

ORANGE COUNTY DEPARTMENT OF EDUCATION

Costa Mesa, California

BOARD POLICY

400-12

Charter Schools

The Orange County Board of Education (Board) encourages the establishment of quality charter schools in Orange County as an integral part of the California educational system. The Board believes that charter schools provide one opportunity to implement school- level reform and to support innovations which improve student learning and enable students to become self-motivated, competent, and lifelong learners. These schools shall operate under the provisions of their charters, specific state and/or federal laws and regulations, and general oversight of the chartering authority. The Board's actions as an authorizer shall be guided by the laws, regulations, and policies applicable to petition review, monitoring and oversight, renewals, and revocation.

Please see the following for additional information:

- Appendix #400-12
- Template Agreement

Legal Authority: Education Code sections 35160, 35160.2, 47600 *et seq.*; 5 California Code of Regulations section 11960 *et seq.*

Adopted: 04/20/2005

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02/10/2016
02/01/2023

ORANGE COUNTY DEPARTMENT OF EDUCATION

Costa Mesa, California

Appendix

Charter School Petition Review

400-12

When considering charter petitions, the County Board shall be guided by the intent of the Legislature, that quality charter schools are and should be an integral part of the California educational system. It shall be the policy of the Board to give appropriate consideration to petitions for charter schools to be operated under its jurisdiction. It is the objective of the board that all charter school petitions shall be reviewed in accordance with the letter and spirit of the law. Accordingly, the Board shall implement state and federal law and regulations fully and fairly, and protect the interests of parents, students, and the public when granting or denying charter petitions.

The provisions of this policy shall pertain to 1) charter school petitions proposing a countywide charter school(s) submitted directly to the Board, and 2) petitions denied by the Governing Board of a school District and subsequently submitted to the Board for review. In the case of petitions presented on appeal, the County Board shall follow the procedures outlined below.

Petitions for countywide charter schools shall be reviewed by the Board under the requirements of applicable law and regulations as well as any additional requirements that the Board considers necessary for the sound operation of countywide charter schools. Petitions denied by school Districts, and submitted to the Board for review, shall be reviewed by the Board under the requirements of applicable law and regulations. The Board shall hold charter schools under its jurisdiction accountable for fulfilling the terms of their charters and may revoke a charter if deemed necessary.

Ad Hoc Committee on Charter Appeals/Applications

Upon receipt of a charter school appeal or countywide application, the Board may establish an Ad Hoc Committee on Charter Appeals/Applications consisting of two Board members appointed by the President of the Board. The Committee shall act as a liaison between the Board, Orange County Department of Education (OCDE) staff and charter school petitioners on all matters related to the appeal or application.

Charter School Petition Appeals

Petitioners

The provisions of this section pertain to petitions denied by the Governing Board of an Orange County School District and subsequently submitted to the OCBE for review.

Prior to submitting a petition for review, petitioners should carefully review this Board Policy which sets forth Policy Sections 1, 3, 4.

Authorizers

The provisions of this section pertain to petitions denied, or not acted upon, by the Governing Board of Orange County School District and subsequently submitted to OCBE for review. Once the Petitioner notifies the District that they will pursue an appeal to OCDE, designated District

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staff should carefully review and comply with the Board Policies set forth in Policy Section 2.

Policy Sections

1. Documentation Required of Petitioners
2. Documentation Required of Local Authorizers
3. The Review Process
4. Criteria for the Review and Approval of Charter School Petitions

Section 1-Documentation Required of Petitioners

Within thirty (30) calendar days of the denial by the local the local District, appellants shall deliver to the Office of the Orange County Superintendent of Schools fifteen (15) printed copies and one electronic copy of a petition containing the following:

1. A Table of Contents.
2. A complete unedited copy of the charter petition as denied by the District, including supporting documents considered by the District when the petition was denied.
3. Evidence of the District governing board's action to deny the petition (e.g. meeting minutes) and the governing board's written factual findings specific to the particular petition, when available, setting forth specific facts to support one or more of the grounds for denial set forth in Education Code Section 47605(b).
4. If available, the Charter School's written response to the District's findings for denial of the charter petition.
5. A description of any changes to the petition necessary to reflect the County Board of Education as the chartering entity, as applicable, consistent with Title 5, California Code of Regulations section 11967(b)(4)). This description may be provided in narrative form or through supplementary documentation, and may include, but is not limited to, the following:
 - a. A description of any changes to the petitioner's Governing Board and/or leadership which have occurred subsequent to the denial by the local District. (This includes resignations and additions.);
 - b. A description of any changes to the petitioner's enrollment projections and operational budget which have occurred subsequent to the denial by the local District and the reasons therefore. For purposes of this section, a change is "material" if it equals or exceeds one classroom
 - c. A description of any changes to the petitioner's proposed physical facilities which have occurred subsequent to the denial by the local District and the reasons therefore;
 - d. Clarifications that address deficiencies noted in the District governing board's written factual findings; and/or

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- e. Clarifications necessary to address the evaluation criteria established by this Board Policy and any implementing procedures or administrative regulations that may differ from the District governing board.
6. A signed certification stating the petitioners will comply with all applicable law.
7. Signature pages as required by Education Code §47605 (a)

Petitioners may, at their discretion, submit any additional information may deem necessary to enable the OCBE to give appropriate consideration to the petition. However, proposed changes in the following areas will not be considered by the OCBE. Accordingly, petition should not include the proposed changes in the following areas:

- a. The proposed educational program, as described in Education Code section 47605(b) (5) (A) (ii), including, but not limited to reconfiguration of the school; curriculum, instruction and assessment; framework for educational design; the basic learning environment or instructional approach or approaches.
- b. The target student population, including grade levels to be served, and specific educational interests, backgrounds, or challenges. For the purposes of this section a delay of not more than two (2) school years in serving one or more grade level shall be considered a change to the target student population.
- c. The school's mission.

Section 2-Documentation Required of Local Authorizer

Upon petitioner's notification to the local school Districts of its intention to appeal the denial to the OCBE, within thirty (30) days of the school District Superintendent or designee shall deliver to the Office of the Orange County Superintendent of Schools a District Prepared Charter School Appeal Package containing the following:

1. District Required Charter School Appeal Checklist.
2. District's confirmation that the petition was accepted and the District's review period started on the day the charter school submitted the petition, pursuant to Education Code §47605 (b).
3. Evidence that the District held a public hearing no later than sixty (60) days after receiving a petition pursuant to Education Code §47605 (b).
4. Evidence that the District board took action to grant or deny the charter within ninety (90) days of receipt of the petition, pursuant to Education Code §47605 (b).
5. If the District and the charter school mutually agreed to an extension of the timeline (not to exceed thirty (30) days) the District should provide a copy of the timeline extension agreement pursuant to Education Code §47605 (b).
6. Evidence that the District published all staff recommendations, regarding the petition at least fifteen (15) days before the public hearing, pursuant to Education Code §47605 (b).
7. Evidence that the denying District provided charter petitioners equivalent time and procedures to present evidence and testimony to respond to the District recommendations

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and findings during the public hearing at which the Governing Board of the school District will either grant or deny the charter, pursuant to Education Code §47605 (b).

8. Evidence the District provided the OCBE and the Orange County Superintendent of Schools/Orange County Department of Education (“Department”) a written transcript of the hearing where the charter petition was denied, or not acted upon, pursuant to Education Code §47605 (b).
9. Evidence that the District encourages the establishment of equity charter schools as an integral part of the California educational system, pursuant to Education Code §47605 (c).
10. If the petition has been previously denied, the District should provide documentation from the previous denial to the OCBE and Department, pursuant to Education Code §47605 (k).
11. If the petition had been remanded to the District for reconsideration, the District should provide the documentation to the OCBE and Department of such reconsideration, pursuant to Education Code §47605 (k).
12. If the petition was remitted to the District for reconsideration and the District contends that there were, “material,” changes to the petition, the District should provide documentation of evidence of significant, “material changes,” pursuant to Education Code §47605 (k).

Section 3-The Review Process

The Public Hearing

No later than sixty (60) days after receiving a petition, the OCBE shall hold a public hearing on the provisions of the charter, at which time the Board shall consider the level of support for the petition by teachers, parents or guardians, and the school District(s) where the charter school petitioner proposes to place school facilities. During the public hearing, the Board may ask questions of petitioners or District representatives related to the proposed charter, as necessary to give appropriate consideration to the petition. Both proponents and opponents of the charter petition will be given equivalent time to respond Board questions.

Petitioners will be permitted a maximum of fifteen (15) minutes to address the OCBE. Petitioners may, but shall not be required to, utilize technology including but not limited to PowerPoint, in addressing the Board. It is the expectation of the Board that petitioners will specifically address the written findings the local District cited in the District's denial of the petition.

Upon receipt of a request received by OCDE a minimum of five business days before the scheduled public hearing, representatives of the local school District will also be permitted a maximum of fifteen (15) minutes to comment on the petition.

During the public hearing, the Board will also receive a maximum of fifteen (15) minutes public comments. Individual comments shall be limited to three minutes each. Upon a motion duly passed by a majority to the Board, these time limits may be extended.

Within thirty (30) days of the public hearing, and within ninety (90) days from receipt of the petition, the OCBE shall grant or deny the charter in a Board meeting separate from the meeting in which the public hearing was held, unless the OCBE and petitioner extend the date of approval or denial by an additional thirty (30) days by written mutual agreement.

If the OCBE does not grant or deny the petition within the time period set forth in the previous paragraph, the petitioner may submit the petition to the State Board of Education for review.

Communications with OCDE Staff

Throughout the review process it is expected that the petitioner will remain in regular communications with designated OCDE staff members and respond to inquiries in a prompt and timely manner. Likewise, it is the expectation of the Board that OCDE staff members will respond to inquiries by petitioners in a prompt and timely manner.

Communications with the OCBE Ad Hoc Committee on Charters

Upon request, petitioner shall meet with members of the Ad Hoc committee as well as designated OCDE staff members to discuss matters relating to the petition. The meeting shall take place in the offices of the OCDE or at a mutually agreeable location.

The Timing of the Staff Report and Recommendation

The OCDE staff shall publish a report and recommendation for approval or denial publicly and to both Board members and petitioners no later than fifteen (15) business days before the Board is scheduled to vote to approve or deny a charter appeal.

Section 4-Criteria for the Review and Approval of Charter School Petitions and Charter

School Renewal Petitions by the OCBE.

When reviewing charter petitions, the OCBE shall remain guided by the intent of the Charter School Act that charter schools are and should become an integral part of the California educational system and that the establishment of charter schools should be encouraged. AB 1505, passed by the legislature in 2019, created a new basis for review of the charter petitions related to the fiscal impact, the OCBE recognizes that there is a fiscal impact on District specifically intended by the Charter School Act as the letter acknowledges the charter schools are intended to provide vigorous competition within the public school system to stimulate continuous improvement in all public schools.

The OCBE shall review the charter school petition pursuant to California Education Code section 47605(b) and applicable regulations and apply the following criteria in voting to approve or deny a petition:

- (a) For purposes of Education Code section 47605(b), a charter petition shall be “consistent with sound educational practice” if, in the OCBE’s judgment, it is likely to be of educational benefit to pupils who attend. A charter school need not be designed or intended to meet the educational needs of every student who might possibly seek to enroll in order for the charter to be granted by the OCBE.
- (b) For purposes of Education Code section 47605(b)(1), a charter petition shall be “an unsound educational program” if it is any of the following:
 - (1) A program that involves activities that the OCBE determines would present the likelihood of physical, educational, or psychological harm to the affected pupils.
 - (2) A program that the OCBE determines not to be likely to be of educational benefit to the pupils who attend.
- (c) For purposes of Education Code section 47605(b)(2), the OCBE shall take the following factors into consideration in determining whether charter petitioners are “demonstrably unlikely to successfully implement the program.”
 - (1) If the petitioners have a past history of involvement in charter schools or other education agencies (public or private), the history is one that the OCBE regards as unsuccessful, e.g., the petitioners have been associated with a charter school of which the charter has been revoked or a private school that has ceased operation for reasons within the petitioners’ control.
 - (2) The petitioners are unfamiliar in the OCBE’s judgment with the content of the petition or the requirements of law that would apply to the proposed charter school.
 - (3) The petitioners have presented an unrealistic financial and operational plan for the proposed charter school. An unrealistic financial and operational plan is one to which any or all of the following applies:
 - (A) In the area of administrative services, the charter or supporting documents do not adequately:
 - 1. Describe the structure for providing administrative services, including,

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at a minimum, personnel transactions, accounting and payroll that reflects an understanding of school business practices and expertise to carry out the necessary administrative services, or a reasonable plan and timeline to develop and assemble such practices and expertise.

2. For any contract services, describe criteria for the selection of a contractor or contractors that demonstrate necessary expertise and the procedure for selection of the contractor or contractors.

(B) In the area of financial administration, the charter or supporting documents do not adequately:

1. Include, at a minimum, the first-year operational budget, start-up costs, and cash flow, and financial projections for the first three years.
2. Include in the operational budget reasonable estimates of all anticipated revenues and expenditures necessary to operate the school, including, but not limited to, special education, based, when possible, on historical data from schools or school Districts of similar type, size, and location.
3. Include budget notes that clearly describe assumptions on revenue estimates, including, but not limited to, the basis for average daily attendance estimates and staffing levels.
4. Present a budget that in its totality appears viable and over a period of no less than two years of operations provides for the amassing of a reserve equivalent to that required by law for a school District of similar size to the proposed charter school.
5. Demonstrate an understanding of the timing of the receipt of various revenues and their relative relationship to timing of expenditures that are within reasonable parameters, based, when possible, on historical data from schools or school Districts of similar type, size, and location.

(C) In the area of insurance, the charter and supporting documents do not adequately provide for the acquisition of and budgeting for general liability, workers compensations, and other necessary insurance of the type and in the amounts required for an enterprise of similar purpose and circumstance.

(D) In the area of facilities, the charter and supporting documents do not adequately:

1. Describe the types and potential location of facilities needed to operate the size and scope of educational program proposed in the charter.
2. In the event a specific facility has not been secured, provide evidence of the type and projected cost of the facilities that may be available in the location of the proposed charter school.

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3. Reflect reasonable costs for the acquisition or leasing of facilities to house the charter school, taking into account the facilities the charter school may be allocated under the provisions of Education Code section 47614.
- (4) The petitioners personally lack the necessary background in the following areas critical to the charter school's success, and the petitioners do not have a plan to secure the services of individuals who have the necessary background in these areas:
 - (A) Curriculum, instruction, and assessment.
 - (B) Finance and business management.
- (d) For purposes of Education Code section 47605(b)(3), a charter petition that “does not contain the number of signatures required by subdivision (a)” of Education Code section 47605 shall be a petition that did not contain the requisite number of signatures at the time of the submission of the original charter to a school District governing board pursuant to Education Code section 47605(a). The OCBE shall not disregard signatures that may be purported to have been withdrawn or to have been determined to be invalid after the petition was denied by the school District. The signature requirement set forth in Education Code section 47605(a) is not applicable to a petition for renewal.
- (e) For purposes of Education Code section 47605(b)(4), a charter petition that “does not contain an affirmation of each of the conditions described in subdivision (d)” of Education Code section 47605 shall be a petition that fails to include a clear, unequivocal affirmation of each such condition, not a general statement of intention to comply. Neither the charter nor any of the supporting documents shall include any evidence that the charter will fail to comply with the conditions described in Education Code section 47605(d).
- (f) For purposes of Education Code section 47605(b)(5), the OCBE shall take the following factors into consideration in determining whether a charter petition does not contain a “reasonably comprehensive” description of each of the specified elements.
- (1) The description of the educational program of the school, as required by Education Code section 47605(b)(5)(A), at a minimum:
 - (A) Indicates the proposed charter school's target student population, including, at a minimum, grade levels, approximate numbers of pupils, and specific educational interests, backgrounds, or challenges.
 - (B) Specifies a clear, concise school mission statement with which all elements and programs of the school are in alignment and which conveys the petitioners' definition of an “educated person” in the 21st century, belief of how learning best occurs, and goals consistent with enabling pupils to become or remain self-motivated, competent, and lifelong learners.
 - (C) Includes a framework for instructional design that is aligned with the

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needs of the pupils that the charter school has identified as its target student population.

- (D) Indicates the basic learning environment or environments (e.g., site-based matriculation, independent study, community-based education, or technology-based education).
 - (E) Indicates the instructional approach or approaches the charter school will utilize, including, but not limited to, the curriculum and teaching methods (or a process for developing the curriculum and teaching methods) that will enable the school's pupils to master the content standards for the four core curriculum areas adopted by the SBE pursuant to Education Code section 60605 and to achieve the objectives specified in the charter.
 - (F) Indicates how the charter school will identify and respond to the needs of pupils who are not achieving at or above expected levels.
 - (G) Indicates how the charter school will meet the needs of students with disabilities, English learners, students achieving substantially above or below grade level expectations, and other special student populations.
 - (H) Specifies the charter school's special education plan, including, but not limited to, the means by which the charter school will comply with the provisions of Education Code section 47641, the process to be used to identify students who qualify for special education programs and services, how the school will provide or access special education programs and services, the school's understanding of its responsibilities under law for special education pupils, and how the school intends to meet those responsibilities.
 - (I) Contains a reasonably comprehensive description, for the charter school, of annual goals, for all pupils and for each subgroup of pupils identified pursuant to Section 52052, to be achieved in the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school, and specific annual actions to achieve those goals. A charter petition may identify additional school priorities, the goals for the school priorities, and the specific annual actions to achieve those goals.
- (2) Measurable pupil outcomes, as required by Education Code section 47605(b)(5)(B), at a minimum:
- (A) Specify skills, knowledge, and attitudes that reflect the school's educational objectives and can be assessed, at a minimum, by objective means that are frequent and sufficiently detailed enough to determine whether pupils are making satisfactory progress. It is intended that the frequency of objective means of measuring pupil outcomes vary according to such factors as grade level, subject matter, the outcome of previous objective measurements, and information that may be collected from anecdotal sources. To be sufficiently detailed, objective means of measuring pupil outcomes must be capable of being used readily to evaluate the effectiveness of and to modify instruction for individual

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students and for groups of students.

- (B) Include the school's Academic Performance Index or similar growth target, if applicable.
 - (C) Demonstrate that the pupil outcomes align with the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school.
- (3) The method by which pupil progress is to be measured, as required by Education Code section 47605(b)(5)(C), at a minimum:
- (A) Utilizes a variety of assessment tools that are appropriate to the skills, knowledge, or attitudes being assessed, including, at a minimum, tools that employ objective means of assessment consistent with paragraph (2)(A) of subdivision (f) of this section.
 - (B) Includes the annual assessment results from the Statewide Testing and Reporting (STAR) or similar program.
 - (C) Outlines a plan for collecting, analyzing, and reporting data on pupil achievement to school staff and to pupils' parents and guardians, and for utilizing the data continuously to monitor and improve the charter school's educational program.
 - (D) Provides, to the extent practicable, the method for measuring pupil outcomes for state priorities consistent with the way information is reported on a school accountability report card.
- (4) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement in supporting the school's effort on behalf of the school's pupils, as required by Education Code section 47605(b)(5)(D), at a minimum:
- (A) Includes evidence of the charter school's incorporation as a non-profit public benefit corporation, if applicable.
 - (B) Includes evidence that the organizational and technical designs of the governance structure reflect a seriousness of purpose necessary to ensure that:
 1. The charter school will become and remain a viable enterprise.
 2. There will be active and effective representation of interested parties, including, but not limited to parents (guardians).
 3. The educational program will be successful.
 4. The charter school and its governing body will comply with the Brown Act, the Public Records Act, the Political Reform Act, and Government Code section 1090.
- (5) The qualifications to be met by individuals to be employed by the school, as required

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by Education Code section 47605(b)(5)(E), at a minimum:

- (A) Identify general qualifications for the various categories of employees the school anticipates (e.g., administrative, instructional, instructional support, non-instructional support). The qualifications shall be sufficient to ensure the health, and safety of the school's faculty, staff, and pupils.
 - (B) Identify those positions that the charter school regards as key in each category and specify the additional qualifications expected of individuals assigned to those positions.
 - (C) Specify that the requirements for employment set forth in applicable provisions of law will be met, including, but not limited to credentials as necessary.
- (6) The procedures that the school will follow to ensure the health and safety of pupils and staff, as required by Education Code section 47605(b)(5)(F), at a minimum:
- (A) Require that each employee of the school furnish the school with a criminal record summary as described in Education Code section 44237.
 - (B) Include the risk assessment/examination of faculty and staff for tuberculosis as described in Education Code section 49406.
 - (C) Require immunization of pupils as a condition of school attendance to the same extent as would apply if the pupils attended a non-charter public school.
 - (D) Provide for the screening of pupils' vision and hearing and the screening of pupils for scoliosis to the same extent as would be required if the pupils attended a non-charter public school.
- (7) Recognizing the limitations on admissions to charter schools imposed by Education Code section 47605(d), 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, as required by Education Code section 47605(b)(5)(G), shall be presumed to have been met, absent specific information to the contrary.
- (8) To the extent admission requirements are included in keeping with Education Code section 47605(b)(5)(H), the requirements shall be in compliance with the requirements of Education Code section 47605(d) and any other applicable provision of law.
- (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, as required by Education Code section 47605(c)(5)(I), at a minimum:
- (A) Specify who is responsible for contracting and overseeing the independent audit.
 - (B) Specify that the auditor will have experience in education finance.

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- (C) Outline the process of providing audit reports to the OCBE, California Department of Education, or other agency as the OCBE may direct, and specifying the time line in which audit exceptions will typically be addressed.
 - (D) Indicate the process that the charter school will follow to address any audit findings and/or resolve any audit exceptions.
- (10) The procedures by which pupils can be suspended or expelled, as required by Education Code section 47605(b)(5)(J), at a minimum:
- (A) Identify a preliminary list, subject to later revision pursuant to subparagraph (E), of the offenses for which students in the charter school must (where non-discretionary) and may (where discretionary) be suspended and, separately, the offenses for which students in the charter school must (where non-discretionary) or may (where discretionary) be expelled, providing evidence that the petitioners' reviewed the offenses for which students must or may be suspended or expelled in non-charter public schools.
 - (B) Identify the procedures by which pupils can be suspended or expelled.
 - (C) Identify the procedures by which parents, guardians, and pupils will be informed about reasons for suspension or expulsion and of their due process rights in regard to suspension or expulsion.
 - (D) Provide evidence that in preparing the lists of offenses specified in subparagraph (A) and the procedures specified in subparagraphs (B) and (C), the petitioners reviewed the lists of offenses and procedures that apply to students attending non-charter public schools, and provide evidence that the charter petitioners believe their proposed lists of offenses and procedures provide adequate safety for students, staff, and visitors to the school and serve the best interests the school's pupils and their parents (guardians).
 - (E) If not otherwise covered under subparagraphs (A), (B), (C), and (D):
 1. Provide for due process for all pupils and demonstrate an understanding of the rights of pupils with disabilities in regard to suspension and expulsion.
 2. Outline how detailed policies and procedures regarding suspension and expulsion will be developed and periodically reviewed, including, but not limited to, periodic review and (as necessary) modification of the lists of offenses for which students are subject to suspension or expulsion.
- (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, as required by Education Code section 47605(b) (5)(K), at a minimum, specifies the positions to be covered under each system and the staff who will be responsible for ensuring that appropriate arrangements for that coverage have been made.
- (12) The public school attendance alternatives for pupils residing within the school District who choose not to attend charter schools, as required by Education Code section 47605(b)(5)(L), at a minimum, specify that the parent or guardian of each pupil

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enrolled in the charter school shall be informed that the pupils has no right to admission in a particular school of any local educational agency (LEA) (or program of any LEA) as a consequence of enrollment in the charter school, except to the extent that such a right is extended by the LEA

- (13) The description of the rights of any employees 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, as required by Education Code section 47605(b)(5)(M), at a minimum, specifies that an employee of the charter school shall have the following rights:
 - (A) Any rights upon leaving the employment of an LEA to work in the charter school that the LEA may specify.
 - (B) Any rights of return to employment in an LEA after employment in the charter school as the LEA may specify.
 - (C) Any other rights upon leaving employment to work in the charter school and any rights to return to a previous employer after working in the charter school that the OCBE determines to be reasonable and not in conflict with any provisions of law that apply to the charter school or to the employer from which the employee comes to the charter school or to which the employee returns from the charter school.
- (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, as required by Education Code section 47605(c)(5)(N), at a minimum:
 - (A) Include any specific provisions relating to dispute resolution that the OCBE determines necessary and appropriate in recognition of the fact that the OCBE is not a local District.
 - (B) Describe how the costs of the dispute resolution process, if needed, would be funded.
 - (C) Recognize that, because it is not a local District, the OCBE may choose to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, provided that if the OCBE intends to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, it must first hold a public hearing to consider arguments for and against the direct resolution of the dispute instead of pursuing the dispute resolution process specified in the charter.
 - (D) Recognize that if the substance of a dispute is a matter that could result in the taking of appropriate action, including, but not limited to, revocation of the charter in accordance with Education Code section 47604.5, the matter will be addressed at the OCBE discretion in accordance with that provision of law and any regulations pertaining thereto.
- (15) The declaration of whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act. Education Code section 47605(b)(5)(O)

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recognizes that the OCBE is not an exclusive public school employer. Therefore, the charter school must be the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act (commencing with Government Code section 3540).

- (16) The procedures to be followed by the charter school for school closure, which shall include at a minimum, each of the following:
- (a) Designation of a responsible entity to conduct closure-related activities.
 - (b) Notification of the closure of the charter school to parents (guardians) of pupils, the authorizing entity, the county office of education (unless the county board of education is the authorization entity), the special education local plan area in which the school participates, the retirement systems in which the school's employees participate (e.g., Public Employees' Retirement System, State Teachers' Retirement System, and federal social security), and the California Department of Education, providing at least the following:
 - (1) The effective date of the closure;
 - (2) The name(s) of and contact information for the person(s) to whom reasonable inquiries may be made regarding the closure;
 - (3) The pupils' school Districts of residence; and
 - (4) The manner in which parents (guardians) may obtain copies of pupil records, including specific information on completed courses and credits that meet graduation requirements.
 - (c) Provision of a list of pupils in each grade level and the classes they have completed, together with information on the pupils' District of residence, to the responsible entity designated in subdivision (a).
 - (d) Transfer and maintenance of all pupil records, all state assessment results, and any special education records to the custody of the responsible entity designated in subdivision (a), 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 school that may function as the annual audit, and that includes at least the following:
 - (1) An accounting of all financial assets, including cash and accounts receivable and an inventory of property, equipment, and other items of material value.
 - (2) An accounting of the liabilities, including accounts payable and any reduction in apportionments as a result of audit findings or other investigations, loans, and unpaid staff compensation.

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- (3) An assessment of the disposition of any restricted funds received by or due to the charter school.
- (g) Disposal of any net assets remaining after all liabilities of the charter school have been paid or otherwise addressed, including but not limited to, the following:
 - (1) The return of any grant funds and restricted categorical funds to their source in accordance with the terms of the grant or state and federal law, as appropriate, which may include submission of final expenditure reports for entitlement grants and the filing of any required Final Expenditure Reports and Final Performance Reports.
 - (2) The return of any donated materials and property in accordance with any conditions established when the donation of such materials or property was accepted.
- (h) Completion and filing of any annual reports required pursuant to Education Code section 47604.33.
- (i) Identification of funding for the activities identified in subdivisions (a) through (h).
- (g) A “reasonably comprehensive” description, within the meaning subdivision (f) of this section and Education Code section 47605(b)(5) shall include, but not be limited to, information that:
 - (1) Is substantive and is not, for example, a listing of topics with little elaboration.
 - (2) For elements that have multiple aspects, addresses essentially all aspects the elements, not just selected aspects.
 - (3) Is specific to the charter petition being proposed, not to charter schools or charter petitions generally.
 - (4) Describes, as applicable among the different elements, how the charter school will:
 - (A) Improve pupil learning.
 - (B) Increase learning opportunities for its pupils, particularly pupils who have been identified as academically low achieving.
 - (C) Provide parents, guardians, and pupils with expanded educational opportunities.
 - (D) Hold itself accountable for measurable, performance-based pupil outcomes.
 - (E) Provide vigorous competition with other public school options available to parents, guardians, and students.

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- (h) AB 1505 created two (2) new provisions to be used when evaluating charter petitions, and in Education Code section 47605 (c) (7) and (c) (8). When reviewing petitions, the OCBE recognizes these provisions are intended to be considered as statutory exception and the presumption of approval required by the Charter Schools Act.
 - (1) For the purposes of Education Code section 47605 (c) (7), “community,” shall be defined by the charter in the petition.
 - (2) The analysis of fiscal impact of the charter under Education Code section 47605 (c) (7) shall include the following:
 - (A) The fiscal impact of the charter on the District, such as those that strengthen the community’s capacity to provide education to all resident public school students. This should include, but is not limited to, strengthening outcomes for students and the community such that it brings long-term fiscal impact to the area.
 - (B) Compensatory fiscal impact of the charter, such as effects of the charter that diminish the adverse fiscal impact demonstrated by the District. This could include, but is not limited to, reduced District expense, rent from non-Prop 39 agreement, or other payments of services that increase the total District revenue.
 - (C) Adverse fiscal impact of the charter on the District which shall be defined as effects of the charter that would prevent the District from providing an adequate education as required by the California Constitution.
 - (3) Further, the following definitions shall apply:
 - (A) “Substantially undermine,” shall mean that, if the charter school is approved, the District would be unable to operate or offer existing academic or programmatic offerings by reducing their scale or costs.
 - (B) “Duplicative,” shall mean that the proposed charter is essentially the same in its mission, structure, program offerings, proposed pedagogy, and other key features, relative to an existing school that has the capacity to meet the demand the charter would otherwise serve. The offering of a charter school in a different part of the community and at existing, similar program, shall not be seen as duplicative nor shall the charter be seen as duplicative if the charter proposes to combine offerings from multiple different District schools into one program.
- (i) For the purposes of Education Code section 47605 (c) (8), a charter school is subject to a rebuttable presumption of denial if the District in which they propose to locate has a qualified interim certification and the county superintendent of schools has certified that approving the charter school would result in a negative interim certification, has a negative interim certification, or is under state receivership.(1) This exception shall only be used for review of charter petitions submitted in District in one the formal fiscal certification statuses enumerated above.

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(2) When OCBE review the charter petition denied, or not acted upon, by the District pursuant to Education Code section 47605 (c) (8), OCBE shall also review the school District's findings under that section. In addition to reviewing the District findings, OCBE shall also review all evidence provided to observe the fiscal impact of the charter school. The rebuttable presumption falls to the charter petitioners to demonstrate that the adverse fiscal impact of the charter will be minimal and that the benefit of the charter school on students, families, taxpayers and the District are substantial. The charter petitioner is encouraged to provide evidence of positive and compensatory fiscal impact of the charter petition on the District as well as data that demonstrates the negative fiscal impact will be minimal.

(A) Positive fiscal impacts of the charter on the District shall include, but not be limited to those that strengthen the District's capacity to provide an education to all resident public school students.

(B) Compensatory fiscal impact of the charter are the effects of the charter that diminish the adverse fiscal impact demonstrated by the District. These could include, but are not limited to, reduced district expenses, rent from a non-Prop 39 agreement, or other payments or services that increase the total District revenue.

The Board shall hold charter schools under its jurisdiction accountable for fulfilling the terms of their charters and may revoke a charter if deemed necessary.

Section 5: **OCBE Charter Petition Criteria for Renewal**

Charter school should follow all criteria set forth in the OCBE Charter Petition Renewal Process. OCBE review all charter school renewals in accordance with Education Code section 47607 and 47607.2.

AB 1505 established a three (3) track renewal process which provides additional guardrails to ensure fair and robust renewal determinations. The California Department of Education annually publishes a data file that provides performance categories (Low, Middle or High track) for all non-DASS charter schools to be used for charter school renewal. A charter school shall have school work performance levels on at least two (2) measurements of academic performance per year in each of the two (2) consecutive years immediately preceding the renewal decision in order to determine the high-and low-performing tracks. OCBE will use this list to determine which track a charter school falls and therefore which criteria to use for reviewing a charter school renewal.

AB 1505 also establishes the use of verified data in some renewals. That is defined in Education Code section 47607.2 (c) as, "data derived from nationally recognized, valid, peer reviewed, and more manageable sources that are externally produced," and shall include measures of postsecondary outcomes. The California State Board of Education ("SBE") has established further criteria to define verified data and has identified an approved list of valid and reliable assessments.

Charter Schools Renewals for High Track Schools

(a) For the purposes of Education Code section 47607 (c) (2) (A), a charter school falls in the high track if they either:

(1) Receive a green or blue on all their state indicators in the two (2) recent consecutive years schoolwide; or

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- (2) Meets its schoolwide metric as well as a minimum level of subgroup performance on measurements of academic performance. To meet this criteria, a school must demonstrate the following:
 - (A) That school is the same status or higher than the statewide average status for the academic indicator; and
 - (B) For subgroups underperforming across statewide average status for all students, across each academic indicator, a majority of underperforming subgroups must have a higher status than the statewide average for that subgroup.
- (b) OCBE shall provide a charter that qualifies for this tract an expedited/streamlined renewal process pursuant to Education Code section 47607 (c) (2) (C) the end of the school will only be required to update the petition to include new charter school requirements and acted in the law after the charter was granted or last renewed.
- (c) OCBE shall renew any charter that is designated as high track.
- (d) OCBE shall grant a high- track schools a renewal for a period of seven (7) years.

Charter School Renewals for Low Track Schools

- (a) For the purposes of Education Code section 47607.2 (a), charter falls into the low track if they either:
 - (1) Receive an orange or red on all of their state indicators in the two (2) most recent consecutive years schoolwide; or
 - (2) Have the same status or lower than the statewide average status for the academic indicators and a majority of underperforming subgroups have a lower status than the statewide status for that subgroup.
- (b) For charter schools deemed to be in the low track, OCBE shall not renew the charter unless they make written factual findings, specific to the particular petition that:
 - (1) The charter is taking meaningful steps to address the underlying cause or causes of low performance, and those steps are reflected, or will be reflected in a written plan adopted by the governing board of the charter school; and
 - (2) There is clear and convincing evidence, as shown by verified data, of either:
 - (A) The school achieved measurable increases in academic achievement, as defined by at least one year's progress for each year in the school; or
 - (B) Strong postsecondary outcomes, as defined by college enrollment, persistent, and completion rates equal to similar peers.

Charter School Renewals for Middle Track Schools

- (a) For the purposes of Education Code section 47607.2 (b), a charter school that does not meet the criteria for either the high or low track shall be considered in the

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middle track.

- (b) When receiving renewals of charter schools in the middle track, the OCBE shall:
 - (1) Consider all state and local indicator schoolwide for all subgroups;
 - (2) Place greater weight on the measurements of academic performance, as defined by ELA, Math, College/Career, and English Learner Progress.
- (c) OCBE shall renew a charter in the middle track for a period of five (5) years.
- (d) OCBE may only deny renewal of a charter in the middle track if it makes written factual findings of all of the following:
 - (A) The charter school has failed to meet or make sufficient progress towards meeting standards that provide a benefit to the pupils of the school; and
 - (B) Closure of the school is in the best interests of pupils; and
 - (C) The decision to non-renew provided greater weight to performance on measurements of academic performance.
- (e) Charter schools in the middle track have the option of submitting verified data to OCBE, but are not required to. If the charter school submits data that meets the criteria for verified data outlined in Education Code section 47607.2 (c), OCBE shall consider it as part of its renewal determination.