

CHARTER SCHOOL AUTHORIZATION

Legal Foundation

Charter Schools were conceived to operate independently from the existing public school structure in accordance with the "Charter School Act of 1992." Notwithstanding their independent nature, charter schools are considered part of the Public School System, as defined in Article IX of the California Constitution, under the jurisdiction of the Public School System and the exclusive control of the officers of the public schools. [Education Code (EC) 47615 (a)(1)(2)]

Board Authority

The Monterey County Board of Education (County Board) has the authority to approve petitions to create charter schools or allow them to continue to operate in the following cases:

1. For charter schools that will serve pupils for whom the Monterey County Office of Education (MCOE) would otherwise be responsible for providing direct education and related services. [EC 47605.5]
2. For countywide charter schools that operate at one or more sites within the geographic boundary of the county that provide instructional services not generally provided by MCOE to a pupil population that will benefit from those services and that cannot be served as well by a charter school that operates in only one school district in the county. [EC 47605.6]
3. If the governing board of a school district denies a petition, the petitioner may appeal the decision for the establishment of a charter school to the County Board [EC 47605(j)(1)]
4. If the governing board of a school district denies renewal of a charter upon the termination of its contract or revokes a charter before its scheduled termination date, the charter school may appeal the decision to the County Board. [EC 47607(f)(1) and 47607.5]

Note: If the charter is granted by the County Board after having been previously denied by a school district, the sponsoring local educational agency is the school district that originally denied the charter petition. [EC 47632 (j)(2)]

*However, the County Board is responsible for oversight of the charter schools it has approved by ensuring that the schools have both the autonomy to which they are entitled and the public accountability for which they are responsible.
(cf. BP 7160 Charter School Facilities)*

Board Philosophy

The County Board acknowledges that charter schools provide an opportunity to offer the use of different and innovative teaching methods that may improve student learning.

The County Board will consider approving the establishment of a charter school if it finds that the charter petition:

1. Presents a sound educational program for the pupils to be enrolled in the charter school;
2. Demonstrates the likelihood that the charter will successfully implement the program set forth in the petition;
3. Contains the number of signatures required by EC 47605(a);
4. Contains the affirmation of each of the conditions described in EC 47605(d);
5. Contains reasonably comprehensive descriptions of all the elements set forth in EC 47605(b)(5);
6. For countywide charter only: Denial of the petition may be based on any other basis the County Board finds justified. [EC 47605.6(b)(6)]

Preference will be given to charters that will provide expanded learning opportunities for academically low achieving students. [EC 47605(h)]

In determining whether to grant or deny a charter, the County Board shall carefully review the charter petition and any supplementary information properly included with it by petitioners, consider public and staff input, and determine whether the charter petition adequately addresses all the provisions required by law. The County Board shall not deny a charter school petition unless specific written factual findings are made pursuant to law and administrative regulation. [EC 47607(e)]

Board Requests and Preferences

The County Board requests charter school petitioners to consider the following:

- Petitioners should file a ***Notice of Intent***, (See Exhibit BP 0420.4E)), with the Monterey County Superintendent of Schools (County Superintendent) at least two weeks prior to submitting the charter petition to the County Board at a regularly scheduled board meeting.
(*cf. BP 0420.4E Charter School Notice of Intent Application*)

- In deference to EC 47604, see paragraph below, petitioners establish the proposed charter school as a non-profit public benefit corporation.

Note: Charter schools may elect to operate as, or be operated by, a non-profit public benefit corporation. If the County Board grants a charter school formed and organized as a non-profit public benefit corporation, MCOE or the County Board is not liable for the debts or obligations of the charter school. They are also not liable for claims arising from the performance of acts, errors, or omissions by the charter school if the MCOE staff and County Board have complied with all the oversight responsibilities required by law, including, but not limited to those required by EC 47604.32 and 47605(m). [EC 47604]

- In light of the recent National School Lunch Program regulations, charter schools must provide proof of being a 501(c)(3) non-profit public benefit corporation in order to participate in the federal meal/milk program.
- Petitions should be submitted as early as possible in the academic year prior to the year the charter desires to begin operations. This allows for a thorough review process, which may take as much as 120 days or more. The County Board reserves the right to delay opening a charter school for another academic year if the charter is not granted by March 15.

Staff Responsibilities

The County Superintendent should ensure that any charter granted by the County Board contains adequate process and measures for holding the school accountable for fulfilling the terms of its charter. These shall include, but are not limited to:

- a) Fiscal accountability systems;
- b) Multiple measures for evaluating the charter's sound educational practices,
- c) Evidence of equal access for all students, and
- d) Substantial governance structure.

To assist the County Superintendent and the County Board in its general oversight responsibility, charters shall provide regular reports to the County Superintendent and the County Board related to the charter provisions as provided in the Administrative Regulations.

(cf. 0420.41 Charter Schools Oversight)

The County Superintendent or designee may work with charter school petitioners *prior* to the formal submission of the petition in order to gather information about the proposal and suggest components that would align the petition with student learning

and existing education code requirements.

The County Superintendent or designee may establish a staff advisory committee to review a submitted petition and the supporting documentation. Such a committee may be used to evaluate the completeness of the proposal, the merits of the proposed educational program, the level of community support, and any concerns that should be addressed by the petitioners. The County Superintendent shall also consult with legal counsel as appropriate regarding compliance of the proposal with legal requirements.

If the charter is granted by the County Board, the County Superintendent or designee shall work with the petitioners to develop any needed *Memoranda of Understanding (MOU)* or service agreements to establish the financial and operational arrangements, and any contractual fee services between MCOE and the charter school.

The County Board shall approve such agreements and they shall become addenda to the petition and reviewed annually by the County Board and charter school, and adjusted as necessary.

Legal References:

EDUCATION CODE

47600-47616.7 *Charter Schools Act of 1992, as amended*
 47604 *Charters operating as non-profit corporations*
 47614 *Responsibility for providing facilities to charter*
 47632 (j) (2) *Sponsoring local educational agency*
 47635 *Transfer of funds in lieu of property taxes*
 47663 *Basic Aid District funding*
 47640-47647 *Special education funding for charter schools*
 47650-47652 *Funding of Charter Schools*
 51745-51749.3 *Independent Study*
 53300-53303 *Parent Empowerment Act*
 56026 *Special education*
 56145-56146 *Special education services in charter schools*

CORPORATIONS CODE

5110-6910 *Nonprofit public benefit corporations*

GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act*

CODE OF REGULATIONS, TITLE 5

4800-4808 *Parent Empowerment Act*
 11700.1-11705 *Independent Study*
 11960-11969 *Charter schools*
 11969.9 *Charter school facilities*

CODE OF REGULATIONS, TITLE 24

101 et seq. California Building Standards Code

UNITED STATES CODE, TITLE 20

6316 Program improvement

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)

Adopted: 3/03/99

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