

## **CHARTER SCHOOLS**

### **Authorization of County Charter Schools**

#### **Philosophy, Goals, Objectives, and Comprehensive Plans**

The Riverside County Board of Education (RCBE) recognizes that charter schools are an integral part of the California education system. In considering any petition to establish a charter school within its jurisdiction, the RCBE shall give thoughtful consideration to the ability of the charter school to provide students with a high-quality education that enables them to achieve their fullest potential. A petition to establish a charter school shall be submitted directly to the RCBE in either of the following circumstances:

1. When the petition seeks to establish a charter program that will serve students who would otherwise receive direct education and related services from the Riverside County Office of Education (RCOE) [Education Code 47605.5]
2. When the petition seeks to establish a charter program that will serve as a countywide charter, to provide instructional services that are not generally provided by the RCOE [Education Code 47605.6]

The RCBE may also consider a charter school petition that was previously denied by the governing board of a school district, in accordance with BP 0420.44 – Appeals of District Decisions Regarding Charter Schools.

All meetings of the RBE at which the granting of a charter petition is to be discussed shall be subject to the state open meeting laws (the Brown Act). [Education Code 47608]

The RCBE shall request and consider recommendations of the Riverside County Superintendent of Schools or designee regarding the completeness of a charter petition, any concerns that should be addressed by petitioners, any proposed arrangement to provide RCOE services to the charter school, and the development of memoranda of understanding (MOUs) to clarify financial and operational arrangements. Procedures for submitting a petition, a deemed complete certification, the petition review rubric, and the MOU template are maintained on the RCOE website.

#### **Required Petition Signatures**

To be considered by the RCBE, a charter petition must be signed by either of the following: [Education Code 47605, 47605.5, 47605.6]

1. A number of parents/guardians equivalent to at least one-half of the number of students that the charter school estimates will enroll in the school for its first year of operation.
2. A number of teacher's equivalent to at least one-half of the total number of teachers that the charter school estimates will be employed at the school during its first year of operation.

The petition shall include a prominent statement explaining that a parent/guardian's signature means the parent/guardian is meaningfully interested in having a child attend the charter school, or a teacher's signature means that the teacher is meaningfully interested in teaching at the charter

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school. [Education Code 47605, 47605.6]

A petition that calls for an existing public school to be converted to an RCOE charter school must also be signed by at least 50 percent of the permanent status teachers currently employed at the school. [Education Code 47605, 47605.6]

**Components of the Charter Petition**

All charter petitions shall comply with the applicable requirements of Education Code 47605 or 47605.6, other state and federal laws, and RCBE policies. A copy of the proposed charter shall be attached to the petition. [Education Code 47605, 47605.6]

The charter petition shall include affirmations of the conditions described in Education Code 47605(e) or 47605.6(e) as applicable, as well as reasonably comprehensive descriptions of: [Education Code 47605, 47605.6]

1. The educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an “educated person” in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling students to become self-motivated, competent, and lifelong learners.

The petition shall include a description of the charter school’s annual goals for all students and for each numerically significant subgroup of students identified pursuant to Education Code 52052, including ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students. These goals shall be aligned with the state priorities listed in Education Code 52066 that apply to the grade levels served. The petition also shall describe specific annual actions to achieve those goals. The petition may include additional priorities established by the charter school, goals aligned with those priorities, and specific annual actions to achieve those goals.

If the proposed charter school will serve high school students, the petition shall describe the manner in which the school will inform parents/guardians about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that is accredited by the Western Association of Schools and Colleges may be considered transferable, and courses approved by the University of California or the California State University as creditable under the “a-g” admissions criteria may be considered to meet college entrance requirements.

2. The measurable student outcomes identified for use by the charter school. Student outcomes mean the extent to which all students of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school’s educational program, including outcomes that address increases in student academic achievement both schoolwide and for each numerically significant subgroup of students served by the charter school. The student outcomes shall align with the state priorities identified in Education Code 52066 that apply for the grade levels served by the charter school.
  3. The method by which student progress in meeting the identified student outcomes is to be measured. To the extent practicable, the method for measuring student outcomes for state
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- priorities shall be consistent with the way information is reported on a school accountability report card.
4. The governance structure of the charter school, including, but not limited to, the process to be followed by the school to ensure parent/guardian involvement.
  5. The qualifications to be met by individuals to be employed by the charter school.
  6. The procedures that the charter school will follow to ensure the health and safety of students and staff, including the following requirements:
    - a. Each charter school employee shall furnish the school with a criminal record summary as described in Education Code 44237.
    - b. The charter school shall develop a school safety plan which includes the topics listed in Education Code 32282(a)(2)(A)-(J).
    - c. The charter school's safety plan shall be reviewed and updated by March 1 each year.
  7. The means by which the charter school will achieve a balance of racial and ethnic students, special education students, and English learner students, including redesignated fluent English proficient students that is reflective of the general population residing within the RCOE's territorial jurisdiction.
  8. Admission policies and procedures.
  9. The manner in which annual, independent financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the RCBE's satisfaction.
  10. The procedures by which students can be suspended or expelled for disciplinary reasons or otherwise involuntarily removed for any reason, including an explanation of how the charter school will comply with federal and state constitutional procedural and substantive due process requirements as specified in Education Code 47605 and requirements pertaining to the provision of homework assignments to suspended students as specified in Education Code 47606.2.
  11. The manner by which staff members of the charter school will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.
  12. The public school attendance alternatives for students who choose to not attend the charter school.
  13. A description of the rights of any employee upon leaving employment to work in the charter school and of any rights of return to the after employment at the charter school.
  14. The procedures to be followed by the charter school and the RCBE to resolve disputes relating to charter provisions.
  15. A declaration as to whether or not the charter school will be deemed the exclusive public school employer of the school's employees for purposes of collective bargaining under Government Code 3540-3549.3.
  16. Consistent with 5 CCR 11962, the procedures to be used if the charter school closes, including, but not limited to:
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- a. Designation of a responsible entity to conduct closure-related activities.
- b. Notification to parents/guardians, the RCBE, the special education local plan area in which the charter school participates, the retirement systems in which the school's employees participate, and the California Department of Education (CDE), providing at least the following information:
  - (1) The effective date of the closure.
  - (2) The name(s) and contact information of the person(s) to whom reasonable inquiries may be made regarding the closure.
  - (3) The students' districts of residence.
  - (4) The manner in which parents/guardians may obtain copies of student records, including specific information on completed courses and credits that meet graduation requirements.
- c. Provision of a list of students at each grade level, the classes they have completed, and their districts of residence to the responsible entity designated in accordance with item #16a above.
- d. Transfer and maintenance of all student records, all state assessment results, and any special education records to the responsible entity designated in accordance with item #16a above, except for records and/or assessment results that the charter may require to be transferred to a different entity.
- e. Transfer and maintenance of personnel records in accordance with applicable law.
- f. Completion of an independent final audit within six months after the closure of the charter school that includes an accounting of all financial assets and liabilities pursuant to 5 CCR 11962 and an assessment of the disposition of any restricted funds received by or due to the school.
- g. Disposal of any net assets remaining after all liabilities of the charter school have been paid or otherwise addressed pursuant to 5 CCR 11962.
- h. Completion and filing of any annual reports required pursuant to Education Code 47604.33.
- i. Identification of funding for the activities identified in item #16a-h above.

Charter school petitioners shall provide information to the RCBE regarding the proposed operation and potential effects of the school, including, but not limited to: [Education Code 47605, 47605.6]

1. The facilities to be used by the charter school, including where the school intends to locate.
  2. The manner in which administrative services of the charter school are to be provided.
  3. Potential civil liability effects, if any, upon the charter school and the RCOE.
  4. Financial statements that include a proposed first-year operational budget, including start-up costs and cash-flow and financial projections for the first three years of operation.
  5. If the charter school is to be operated by or as a nonprofit public benefit corporation, the
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names and relevant qualifications of all persons whom the petitioner nominates to serve on the governing body of the charter school.

**Location of Charter School**

A charter petition submitted directly to the RCBE may only establish charter school operations within the geographical boundaries of the RCBE's jurisdiction. A charter school may propose to operate at multiple sites within those geographic boundaries as long as each location is identified in the petition. This requirement does not apply to charter schools that provide instruction exclusively to juvenile court school students or that provide instruction exclusively in partnership with certain other federal, state, or county programs exempted by Education Code 47605.1. [Education Code 47605, 47605.1]

**Approval of Petition**

Within 60 days of the receipt of the charter petition, the RCBE shall hold a public hearing on the provisions of the charter, at which time the RCBE shall consider the level of support for the petition by teachers, employees, parents/guardians, and, for a proposed countywide charter school, the school district(s) where the charter school petitioner proposes to place school facilities. A petition is deemed received on the day the petitioner submits a petition to the RCOE office, along with a signed certification that the petitioner deems the petition to be complete (Education Code 47605, 47605.6). Procedures for submitting a petition, a deemed complete certification, the petition review rubric, and the MOU template are maintained on the RCOE website. The RCBE encourages petitioners to avoid submitting a petition during major holiday periods.

The RCBE 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 RCBE. (Education Code 47605, 47605.6)

At least 15 days before the public hearing at which the RCBE will grant or deny the charter, the RCBE shall publish all staff recommendations, including the recommended findings, regarding the petition. During the public hearing, petitioners shall have equal time and opportunity to present evidence and testimony to respond to the staff recommendations and findings. [Education Code 47605, 47605.6]

The hearing shall be audio or video recorded and transcribed in order to maintain an accurate record of the proceedings and the findings upon which the RCBE's decision is based.

A petition for an RCOE charter school shall be granted only if the RCBE is satisfied that doing so is consistent with sound educational practice and with the interests of the community in which the school is proposing to locate. The RCBE shall consider the academic needs of the students the school proposes to serve. [Education Code 47605]

In granting charter petitions, the RCBE shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to academically low-achieving students according to CDE standards. [Education Code 47605, 47605.6]

Prior to authorizing any charter, the RCBE shall verify that the charter includes adequate processes and measures for monitoring and holding the charter school accountable for fulfilling the terms of

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its charter and for complying with all applicable laws, including Education Code 47604.1. Such processes and measures shall include fiscal accountability systems, multiple measures for evaluating the educational program, regular reports to the RCBE, and inspections and observations of any part of the charter school.

Upon RCBE approval of any charter petition, the petitioners shall provide written notice of the approval, including a copy of the petition, to the Superintendent of Public Instruction, the State Board of Education (SBE), and, if the petition is for a countywide charter school, the school districts in the county. [Education Code 47605, 47605.6]

Charter schools approved by the RCBE shall operate under the provisions of their respective charters, the relevant policies and procedures of the RCBE, and applicable state and federal laws.

All charters approved by the RCBE shall be for a specified term of no more than five years. [Education Code 47607]

In order to avoid any conflict of interest, the policy of the RCBE shall be that the members of the RCBE shall not sit on the boards of charter schools it has chartered.

**Withdrawal of Petition**

A decision by a petitioner to withdraw a petition from RCBE consideration requires a written request submitted to the Charter Schools Unit. Upon receipt of the request to withdraw the petition, the RCBE shall be notified in writing. RCOE 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 RCBE action at the Board's discretion.

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

If a request to withdraw a petition is made after the public hearing has been held and prior to the RCBE decision on the petition, the RCBE will decide to accept or deny the withdrawal and proceed with the decision at the next regularly scheduled Board meeting.

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

**Denial of Petition**

The RCBE shall deny any charter petition that:

1. Proposes to 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]
2. Authorizes the conversion of a private school to a charter school [Education Code 47602]
3. Proposes to offer non-classroom-based instruction [Education Code 47612.7]

In addition, the RCBE shall deny a petition for a countywide charter and may deny a petition

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serving RCOE students, if the RCBE makes written factual findings setting forth specific facts to support one or more of the following: [Education Code 47605, 47605.6; 5 CCR 11967.5]

1. The charter school presents an unsound educational program that presents a likelihood of physical, educational, or psychological harm to, or which is not likely to provide an educational benefit for the students who attend the school.
2. The petitioners are unlikely to successfully implement the program set forth in the petition.
3. The petition does not contain the required signatures as described in the section “Required Petition Signatures” above.
4. The petition does not contain a clear, unequivocal statement described in Education Code 47605(e) or 47605.6(e), as applicable, 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 or 47605.6 as described in the section “Components of the Charter Petition” above.
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 Educational Employment Relations Act.
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 that analyze and consider the following factors:
  - 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 RCOE 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 RCOE is not positioned to absorb the fiscal impact of the proposed charter school. The RCOE meets this criterion if it has a negative interim certification pursuant to Education Code 1240 or has a qualified interim certification and the County Superintendent certifies that approving the charter school would result in the RCOE having a negative interim certification.

A petition to establish a charter school serving RCOE students that is denied by the RCBE may be appealed to the SBE within 30 days of the denial. [Education Code 47605; 5 CCR 11967]

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**Additional Requirements for Countywide Charters**

In addition to the requirements described above, the following conditions apply to countywide charter school petitions: [Education Code 47605.6]

1. The RCBE shall only consider a petition for a countywide charter if each of the school districts where the petitioner proposes to operate a facility has received at least 30 days' notice of the intent to operate a charter school.
2. An existing public school may not be converted to a countywide charter school.
3. The RCBE shall only approve a petition for a countywide charter if it finds that the charter school will provide educational services to a student population that will benefit from those services, and the petition includes a reasonable justification why its students cannot be served as well by a charter school that operates in only one school district in the county.
4. In addition to the components described in the section "Components of the Charter Petition" above, the RCBE may require any elements that it considers necessary to the sound operation of a countywide charter school.
5. In addition to the reasons specified in the section "Denial of Petition" above, a countywide petition may be denied for any other basis that the RCBE finds justifies the denial.

**Memoranda of Understanding**

Upon approval of a charter by the RCBE, the County Superintendent or designee shall enter into a memorandum of understanding (MOU) with the petitioner to develop one or more MOUs with the charter school to clarify 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 RCBE considers necessary for the sound operation of a charter school. The MOU may 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 RCOE staff. Additionally, the MOU may address the role of the charter authorizer as required for oversight and monitoring.

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 implement, or clarify 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 or designee. If the petitioner fails to enter into an MOU, as outlined in this policy, by a date designated by the Board action, the County Board may consider whether such failure to do so could be a basis of revocation of the charter.

In the case of a countywide charter, the RCBE may impose additional conditions of the authorization. [Education Code 47605.6 (b)]

Any such MOU shall be annually reviewed by the RCOE and the charter school governing body and be amended as necessary.

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**Material Revisions to an Authorized Charter**

Material revisions to a charter authorized by the RCBE may only be made with RCBE 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 47605.6, as applicable, 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 operations at one or more additional sites or grade levels, the charter school shall request a material revision to its charter and shall notify the RCBE of those additional locations or grade levels. The RCBE shall consider approval of the additional locations or grade levels at an open meeting. [Education Code 47605] Additional examples of material revisions may include changes to the vision, mission, instructional design, location of facilities, governance or operational structure, grade levels or significant change in the number of pupils to be served, admissions requirements or procedures, and changes that affect the charter school's fiscal status. For countywide petitions, petitioners must also provide a 30-day notice to an impacted district(s) prior to a public hearing [Education Code 47605.6(a)(3)]. Material revisions to an authorized charter may be made only with RCBE approval. [Education Code 47605(a)(4), 47607(a)(1)] The RCOE shall determine whether a proposed change in charter school operations constitutes a material revision of the approved charter that should be presented to RCBE for approval.

Legal Reference:

EDUCATION CODE

220 Nondiscrimination

1042 County boards; authority

1240 Duties of the county superintendent of schools

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

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

52066-52069 Local control and accountability plan

53300-53303 Parent Empowerment Act

56026 Special education

56145-56146 Special education services in charter schools

CORPORATIONS CODE

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5110-6910 Nonprofit public benefit corporations

GOVERNMENT CODE

1090-1099 Conflict of interest

3540-3549.3 Educational Employment Relations Act

6250-6270 California Public Records Act

54950-54963 Ralph M. Brown Act

81000-91014 Political Reform Act

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)

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revised 2-12-14

revised 8-11-21

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