

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)

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)

Appeal of District Denial of Charter Authorization or Renewal

If the governing board of a school district denies a charter school petition, the petitioner/s may submit the petition for the establishment of a charter school to the Board of Education 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

Petitions which contain new or materially different terms after denial by a local district will not be considered by the Board of Education and will be remanded to the original district that denied the petition for reconsideration. If the governing board of the school district denies a petition after

Governance

Administrative Regulation 0420.4.2(b)

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) The County Board's review will follow the procedures in BP 0240.4: Authorization of County Charter Schools applicable to petitions seeking to establish a charter program that will serve students who otherwise receive direct education and related services from the COE. The County Board expects any proposed charter petition to meet the requirements set forth in BP 0240.4: Authorization of County Charter Schools applicable to petitions seeking to establish a charter program that will serve students who otherwise receive direct education and related services from the COE.

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 petition granted on appeal by the Board of Education shall qualify fully as a charter school for all eligible funding and programmatic provisions.

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

Governance

Administrative Regulation 0420.4.2(c)

body and be amended as necessary.

By mutual agreement with the Superintendent and the governing board that first denied a petition, the school district that originally denied a petition may agree to accept supervisory and oversight responsibilities, except the power of petition revocation, for a local charter school approved by the County Board.

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 of 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

Governance

Administrative Regulation 0420.4.2(d)

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

41365 Charter school revolving loan

fund 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 47600-47616.5 Charter Schools Act of 1992

48000 Minimum age of admission (kindergarten)

48010 Minimum age of admission (first grade)

48011 Minimum age of admission from kindergarten or other school

51747.3 Apportionments for independent study

Governance

Administrative Regulation 0420.4.2(e)

54032 Limited English or low-achieving pupils
56145-56146 Special education services in charter schools
60605 Academic content and performance standards; assessments 60640-60647 Standardized Testing and Reporting Program GOVERNMENT CODE
54950-54962 The Ralph M. Brown Act PENAL CODE
667.5 Definition of violent felony 1192.7 Definition of serious felony CODE OF REGULATIONS, TITLE 5
11960 Regular average daily attendance for charter schools 11967 Appeals on charter petitions that have been denied COURT DECISIONS
Evensen v. Vicki L. Barber et al, (1996) No. PV 94-0465, Superior Ct., County of El Dorado
Desert Sands Unified School District and Washington Charter School V. Public Employment Relations Board and California School Employees Association and its Desert Sands Chapter #106, No. BC126357, Superior Ct., County of Los Angeles ATTORNEY GENERAL OPINIONS
80 Ops.Cal.Atty.Gen. 52 (1997)
78 Ops.Cal.Atty.Gen. 253 (1995)
78 Ops.Cal.Atty.Gen. 297 (1995)

Management Resources:

WEB SITES

California Department of Education:
<http://www.cde.ca.gov> Education Commission of the States: <http://www.ecs.org> National School Boards Association: <http://www.nsba.org>

Regulation

HUMBOLDT COUNTY OFFICE OF EDUCATION

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Eureka, California

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Governance

Administrative Regulation 0420.4.2(f)