

MENDOCINO COUNTY OFFICE OF EDUCATION

Board Policy 0420.44 Appeals of District Decisions Regarding Charter Schools

The County Board of Education shall consider any appeal of a decision made by the governing board of a school district within the County Board's jurisdiction to deny a petition for the establishment of a charter school, deny the renewal of a charter, or revoke a charter that was originally authorized by the district, provided that the request for the appeal meets the requirements described below. (Education Code [47605](#), [47607](#); 5 CCR [11967](#))

(cf. [0420.4](#) - Authorization of County Charter Schools)

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

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

The County Board may request that the County Superintendent of Schools or designee communicate with charter petitioners and perform a review of the petition on behalf of the County Board and report any findings to the County Board at a public meeting.

All meetings of the County Board at which the appeal 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)

Appeal of District Denial of Charter Authorization or Renewal

If the governing board of a school district denies a petition for the establishment or renewal of a charter school, the petitioners may submit an appeal to the County Board within 30 calendar days of the denial. Any petition submitted to the County Board after this time frame shall be considered denied with no further options for administrative appeal. (Education Code [47605](#))

A petition to the County Board to establish or renew a charter school that has been denied by a school district governing board shall include: (Education Code [47605](#); 5 CCR [11966.5](#), [11967](#))

1. A complete copy of the charter petition as denied, 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
2. Evidence of the school district governing board's action to deny the petition, such as meeting minutes
3. Any written factual findings from the school district governing board setting forth specific facts to support the grounds for denial
4. A signed certification stating that the petitioner(s) will comply with all applicable law

5. A description of any changes to the petition necessary to reflect the County Board as the chartering entity

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 may elect to resubmit the petition for the establishment of a charter school to the County Board. (Education Code [47605](#))

Within 60 days of the receipt of the petition, the County Board shall hold a public hearing to review documentation and obtain public input. A petition is deemed received on the day the petitioner submits a petition to the county office of education, along with a signed certification that the petitioner deems the petition to be complete. (Education Code [47605](#))

In considering the charter petition, the County Board is not limited to a review based solely on the reasons for denial stated by school district. The County Board shall review and approve or deny a petition based on the criteria specified in Education Code [47605](#). (Education Code [47605](#); 5 CCR [11967](#))

When considering a petition for renewal, the County Board shall also consider the charter school's past performance on academics, finances, and operations, along with any future plans for improvement, in evaluating the school's likelihood of future success. (5 CCR [11966.5](#))

Following review of the petition and the public hearing, the County Board shall either grant or deny the charter within 90 days of receipt of the petition, or within 120 days if the petitioner and County Board agree to the extension. (Education Code [47605](#))

A charter school authorized by the County Board on appeal shall be subject to the same requirements concerning geographic location to which it would otherwise be subject if it received approval from the school district to which it originally submitted its petition. (Education Code [47605](#), [47605.1](#))

A charter school authorized by the County Board on an appeal shall operate under the provisions of its charter, relevant policies and regulations adopted by the County Board, any memorandum of understanding (MOU) between the County Board and the charter school, and applicable state and federal laws. The County Board may approve one or more MOUs with the charter school to clarify the 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.

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

Any charter petition appealed to and denied by the County Board may be submitted to the State Board of Education (SBE) within 30 days of the denial. Upon request by the petitioner, the County Board 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. Within 30 days of receipt of the appeal submitted to SBE, the County Board may submit a written opposition and supporting documentation or evidence that was considered by the County Board in reviewing and denying the petition. (Education Code [47605](#))

Appeal of District Charter School Revocations

If a school district governing board revokes the charter of school it authorized, the charter school may appeal the revocation by delivering a written Notice of Appeal to the County Board within 30 days the district's final decision. (Education Code [47607](#); 5 CCR [11968.5.4](#))

The Notice of Appeal shall include all of the following: (5 CCR [11968.5.4](#))

1. A copy of the 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 the final vote of the school district governing board, if available
3. All evidence relied upon by the school district in determining whether substantial evidence existed that the charter school failed to remedy one or more violations identified in the Notice(s) of Violation
4. All evidence and correspondence submitted by the charter school's governing body in response to the school district's Notice of Violation and Notice of Intent to Revoke
5. Minutes of any public meeting at which the school district governing board considered or made its decision to revoke the charter, if available
6. A written statement from the charter school explaining why it does not believe that the school district's factual findings are supported by substantial evidence
7. Identification of any procedural omissions or errors the charter school alleges to have occurred in the revocation process

The County Board shall consider the following when determining whether school district's factual findings are supported by substantial evidence: (5 CCR [11968.5.4](#))

1. Whether the district provided the charter school a Notice of Violation and a reasonable opportunity to remedy the identified violation(s)
2. If the charter school submitted a response to the Notice of Violation, whether the charter school complied with the procedures set forth for that response
3. Whether the district provided the charter school a Notice of Intent to Revoke, a public hearing, and Final Decision
4. Whether the school district provided the charter school a Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety, if applicable
5. Whether an alleged procedural deficiency negatively impacted 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

The County Board shall provide the California Department of Education and the school district a copy of its written decision within 10 calendar days of its action. (5 CCR [11968.5.4](#))

The County Board may reverse the district's decision if it determines the district's findings are not supported by substantial evidence. If the district's decision is reversed on appeal, the district shall continue to be regarded as the chartering authority. The school district may appeal the reversal to SBE. (Education Code [47607](#))

If the County Board does not issue a decision within 90 days of receiving the Notice of Appeal, or if the County Board upholds the district's decision to revoke the charter, the charter school may appeal to SBE. (Education Code [47607](#))

Legal Reference:

EDUCATION CODE

[220](#) Nondiscrimination

33054 Waivers

[47600-47616.7](#) Charter Schools Act of 1992, as amended

[60600-60649](#) Assessment of academic achievement, including:

[60605](#) Academic content and performance standards; assessments

[60640-60649](#) Assessment of academic achievement

GOVERNMENT CODE

[3540-3549.3](#) Educational Employment Relations Act

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

CODE OF REGULATIONS, TITLE 5

[11960-11969](#) Charter schools

UNITED STATES CODE, TITLE 20

[7223-7225](#) Charter schools

CODE OF FEDERAL REGULATIONS, TITLE 34

[200.1-200.78](#) Accountability

ATTORNEY GENERAL OPINIONS

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

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

Management Resources:

CSBA PUBLICATIONS

Charter Schools: A Guide for Governance Teams, 2016

WEB SITES

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

California Department of Education: <http://www.cde.ca.gov/sp/cs>

Education Commission of the States: <http://www.ecs.org>

National School Boards Association: <http://www.nsba.org>

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

ADOPTED: February 10, 2020