



# Countywide Charter School Petition Review Legal Standards

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The information contained in this document is intended to assist charter petitioners in assessing whether a petition for a countywide charter school has satisfied each of the legal requirements for approval. It is recommended that the petitioners seek legal advice prior to submitting a charter petition to the Orange County Board of Education (OCBE).

In reviewing the petition, OCBE will consider whether the school operates at one or more sites within the geographic boundaries of the county and provides instructional services that are not generally provided by the Orange County Department of Education (EC Section 47605.6). OCBE reserves the right to consider additional criteria beyond those described in this document when considering whether a petition for a countywide charter should be granted.

## I. Countywide Charter School Justification Requirements

- A. A county board of education may only approve a countywide charter if it finds, in addition to the other requirements of this section, that the educational services to be provided by the charter school will offer services to a pupil population that will benefit from those services and cannot be served as well by a charter school that operates in only one school district in the county.  
[EC Section 47605.6(a)]
- B. A county board of education may grant a countywide charter for the operation of a school under this part only if the board is satisfied that granting the charter is consistent with sound educational practice and that the charter school has reasonable justification for why it could not be established by petition to a school district pursuant to Education Code section 47605.  
[EC Section 47605.6(b)]

## II. Petition Signatures

- A. The petition shall include a number of signatures meeting one of the following requirements:
  - 1. The petition is signed by a number of parents/guardians of pupils residing within the county 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 and each of the school districts where the charter school petitioner proposes to operate a facility has received at least 30 days' notice of the petitioner's intent to operate a school pursuant this section.  
[EC Section 47605.6(a)(1)(A)]
  - 2. The 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 and each of the school districts where the charter school petitioner proposes to operate a facility has received at least 30 days' notice of the petitioner's intent to operate a school pursuant this section. [EC Section 47605.6(a)(1)(B)]



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- 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 47605.6(a)(4)]

### III. Affirmation Requirements

- A. The petition shall affirm that the charter school shall:
1. Be nonsectarian
  2. Not charge tuition
  3. Not discriminate
  4. Not determine admission based on residency, except as provided by law

*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 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.[EC Section 47605.6(e)(1)]*

### IV. 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 47605.6(b)(1)]
  2. The petitioners are demonstrably unlikely to implement successfully the program set forth in the petition. [EC Section 47605.6(b)(2)]
  3. The petition does not contain the number of signatures required by EC Section 47605.6(a). [EC Section 47605.6(b)(3)]
  4. The petition does not contain an affirmation of each of the conditions described in EC Section 47605.6(e). [EC Section 47605.6(b)(4)]
  5. The petition does not contain reasonably comprehensive descriptions of all of the required elements pursuant to EC Section 47605.6(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)]
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7. Any other basis that the board finds justifies the denial of the petition. [EC Section 47605.6(b)]

## V. 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 47605.6(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 47605.6(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 47605.6(b)(5)(C)]

Note: Must meet all statewide standards and testing requirements. [EC Section 47605.6(d)(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 47605.6(b)(5)(E)]

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 47605.6(b)(5)(F)]

Note: All teachers must be fully credentialed in the same manner as all other California public school teachers. [EC Section 47605.6(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 47605.6(b)(5)(G)]
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)(H)]
8. Admission requirements, if applicable. [EC Section 47605.6(b)(5)(M)]
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 47605.6(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 47605.6(m)]

10. The procedures by which pupils can be suspended or expelled. [EC Section 47605.6(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 47605.6(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 47605.6(b)(5)(N)]
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 47605.6(b)(5)(O)]
14. The procedures to be followed by the charter school and the county board of education to resolve disputes relating to provisions of the charter. [EC Section 47605.6(b)(5)(L)]
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 47605.6(b)(5)(P)]

## **VI. 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)]



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## VII. Public School and Private School Restrictions

- A. An existing public school shall not be converted to a charter school in accordance with this section. [EC Section 47605.6(a)(2)]
- B. 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)]
- C. 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)]

## VIII. 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 47605.6(l)]

## IX. Proposed Operation and Potential Effects

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

Note: No charter school operations may take place outside the boundaries of the county. [EC Section 47605.1(f)]

*Legal standard: "The county board of education shall require that the petitioner or petitioners provide information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be used 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, any school district where the charter school may operate and upon the county board of education." [EC Section 47605.6(h)]*

## X. 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 47605.6(b)(1) and (2)]



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*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 47605.6(h)]*

#### **XI. Charter Term**

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

Note: California Education Code does not place the specific restriction of five years on a 47605.6 petition, but given the clear limitation on all other charter petitions and renewals, the spirit of the law and the legislative intent is clear.

*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)]*

#### **XII. Material Revisions**

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

Note: The definition of "material revisions" is included in the additional requirements of the Orange County Board of Education. [EC Section 47605.6(b)]

*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)]*

#### **XIII. 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.
- B. 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)]
- C. 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)]*

#### **XIV. Independent Study (as applicable)**

- A. The 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)]
  - 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)]



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- 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)]