

FRESNO COUNTY BOARD OF EDUCATION

**Philosophy, Goals, Objectives and Comprehensive Plans
CHARTER SCHOOL REVOCATION**Revocation of Charters Authorized by the County Board

The County Board expects any charter school it authorizes to provide a sound educational program that promotes student learning and to carry out its operations in a manner that complies with law and the terms of its charter. In accordance with applicable law and the County Board's Memorandum of Understanding – Charter School Authorization ("MOU"), the County Board may pursue the revocation of any charter school it authorizes.

The County Board may, using the procedures described below, revoke a charter before the date it is due to expire whenever the County Board makes a written factual finding, supported by substantial evidence, 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.
3. Failed to meet generally accepted accounting principles or engaged in fiscal mismanagement.
4. Violated any law.

The County Board shall also consider revocation of a charter whenever the California Collaborative for Educational Excellence ("CCEE"), after providing advice and assistance to the charter school pursuant to Education Code section 47607.3, submits to the County Board either of the following findings (Education Code 47607.3):

1. That the charter school has failed or is unable to implement the recommendations of the CCEE.
2. That the inadequate performance of the charter school, as based on an evaluation rubric adopted pursuant to Education Code 52064.5, is either so persistent or so acute as to require revocation of the charter.

In determining whether to revoke a charter, the County Board shall consider increases in student academic achievement for all numerically significant groups of students served by the charter school, as defined in Education Code section 52052. (Education Code 47607, 47607.3.)

At least 72 hours prior to any County Board meeting at which the County Board will consider issuing a Notice of Violation, the County Board shall provide the charter school with notice and all relevant documents related to the proposed action. (5 CCR 11968.5.2.)

FRESNO COUNTY BOARD OF EDUCATION

If the County Board takes action to issue a Notice of Violation, it shall deliver the Notice of Violation to the charter school's governing body. The Notice of Violation shall identify (Education Code 47607; 5 CCR 11965, 11968.5.2):

1. The charter school's alleged violation(s).
2. All evidence relied upon by the County Board in determining that the charter school committed the alleged violation(s), including the date and duration of the alleged violation(s). The Notice shall show that each alleged violation is both material and uncured and that it occurred within a reasonable period of time before the Notice of Violation is issued.
3. The period of time that the County Board has concluded is a reasonable period of time for the charter school to remedy or refute the identified violation(s). In identifying this time period, the County Board shall consider the amount of time reasonably necessary to remedy each identified violation, which may include the charter school's estimation as to the anticipated remediation time.

By the end of the remedy period identified in the Notice of Violation, the charter school's governing body may submit to the County Board a detailed written response and supporting evidence addressing each identified violation, including, as applicable, a refutation, remedial action taken, or proposed remedial action. (5 CCR 11968.5.2.)

Within 60 calendar days of the conclusion of the remedy period, the County Board shall evaluate any response and supporting evidence provided by the charter school's governing body and shall take one of the following actions (5 CCR 11968.5.2):

1. Discontinue revocation of the charter and provide timely written notice of such action to the charter school's governing body.
2. If there is substantial evidence that the charter school has failed to remedy a violation identified in the Notice of Violation or to refute a violation to the County Board's satisfaction, continue revocation of the charter by issuing a Notice of Intent to Revoke to the charter school's governing body.

If the County Board issues a Notice of Intent to Revoke, it shall hold a public hearing concerning the revocation on the date specified in the notice, which shall be no later than 30 days after providing the notice. Within 30 calendar days after the public hearing, or within 60 calendar days if extended by written mutual agreement of the County Board and the charter school, the County Board shall issue a final decision to revoke or decline to revoke the charter. (Education Code 47607; 5 CCR 11968.5.2.)

If the County Board fails to meet the timelines specified above for issuing a Notice of Intent to Revoke or a final decision, the revocation process shall be deemed terminated. (5 CCR 11968.5.2.)

Within 10 calendar days of the County Board's final decision, the County Board or designee shall provide a copy of the final decision to the California Department of Education ("CDE"). (Education Code 47604.32; 5 CCR 11968.5.2.)

FRESNO COUNTY BOARD OF EDUCATION

If the County Board decides to revoke the charter, the charter school may appeal the decision to the State Board of Education ("SBE"). However, a revocation based upon the findings of the CCEE pursuant to Education Code 47607.3 may not be appealed. (Education Code 47607, 47607.3, 5 CCR 11968.5.3-11968.5.5.)

Revocation of Charters Authorized by the County Board When There is a Severe and Imminent Threat to the Health or Safety of Pupils

The procedures specified above shall not be applicable when the County Board determines, in writing, that any violation under Education Code 47607 constitutes a severe and imminent threat to the health or safety of students. In such circumstances, the County Board may immediately revoke the charter school's charter by approving and delivering a Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety to the charter school's governing body and the CDE. The charter school may appeal the County Board's action to revoke the charter to the SBE. (Education Code 47607; 5 CCR 11968.5.3.)

Appeal of the Revocation of a Charter by a School District Board

The County Board may consider the appeal of a charter revocation made by a school district governing board. The County Board must receive a written notice of appeal within 30 calendar days of the charter school's receipt of the final decision on revocation from the school district governing board or the County Board shall not act on the appeal. The notice of appeal must include all of the following (Education Code 47607; 5 CCR 11968.5.4):

1. A copy of the school district's notice of violation, notice of intent to revoke, and the final decision, unless the school district did not provide them to the charter school as required pursuant to 5 CCR 11968.5.2.
2. Evidence of a final action by the school district's governing board, if available.
3. All evidence relied upon by the school district's governing board to determine there was substantial evidence of failure to remedy violation(s) in the notice of violation.
4. All evidence and all written responses submitted by the charter school in response to the school district's notice of violation and notice of intent to revoke.
5. A written statement from the charter school explaining why the school district governing board's final decision is not supported by substantial evidence.
6. A written statement of any procedural omissions or errors the charter school alleges to have occurred in the revocation process.
7. Minutes of any public meeting where the school district governing board considered or made its decision to revoke the school's charter, if available.

The County Board may reverse the revocation by a school district governing board if the County Board determines that the findings made by the school district governing board were not supported by substantial evidence. In making that determination, the County Board shall consider whether the school district governing board provided the charter school with a notice of violation,

FRESNO COUNTY BOARD OF EDUCATION

a reasonable opportunity to remedy the identified violation(s), a notice of intent to revoke, a public hearing, and a final decision. If the charter school submitted a response to the notice of violation, the County Board shall also consider whether the charter school complied with the regulatory procedures. The County Board shall also consider whether an alleged procedural deficiency negatively affected the charter school's ability to refute or remedy the alleged violation(s) or the school district's ability to comply with its procedural obligations or authorizing duties. (5 CCR 11968.5.4.)

If the County Board reverses the school district governing board's revocation, the school district governing board may appeal the County Board's reversal decision to the SBE. (Education Code 47607.)

If the County Board does not issue a written decision within 90 calendar days of the timely submission of an appeal, the decision of the school district governing board to revoke a charter is upheld. If the County Board does not issue a written decision or upholds the school district governing board's revocation by written decision, the charter school may appeal the revocation to the SBE. (Education Code 47607.)

If the County Board issues a written decision regarding an appeal, the County Board shall provide the CDE and the school district governing board a copy of the written decision within 10 calendar days of the County Board's action. (5 CCR 11968.5.4.)

Appeal of the Revocation of a Charter by a School District Governing Board Due to a Severe and Imminent Threat to Pupil Health or Safety

A charter school, whose charter has been revoked by a school district governing board upon the board's determination of a severe and imminent threat to pupil health or safety, must submit a notice of appeal to the County Board within 30 calendar days of the charter school's receipt of the school district governing board's final decision revoking the charter. The notice of appeal to the County Board must include all of the following (Education Code 47607; 5 CCR 11968.5.3.):

1. A copy of the notice of revocation by determination of a severe and imminent threat to pupil health or safety issued by the school district governing board, unless the school district did not provide the charter school with such notice.
2. Evidence of the school district governing board's final vote, if available
3. All evidence relied upon by the school district governing board to revoke the charter.
4. All minutes of any public meeting at which the school district governing board considered or made its decision to revoke the charter, if available.
5. A written statement explaining why the charter school does not believe the school district governing board's factual findings are supported by substantial evidence.

If the County Board reverses the school district governing board's revocation, the school district governing board may appeal the County Board's reversal decision to the SBE. (Education Code 47607.)

FRESNO COUNTY BOARD OF EDUCATION

If the County Board does not issue a written decision that explains whether, in the County Board's judgment, the school district governing board's factual findings are supported by substantial evidence within 90 calendar days of receiving the notice of appeal, the school district governing board's decision is upheld. If the County Board does not issue a written decision or upholds the school district governing board's revocation by written decision, the charter school may appeal the revocation to the SBE. (Education Code 47607.)

The County Board, in determining whether the school district governing board's factual findings are supported by substantial evidence, shall consider whether the school district provided the charter school with a notice of revocation by determination of a severe and imminent threat to pupil health or safety in conformity with Education Code 47607. (5 CCR 11968.5.3.)

If the County Board issues a written decision regarding an appeal, the County Board shall provide the CDE and the school district governing board a copy of the written decision within 10 calendar days of its action. (5 CCR 11968.5.3.)

Delegation of Administrative Functions to County Superintendent

The County Board delegates to the County Superintendent the administrative functions related to the revocation of County Board-authorized charters and appeals submitted to the County Board of revocations of charters by school district boards, including but not limited to drafting notices, receiving responses from charter schools and school districts regarding all notices relating to revocation, receiving notices of appeals regarding revocations, evaluating and providing recommendations regarding revocations, and providing notifications of the County Board's actions. The County Superintendent's authority shall include, but not be limited to, receiving notices of appeals regarding revocations; determining if the submission is complete for timeline purposes; 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).

Adopted: 11/15/2018

Amended: 6/18/2020

Legal Reference**Education Code**

47600-47616.7 Charter Schools Act of 1992, especially:

47607 Charter renewals and revocations

52052 Numerically significant student subgroups; definition

Code of Regulations, Title 5

11960-11969 Charter schools, especially:

11968.5.1-11968.5.5 Charter revocations

Court Decisions

Today's Fresh Start, Inc. v. Los Angeles County Office of Education (2013) 57 Cal.4th 197

FRESNO COUNTY BOARD OF EDUCATION

Management Resources

CSBA Publications

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

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>