

MENDOCINO COUNTY OFFICE OF EDUCATION

BOARD POLICY 0420.4 Authorization Of Charter Schools

The County Board of Education recognizes that charter schools are an integral part of the California education system. In considering any petition to establish a charter school within its jurisdiction, the County Board shall give thoughtful consideration to the ability of the charter school to provide students with a high-quality education that enables them to achieve to their fullest potential. A petition to establish a charter school shall be submitted directly to the County Board in either of the following circumstances:

1. When the petition seeks to establish a charter program that will serve students who would otherwise receive direct education and related services from the county office of education (COE) (Education Code [47605.5](#))
2. When the petition seeks to establish a charter program that will serve as a countywide charter, to provide instructional services that are not generally provided by the COE (Education Code [47605.6](#))

The County Board may also consider a charter school petition that was previously denied by the governing board of a school district, in accordance with BP 0420.44 - Appeals of District Decisions Regarding Charter Schools.

(cf. [0420.44](#) - Appeals of District Decisions Regarding Charter Schools)

All meetings of the County Board at which the granting of a charter petition is to be discussed shall be subject to the state open meeting laws (the Brown Act). (Education Code [47608](#))

(cf. [9320](#) - Meetings and Notices)

(cf. [9322](#) - Agenda/Meeting Materials)

The County Board shall request and consider recommendations of the County Superintendent of Schools or designee regarding the completeness of a charter petition, any concerns that should be addressed by petitioners, any proposed arrangement to provide COE services to the charter school, and the development of memoranda of understanding (MOUs) to clarify financial and operational arrangements.

Required Petition Signatures

To be considered by the County Board, a charter petition must be signed by either of the following: (Education Code [47605](#), [47605.5](#), [47605.6](#))

1. A number of parents/guardians equivalent to at least one-half of the number of students that the charter school estimates will enroll in the school for its first year of operation
2. A number of teachers equivalent to at least one-half of the total number of teachers that the charter school estimates will be employed at the school during its first year of operation

The petition shall include a prominent statement explaining that a parent/guardian's signature means the parent/guardian is meaningfully interested in having a child attend the charter school, or a teacher's

signature means that the teacher is meaningfully interested in teaching at the charter school. (Education Code [47605](#), [47605.6](#))

A petition that calls for an existing public school to be converted to a COE charter school must also be signed by at least 50 percent of the permanent status teachers currently employed at the school. (Education Code [47605](#), [47605.6](#))

Components of the Charter Petition

All charter petitions shall comply with the applicable requirements of Education Code [47605](#) or [47605.6](#), other state and federal laws, and County Board policies. A copy of the proposed charter shall be attached to the petition. (Education Code [47605](#), [47605.6](#))

The charter petition shall include affirmations of the conditions described in Education Code [47605\(e\)](#) or [47605.6\(e\)](#) as applicable, as well as reasonably comprehensive descriptions of: (Education Code [47605](#), [47605.6](#))

1. The educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an "educated person" in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling students to become self-motivated, competent, and lifelong learners.

The petition shall include a description of the charter school's annual goals for all students and for each numerically significant subgroup of students identified pursuant to Education Code [52052](#), including ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students. These goals shall be aligned with the state priorities listed in Education Code [52066](#) that apply to the grade levels served. The petition also shall describe specific annual actions to achieve those goals. The petition may include additional priorities established by the charter school, goals aligned with those priorities, and specific annual actions to achieve those goals.

(cf. [0460](#) - Local Control and Accountability Plan)

If the proposed charter school will serve high school students, the petition shall describe the manner in which the school will inform parents/guardians about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable, and courses approved by the University of California or the California State University as creditable under the "a-g" admissions criteria may be considered to meet college entrance requirements.

2. The measurable student outcomes identified for use by the charter school. Student outcomes means the extent to which all students of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program, including outcomes that address increases in student academic achievement both schoolwide and for each numerically significant subgroup of students served by the charter school. The student outcomes shall align with the state priorities identified in Education Code [52066](#) that apply for the grade levels served by the charter school.

3. The method by which student progress in meeting the identified student outcomes is to be measured. To the extent practicable, the method for measuring student outcomes for state priorities shall be consistent with the way information is reported on a school accountability report card.

4. The governance structure of the charter school, including, but not limited to, the process to be followed by the school to ensure parent/guardian involvement.
5. The qualifications to be met by individuals to be employed by the charter school.
6. The procedures that the charter school will follow to ensure the health and safety of students and staff, including the following requirements:
 - a. Each charter school employee shall furnish the school with a criminal record summary as described in Education Code [44237](#).
 - b. The charter school shall develop a school safety plan which includes the topics listed in Education Code [32282\(a\)\(2\)\(A\)-\(J\)](#).
 - c. The charter school's safety plan shall be reviewed and updated by March 1 each year.
7. The means by which the charter school will achieve a balance of racial and ethnic students, special education students, and English learner students, including redesignated fluent English proficient students, that is reflective of the general population residing within the COE's territorial jurisdiction.
8. Admission policies and procedures.
9. The manner in which annual, independent financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the County Board's satisfaction.
10. The procedures by which students can be suspended or expelled for disciplinary reasons or otherwise involuntarily removed for any reason, including an explanation of how the charter school will comply with federal and state constitutional procedural and substantive due process requirements as specified in Education Code [47605](#) and requirements pertaining to the provision of homework assignments to suspended students as specified in Education Code [47606.2](#).
11. The manner by which staff members of the charter school will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.
12. The public school attendance alternatives for students who choose to not attend the charter school.
13. A description of the rights of any COE employee upon leaving COE employment to work in the charter school and of any rights of return to the COE after employment at the charter school.
14. The procedures to be followed by the charter school and the County Board to resolve disputes relating to charter provisions.
15. A declaration as to whether or not the charter school will be deemed the exclusive public school employer of the school's employees for purposes of collective bargaining under Government Code [3540-3549.3](#).
16. Consistent with 5 CCR [11962](#), the procedures to be used if the charter school closes, including, but not limited to:

- a. Designation of a responsible entity to conduct closure-related activities
- b. Notification to parents/guardians, the County Board, the special education local plan area in which the charter school participates, the retirement systems in which the school's employees participate, and the California Department of Education (CDE), providing at least the following information:
 - (1) The effective date of the closure
 - (2) The name(s) and contact information of the person(s) to whom reasonable inquiries may be made regarding the closure
 - (3) The students' districts of residence
 - (4) The manner in which parents/guardians may obtain copies of student records, including specific information on completed courses and credits that meet graduation requirements
- c. Provision of a list of students at each grade level, the classes they have completed, and their districts of residence to the responsible entity designated in accordance with item #16a above
- d. Transfer and maintenance of all student records, all state assessment results, and any special education records to the responsible entity designated in accordance with item #16a above, except for records and/or assessment results that the charter may require to be transferred to a different entity
- e. Transfer and maintenance of personnel records in accordance with applicable law
- f. Completion of an independent final audit within six months after the closure of the charter school that includes an accounting of all financial assets and liabilities pursuant to 5 CCR [11962](#) and an assessment of the disposition of any restricted funds received by or due to the school
- g. Disposal of any net assets remaining after all liabilities of the charter school have been paid or otherwise addressed pursuant to 5 CCR [11962](#)
- h. Completion and filing of any annual reports required pursuant to Education Code [47604.33](#)
- i. Identification of funding for the activities identified in item #16a-h above

(cf. [0420.43](#) - Revocation of County Charter Schools)

Note: The County Board may require additional information beyond what is include in items #1-5 below. As outlined in CSBA's publication Charter Schools: A Guide for Governance Teams, such information may include a school calendar, information regarding transportation arrangements, staff development plans, assurances that the school will provide appropriate services for English learners and students with disabilities, or any other information that will assist the County Board in understanding the proposal. County boards that wish to require additional information in the charter may list those items below.

Charter school petitioners shall provide information to the County Board regarding the proposed operation and potential effects of the school, including, but not limited to: (Education Code [47605](#), [47605.6](#))

1. The facilities to be used by the charter school, including where the school intends to locate
2. The manner in which administrative services of the charter school are to be provided
3. Potential civil liability effects, if any, upon the charter school and the COE
4. Financial statements that include a proposed first-year operational budget, including start-up costs and cash-flow and financial projections for the first three years of operation
5. If the charter school is to be operated by or as a nonprofit public benefit corporation, the names and relevant qualifications of all persons whom the petitioner nominates to serve on the governing body of the charter school

Location of Charter School

A charter petition submitted directly to the County Board may only establish charter school operations within the geographical boundaries of the County Board's jurisdiction. A charter school may propose to operate at multiple sites within those geographic boundaries as long as each location is identified in the petition. This requirement does not apply to charter schools that provide instruction exclusively to juvenile court school students or that provide instruction exclusively in partnership with certain other federal, state, or county programs exempted by Education Code [47605.1](#). (Education Code [47605](#), [47605.1](#))

(cf. [6186](#) - Juvenile Court Schools)

Approval of Petition

Within 60 days of the receipt of the charter petition, the County Board shall hold a public hearing on the provisions of the charter, at which time the County Board shall consider the level of support for the petition by teachers, other COE employees, parents/guardians, and, for a proposed countywide charter school, the school district(s) where the charter school petitioner proposes to place school facilities. A petition is deemed received on the day the petitioner submits a petition to the COE office, along with a signed certification that the petitioner deems the petition to be complete. (Education Code [47605](#), [47605.6](#))

The County 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 consent of both the petitioner and the County Board. (Education Code [47605](#), [47605.6](#))

At least 15 days before the public hearing at which the County Board will grant or deny the charter, the County Board shall publish all staff recommendations, including the recommended findings, regarding the 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](#))

The hearing shall be audio or video recorded and transcribed in order to maintain an accurate record of the proceedings and the findings upon which the County Board's decision is based.

A petition for a COE charter school shall be granted only if the County Board is satisfied that doing so is consistent with sound educational practice and with the interests of the community in which the school is proposing to locate. The County Board shall consider the academic needs of the students the school proposes to serve. (Education Code [47605](#))

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 CDE standards. (Education Code [47605](#), [47605.6](#))

Prior to authorizing any charter, the County Board shall verify that the charter includes 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, including Education Code 47604.1. Such processes and measures shall include fiscal accountability systems, multiple measures for evaluating the educational program, regular reports to the County Board, and inspections and observations of any part of the charter school.

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, the State Board of Education (SBE), and, if the petition is for a countywide charter school, the school districts in the county. (Education Code [47605](#), [47605.6](#))

Charter schools approved by the County Board shall operate under the provisions of their respective charters, the relevant policies and procedures of the County Board, and applicable state and federal laws.

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

(cf. [0420.42](#) - Renewal of County Charter Schools)

Denial of Petition

The County Board shall deny any charter petition that:

1. 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](#))
2. Authorizes the conversion of a private school to a charter school (Education Code [47602](#))
3. Proposes to offer nonclassroom-based instruction (Education Code 47612.7)

In addition, the County Board shall deny a petition for a countywide charter, and may deny a petition serving COE students, if the County Board makes written factual findings setting forth specific facts to support one or more of the following: (Education Code [47605](#), [47605.6](#); 5 CCR [11967.5](#))

1. The charter school presents an unsound educational program that presents a likelihood of physical, educational, or psychological harm to, or which is not likely to provide an educational benefit for the students who attend the school.
2. The petitioners are unlikely to successfully implement the program set forth in the petition.

3. The petition does not contain the required signatures as described in the section "Required Petition Signatures" above.

4. The petition does not contain a clear, unequivocal statement described in Education Code [47605\(e\)](#) or [47605.6\(e\)](#), as applicable, 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](#) or [47605.6](#) as described in the section "Components of the Charter Petition" above.

6. The petition does not contain a declaration of whether or not the charter school shall be deemed the exclusive public employer of the employees of the charter school for purposes of Educational Employment Relations Act.

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:

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 COE, 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 COE is not positioned to absorb the fiscal impact of the proposed charter school. The COE meets this criterion if it has a negative interim certification pursuant to Education Code [1240](#), or has a qualified interim certification and the County Superintendent certifies that approving the charter school would result in the COE having a negative interim certification.

A petition to establish a charter school serving COE students that is denied by the County Board may be appealed to the SBE within 180 days of the denial. (Education Code [47605](#); 5 CCR [11967](#))

Additional Requirements for Countywide Charters

In addition to the requirements described above, the following conditions apply to countywide charter school petitions: (Education Code [47605.6](#))

1. The County Board shall only consider a petition for a countywide charter if each of the school districts where the petitioner proposes to operate a facility has received at least 30 days' notice of the intent to operate a charter school.

2. An existing public school may not be converted to a countywide charter school.

3. The County Board shall only approve a petition for a countywide charter if it finds that the charter school will provide educational services to a student population that will benefit from those services, and

the petition includes a reasonable justification why its students cannot be served as well by a charter school that operates in only one school district in the county.

4. In addition to the components described in the section "Components of the Charter Petition" above, the County Board may require any elements that it considers necessary to the sound operation of a countywide charter school.

5. In addition to the reasons specified in the section "Denial of Petition" above, a countywide petition may be denied for any other basis that the County Board finds justifies the denial.

Memoranda of Understanding

The County Board shall collaborate with the County Superintendent or designee, and/or with the County Board's designated representative contracted or employed pursuant to Education Code [1042](#), to develop one or more MOUs with the charter school to clarify financial and operational arrangements, such as how and when the charter school will establish governing bylaws, policies, and procedures or implement additional requirements that the County Board considers necessary for the sound operation of a charter school. Any such MOU shall be annually reviewed by the County Board and the charter school governing body and be amended as necessary.

Material Revisions to an Authorized Charter

Material revisions to a charter authorized by the County Board may only be made 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 [47605.6](#), as applicable, and shall include, but not be limited to, a reasonably comprehensive description of any new requirement for charter schools enacted into law after the charter was originally granted or last renewed. (Education Code [47607](#))

If an approved charter school proposes to expand operations at one or more additional sites or grade levels, the charter school shall request a material revision to its charter and shall notify the County Board of those additional locations or grade levels. The County Board shall consider approval of the additional locations or grade levels at an open meeting. (Education Code [47605](#))

The County Board shall, in its sole discretion, determine whether a proposed change in charter school operations constitutes a material revision of the approved charter.

Legal Reference:

EDUCATION CODE

[220](#) Nondiscrimination

[1042](#) County boards; authority

[1240](#) Duties of the county superintendent of schools

[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

[53300-53303](#) Parent Empowerment Act

[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

[6250-6270](#) California Public Records Act

[54950-54963](#) Ralph M. Brown Act

[81000-91014](#) Political Reform Act

CODE OF REGULATIONS, TITLE 5

[4800-4808](#) Parent Empowerment Act

[11700.1-11705](#) Independent study

[11960-11969](#) 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 Resources:

CSBA PUBLICATIONS

The Role of the Charter School Authorizer, Online Course

Charter Schools: A Guide for Governance Teams, rev. 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

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.charterauthorizers.org>

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

ADOPTED: February 10, 2020