

Book	Board Policies and Administrative Regulations
Section	0000 - Philosophy, Goals, Objectives, and Comprehensive Plans
Title	Charter Schools
Number	0420.4 BP
Status	Active
Last Revised	November 15, 2017
Last Reviewed	November 15, 2017

## **Purpose**

It is the policy of the Santa Clara County Board of Education (County Board) to give appropriate consideration to petitions for charter schools to be operated under its jurisdiction. Pursuant to Education Code provisions, the County Board shall review all petitions in light of the envisioned effects the proposed schools may have on the education of the identified student population and specifically whether granting the proposed school charter is consistent with sound educational practice. The County Board desires to support innovations which improve student learning and recognizes the legislative intent to provide charter schools as an opportunity to implement school-level reform. In granting charter petitions, the County Board shall give preference to schools that demonstrate the capability to provide comprehensive learning experiences for academically low achieving students.

## **Definitions**

**Chartering Authority** – the agency that grants the charter for a charter school. Under most circumstances, the chartering agency has primary responsibility for monitoring and oversight of the charter school and has authority to renew the charter as well as revoke the charter if the school does not meet the requirements of its charter or of the law. The County Board may act as the chartering authority to the following:

**Direct County Charter**– a charter school that serves students for whom the County Office of Education would otherwise be responsible for providing direct education and related services. A petition for this type of charter school is submitted directly to the County Board. A denial of a petition shall be subject to the same process for any other County Board denial of a charter school. (Education Code 47605.5)

**Countywide Charter**– a charter school that operates at one or more sites within the geographic boundaries of the county and provides instructional services not generally provided by the County Office of Education. There must be reasonable justification for why the charter could not be established by petition to a local school district. A petition for this type of charter school is submitted directly to the County Board. (Education Code 47605.6)

County Conversion Charter – An existing public school operated by a County Office of Education that converts to a charter school. The petition must be supported by at least 50% of the permanent status teachers employed at the school. A petition for this type of charter school is submitted directly to the County Board. (Education Code 47605.5)

Previously Denied Charter Petition on Appeal - The County Board considers petitions for the establishment of a charter school if a school district board denied the petition based on written factual findings, and the petitioner wishes to appeal that decision. The County Board may receive petitions on appeal for new and non-renewed charter schools. The charter submitted on appeal must be the charter as denied or non-renewed by the school district, and the charter petitioner must also submit all of the other information and documentation specified in law and regulation. To ensure the petition is the same one denied by the school district board, the petitioner shall submit or have the district submit, a certified copy of the petition acted upon by the local district board. If the County Board grants the charter, it shall be the chartering authority and shall have primary responsibility and oversight of the charter school. (Education Code 47605(j)(I)). If the County Board denies the petition, the petitioner may appeal to the State Board of Education (SBE).

Direct-funded charter: A charter school that elects to receive funding directly from the state and can apply for and receive funding directly for state or federal programs. (Education Code 47651(a))

Locally funded charter: A charter school that elects to receive funding through its authorizing LEA or the LEA designated by the State Board of Education.

The following terms are not defined in Education Code, but are commonly used to describe charter school with different relationships with their authorizer/oversight agency:

Dependent Charter School – Generally connotes a closer relationship between the charter school and its authorizer in various areas, such as the origin of the school's formation, the governance structure, the extent to which the charter school depends on the authorizer for administrative services, and the funding relationship. It is frequently, though not exclusively, used to describe a charter school created by the authorizing agency itself.

Independent Charter School – Generally connotes the more common relationship in which the charter school is established and operated with more of an independent, "arm's length" relationship to its authorizing and oversight agency.

## **Legal Provisions Governing Petitions:**

### Petitions Previously Denied by a District

The County Board shall grant a charter if it is satisfied that doing so is consistent with sound educational practice and the petition complies with the applicable requirements of Education Code.

If a local governing board of a school district denies a petition, the petitioner may submit the petition for the establishment of a charter school to the County Board. The County Board shall review the petition pursuant to Education Code 47605(b).

The County Board supports this effort by establishing a clearly defined system for reviewing petitions and determining the effectiveness of the charter schools it authorizes. Charter schools are public schools; as such, their performance is subject to review and

comparison with any other publicly funded school and its demographic composition should reflect the school district in which it is located.

If the charter is granted by the County Board, the sponsoring educational agency shall be the district which denied the petition, and the County Board shall be the chartering authority for purposes of operational oversight. (Education Code 47632(i)(2))

Petitions Submitted Directly to the County Board

A petition for either a direct county charter or for a countywide charter school may be submitted directly to the County Board. (Education Code 47605.5, 47605.6)

The County Board may approve a countywide charter only if it finds that approval is consistent with sound educational practice and, in addition to the other requirements, that the educational services to be provided by the charter school will offer services to a student population that will benefit from those services and that cannot be served as well by a charter school that operates only in one school district in the county and the charter school has a reasonable justification for why it could not be established by petition to a school district pursuant to Education Code 47605. (Education Code 47605.6)

**Timelines:**

Timelines for the following processes begin upon receipt of the complete petition and all required information and documentation as determined by the Charter School Department on behalf of the County Superintendent.

Appeal of Denied Petitions

If the petition has been previously denied by a district governing board, the petition must be received by the County Board not later than 180 calendar days after the denial. Any petition received more than 180 calendar days after denial will not be acted upon by the County Board. If the County Board fails to act on the appeal of a petition for the establishment of a charter school within 60 calendar days (or 90 days by mutual written agreement), the petitioner may elect to appeal to the SBE. If the County Board fails to act on the appeal within 120 calendar days of receipt, the decision of the school district board to deny a petition shall, thereafter, be subject to judicial review.

Public Hearing

Within 30 calendar days after receiving a petition that complies with all requirements set forth in law, or 60 calendar days in the case of a countywide charter, the County Board will hold a public hearing on the provisions of the charter.

County Board Decision

Within 60 calendar days of receipt of the petition, or 90 days in the case of a countywide charter or as extended by mutual agreement, the decision to approve or deny the charter will be agendized as an action item on the County Board’s meeting agenda.

Initial Petition Timelines			
Process	Public	Action	Extension by

	<b>Hearing</b>	<b>after Receipt</b>	<b>Mutual Consent</b>
District Appeal	30 days	60 days	30 days
Countywide	60 days	90 days	30 days

### Submission Dates and Documents

The County Board encourages petitioners seeking approval to commence charter school operations at the start of the next school year to initiate the process not later than the prior December 15th. In the case of petitions received after that date, the County Board reserves the right to consider approval on the basis of a one-year delay in the commencement of the charter school operation if the County Board deems such a delay necessary for approval of the charter to be consistent with sound educational practice.

The County Board discourages charter petitioners (or operators seeking material revision or renewal) from submitting a charter at a time that would cause the County Board's time period for action to include any significant holiday periods during which all or most of the county office staff has vacation or non-work time. Specifically, these periods include, but may not be limited to, the Thanksgiving holiday break, winter break, and spring break.

In order to expedite the County's consideration of and action on charter requests, the County Board requests that all charter petition submissions, whether initial, renewal, or material revision, include all of the following:

1. At least 1 hard copy (in notebooks or otherwise bound) of the entire charter (including the original signatures for an initial charter request), with the entire document (including any appendices, exhibits, or attachments) sequentially numbered from the first through the last page, and also including a table of contents which includes references to all appendices/exhibits/attachments.
2. An electronic (Word) version of the charter and all appendices and an electronic (Excel) version of the budget.
3. Additionally, for material revisions or renewal requests, the submittal shall also include:

(a) The bound copies shall include a redline indicating all of the revisions from the currently approved version of the charter.

(b) An electronic (Word) version of the currently approved and operating version of the charter.

(c) An electronic (Word) version of the redlined.

(d) An executive summary of the changes requested or made.

### Withdrawal of Charter Petition

A decision by a petitioner to withdraw a petition from County Board Consideration requires a written request submitted to the Charter Schools Office. Upon receipt of the request to withdraw the petition, the County Board shall be notified in writing. SCCOE staff will not remove an item from a posted Board agenda; any modification of the agenda to remove an item related to a charter shall be done only by County Board action in the County Board's discretion.

If a petition is withdrawn before the public hearing is agendized, the County Superintendent shall accept the request to withdraw, but shall provide written notification to the County Board.

If a request to withdraw a petition is made after the public hearing has been held and prior to the County Board decision on the petition, the County Board must make the decision to accept or deny the withdrawal at the next regularly scheduled Board meeting.

If a request to withdraw the petition is made after the charter petition has been agendized for action, the County Board shall make the decision to accept the withdrawal or proceed with the decision action.

If a petition is withdrawn and then resubmitted, the process must be started from the beginning and the timeline is reset.

### **Review of Petitions:**

When reviewing petitions, the County Board must address the following:

#### Compliance with Signature and Affirmation Requirements

The County Board must ensure that the petition complies with the required number of signatures and contains the various affirmations required to be included in every charter.

#### Comprehensive Description of Elements of a Charter

The County Board must determine if the charter proposal provides a reasonably comprehensive description of the required elements.

#### Evaluation of the Soundness and Potential Success of the Proposed Program

The County Board must determine if the charter school presents an unsound educational program for the students enrolled or if petitioners are demonstrably unlikely to successfully implement the program.

#### Educational Employment Relations Act Statement

The County Board must determine whether the charter includes a statement of whether or not the charter school shall be deemed the exclusive public employer of the employees of the charter school for purposes of the Educational Employment Relations Act.

### **Approval or Denial of Petitions:**

SCCOE staff will evaluate the completeness of a petition including the merits of a proposed educational program and the requirements under state and federal law. SCCOE staff may consult with legal counsel, as appropriate, regarding compliance of the charter petition with legal requirements. Based on this evaluation, SCCOE staff will make a

recommendation to the County Board regarding approval or denial of the charter or charter renewal prior to the County Board's final action on the petition.

The County Board shall consider whether any charter seeking County Board approval contains adequate processes and measures for holding the school accountable for fulfilling the terms of its charter. These shall include, but not be limited to, fiscal accountability systems, multiple measures for evaluating the educational program, and regular reports to the County Superintendent or designee and the County Board.

The County Board shall grant a charter for the operation of a direct county charter, county conversion charter, or previously denied charter petition appeal if it is satisfied that granting the charter is consistent with sound educational practice and the charter complies with the requirements of the Charter Schools Act, including the items identified in the "Review of Petitions" section above.

The County Board may deny those petitions previously denied by a school district board if it makes written factual findings, specific to the petition, in support of one or more of the "Criteria for Denial" 1 through 6, below. (Education Code 47605)

The County Board may grant a charter for the operation of a countywide charter only if the County Board is satisfied that granting the charter is consistent with sound educational practice and the charter school has reasonable justification for why it could not be established by petition to a school district under Education Code 47605. The County Board may impose any additional requirements beyond those of Education Code 47605.6 that it considers necessary for the sound operation of a countywide charter. The County Board shall deny a petition for the establishment of a countywide charter if it finds any of the "Criteria for Denial" 1 through 7, below, including any basis that the County Board justifies denial.

#### Criteria for Denial

The County Board may not deny a petition unless one or more the following findings are made and documented in writing:

1. The charter school presents an unsound educational program 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 required signatures.
4. The petition does not contain an affirmation that the charter school shall be nonsectarian in all practices and operations; shall not charge tuition; shall not discriminate against pupils on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Penal Code 422.55; except as specified by law, that admission to the school shall not be determined according to the place of residence of the pupil or his or her parent or guardian within this State; that the charter school shall admit all pupils who wish to attend and if applicants exceed spaces, admission shall be done through a public random drawing in accordance with law and the charter; and that the charter school shall provide specified information to the school

district of residence if a pupil subject to compulsory full-time education is expelled or leaves the charter school without graduating or completing the school year for any reason.

5. The petition does not contain a reasonably comprehensive description of all of the required elements as specified by Education Code [47605\(b\)\(5\)](#) or Education Code [47605.6\(b\)\(5\)](#) in the case of a countywide charter.

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 the EERA.

7. Any other basis that the County Board finds justifies the denial of the petition.

#### Additional Considerations

The following paragraphs set forth some additional rules and requirements that apply to charter school petitions and charter school operations and/or describe standards that the County Board finds necessary in order for a charter school to present a sound educational program and governance structure. However, neither this section nor this policy as a whole is intended to describe each provision of law or statute that applies to charter schools. Charter schools and charter school operators are cautioned not to rely on the information in this policy as a summary of all laws and legal standards to which they are subject.

1. The approval or denial of a charter petition shall not be controlled by collective bargaining agreements or subject to review or regulation by the Public Employment Relations Board. (Education Code [47611.5](#))

2. The County 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 disabled students who reside outside the Special Education Local Plan Area (SELPA) in which the SCCOE or in the case of a Previously Denied Charter Petition Appeal, the district that denied the petition participates. (Education Code [47605.7](#), [47647](#))

3. In granting charter petitions, the County Board shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences for academically low-achieving students according to standards established by the CDE. (Education Code [47605\(h\)](#))

4. The County Board shall not grant any charter that authorizes the conversion of a private school to a charter school. (Education Code [47602](#))

In addition to the considerations set forth above, the County Board must consider the additional requirements of Education Code [47605\(c\)](#) through (m), or Education Code [47605.6\(c\)](#) through (m) for countywide charters, for all charters except where the Education Code refers to the State Board. These additional requirements include, but are not limited to, submission of a first year operational budget including startup costs, cash flow and financial projections for the first three (3) years of operation; submission of the annual audit report; teacher credentialing requirements, and the description and location of the proposed charter school facilities.

A charter school that receives approval of its petition from the County Board on appeal shall be subject to the same requirements concerning geographic location and grade levels

to be served to which it would otherwise be subject if it received approval from the entity to which it originally submitted its petition.

The initial term of an approved charter may be one (1) to five (5) years at the discretion of the County Board. The term of all charters shall expire on June 30 of the final year of the charter term, unless otherwise specifically stated in the approval action of the County Board.

Charter schools under the County Board's oversight shall comply with all conflict of interest laws that pertain to public agencies including Government Code 1090 and the Political Reform Act Form 700 Statement of Economic Interests.

Charter schools under the County Board's oversight shall comply with the Ralph M. Brown Act and the California Public Records Act.

Charter schools shall not charge students fees, deposits, or other charges for participation in educational activities offered by the charter school, including curricular and extracurricular activities. Charter schools shall maintain policies with regard to student fees and provide a complaint process under the uniform complaint procedures. (Education Code 49010; Government Code 905)

Charter schools shall not deny a pupil enrollment or readmission solely on the basis that the student has had contact with the juvenile justice system. (Education Code 48645.5)

#### Factual Findings

If the County Board finds deficiencies in the petition, it may deny the petition and will adopt written factual findings specific to the particular petition supporting one or more of the causes for denial.

#### Charter Renewals

The County Board may approve a charter for a period of up to five years. Subsequent renewals, if approved, shall be for a period of five years.

Charter schools that have been authorized by a school district that have had their renewal request denied by the school district may appeal the renewal request to the County Board. The County Board must receive the petition and all information and documentation required by Education Code 47605, 47607, and 5 CCR 11966.5, or the provisions of law that may supersede, modify, amend, or succeed those provisions, no later than 30 calendar days after the school district board makes its written factual findings. The County Board and the charter petitioner may extend this date by an additional 30 calendar days only by written mutual agreement. An appeal of a petition for renewal not submitted to the County Board within this time shall be considered denied with no further options for administrative appeal. If the school district board did not comply with the statutory and regulatory timelines for making written factual findings for denial of a renewal petition, the petition is deemed approved by the school district board and the County Board has no jurisdiction to hear an appeal.

If the County Board is the authorizing agency (whether on appeal from a district denial or through a petition submitted directly to the County Board), the charter operator may submit a request for renewal during the last year of its current term, or during such time period agreed to between the County Board and the charter operator, by submitting the

petition for renewal and all of the information and documentation specified in Education Code 47605, 47607, and 5CCR 11966.5 or the provisions of law that my supersede, modify, amend, or succeed those provisions.

The County Board may deny a renewal, whether on appeal or directly submitted to the County Board, only if it makes written factual findings, specific to the particular charter, setting forth facts to support one or more of the statutory causes for denial in Education Code 47605 or 47605.6 or failure to meet at least one of the minimum academic performance criteria required for charter renewal.

If the County Board does not grant or deny a renewal request for a charter school – other than a countywide charter approved pursuant to Education Code 47605.6 – within 60 days of the County Board’s receipt of the petition and all other required documentation, or 90 days by written mutual agreement, the charter petitioner may submit the renewal request to the State Board of Education. No charter shall be deemed automatically renewed due to a failure of the County Board to take action within the required timelines, rather, such a lack of action only authorizes the charter to submit the renewal request to the State Board of Education.

If the County Board denies a request for renewal of a countywide charter that was approved pursuant to Education Code 47605.6, the renewal is denied and cannot be submitted to the State Board of Education on appeal.

A charter school shall submit its request for renewal of its charter in the fiscal year in which the charter’s current term expires. In the case of an early renewal submission, the early renewal period shall commence immediately as of the following July 1, and shall not be added to the end of the current term in a manner that results in the charter school’s term extending more than the completion of the current year plus five years. Only after all renewal documentation, specifically including formal documentation of compliance with the applicable academic performance requirements (from a source such as CDE, not created internally by the charter school) and required documentation specified in the charter agreement has been submitted to the SCCOE Charter Schools Office, receipt of the charter renewal shall commence the timelines for action on the renewal request.

### Standard Conditions of Authorization

If the County Board approves the establishment or renewal of a charter, the governing board of the charter school shall, prior to commencing operations under the term of that charter, fulfill all the conditions of authorization, which may include, but are not limited to the following:

- Making changes to the petition necessary to reflect the County Board as the authorizer;
- Signing a Memorandum of Understanding (MOU) with SCCOE which includes adherence to all requirements established therein;
- Submitting a school safety/student discipline plan which finalizes the reasons a student may and must be suspended or expelled and the policies, procedures, and process for suspending and expelling students;
- Finalizing the curriculum to be used and the scope and sequence of all subjects to be offered;
- Providing evidence of applying to or membership in a SELPA;
- Providing evidence of insurance that meets the SCCOE’s standards and requirements;
- Agreeing to indemnification, defense, and hold harmless provisions for the protection of the County Board, County Superintendent, and SCCOE that meets the SCCOE’s standards and requirements; and

- Submitting to a facilities inspection.

Additionally, the charter school shall commence operations within the timeframe specified in the approval action and commence instruction by September 30 of the first year of operation. Failure of the charter school to fulfill the conditions of authorization is grounds for withdrawal of the approval, termination, or revocation of the charter.

In the case of a countywide charter, the County Board may impose any additional conditions for authorization it deems necessary. (Education Code [47605.6](#) (b))

The County Board may require a charter petitioner, either upon consideration of an initial petition or at the time of renewal, to make technical amendments to the Charter, which technical amendment may be set forth in the MOU, in which case the MOU provisions shall necessarily prevail over any conflicting provisions of the charter. In all cases in which provisions of the MOU differ from provisions of the charter, and the difference would not require a material revision to the charter, the provisions of the MOU prevail. The parties to the MOU may agree that the provisions of the MOU prevail over any conflicting provisions of the charter.

If the County Board denies the charter, the petitioner may appeal to the SBE except in the case of a countywide charter.

### Special Education

The charter shall comply with all applicable requirements of state and federal law regarding the provision of special education services and the requirements of Section 504 of the Rehabilitation Act of 1973. (Education Code [56000](#) et seq., Individual with Disabilities Education Act 20 U.S.C. Chapter 33)

### Material Revisions

A material revision is a change to the content of an authorized charter that affects substantively the process or manner in which the charter school operates. Some examples of material revisions include changes to the vision, mission, instructional design, accountability plan, location of facilities, governance or operational structure, grade levels or number of pupils to be served, admissions requirements or procedures, and changes that affect the charter school's fiscal status. The County Board shall have the authority and also delegates authority to the County Superintendent or his/her designee(s) to determine whether a proposed change in charter school operations constitutes a material revision of the approved charter. Material revisions to an authorized charter may be made only with County Board approval. (Education Code [47605](#)(a)(4), [47607](#)(a)(1))

Requests for material revisions are governed by the same standards, timelines, and criteria in Education Code [47605](#).

At the time a charter operator submits a petition seeking material revisions, the petition shall include, but is not limited to, a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed. (Education Code [47607](#))

### Accountability, Monitoring, and Oversight

Charter schools are governed at the school level in accordance with the provisions of the charter and all applicable laws.

The County Board supports this effort by approving a defined accountability system for monitoring the educational effectiveness, statutory compliance, governance and operational structures, and fiscal condition of the charter schools it authorizes. The County Board also monitors whether the charter school implements the terms of the charter as authorized.

Charter schools granted by the County Board shall be held accountable for pupil performance, including meeting measurable pupil outcomes and making satisfactory yearly progress on state and federal accountability measures.

The County Board delegates the administrative function of monitoring and oversight of its charter schools to the County Superintendent or designee. In fulfilling this statutory responsibility, the County Board is guided by the intent of the Legislature that charter schools shall provide innovative, accountability-based reform that improves student learning and provides choice for parents. Monitoring shall be on an ongoing basis in accordance with applicable laws and the MOU. The County Board and SCCOE staff may inspect or observe any part of the charter school at any time with or without prior notice. (Education Code 47607(a)(1))

The SCCOE may inspect and receive copies of all records relating to the operation of the charter school, including financial, personnel, attendance accounting, and pupil records, and records of any corporations or entities that operate or govern the charter school. Charter schools are subject to the California Public Records Act (CPRA); however, the SCCOE's right to inspect and receive records is not based on the CPRA, but rather on the SCCOE's oversight role. A County Board-authorized charter school shall promptly comply with all reasonable inquiries from the SCCOE in accordance with Education Code 47604.3.

An annual written report to the County Board regarding fiscal accountabilities, pupil performance, governance, and charter school-specific accountabilities shall be made in accordance with provisions of law and as established in the MOU.

County Board-authorized charter schools shall, on or before June 1 of each year, submit to the SCCOE an approved school calendar for the following year establishing that the charter school is complying with the required minimum number of school days and an approved bell schedule establishing that the charter school is complying with the minimum number of instructional minutes. At least one month prior to the commencement of each new semester, the charter school shall provide the SCCOE with a list of classes evidencing the class offerings for the semester.

### Charter Documents

Any charter school approved by the County Board shall at all times maintain clean, electronic (Word) copies of each version of its charter that is approved by the County Board and shall maintain such prior approved versions in clean, electronic (Word) format even after submitting a request that a revised version of the charter be approved on renewal or as a material revision, including after such time as the County Board may approve any such revised version. In no event shall a charter school make revisions to the approved version of its charter without maintaining a clean, electronic (Word) version of all forms of the charter that have previously been approved by the County Board.

## Charter Revocation

Charter schools shall be governed at the school level in accordance with charter provisions approved by the County Board. The County Board shall hold charter schools under its jurisdiction accountable for fulfilling the terms of their charters and may revoke a charter at any time if deemed necessary.

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. The County Board may revoke a charter before the date it is due to expire for any of the causes authorized by law by following the procedures and standards set forth in Education Code 47607 and its implementing regulations.

If a revocation decision by a school district is appealed to the County Board and the County Board does not issue a decision within 90 days of receipt or if the County Board upholds the district's revocation decision, the charter school may appeal the decision to the State Board of Education. If the County Board is the chartering authority and it revokes a charter, the charter school may appeal the revocation to the State Board of Education within 30 days following the County Board's revocation decision.

If the revocation decision is reversed on appeal, the agency that granted the charter shall continue to be the chartering authority.

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 47607.3, submits to the County Board either of the following findings:

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

Should a school's charter be revoked, or should the charter school cease operating for any reason, the SCCOE shall notify the California Department of Education within 10 calendar days of the official action closing the charter school and the charter school must implement the school closure procedures specified in the charter in accordance with Education Code 47605 and 5 CCR 11962.

Prior to revocation the County Board will afford the charter school a reasonable opportunity to correct unless the violation constitutes a severe and imminent threat to the health or safety of the students.

Table 1. Overview of County Board Authority and Responsibility for Charter Functions

	Board Authority and Responsibility		
Function	Chartered by Local School	Chartered by County Board	Chartered by State Board

	Board		
Charter Oversight	No	Yes	County Board may or may not consent to oversight responsibility
Charter Revision	No	Yes	No
Charter Renewal	No	Yes	No
Charter Revocation	No	Yes	No
Initiate an Investigation	Yes	Yes	Yes

## Finance

The County Superintendent may charge for the actual costs of oversight of a charter school not to exceed any limits imposed in law. The County Board is not required to provide facilities for charter schools, and will not do so. The County Superintendent shall not place upon the County Office any additional financial liability for the operation of charter schools.

In the case of a countywide charter, the County Board may, at the expense of the charter school, engage a third-party, selected by the County Board, to oversee, monitor, or report to the County Board and County Superintendent on the operations of the charter school pursuant to Education Code 47605.6(c).

## Fiscal Accountability

The County Board and the SCCOE will require evidence that the charter school demonstrates effective fiscal accountability. In addition to the reports required by law and the information and reports required by the MOU:

1. The charter school must demonstrate that it has established and maintains positive fund and cash balances to ensure solvency. Failure to remain solvent is grounds for revocation of the charter.
2. The SCCOE will not provide funds to meet on-going fiscal operations or obligations to an independently funded charter school authorized by the County Board,
3. A charter school authorized by the County Board must provide written notification prior to accepting public, private, or commercial loans or other debt instruments. Loan requests must be consistent with sound fiscal practices and repayment schedules included in budget proposal and other appropriate financial reports.

## Non-Profit Board of Directors

Should a charter school elect to operate as, or be operated by, a non-profit public benefit corporation, the County Board may reserve its right to appoint a representative to serve on

the board of directors of the corporation, and the corporation shall confer upon the appointee all rights and responsibilities exercised by any other director of the corporation. Any such representative of the County Board shall serve on the corporate board in the County Board or designee's discretion and shall be removed or replaced only in the County Board or designee's sole discretion. In order to avoid any conflict of interest, the policy of the County Board shall be that the members of this County Board shall not sit on the boards of charter schools it has chartered.

### Memorandum of Understanding

Upon approval of a charter, the County Superintendent or designee shall enter into a memorandum of understanding (MOU) with the petitioner for the operation of the charter school. The MOU shall also address any deficiencies in the petition, clarify charter provisions and operations, and remediate any missing, incomplete, or unacceptable charter provisions as noted by the County Board or SCCOE staff. Additionally, the MOU shall address the role of the charter authorizer as required for oversight, monitoring, and operational issues including, but not limited to, indemnification, insurance, financial timelines, dispute resolution, and closure procedures to the satisfaction of the SCCOE.

The MOU template will be presented to petitioners at the time a petition is submitted. The MOU is an agreement to terms and conditions that supplement or replace items of the charter and is binding only upon approval of the charter by the County Board and when the MOU is signed by the County Superintendent. Included in the MOU are the County Board's Standards of Excellence which include, but are not limited to, insurance, indemnification, financial timelines, dispute resolution, and closure procedure requirements.

The County Board may require the petitioner to sign the MOU prior to County Board action on the request for charter approval or renewal as technical amendments or supplements to the charter. The MOU shall include the County Board's Standards of Excellence and any addendum to the MOU or revised version of the MOU to address any additional items or deficiencies noted by the County Board, SCCOE staff, and/or SCCOE legal counsel or consultants, as the County Board determines necessary to make approval of the charter consistent with sound educational practice and compliant with the standards for charter approval.

If the petitioner fails to enter into an MOU, satisfactory to the SCCOE, by a date designated by the Board action, the County Board may consider whether such failure to do so constitutes cause for withdrawal of the approval of the charter.

### Legal Reference:

#### EDUCATION CODE

#### 220 Nondiscrimination

#### 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, as amended

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  
53300-53303 Parent Empowerment Act

5

56026 Special education

#### CORPORATIONS CODE

5110-6910 Nonprofit public benefit corporations

#### GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

54950-54963 The Ralph M. Brown Act

#### PENAL CODE

667.5 Definition of violent felony

1192.7 Definition of serious felony

#### 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 Manual for Governance Teams, rev. 2016

Charter School Facilities and Proposition 39: Legal Implications for School Districts, 2005

Charter School Facilities and Proposition 39: Legal Implications for School Districts, September 2005

##### CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Sample Copy of a Memorandum of Understanding

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

##### U.S. DEPARTMENT OF EDUCATION GUIDANCE

Charter Schools Program, July 2004

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.charterassociation.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: June 3, 2009

Revised: November 15, 2017