

The district's duly elected Board of Trustees recognizes that operating a public school with public funds is a responsibility not to be taken lightly and, as such, the public should expect all charter schools to benefit students and the broader educational landscape in the district and community. In considering any petition to establish a charter school within the district, the Board of Trustees shall give thoughtful consideration to the potential of the charter school to provide all students – including economically disadvantaged students, English learners, special education students, homeless students, foster youth, and other student groups – with a high-quality education that enables them to achieve to their fullest potential through an innovative educational model expanding beyond choices already available in the district. (Education Code 47601) It is the expectation of the Board of Trustees that petitioners will demonstrate familiarity with district programs and initiatives in discussion of the charter's proposal.

Any petition for the establishment of a charter school within the district shall include all components and signatures required by law and shall be submitted to the Superintendent. (Education Code 47605) The Superintendent or designee shall consult with legal counsel, as appropriate, regarding compliance of the charter proposals with legal requirements. It is the expectation of the Board of Trustees that petitioners will submit a thorough and complete charter petition, allowing the Board of Trustees and district staff to judge the petition on its merits and determine petitioner's ability to operate a school successfully.

The Board of Trustees will receive a complete and properly submitted charter petition at its first available meeting following submission of the charter petition to the district. Within 30 days of receiving a petition to establish a charter school, the Board of Trustees shall hold a public hearing to determine the level of support for the petition by teachers, other employees of the district, and parents/guardians. (Education Code 47605)

Within 60 days of receiving a petition, or within 90 days with mutual consent of the petitioners and the Board of Trustees, the Board of Trustees shall either approve or deny the request to establish the charter school. (Education Code 47605)

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)

Approval of Petition

The Board of Trustees shall approve the charter petition if it is satisfied that granting the charter is consistent with sound educational practice. A determination of sound educational practice shall be guided by a variety of factors, including, but not limited to, the following:

- A commitment to collaboratively expand and improve opportunities for all public school students without negatively affecting the interests of students who choose to enroll in district schools. (Education Code 47601, 47605)

- A commitment to democratic practices, including, among other things, governance by a local charter school board that physically conducts its board meetings in the community. (Education Code 47605(b)(5)(D))
- A commitment to transparency through compliance with the Brown Act, the Public Records Act, the Political Reform Act, and Government Code 1090. (Education Code 47605(b)(5)(D))
- A commitment to demonstrated racial and ethnic balance reflective of the district as a whole, including the elimination of entry barriers such as required English language proficiency and citizenship and residency documentation. (Education Code 47605(b)(5)(G))
- A commitment to social justice, including, among other things, the elimination of admission barriers tied to academic achievement and other pre-enrollment requirements, as well as a commitment to suspension and expulsion procedures focused on other means of correction and the continued enrollment of students subject to school discipline in the charter school. (Education Code 47601, 47605(b)(5)(j) & (h))

In granting charters, the Board of Trustees shall give preference to schools best able to provide comprehensive learning experiences for academically low-achieving students according to standards established by the California Department of Education (CDE) under Education Code 54032. (Education Code 47605)

The Board of Trustees may initially grant a charter for a specified term not to exceed five years. (Education Code 47607)

The Board of Trustees shall ensure that any approved charter contains adequate processes and measures for holding the school accountable for fulfilling the terms of its charter. These shall include, but are not limited to, fiscal accountability systems, multiple measures for evaluating the educational program, including student outcomes aligned with state priorities as described in Education Code 52060 and district priorities set forth in its instructional initiatives, and regular reports to the Board of Trustees. A charter petition should commit to producing outcomes for all student groups equal to or better than the outcomes of district students through the implementation of innovative programs not otherwise available to students.

The Board of Trustees 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 of Trustees and charter school governing body and amended as necessary.

It shall be the responsibility of the petitioners to provide written notice of the Board of Trustees' approval and a copy of the charter to the County Superintendent of Schools, the CDE, and the State Board of Education (SBE). (Education Code 47605)

Denial of Petition

The Board of Trustees shall deny any petition to authorize the conversion of a private school to a charter school. The Board of Trustees shall also deny any petition for a charter that proposes to

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 47602, 47605) It is the expectation of the Board of Trustees that petitioners will submit petitions only for the grades served by the district.

Any other charter petition shall be denied only if the Board of Trustees makes written factual findings specific to the petition that one or more of the following conditions exist: (Education Code 47605)

1. The charter school presents an unsound educational program 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 an affirmation of each of the conditions described in Education Code 47605(d).
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.

The Board of Trustees 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)

If the Board of Trustees 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 the SBE. (Education Code 47605)

Legal Reference:

EDUCATION CODE

200 Equal rights and opportunities in state educational institutions

220 Nondiscrimination

17078.52-17078.66 Charter schools facility funding; state bond proceeds

17280-17317 Field Act

17365-17374 Field Act, fitness for occupancy

33126 School Accountability Report Card
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

3540-3549.3 Educational Employment Relations Act

CODE OF REGULATIONS, TITLE 5

11700.1-11705 Independent study
11960-11968.5.5 Charter schools

CODE OF REGULATIONS, TITLE 24

Part 2 California Building Standards Code

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

101 Ops.Cal.Atty.Gen. -- (No. 11-201) (Dec. 26, 2018)
89 Ops.Cal.Atty.Gen. 166 (2006)
80 Ops.Cal.Atty.Gen. 52 (1997)
78 Ops.Cal.Atty.Gen. 297 (1995)

Management Resources:

CSBA PUBLICATIONS

Uncharted Waters, Recommendations for Prioritizing Student Achievement and Effective

Governance in California's Charter Schools, 2018
Charter Schools in Focus, Issue 2: Ensuring Effective Oversight, Governance Brief, October 2017
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
Charter School Facilities and Proposition 39: Legal Implications for School Districts, 2005

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Sample Copy of a Memorandum of Understanding
Charter School Authorization: Guidance and Technical Assistance for Prospective Charter School Authorizers, Webinar 2014

U.S. DEPARTMENT OF EDUCATION GUIDANCE

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, January 2014
Guidance on the Voluntary Use of Race to Achieve Diversity and Avoid Racial Isolation in Elementary and Secondary Schools, December 2011
Applying Federal Civil Rights Laws to Public Charter Schools: Questions and Answers, May 2000

WEB SITES

CSBA: <http://www.csba.org>
California Charter Schools Association: <http://www.calcharters.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>

Board of Trustees
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