

FRESNO COUNTY BOARD OF EDUCATION

**Philosophy, Goals, Objectives and Comprehensive Plans
CHARTER SCHOOL AUTHORIZATION**

The County Board recognizes that charter schools may offer diverse learning opportunities for students. When considering charter petitions, the County 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.

Petitioners are expected to present a detailed and comprehensive petition that includes specific and accurate information that presents a realistic view of how the school will implement and operate its educational program. It is an expectation of the County Board that petitioners submitting a petition for review shall be knowledgeable of state and federal laws and regulations regarding charter schools; the County Board's Memorandum of Understanding – Charter School Authorization ("MOU"); and the County Board charter policies, charter forms, and guidance materials.

Requirements and Timelines for Submitting Petitions

The County Board has the authority to consider charter petitions in accordance with applicable laws, including the following:

1. *An appeal of a school district's denial of the charter petition for the establishment of a new charter.* A complete charter appeal packet must be submitted to the County Board no later than 30 calendar days of the school district governing board's denial action. The County Board shall take no action on any appeal submitted to the County Board more than 30 calendar days after the date of the school district governing board's denial action. (Education Code 47605(k).)

When submitting an appeal of a school district's denial of a charter petition for the establishment of a new charter, petitioner(s) shall provide the following:

- 1.1. A complete copy of the charter petition as denied by the school district, including, but not limited to, the signatures required by Education Code 47605 and the identification of the proposed site(s) where the charter school will operate.
- 1.2. Evidence of the school district governing board's action to deny the petition and the school district governing board's written factual findings supporting the denial.
- 1.3. A written description of any new or different terms to the petition since the petition was denied by the school district's governing board.

If the petition submitted on appeal contains new or different material terms, the County Board shall immediately remand the petition to the governing board of the school district for reconsideration. If the governing board of the school district denies a petition after reconsideration, the petitioner(s) may elect to resubmit the petition to the County Board. (Education Code 47605.).

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2. *An appeal of a school district governing board's denial of a renewal of an existing charter*, the requirements and timeline for which are described in Board Policy 0420.42.
3. *A renewal petition for an existing County Board-authorized charter*, the requirements and timeline for which are described in Board Policy No. 0420.42.
4. *A direct county charter* - a charter school that will serve students for whom the County Board and County Superintendent would otherwise be responsible for providing direct education and related services. A direct county charter petition is submitted directly to the County Board. (Education Code 47605.5.)
5. *A countywide benefit charter* - a charter school that will operate as a countywide benefit charter at one or more sites within the geographic boundaries of Fresno County under the jurisdiction of the County Board to provide instructional services not generally provided by the County Board and County Superintendent. A countywide benefit charter petition is submitted directly to the County Board. (Education Code 47605.6.)

Timeline for County Board Consideration of Charter Petitions

A charter petition is deemed received on the day the petitioner submits the petition to the County Board, or designee, along with a signed certification that the petitioner deems the petition to be complete. Upon submission of a charter petition to the County Board, petitioner(s) shall provide all documents/information requested by the County Board or designee based upon the type of petition submitted, including completed County Board charter forms and related documents.

All charter petitions received by the County Board shall be considered by the County Board pursuant to Education Code 47605 and 47605.6 as follows:

1. County Board shall hold a public hearing to determine the level of support for the petition no later than 60 calendar days of receiving the petition.
2. County Board shall either grant or deny the charter petition at a public hearing held no later than 90 calendar days after receiving the petition, or 120 calendar days with the consent of County Board or designee and petitioner(s). Any request by petitioner(s) for an extension must be made in writing to the County Board prior to the County Board taking a vote to approve or deny the charter petition.
3. At least 15 days before the public hearing at which the County Board will grant or deny the charter petition, the County Board shall publish all staff recommendations, including the recommended findings, regarding the charter petition. During the public hearing, petitioners shall have equal time and opportunity to present evidence and testimony to respond to the staff recommendations and findings. (Education Code 47605, 47605.6.)

FRESNO COUNTY BOARD OF EDUCATIONConsideration of Charter Petitions

All charter petitions received by the County Board shall be considered for approval or denial by the County Board pursuant to the requirements of applicable state and federal laws and regulations, and County Board policies. (Education Code 47605, 47605.5, 47605.6, 47607, 47607.2.)

In reviewing charter petitions, the County Board shall consider whether granting the charter is consistent with sound educational practice and the interests of the community in which the school is proposing to locate, and shall consider the academic needs of the pupils the charter proposes to serve.

In considering charter petitions, the County Board shall give preference to charter 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 ("CDE"). (Education Code 47605, 47605.6.)

All charter petitions submitted to the County Board shall identify the location(s) where the proposed charter school will operate and shall state that the charter school shall operate in accordance with the applicable geographic requirements. (Education Code 47605, 47605.1, 47605.6.)

Granting Petitions

The County Board may approve charter petitions according to applicable laws and such approvals shall be for a specified term. (Education Code 47605, 47605.5, 47605.6, 47607, 47607.2.)

If the County Board grants a charter petition, it does so contingent upon the charter school entering into the MOU with the County Board. Charter petitions approved by the County Board shall operate under the provisions of their respective charters, the MOU, the relevant policies and procedures of the County Board, and applicable state and federal laws. The County Board becomes the chartering authorizer if it grants a charter.

Upon County Board approval of any charter petition, the petitioner(s) shall provide written notice of the approval, including a copy of the petition, to the State Superintendent of Public Instruction, to the State Board of Education, and if the petition is for a countywide benefit charter school, to the school districts in which the charter will operate sites. (Education Code 47605, 47605.6.)

Denying Petitions

A charter petition shall be denied if such petition proposes to 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.)

A charter petition shall be denied if granting the petition would convert a private school to a charter school (Education Code 47602(b).)

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In addition, the County Board shall deny a charter petition for the establishment of a countywide benefit charter under Education Code 47605.6, and may deny a charter petition for the establishment of a charter school under Education Code 47605 or 47605.5, if it makes written

factual findings specific to the petition setting forth specific facts to support one or more of the following grounds (Education Code 47605, 47605.5, 47605.6):

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 in Education Code 47605(a), or if the petition is one to establish a countywide benefit charter, Education Code 47605.6(a).
4. The petition does not contain an affirmation of each of the conditions described in Education Code 47605(e), or if the petition is one to establish a countywide benefit charter, Education Code 47605.6(e).
5. The petition does not contain reasonably comprehensive descriptions of the charter elements required under Education Code 47605(c)(5), or if the petition is one to establish a countywide benefit charter, Education Code 47605.6(b)(5).
6. The petition does not contain a declaration of whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for purposes of collective bargaining pursuant to Government Code 3540-3549.3.
7. In the case of a charter petition under Education Code 47605, the charter school is demonstrably unlikely to serve the interests of the entire community in which the charter school is proposing to locate analyzing the following:
 - a. The extent to which the proposed charter school would substantially undermine existing services, academic offerings, or programmatic offerings in the school district where the proposed charter school intends to locate; and
 - b. Whether the proposed charter school would duplicate a program currently offered within the school district where the proposed charter school intends to locate, and the existing program has sufficient capacity for the pupils proposed to be served within reasonable proximity to where the charter school intends to locate. (See Education Code 47605(c)(7).)
8. In the case of a charter petition under Education Code 47605, the school district where the charter school is proposing to operate is not positioned to absorb the fiscal impact of the proposed charter school. (See Education Code 47605(c)(8).)

FRESNO COUNTY BOARD OF EDUCATIONAdditional Requirements for Countywide Benefit Charter Petitions

In addition to the requirements described above, the following conditions apply to countywide benefit charter petitions (Education Code 47605.6.):

1. The County Board shall only consider a petition for a countywide benefit charter if each of the school districts where the petitioner proposes to operate a facility has received written notice of the intent to operate a charter school at least 30 days prior to submitting the charter petition.
2. An existing public school may not be converted to a countywide benefit charter school.
3. The County Board shall only approve a charter petition for the establishment of a countywide benefit charter school if it finds that the charter school will provide educational services that will benefit a student population that cannot be served as well by a charter school that operates in only one school district in the county, and that the charter petition contains a reasonable justification for why the charter school could not be established by petition to a school district pursuant to Education Code 47605.
4. When considering a countywide benefit charter petition, the County Board may impose any additional requirements that it considers necessary for the sound operation of a countywide charter school.
5. In addition to all other grounds for denial set forth above, the County Board may deny a charter petition for the establishment of a countywide benefit charter school for any other basis that the County Board finds justifies denial of the petition.

The County 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 disabled students who reside outside the special education local plan area ("SELPA") in which the County Board or, in the case of a previously denied charter petition appeal, the school district that denied the petition, participates. (Education Code 47605.7, 47647.)

Except for a countywide benefit charter petition, if the County Board denies a petition, the petitioner(s) may choose to appeal the denial of the petition to the State Board of Education. Upon request by the petitioner(s), the County Board or designee shall prepare a documentary record, including transcripts of the public hearing at which the petition was denied, no later than 10 business days of the request. (Education Code 47605.)

Consideration of Renewal Petitions

Renewal petitions for existing County Board-authorized charters and appeals of school district governing board denials of renewal petitions of existing charters may be granted or denied as described in Board Policy 0420.42.

FRESNO COUNTY BOARD OF EDUCATION**Delegation of Administrative Functions to County Superintendent**

The County Board delegates to the County Superintendent the administrative functions related to charter school petitions, including but not limited to, receiving, reviewing, and reporting on charter petitions, charter petition appeals, renewals, and revocations. The County Superintendent or designee's authority shall include, but not be limited to, receiving charter petitions and all related required documents; preparing a documentary record of public hearings relating to charter petitions; agreeing to extension of timelines pursuant to law and adopted policy or regulations; developing regulations, forms, and guidance materials and processes; and completing such administrative duties as necessary or proper to effectuate the provisions set forth herein as well as applicable County Superintendent regulation(s).

Upon receipt of a charter petition, the County Superintendent is authorized to establish an ad hoc committee of County Superintendent staff and one County Board member to review the charter petition and prepare a report and recommendation to the County Board.

Adopted: 11/15/2018

Amended: 6/18/2020

Legal Reference**Education Code**

220 Nondiscrimination

1042 County boards: authority

17078.52-17078.66 Charter schools facility funding; state bond proceeds

17280-17317 Field Act

17365-17374 Field Act, fitness for occupancy

41365 Charter school revolving loan fund

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

47640-47647 Special education funding for charter schools

47650-47652 Funding of charter schools

51745-51749.3 Independent study

52052 Numerically significant student subgroup, definition

52066-52069 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 Conflict of interest

3540-3549.3 Educational Employment Relations Act

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6250-6270 California Public Records Act
54950-54963 Ralph M. Brown Act
81000-91014 Political Reform Act

Code of Regulations, Title 5

11700.1-11705 Independent study
11960-11968.5.5 Charter schools

Code of Regulations, Title 24

101 *et seq.* 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

89 Ops.Cal.Atty.Gen. 166 (2006)
80 Ops.Cal.Atty.Gen. 52 (1997)
78 Ops.Cal.Atty.Gen. 297 (1995)

Management ResourcesCSBA Publications

The Role of the Charter School Authorizer, Online Course
Charter Schools: A Guide for Governance Teams, rev. February 2016

California Department of Education Publications

Sample Copy of a Memorandum of Understanding

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>