, September 2002

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

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

WEB SITES

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

CSBA District and County Office of Education Legal Services: <https://legalservices.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>

Cross References (cf.):

0420.41 – Charter School Oversight

0420.42 – Charter School Renewal

0420.43 – Charter School Revocation

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Cross References (cf.) (cont.):

0430 – Comprehensive Local Plan for Special Education

0460 – Local Control and Accountability Plan (N/A)

0510 – School Accountability Report Card

2230 – Representative and Deliberative Groups (N/A)

4116 – Probationary/Permanent Status

6146.3 – Reciprocity of Academic Credit

6158 – Independent Study

6162.51 – State Academic Achievement Tests

6178 – Career Technical Education

6184 – Continuation Education

7160 – Charter School Facilities (N/A)

9320 – Meetings and Notices

ADOPTED: September 9, 2019

REVISED: October 23, 2023