



Charter School Petition Appeal Process

The information contained in this document is intended to assist charter school petitioners in submitting a charter petition appeal to the Orange County Board of Education (OCBE) following denial of a charter school petition by a local school district. Orange County Department of Education staff are available to answer questions regarding the appeal process. Contact the Charter Schools Unit at (714) 966-4381 to speak to a representative or schedule an appointment.

I. APPEAL PROCESS

A. Criteria for Submission

EC § 47605(k)(1)(A)(i)

1. A complete Charter School Appeal Package (see section II for information regarding the Charter School Appeal Package) must be submitted to OCBE within 30 days of a denial by the governing board of an Orange County school district in order to be considered for appeal.
2. The charter petition must be submitted along with a signed Petitioner Certification form that the petitioner deems the submitted petition to be complete and a completed Petition Intake Information form.
3. A charter petition is deemed received by OCBE, for purposes of commencing the timelines, on the day the petitioner submits a complete Charter School Appeal Package to Orange County Department of Education, Charter Schools Unit, 200 Kalmus Drive, Costa Mesa, 92626.
4. At the time the petition is submitted to OCBE, the petitioner shall also provide a copy of the submitted petition to the school district that denied the original charter petition.

A. Charter School Petition Review

EC § 47605(c)

Orange County Department of Education staff shall review the appeal petition pursuant to Education Code section 47605(c) utilizing the Charter School Petition Evaluation Matrix adapted from the Charter Accountability Resource and Support Network Authorizers Guide. If the denial of the petition was made pursuant to Education Code section 47605(c)(8), OCBE shall also review the school districts findings pursuant to that section.¹

¹ Education Code section 47605(c)(8): The school district is not positioned to absorb the fiscal impact of the proposed charter school. A school district satisfies this paragraph if it has a qualified interim certification pursuant to Section 1240 and the county superintendent of schools, in consultation with the County Office Fiscal Crisis and Management Assistance Team, certifies that approving the charter school would result in the school district having a negative interim certification, has a negative interim certification or is under state receivership. Charter schools proposed in a school district satisfying one of these conditions shall be subject to a rebuttable presumption of denial.

B. Remanding Petition Back to School District **EC §§ 47605(k)(1)(A)(i) & (ii)**

1. If the petition submitted on appeal contains new or different material terms, including signatures, affirmations, disclosures, documents, and descriptions described in Education Code sections 47605 (a), (b), (c), and (h), the county board of education shall immediately remand the petition back to the governing board of the school district that denied the charter petition for reconsideration.²
2. OCBE may take action to remand the charter petition back to the school district at the next regularly scheduled OCBE board meeting following 14 days after submission of the charter petition.
3. If the governing board of the school district denies the revised charter petition after reconsideration, the petitioner may elect to resubmit the petition to OCBE within 30 days of denial by the local school district. Statutory timelines will commence once the charter petition and signed certification are resubmitted to OCBE.

C. Public Hearing to Consider Level of Support **EC § 47605(b)**

OCBE will hold a public hearing on the provisions of the charter petition no later than 60 days after receiving a charter petition submission for the purpose of considering the level of support for the petition by teachers employed by the school district, other employees of the school district and parents. Charter school and school district representatives are allotted 15 minutes each to address the Board, followed by 30 minutes of public comments. Any documents or digital presentations utilized on that day must be submitted 48 hours prior to the board meeting.

D. Clarification Meeting

A clarification meeting may take place with the charter school petitioners and the Orange County Department of Education petition review team, and may include legal counsel as necessary. The meeting will take place at the Orange County Department of Education, 200 Kalmus Drive, Costa Mesa, 92626, or via teleconference. Information garnered from the meeting may be included in the published staff recommendation, including the recommended findings. Topics discussed may include the proposed instructional program, services to English learners, special education, operations, governance and finance.

E. Staff Recommendation and Recommended Findings **EC § 47605(b)**

Orange County Department of Education staff recommendations, including the recommended findings will be published 15 days before the public hearing at which OCBE will take action to either grant or deny the charter petition and, if applicable, the certification from the Orange County Superintendent of Schools prepared pursuant to Education Code section 47605(c)(8).

² “Material terms” of the charter petition means the signatures, affirmations, disclosures, documents, and descriptions in Education Code sections 47605 (a), (b), (c), and (h), but shall not include minor administrative updates to the petition or related documents, due to changes in circumstances based on the passage of time related to fiscal affairs, facilities arrangements, state law, or to reflect OCBE as the charter authority.

F. Public Hearing to Grant or Deny Charter Petition**EC § 47605(b) & (c)**

Within the guidelines delineated in Education Code section 47605, OCBE will take action to grant or deny the charter school petition within 90 days of receipt of the petition, unless an extension not to exceed 30 days has been agreed to by the charter school petitioner and OCBE

At the public hearing at which OCBE will take action to grant or deny the charter petition, the petitioners shall have 10 minutes or equivalent time, whichever is longer, to present evidence and testimony responsive to the Orange County Department of Education staff recommendation and findings.

OCBE shall grant a charter for the operation of a school if it is satisfied that granting the charter is consistent with sound educational practice and with the interests of the community in which the school is proposing to locate. OCBE shall consider the academic needs of the pupils the charter school proposes to serve and shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, to support one or more of the following:

1. The charter school presents an unsound educational program for students to be enrolled in the charter school.
2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
3. Charter petition does not contain the required number of signatures required by Education Code section 47605(a).
4. Charter petition does not contain an affirmation of each of the conditions described in Education Code section 47605(e).
5. Charter petition does not contain reasonably comprehensive descriptions of the elements in Education Code section 47605(c).
6. The charter 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.
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 as described in Education Code section 47605(c)(7).
8. The school district is not positioned to absorb the fiscal impact of the proposed charter school as described in Education Code section 47605(c)(8).

II. CHARTER SCHOOL APPEAL PACKAGE

A complete Charter School Appeal Package consists of eight (8) binders and eight (8) flash drives containing the following required items with tabs/folders separating each of the sections:

A. Charter School Petitioner Certification and Intake Information Forms

1. Signed Petitioner Certification that the petitioner deems the submitted petition to be complete.
2. Completed Petition Intake Information form.

B. Charter School Petition Evaluation Matrix

Insert the petition page numbers in the far-right column of the Charter School Petition Evaluation Matrix entitled "Located on Page(s)" to indicate where the information can be found within the charter petition.

C. Verification of Denial

1. Local school district governing board's action of denial of the petition and the governing board's written factual findings specific to the petition, as required by Education Code section 47605(b).
2. Written response by the charter school petitioners to the school district governing board's findings for denial.

D. Petition Signatures

EC § 47605(a)(1), (2) and (3)

The petition signature document shall include a prominent statement that a signature on the petition means that the parent/legal guardian is meaningfully interested in having their child/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 petition shall include signatures meeting one of the following requirements:

1. A number of signatures from parents/legal 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.
2. A number of signatures from 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.
3. A petition that proposes to convert an existing public school to a charter school that would not be eligible for a loan pursuant to Education Code section 41365(c) is signed by not less than 50 percent of the permanent status teachers currently employed at the public school to be converted.

E. Charter Petition

1. Table of Contents delineating items in the charter petition.
2. A “redlined” charter petition of the original charter school petition submitted to the school district with changes to the petition necessary to reflect OCBE as the chartering entity and other minor administrative updates due to changes in circumstances based on the passage of time related to fiscal affairs, facilities arrangements or state law. Include all supporting documents and appendices submitted to the local school district. Identify deleted language by strikeout and new language by underline (Flash drive must include Microsoft Word format).
3. A digital copy of the original charter school petition in Microsoft Word format as submitted to the school district. No paper copy required.
4. The petition shall affirm that the charter school:
 - a. Shall be nonsectarian in its programs, admission policies, employment practices and all other operations.
 - b. Shall not charge tuition.
 - c. The petition must state that the charter school shall meet all statewide standards, conduct the pupil assessments required pursuant to Education Code section 60605 and any other statewide standards authorized in statute or pupil assessments applicable to pupils in non-charter public schools.
 - d. The charter school shall on a regular basis, consult with their parents, legal guardians, and teachers regarding the charter school’s educational program.
 - e. Shall not discriminate against any pupil on the basis of the characteristics listed in Education Code section 220.
 - f. 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 shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.
 - g. Shall admit all pupils who wish to attend the charter school.
 - h. If the number of pupils who wish to attend the charter school exceeds the charter school’s capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing.
 - i. In the event of a drawing, the chartering authority shall make reasonable efforts to accommodate the growth of the charter school and shall not take any action to impede the charter school from expanding enrollment to meet pupil demand.
 - j. If a pupil is expelled or leaves the charter school without graduating or completing the school year for any reason, the charter school shall notify the superintendent of the school district of the pupil’s last known address within 30 days, and shall upon request, provide

- that school district with a copy of the cumulative record of the pupil including report cards or a transcript of grades, and health information.
- k. Shall not discourage a pupil from enrolling or seeking to enroll in the charter school for any reason including but not limited to academic performance of the pupil or because the pupil exhibits any of the characteristics described in Education Code section 47605(e)(2)(B)(iii).
 - l. The charter school will post the requirements contained in Education Code section 47605(e) on the charter school's internet website. A charter school shall provide a parent, guardian or pupil, if the pupil is 18 years of age or older, a copy of the notice at all of the following times: (1) When a parent, guardian or pupil inquires about enrollment; (2) Before conducting an enrollment lottery; (3) Before disenrollment of a pupil.
 - m. A person who suspects that a charter school has violated any of the posted requirements listed above may file a complaint with the charter authority.
 - n. A charter school in operation as of July 1, 2019, that operates in a partnership with the California National Guard may dismiss a pupil from the charter school for failing to maintain the minimum standards of conduct required by the Military Department.

F. Additional Charter Petition Requirements

- a. The petitioner must provide information regarding the proposed operational and potential effects of the charter school, including, but not limited to, the facilities to be used by the charter school, the manner in which administrative services of the charter school are to be provided and the potential civil liability effects, if any, upon the charter school and upon the school district. The description of the facilities to be used by the charter school shall specify where the charter school intends to locate.
- b. Teachers in charter schools shall hold the Commission on Teacher Credentialing certificate, permit or other document required for the teacher's certificated assignment as described in Education Code section 47605.6(l). These documents shall be maintained on file at the charter school and shall be subject to periodic inspection.

G. Nonprofit Public Benefit Corporation Information

If the school is to be operated by, or as, a nonprofit public benefit corporation, the petitioner shall provide the following:

1. Articles of Incorporation and bylaws for the nonprofit public benefit corporation, charter management organization and sole statutory member, as applicable.
2. The names and relevant qualifications of all persons whom the petitioner nominates to serve on the governing body of the charter school.

H. Budget and Finance

1. Financial statements and a proposed operational budget, including startup costs, cash flow and financial projections for the first three years of operation (Flash drives must include Microsoft Office Excel format with formulas and no password protection).
2. If the budget contains grants, loans and/or donations, include corresponding award letters, loan agreements and/or pledge letters.

III. RESOURCES

Orange County Board of Education charter schools board policies:

<https://ocbe.us/Pages/Policies.aspx>

Orange County Board of Education meeting schedule and information:

<https://ocbe.us/Pages/Meetings.aspx>

Orange County Department of Education Charter Schools Unit website:

<https://ocde.us/qlcp/CharterSchools/Pages/default.aspx>
