

## Charter School Oversight

Note: The following **optional** policy may be revised to reflect district practice. The Governing Board is obligated to monitor the performance of any charter school it authorizes in order to ensure the school's compliance with legal requirements and progress toward meeting measurable outcomes specified in the charter. Information about the school's performance ~~will be needed~~ **is necessary** when determining whether ~~or not~~ to grant a renewal of the charter or whether a revocation of the charter is warranted; see BP 0420.42 - Charter School Renewal and BP 0420.43 - Charter School Revocation. In addition, pursuant to Education Code 47604, if the district complies with all oversight responsibilities required by law, it will not be liable for the debts or obligations of any charter school that operates as or is operated by a nonprofit public benefit corporation pursuant to Corporations Code 5110-6910.

Pursuant to Education Code 47605, if the State Board of Education (SBE) approves a petition upon appeal after the Board and County Board of Education have denied the petition, the SBE may, by mutual agreement, designate its supervisory and oversight responsibilities to the Board or to any local educational agency in the county in which the charter school is located.

The Governing Board recognizes its ongoing responsibility to **ensure oversee** that any charter school **the Board has** authorized ~~by the Board~~ is successfully fulfilling the terms of its charter and is providing a high-quality educational program for students enrolled in the charter school.

*(cf. 0420.4 - Charter School Authorization)*  
*(cf. 0500 - Accountability)*

The Superintendent or designee shall identify at least one staff member to serve as a contact **person** for each charter school **authorized by the Board**. (Education Code 47604.32)

Note: Education Code 47604.32 requires the district to visit each charter school at least once every year. CSBA's publication Charter Schools: A **Manual Guide** for Governance Teams recommends more frequent visits, perhaps two or three times during the school year, in order to monitor school operations more closely and develop relationships with the staff at the charter school.

The Board and Superintendent or designee may inspect or observe any part of the charter school at any time. The Superintendent or designee shall visit each charter school at least annually. (Education Code 47604.32, 47607)

Note: The following **optional** paragraph may be revised to reflect district practice. Pursuant to Education Code 47604, if a charter school operates as or is operated by a nonprofit public benefit corporation, the Board is entitled to a single representative on the board of directors of the nonprofit public benefit corporation. CSBA's publication Charter Schools: A **Manual Guide** for Governance Teams recommends that the district consult with legal counsel and consider any potential conflict of interest that may arise from having an individual Board member vote as a member of the charter board of directors on issues on which the Board will need to provide oversight. CSBA's ~~manual guide~~ suggests that an alternative **approach** may be for the district to designate its charter school contact, appointed pursuant to Education Code 47604.32, to ~~sit on the charter board~~ **attend meetings of the charter school board**.

## CHARTER SCHOOL OVERSIGHT (continued)

~~Whenever a charter school operates as or is operated by a nonprofit public benefit corporation as authorized by Education Code 47604, the Superintendent shall recommend and the Board shall appoint a district representative, who may be the district's charter school contact, on the corporation's board of directors. The Superintendent or designee shall attend meetings of the charter school board whenever possible and shall periodically meet with a representative of the charter school.~~

### Waivers

Note: A charter school is not authorized to submit general waiver requests to the SBE on its own behalf. Rather, the district must submit the waiver request for the charter school. A general waiver request form is available on the California Department of Education's (CDE) web site. Exceptions for which the charter school may directly apply for a waiver include a federal waiver of the Carl Perkins Career and Technical Education Act and a specific waiver of instructional time penalties.

If the charter school wishes to request a general waiver of any state law or regulation **applicable to it**, it shall request that the district submit a general waiver request to the State Board of Education (SBE) on its behalf. Upon approval of the Board, the Superintendent or designee shall **apply for the submit such a** waiver **request to the SBE on behalf of the charter school**.

*(cf. 1431 - Waivers)*

### Provision of District Services

Note: The following **optional** section may be revised to reflect district practice. A charter school may elect to receive its funding directly from the County Superintendent of Schools pursuant to Education Code 47651 and be directly responsible for the provision of payroll, human resources, maintenance and operations, legal services, and other administrative operations. Alternatively, a charter school may receive its funding through the district that granted its charter, as is the case with most "dependent" charter schools. CSBA's publication Charter Schools: A **Manual Guide for Governance Teams** recommends one or more memoranda of understanding to clarify the financial and operational agreements between the district and the charter school, including any services that will be provided by the district; see BP 0420.4 - Charter School Authorization.

The charter school may purchase administrative or other services from the district or any other source. (Education Code 47613)

Whenever the district agrees to provide administrative or support services, the district and charter school shall develop a memorandum of understanding which clarifies the financial and operational agreements between the district and charter school.

At the request of a charter school, the Superintendent or designee shall create and submit any reports required by the State Teachers' Retirement System or Public Employees' Retirement System on behalf of the charter school. The **district may charge the** charter school **may be**

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**charged** for the actual costs of the reporting services, but shall not **be required** **the charter school** to purchase payroll processing services from the district as a condition for creating and submitting these reports. (Education Code 47611.3)

### Material Revisions to Charter

Material revisions to a charter may **only** be made **only** with 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 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 establish or move** operations to one or more additional sites **within the district's boundaries**, the charter school shall request a material revision to its charter and shall notify the Board of those additional locations. The Board shall consider approval of the additional locations at an open meeting. (Education Code 47605)

The Board shall have the authority to determine whether a proposed change in charter school operations constitutes a material revision **of the approved charter**.

### Monitoring Charter School Performance

Note: The district has a responsibility to **ensure oversee** that the charter school complies with all applicable legal requirements. Violation of any law may subject the charter school to revocation pursuant to Education Code 47607. See the accompanying Exhibit for a list of legal requirements pertaining to the operation of charter schools.

The Superintendent or designee shall monitor the charter school to determine whether it complies with all legal requirements applicable to charter schools, including making all reports required of charter schools in accordance with Education Code 47604.32. Any violations of law shall be reported to the Board.

Note: Education Code 47605 requires that measurable student outcomes for "all groups of students served by the charter school" be included in the school's charter petition **and that these outcomes be aligned with the state priorities for the local control and accountability plan (LCAP) as stated in Education Code 52060**; see AR 0420.4 - Charter School Authorization. Pursuant to Education Code 47607, "all groups of students served by the charter school" means all numerically significant subgroups of students served by the charter school, as defined in Education Code 52052. Education Code 52052, **as amended by AB 104 (Ch. 13, Statutes of 2015)**, **defines a numerically significant subgroup as a subgroup with at least 30 students (or at least 15 foster youth or homeless students) in the school, including** ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students, **when there are at least 30 students in the subgroup (or at least 15 foster youth or homeless students) in the school**. For schools with 11-99 students, numerically significant student subgroups are defined by the Superintendent of Public Instruction (SPI) with approval by the SBE.

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~~In addition,~~ Education Code 47605 requires that the charter petition include methods for measuring the charter school's progress toward achieving student outcomes. Although ~~these methods the measures of the school's progress~~ may vary, Education Code 47605 requires that charter schools conduct any statewide assessments applicable to other public schools. ~~In addition,~~ Education Code 47604.32 ~~and 47604.33, as amended by SB 828 (Ch. 29, Statutes of 2016),~~ requires the district to ensure that the charter school submits an annual update of ~~school goals and actions to achieve those goals~~ **its LCAP** as required by Education Code 47606.5. **Education Code 47606.5 requires that the charter school's LCAP include a review of progress toward its goals, an assessment of the effectiveness of the specific actions described in the charter toward achieving the goals, and a description of changes in the specific actions that the charter school will make as a result of the review and assessment.**

~~At a minimum, the charter school must demonstrate that it is meeting its Academic Performance Index growth targets pursuant to Education Code 52051.5-52052 and, if the school receives federal Title I funding, that it is making "adequate yearly progress" (AYP) as defined by the SBE in accordance with 20 USC 6311.~~

The Board shall monitor each charter school to determine whether it is achieving, both schoolwide and for all groups of students served by the school, the measurable student outcomes set forth in the charter. This determination shall be based on the measures specified in the approved charter **and on the charter school's annual review and assessment of its progress toward the goals and actions identified in its local control and accountability plan (LCAP).** ~~and shall include, at a minimum, a consideration of whether the school is meeting its Academic Performance Index growth targets established pursuant to Education Code 52052 and is making "adequate yearly progress" pursuant to 20 USC 6311, as applicable.~~

The Board shall monitor the fiscal condition of the charter school based on any financial information obtained from the charter school, including, but not limited to, the charter school's preliminary budget, ~~an annual update, aligned to the template adopted by the SBE, of school goals, actions, and related expenditures of the school's LCAP,~~ first and second interim financial reports, ~~and final unaudited report for the full prior year.~~ (Education Code 47604.32, 47604.33, 47606.5)

Note: Education Code 47613 authorizes the district to charge the charter school, within specified limits, for the costs of supervisory oversight of the school. Education Code 47613 provides that the costs of supervisory oversight include, but are not limited to, costs incurred for technical assistance or intervention pursuant to Education Code 47607.3; see the section "Technical Assistance/Intervention" below. CSBA's publication Charter Schools: A Manual Guide for Governance Teams suggests that supervisory oversight activities also might include site visits, reviews of performance data and financial reports, and legal auditing. The actual provision of administrative or support services would not ~~likely~~ be considered supervisory oversight for purposes of charging supervisory oversight costs to the charter school. **Those services may be purchased separately by the charter school.**

The district may charge up to one percent of a charter school's revenue for the actual costs of supervisory oversight of the school. However, if the district is able to provide substantially rent-free facilities to the charter school, the district may charge **up to three percent of the charter school's revenue for** actual costs of supervisory oversight ~~up to three percent of the charter school's revenue~~ **or, if the facility is provided under Education Code 47614,**

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**the pro-rata share facilities costs calculated pursuant to 5 CCR 11969.7. If the district charges the pro-rata share, it may also charge one percent of the charter school's revenue in oversight fees.** (Education Code 47613)

*(cf. 7160 - Charter School Facilities)*

**Technical Assistance/Intervention**

**Note: Education Code 47607.3, as added by AB 97 (Ch. 47, Statutes of 2013), requires the provision of technical assistance to a charter school under the circumstances described below.**

If, in three out of four consecutive school years, a charter school fails to improve outcomes for three or more student subgroups identified in Education Code 52052, or for all of the student subgroups if the school has fewer than three, in regard to one or more state or school priorities identified in the charter, the district: (Education Code 47607.3)

1. Shall provide technical assistance to the charter school using an evaluation rubric adopted by the SBE pursuant to Education Code 52064.5
2. May request that the Superintendent of Public Instruction (SPI), with SBE approval, assign the California Collaborative for Educational Excellence to provide advice and assistance to the charter school pursuant to Education Code 52074

**Note: Pursuant to 20 USC 6311, if a charter school receiving Title I funds fails to make AYP for two or more consecutive years, the school will be identified for program improvement pursuant to 20 USC 6316; see BP/AR 0520.2 Title I Program Improvement Schools. U.S. Department of Education nonregulatory guidance, The Impact of the New Title I Requirements on Charter Schools, clarifies that the entity which authorizes the charter is responsible for ensuring that the school complies with accountability provisions. ~~As amended by the Every Student Succeeds Act (P.L. 114-95), 20 USC 6311 provides for a new system of school support and improvement for Title I schools beginning in the 2017-18 school year. Until then, charter schools that have been identified for program improvement (PI) for failure to make "adequate yearly progress" for two or more consecutive years must continue to implement their improvement plans. However, because of the repeal of 20 USC 6316 by P.L. 114-95, schools in the second year of PI or beyond are no longer required to arrange for supplemental educational services from an approved service provider. Instead, the CDE has elected to require the provision of alternative supports, defined and administered by the school, to eligible students beginning with the 2016-17 school year; see the CDE's Every Student Succeeds Act 2016-17 School Year Transition Plan (April 2016).~~**

If a charter school receiving federal Title I funding ~~fails to make AYP, as defined pursuant to 20 USC 6311, for two or more consecutive years, the school shall be~~ **has been** identified for program improvement, ~~it and~~ shall implement improvement strategies in accordance with ~~20 USC 6316 its~~ **existing school improvement plan.**

(cf. 0520.2 - Title I Program Improvement Schools)

BP 0420.41(f)

## CHARTER SCHOOL OVERSIGHT (continued)

Note: Education Code 47607 requires the Board to consider specified criteria of academic performance when determining whether to deny a petition for charter renewal or to revoke a charter, with achievement of all student subgroups served by the charter school being the most important factor; see BP 0420.42 - Charter School Renewal and BP 0420.43 - Charter School Revocation. In addition, Education Code 47607.3, as added by AB 97 (Ch. 47, Statutes of 2013), requires the Board to consider revocation of a charter whenever it finds that the charter school **has failed, or is unable,** to implement the recommendations of the California Collaborative for Educational Excellence or continues to demonstrate persistent or acute inadequate performance.

In accordance with law, the Board may deny a charter's **school's** renewal petition or may revoke a charter based on the charter school's poor performance, especially with regard to the academic achievement of all numerically significant subgroups of students served by the charter school.

(cf. 0420.42 - Charter School Renewal)

(cf. 0420.43 - Charter School Revocation)

## Complaints

Note: Pursuant to Education Code 52075, as added by AB 97 (Ch. 47, Statutes of 2013), charter schools are required to establish policies and procedures, on or before June 30, 2014, addressing complaints of noncompliance with Education Code 47606.5 (annual update of school goals, actions, and related expenditures) or 47607.3 (technical assistance or intervention based on the school's failure to improve student outcomes). See AR 1312.3 - Uniform Complaint Procedures for applicable procedures.

Each charter school shall **establish and** maintain **processes policies and procedures** to enable any person to file a complaint, in accordance with the uniform complaint procedures as specified in 5 CCR 4600-4687, alleging the school's noncompliance with Education Code 47606.5 or 47607.3. (Education Code 52075)

(cf. 1312.3 - Uniform Complaint Procedures)

Note: Pursuant to Education Code 52075, as added by AB 97 (Ch. 47, Statutes of 2013), a complainant may appeal the charter school's decision to the SPI and will receive a written appeal decision within 60 days of the SPI's receipt of the appeal.

A complainant who is not satisfied with the decision may appeal the decision to the SPI. (Education Code 52075)

If the charter school finds merit in the complaint or the SPI finds merit in an appeal, a remedy shall be provided to all affected students and parents/guardians. (Education Code 52075)

## CHARTER SCHOOL OVERSIGHT (continued)

### School Closure

Note: The following **optional** section may be revised to reflect district practice. Pursuant to Education Code 47605, procedures to be followed in the event a charter school ceases operation for any reason must be specified in the charter; see AR 0420.4 - Charter School Authorization. 5 CCR 11962 lists components that must be included in these procedures, including (1) designation of a responsible entity to conduct closure-related activities; (2) notifications to specified persons and entities; (3) provision of information about students' grade level, course completion, and district of residence; (4) transfer and maintenance of student and personnel records; (5) completion of an independent final audit; and (6) disposal of any net assets remaining after all liabilities of the charter school have been paid or otherwise addressed.

Depending on the terms of the charter, these duties may be performed by the charter school, the district, or another specified entity. However, Education Code 47604.32 specifies that it is the responsibility of the district to notify the CDE when a charter school ceases operation for any reason. The CDE's web site also recommends that, in addition to the notifications required by 5 CCR 11962, either the district or the charter school should announce the closure to any school districts that may be responsible for providing education services to the former students of the charter school.

The CDE's web site recommends that charter school closures occur at the end of a school year if it is feasible to maintain a legally compliant program until then.

In the event that the Board revokes or denies renewal of a charter or the school **eloses ceases operation** for any **other** reason, the Superintendent or designee shall, when applicable in accordance with the charter and/or a memorandum of understanding, provide assistance to facilitate the transfer of the charter school's former students and to finalize financial reporting and close-out.

The Superintendent or designee shall provide notification to the California Department of Education, within 10 calendar days **of the Board's action**, if **renewal of the charter is denied, the charter is revoked, or** the charter school will cease operation for any reason.

Such notification shall include, but not be limited to, a description of the circumstances of the closure, the effective date of the closure, and the location of student and personnel records. (Education Code 47604.32; 5 CCR 11962.1)

*Legal Reference: (see next page)*

**CHARTER SCHOOL OVERSIGHT (continued)**

*Legal Reference:*

EDUCATION CODE

**215 Suicide prevention policy**

220 Nondiscrimination

221.9 Sex equity in competitive athletics

222 Lactation accommodations for students

17280-17317 Field Act

17365-17374 Field Act, fitness for occupancy

35330 Field trips and excursions; student fees

38080-38086 School meals

**39831.3 Transportation safety plan**

**39843 Disciplinary action against bus driver; report to Department of Motor Vehicles**

42100 Annual statement of receipts and expenditures

44030.5 Reporting change in employment status due to alleged misconduct

44237 Criminal record summary

44691 Information on detection of child abuse

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

47634.2 Nonclassroom-based instruction

47640-47647 Special education funding for charter schools

48000 Minimum age of admission for kindergarten; transitional kindergarten

48010-48011 Minimum age of admission (first grade)

48850-48859 Educational placement of foster youth and homeless students

48907 Students' exercise of free expression; rules and regulations

48950 Student speech and other communication

49011 Student fees

49061 Student records

49110 Authority of issue work permits

49414 Epinephrine auto-injectors

49475 Health and safety, concussions and head injuries

51224.7 Mathematics placement policy

**51225.6 Instruction in cardiopulmonary resuscitation**

51745-51749.3 Independent study

52051.5-52052 Academic performance index, applicability to charter schools

52060-52077 Local control and accountability plans

52075 Uniform complaint procedures

56026 Special education

56145-56146 Special education services in charter schools

60600-60649 Assessment of academic achievement

60850-60859 High school exit examination

69432.9 Cal Grant program; notification of grade point average

CORPORATIONS CODE

5110-6910 Nonprofit public benefit corporations

Legal Reference continued: (see next page)

BP 0420.41(i)

**CHARTER SCHOOL OVERSIGHT (continued)**

Legal Reference: (continued)

GOVERNMENT CODE

1090-1099 Prohibitions applicable to specified officers

3540-3549.3 Educational Employment Relations Act

81000-91014 Political Reform Act of 1974

HEALTH AND SAFETY CODE

**104420 Tobacco Use Prevention Education grant program**

**104559 Tobacco-free schools**

LABOR CODE

1198.5 Personnel records related to performance and grievance

PENAL CODE

667.5 Definition of violent felony

1192.7 Definition of serious felony

CALIFORNIA CONSTITUTION

Article 9, Section 5 Common school system

Article 16, Section 8.5 Public finance; school accountability report card

CODE OF REGULATIONS, TITLE 5

4600-4687 Uniform complaint procedures

11700.1-11705 Independent study

11960-11969 Charter schools

15497.5 Local control and accountability plan template

CODE OF REGULATIONS, TITLE 24

101 et seq. California Building Standards Code

UNITED STATES CODE, TITLE 20

6311 Adequate yearly progress-State plan

6319 Qualifications of teachers and paraprofessionals

7223-7225 7221-7221j Charter schools

UNITED STATES CODE, TITLE 42

11431-11435 McKinney-Vento Homeless Assistance Act

CODE OF FEDERAL REGULATIONS, TITLE 34

200.1-200.78 Accountability

300.18 Highly qualified special education teachers

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)

CALIFORNIA OFFICE OF ADMINISTRATIVE HEARINGS DECISIONS

*Management Resources: (see next page)*

BP 0420.41(j)

## **CHARTER SCHOOL OVERSIGHT (continued)**

*Management Resources:*

### CSBA PUBLICATIONS

*The Role of the Charter School Authorizer, Online Course*

*Charter Schools: A Manual Guide for Governance Teams, rev. 20092016*

### CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

*Every Student Succeeds Act 2016-17 School Year Transition Plan, April 2016*

*California School Accounting Manual*

*Sample Copy of a Memorandum of Understanding*

*Pupil Fees, Deposits, and Other Charges, Fiscal Management Advisory 12-02, April 24, 2013*

*Special Education and Charter Schools: Questions and Answers, September 10, 2002*

### U.S. DEPARTMENT OF EDUCATION GUIDANCE

*Charter Schools Program: Title V, Part B of the ESEA, April 2011*

*The Impact of the New Title I Requirements on Charter Schools, July 2004*

### 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>