



Charter School Appeal

Petition Review Legal Standards

The information contained in this document is intended to assist charter school petitioners in assessing whether to appeal to the Orange County Board of Education (OCBE) following denial of a charter school petition by a local school district. It is recommended that petitioners seek legal advice prior to appealing to OCBE.

Petitioners may not modify the petition as it was submitted to the local school district, except as necessary to reflect OCBE as the chartering entity. OCBE may request further information from the petitioners in order to determine whether the petition meets the legal requirements.

I. Petition Signatures

- A. The petition shall include a number of signatures meeting one of the following requirements:
 - 1. Petition is signed by a number of parents/guardians of pupils that is equivalent to at least one-half of the number of pupils that the charter school estimates will enroll in the school for its first year of operation. [EC Section 47605(a)(1)(A)]
 - 2. Petition is signed by a number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the school during its first year of operation. [EC Section 47605(a)(1)(B)]
 - 3. One or more persons seeking to establish the charter school may circulate a petition that proposes to convert an existing public school to a charter school that would not be eligible for a loan pursuant to subdivision (c) of Section 41365. The petition may be submitted to the governing board of the school district for review after the petition is signed by not less than 50 percent of the permanent status teachers currently employed at the public school to be converted. [EC Section 47605(a)(2)]
- B. Signature pages shall include a prominent statement that a signature on the petition means that the parent or legal guardian is meaningfully interested in having his or her child or ward attend the charter school, or in the case of a teacher's signature, means that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition signature pages. [EC Section 47605(a)(3)]

II. Affirmations & Assurances (Signed and dated)

- A. The petition shall affirm that the charter school shall:
 - 1. Be nonsectarian in its programs, admission policies, employment practices and all other operations
 - 2. Not charge tuition
 - 3. Not discriminate
 - 4. Not determine admission based on residency, except as provided by law
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Legal standard: "In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of the characteristics listed in Education Code Section 220. Except as provided in Section 47605, paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state, except that any existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school." [EC Section 47605(d)(1)]

III. Findings for Charter Petition Denial

- A. The governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings:
 - 1. The charter school presents an unsound educational program for the pupils to be enrolled in the charter school. [EC Section 47605(b)(1)]
 - 2. The petitioners are demonstrably unlikely to implement successfully the program set forth in the petition. [EC Section 47605(b)(2)]
 - 3. The petition does not contain the number of signatures required by EC Section 47605(a). [EC Section 47605(b)(3)]
 - 4. The petition does not contain an affirmation of each of the conditions described in EC Section 47605(d). [EC Section 47605(b)(4)]
 - 5. The petition does not contain reasonably comprehensive descriptions of all of the required elements pursuant to EC Section 47605(b)(5)
 - 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. [EC Section 47605(b)(6)]

IV. Charter Requirements

- A. The petition must contain reasonably comprehensive descriptions of the following elements:
 - 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 pupils to become self-motivated, competent and lifelong learners. [EC Section 47605(b)(5)(A)(i)]



2. The measurable pupil outcomes identified for use by the charter school. “Pupil outcomes: means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge and attitudes specified as goals in the school’s educational program. [EC Section 47605(b)(5)(B)]
3. The method by which pupil progress in meeting the measureable pupil outcomes identified for use by the charter is to be measured. [EC Section 47605(b)(5)(C)]
Note: Must meet all statewide standards and testing requirements. [EC Section 47605(c)(1)]
4. The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement. [EC Section 47605(b)(5)(D)]
Note: The county board of education is entitled to a single representative on the charter school governing board if a non-profit. [EC Section 47604(b)]
5. The qualifications to be met by individuals to be employed by the school. [EC Section 47605(b)(5)(E)]
Note: All teachers must be fully credentialed in the same manner as all other California public school teachers. [EC Section 47605(l)]
6. The procedures that the charter school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the charter school furnish the school with a criminal record summary as described in Education Code Section 44237. [EC Section 47605(b)(5)(F)]
7. The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.” [EC Section 47605(b)(5)(G)]
8. Admission requirements, if applicable. [EC Section 47605(b)(5)(H)].
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 satisfaction of the chartering authority. [EC Section 47605(b)(5)(I)]
Note: A copy of the annual independent financial audit must be transmitted to the Orange County Board of Education, the State Controller’s Office, and the California Department of Education by December 15 of each year. [EC Section 47605(m)]
10. The procedures by which pupils can be suspended or expelled. [EC Section 47605(b)(5)(J)]
Note: Mandatory expulsion requirements in federal law should be reflected in the charter petition.



11. The manner by which staff members of the charter schools will be covered by the State Teachers Retirement System, the Public Employees Retirement System or federal social security. [EC Section 47605(b)(5)(K)]
12. The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools. [EC Section 47605(b)(5)(L)]
13. A description of the rights of any employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school. [EC Section 47605(b)(5)(M)]
14. The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter. [EC Section 47605(b)(5)(N)]
15. The procedures to be used if the charter school closes. The procedures shall ensure a final audit of the charter school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of pupil records. [EC Section 47605(b)(5)(O)]

V. Instructional Minutes/Attendance/State Testing

- A. The petition must state that the charter school offers, at a minimum, the same number of minutes as other schools in the public school system for each grade level as required by law. [EC Section 47612.5(a)(1)]
- B. The petition must state that the charter school will maintain written contemporaneous records that document all pupil attendance and make these records available for audit and inspection. [EC Section 47612.5(a)(2)]
- C. The petition must state that the charter school shall certify that its pupils have participated in state testing programs in the same manner as other pupils attending public schools. [EC Section 47612.5(a)(3)]

VI. Private School Restrictions

- A. No charter school shall be granted under this part that authorizes the conversion of any private school to a charter school. [EC Section 47602(b)]
- B. No charter school shall receive any public funds for a pupil if the pupil also attends a private school that charges the pupil's family for tuition. [EC Section 47602(b)]

VII. Teacher Credentials

- A. Teachers in charter schools shall be required to hold a Commission on Teacher Credentialing certificate, permit or other document equivalent to that which a teacher in other public schools would be required to hold. These documents shall be maintained on file at the charter school and shall be subject to periodic inspection by the chartering authority. [EC Section 47605(l)]



VIII. Charter School Site Identification

- A. The petition shall identify the site, or multiple sites, within the district where the charter school will be located.

Legal standard: "Except as set forth in paragraph (2), a petition for the establishment of a charter school within a school district may be circulated by any one or more persons seeking to establish the charter school. A petition for the establishment of a charter school shall identify a single charter school that will operate within the geographic boundaries of that school district. A charter school may propose to operate at multiple sites within the school district, if each location is identified in the charter school petition." [EC Section 47605(a)(1)]

- B. If the school site is outside district boundaries, the petitioner has notified the district within which the charter plans to operate in advance of the charter petition approval.

Legal standard: "A charter school that is unable to locate within the geographic boundaries of the chartering school district may establish one site outside the boundaries of the school district, but within the county within which that school district is located, if the school district in which the charter school proposes to operate is notified in advance of the charter petition approval, ...and either of the following circumstances exist: (1) The school has attempted to locate a single site or facility to house the entire program, but a site or facility is unavailable in the area in which the school chooses to locate; (2) The site is needed for temporary use during a construction or expansion project." [EC Section 47605.1(d)]

IX. Grade Level of Service

- A. The grade level range of the charter school includes grade levels of the district being asked to approve the petition.

Legal standard: "...a petition to establish a charter school may not be approved to serve pupils in a grade level that is not served by the school district of the governing board considering the petition, unless the petition proposes to serve pupils in all of the grade levels served by that school district." [EC Section 47605(a)(6)]

X. Proposed Operation and Potential Effects

- A. The petition must provide information regarding:
1. The facilities to be used by the charter school
 2. The manner in which administrative services are to be provided
 3. Potential civil liability effects



Legal standard: "The governing board of a school district shall require that the petitioner or petitioners provide information regarding the proposed operation and potential effects of the charter school, including, but not limited to, the facilities to be utilized by the school, the manner in which administrative services of the school are to be provided, and potential civil liability effects, if any, upon the school, and upon the school district." [EC Section 47605(g)]

XI. Budget/Financial Statements

- A. The petition must include a proposed first-year operational budget.
- B. The petition must include financial projections for the first three years.

Note: If the petition has satisfied the above listed requirements, but the budget and/or projections are flawed, these requirements shall be met, but the requirements of a "sound educational program" or ability to "successfully implement the program" may not be met. [EC Section 47605(b)(1) and (2)]

Legal standard: "The petitioner or petitioners shall also be required to provide financial statements that include a proposed first-year operational budget, including startup costs, and cash flow and financial projections for the first three years of operation." [EC Section 47605(g)]

XII. Charter Term

- A. The charter petition may not contain language requesting a term of more than five years from the date of approval.

Legal standard: "A charter may be granted pursuant to Sections 47605, 47605.5, and 47606 for a period not to exceed five years." [EC Section 47607(a)(1)]

XIII. Material Revisions

- A. The charter petition may not contain language that allows material revisions without approval of the granting board.

Legal standard: "A material revision of the provisions of a charter petition may be made only with the approval of the authority that granted the charter." [EC Section 47607(a)(1)]

XIV. Charter School Inspection and Oversight

- A. The petition may not contain language that restricts the granting authority's ability to inspect any part of the charter school at any time.

Legal standard: "The authority that granted the charter may inspect or observe any part of the charter school at any time." [EC Section 47607(a)(1)]



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- B. The petition may not contain language that restricts the Orange County Superintendent of Schools from his/her legal authority to investigate complaints about the charter school.

Legal standard: "In addition to the authority granted by EC Section 47604.3, a county superintendent of schools may, based upon written complaints by parents or other information that justifies the investigation, monitor the operations of a charter school located within that county and conduct an investigation into the operations of that charter school." [EC Section 47604.4(a)]

XV. Independent Study (as applicable)

- A. The charter petition must state that the charter school shall adopt policies that include, but are not limited to, all of the following:
1. The maximum length of time, by grade level and type of program, that may elapse between the time an independent study assignment is made and the date by which the pupil must complete the assigned work. [EC Section 51747(a)]
 2. The number of missed assignments that will be allowed before an evaluation is conducted to determine whether it is in the best interest of the pupil to remain in independent study or whether he or she should return to the regular school program and whether a written record of the findings of any evaluation that was made shall be maintained in the pupil's permanent record. [EC Section 51747(b)]
 3. The requirement that a current written agreement for each independent study pupil will be maintained on file which will include but not be limited to all of the following:
 - a) The manner, time, frequency and place for submitting pupil's assignments and for reporting his or her progress. [EC Section 51747(c)(1)]
 - b) The objectives and methods of study for the pupil's work and the methods utilized to evaluate that work. [EC Section 51747(c)(2)]
 - c) The specific resources, including materials and personnel, that will be made available to the pupil. [EC Section 51747(c)(3)]
 - d) A statement of the policies adopted regarding the maximum length of time allowed between the assignment and the completion of the pupil's assigned work, and the number of missed assignments allowed before an evaluation of whether or not the pupil should be allowed to continue in independent study. [EC Section 51747(c)(4)]
 - e) The duration of the independent study agreement, including beginning and ending dates for the pupil's participation in independent study under the agreement. No independent study agreement shall be valid for any period longer than one school year. [EC Section 51747(c)(5)]
 - f) A statement of the number of course credits or, for the elementary grades, other measures of academic accomplishment appropriate to the agreement, to be earned by the pupil upon completion. [EC Section 51747(c)(6)]
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- g) The inclusion of a statement in each independent study agreement that independent study is an optional, educational alternative, in which no pupil may be required to participate. [EC Section 51747(c)(7)]
 - h) Each written agreement shall be signed, prior to the commencement of independent study, by the pupil, the pupil's parent, legal guardian, or caregiver, if the pupil is less than 18 years of age, the certificated employee who has been designated as having responsibility for the general supervision of independent study, and all persons who have direct responsibility for providing assistance to the pupil. [EC Section 51747(c)(8)]
- B. The charter school will not provide any funds or other things of value to the pupil or his or her parent or guardian that a school district could not legally provide to a similarly situated pupil of the school district, or to his or her parent or guardian. [EC Section 51747.3(a)]