

APPEALS OF DISTRICT DECISIONS REGARDING CHARTER SCHOOLS

The Yolo County Board of Education ("County Board") 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.)

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 petition for the establishment or renewal of a charter school, the petitioners may submit an appeal to the County Board within 30 calendar days of the denial. Any petition submitted to the County Board after this time shall be considered denied with no further options for administrative appeal. (Education Code 47605.) Any appeals from a school district denial shall comport with and will be processed in accordance with BP/SP and AR 0420.4 as well as this BP/SP 0420.44.

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 all of the information and forms of documentation specified in BP/SP and AR 0420.4, and appeals shall specifically include:

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 district in which the charter school is proposed to 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.

At the same time the petition is submitted to the County Board, the petitioner shall provide a copy of the petition to the denying school district, and shall provide evidence of such to the County Board. The petition submitted on appeal should be the same as that acted upon by the denying school district, other than changes necessary to reflect the County Board as the authorizer or minor administrative updates to the petition or related documents due to changes in circumstances based on the passage of time related to fiscal affairs, facility arrangements, or state law. The petitioner shall include a redline version of the charter and a separate list of all revisions and/or additions, no matter the nature or extent of the change, including a description of any changes to the petition necessary to reflect the County Board as the authorizing entity.

If the petition submitted on appeal contains new or different material terms, the County Board shall immediately remand the petition to the governing board of the school district for reconsideration. If the governing board of the school district denies a petition after reconsideration, the petitioner may elect to resubmit the petition for the establishment of a charter school to the County Board. (Education Code 47605.) The County Board delegates to the Yolo County Superintendent of Schools or designee the authority to determine whether a charter submitted on appeal (whether an initial or renewal petition) includes new or different material terms and to remand such a charter to the denying school district.

The County Board will hold a public hearing and take action on a charter appeal within the timelines established by law. 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 the 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,)

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 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/County Office of Education and the charter school, and applicable state and federal laws, and shall comply with any conditions of approval. The County Office may enter into one or more MOUs with the charter school to clarify the financial and operational arrangements (e.g. how and when the charter school will establish governing bylaws, policies, and procedures or clarification of operational issues) or implement additional requirements that the County Board considers necessary for the sound operation of the charter school.

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 after the request. Within 30 days of receipt of the appeal submitted to SBE, the County Board may submit a written opposition detailing how the County Board did not abuse its discretion in denying the petition and may submit supporting documentation or evidence from the documentary record 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 a 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.
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 the school district's factual findings are supported by substantial evidence, except when the charter was revoked based on the school district's determination that a violation under Education Code 47607(f) constituted a severe and imminent threat to the health or safety of pupils: (5 CCR 111968.5.3 and 1968.5.4.)

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 in 5 CCR 11968.5.2.
3. Whether the district provided the charter school a Notice of Intent to Revoke, a public hearing, and Final Decision.
4. 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.

If the school district revoked the charter based on a determination that a violation pursuant to Education Code 47607(f) constitutes a severe and imminent threat to the health or safety of pupils, in determining whether the district's factual findings are supported by substantial evidence, the County Board shall consider 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. (5 CCR 111968.5.3.)

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 the 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 the SBE. (Education Code 47607.)

Legal References:

Education Code, 47600 et seq., 60600 et seq.

Government Code 54950-54963.

California Code of Regulations, Title 5, 11960-11969.10.

ADOPTED: 9-23-23

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