

Morgan Hill USD

Board Policy

Charter School Authorization

BP 0420.4

Philosophy, Goals, Objectives and Comprehensive Plans

The Governing Board recognizes that charter schools may assist the district in offering diverse learning opportunities for students. In considering any petition to establish a charter school within the district, the Board shall give thoughtful consideration to the potential of the charter school to provide socioeconomically disadvantaged and English learner students with a high-quality education that enables them to achieve to their fullest potential.

~~The district shall not require any district student to attend the charter school nor shall it require any district employee to work at the charter school. (***)~~ **Note:** Education Code 47605)¶

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Any petition allows for Board approval of a start-up charter school or the conversion of an existing public school into a charter school, provided that the school adopts and maintains a policy giving admission preference to students who reside within the former attendance area of that public school. The signature requirement differs for each type of charter school; see the accompanying administrative regulation. ***

One or more persons may submit a petition to the Board for a charter school to be established within the district or for the conversion of an existing district school to a charter school. (Education Code 47605)

Any petition for a charter school shall include all components and, signatures, and statements required by law and, as specified in the accompanying administrative regulation. The proposed charter shall be submitted attached to the Board petition. (Education Code 47605)

The Superintendent or designee shall consult with legal counsel, as appropriate, regarding compliance of the charter petition with legal requirements.

The Superintendent or designee may work with charter school petitioners prior to the formal submission of the petition in order to ensure compliance of the petition with legal requirements. As needed, the Superintendent or designee may also meet with the petitioners to establish workable plans for technical assistance or contracted services which the district may provide to the proposed charter school.

~~Within 30 days of~~ The Board shall not require any district student to attend the charter school nor shall it require any district employee to work at the charter school. (Education Code 47605)

Timelines for Board Action

Within 60 days of receiving a charter petition, the Board shall hold a public hearing on the charter provisions, at which time the Board shall consider the level of support for the petition by teachers, other district employees of the district, and parents/guardians. (Education Code 47605) A petition is deemed received on the day the petitioner submits a petition to the district office, along with a signed certification that the petitioner deems the petition to be complete. (Education Code 47605)

The 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 Board. (Education Code 47605)

(cf. 9320 - Meetings and Notices)

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

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At least 15 days before the public hearing at which the Board will grant or deny the charter, the district shall publish all staff recommendations regarding the petition, including any recommended findings and, if applicable, certification from the County Superintendent of Schools regarding the potential fiscal impact of the charter school on the district. During the public hearing, the petitioners shall have equal time and opportunity to present evidence and testimony in response to the staff recommendations and findings. (Education Code 47605)

The Superintendent or designee shall maintain accurate records, in relation to each charter petition, of documents submitted, the Board's proceedings, and the findings upon which the Board's decision is made.

~~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)¶~~

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Approval of Petition

A charter petition ~~if~~ shall be granted only if the Board is satisfied that doing so is consistent with sound educational practice ~~and the interests of the community in which the school is proposing to locate.~~ In granting charters, the Board shall consider the academic needs of the students the charter school proposes to serve and shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences for students who are identified by the petitioner as academically low-achieving ~~, based on standards established by California Department of Education (CDE).~~ (Education Code 47605)

Prior to authorizing any charter, the Board shall verify that ~~any approved~~ the charter ~~contains~~ includes adequate processes and measures for monitoring and holding the school accountable for fulfilling the terms of its charter and complying with all applicable law ~~laws~~, including Education Code 47604 and 47605, and for fulfilling the terms of its charter. These

measures shall include, the ability of the Petitioner to achieve a balance of racial and ethnic pupils, special education pupils, and English learner pupils, including redesignated fluent English proficient pupils, as defined by the evaluation rubrics in Section 52064.5, that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted. Upon renewal, for a charter school not deemed to be a local educational agency for purposes of special education pursuant to Section 47641, the chartering authority may consider the effect of school placements made by the chartering authority in providing a free and appropriate public education as required by the federal Individuals with Disabilities Education Act (Public Law 101-476), on the balance of pupils with disabilities at the charter school.

Determining measures shall include but are not limited to, fiscal accountability systems, multiple measures for evaluating the educational program, ~~serving students who are considered academically low achieving, including student outcomes aligned with state priorities as described in Education Code 52060~~ inspection and observations of any part of the charter school, and regular reports to the Board.

(cf. 0420.41 - Charter School Oversight)

~~The Board must~~ 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)

The Board 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 ~~may be~~ shall be annually reviewed by the Board and charter school governing body and amended as necessary.

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

(cf. 0420.42 - Charter School Renewal)

(cf. 0420.43 - Charter School Revocation)

~~If~~ When a petition is approved by the Board, it shall be the responsibility of the petitioners to provide written notice of the Board's approval and a copy of the charter to the County Superintendent of Schools, the ~~California Department of Education~~ CDE, and the State Board of Education (SBE). (Education Code 47605)

Denial of Petition

The Board shall summarily deny any charter petition that proposes to ~~operate~~:

1. 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)

~~Board cannot authorize the conversion of~~ 2. Convert a private school to a charter school (Education Code 47602)

3. 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 47605)

4. Offer nonclassroom-based instruction (Education Code 47612.7)

Regarding all other charter ~~petition~~ petitions, the Board shall ~~be denied~~ deny a petition only if the Board makes written factual findings specific to the petition that one or more of the following conditions exist: (Education Code 47605; 5 CCR 11967.5.1)

1. The charter school presents an unsound educational program ~~for~~ that has a likelihood of physical, educational, or psychological harm to, or which is not likely to provide an educational benefit 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~~ a clear, unequivocal statement described in Education Code 47605(d-e), 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(b-c).

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.

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 regarding:

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 district, 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 district is not positioned to absorb the fiscal impact of the proposed charter school. The district meets this criterion if it has a negative interim certification, or has a qualified interim certification and the County Superintendent certifies that approving the charter school would result in the district having a negative interim certification.

The 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 students with disabilities who reside outside the special education local plan area in which the district participates. (Education Code 47605.7, 47647)

(cf. 0430 - Comprehensive Local Plan for Special Education)

~~If the Board denies a petition, the petitioners~~ Appeals

If the Board denies a petition, the petitioner may choose to submit the petition to the County Board of Education and, if then denied by the County Board, to SBE. (Education Code 47605)

At the request of the petitioner, the Board shall prepare the documentary record, including a transcript of the public hearing at which the Board denied the charter, no later than 10 business days after the petitioner makes the request. (Education Code 47605)

Within 30 days of receipt of an appeal submitted to SBE, the Board may submit a written opposition to SBE detailing, with specific citations to the documentary record, how the Board did not abuse its discretion in denying the petition. (Education Code 47605)

If either the County Board or SBE remands the petition to the Board because the petition on appeal contains new or different material terms, the Board shall reconsider the petition and grant or deny the petition within 30 days. (Education Code 47605)

Legal Reference:

EDUCATION CODE

200 Equal rights and opportunities in state educational institutions

220 Nondiscrimination

1240 Duties of County Superintendent

17078.52-17078.66 Charter schools facility funding; state bond proceeds

17280-17317 Field Act

17365-17374 Field Act, fitness for occupancy

32282 Comprehensive safety plan

33126 School Accountability Report Card

41365 Charter school revolving loan fund

42131 Interim certification

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

1090-1099 Prohibitions applicable to specified officers

3540-3549.3 Educational Employment Relations Act

6250-6270 California Public Records Act

54950-54963 Ralph M. Brown Act

81000-91014 Political Reform Act of 1974

CODE OF REGULATIONS, TITLE 5

11700.1-11705 Independent study

11960-11968.5.5 Charter schools

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

Opinion No. 11-201 (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, September 2018

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

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Sample Copy of a Memorandum of Understanding

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

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: Title V, Part B of the ESEA, Nonregulatory Guidance, January 2014

Guidance on the Voluntary Use of Race to Achieve Diversity and Avoid Racial Isolation in
Elementary and Secondary Schools, December 2011

WEB SITES

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

California Charter Schools Association: <http://www.ccsa.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>

Policy MORGAN HILL UNIFIED SCHOOL DISTRICT

adopted: October 1, 2019 Morgan Hill, California