

## **CHARTER SCHOOLS**

### **Appeals of District Decisions Regarding Charter Schools**

#### **Philosophy, Goals, Objectives, and Comprehensive Plans**

If the governing board of a school district denies the authorization or renewal of a charter petition, the petitioner may appeal to the Riverside County Board of Education (RCBE), which may authorize or renew the charter in accordance with the Education Code 47605. If the governing board of a school district revokes the charter of an existing charter school that it previously authorized, the charter school may appeal to the RCBE, which may uphold or reverse the revocation in accordance with Education Code 47607.

The RCBE shall consider any appeal of a decision made by the governing board of a school district within the RCBE's jurisdiction to deny a petition for the establishment of a charter school, deny the renewal of a charter, or revoke a charter that was originally authorized by the district, provided that the request for the appeal meets the requirements described below. [Education Code 47605, 47607; 5 CCR 11967]

The RCBE may request that the Riverside County Superintendent of Schools or designee communicate with charter petitioners and perform a review of the petition on behalf of the RCBE and report any findings to the RCBE at a public meeting. Procedures for submitting a petition, a deemed complete certification, the petition review rubric, and the MOU template are maintained on the RCOE website.

All meetings of the RCBE at which the appeal of a charter petition is to be discussed shall be subject to the state open meeting laws (the Brown Act). [Education Code 47608]

#### **Appeal of District Denial of Charter Authorization or Renewal**

If the governing board of a school district denies a petition for the establishment or renewal of a charter school, the petitioners may submit an appeal to the RCBE within 30 calendar days of the denial. Any petition submitted to the RCBE after this time frame shall be considered denied with no further options for administrative appeal. [Education Code 47605]

A petition to the RCBE to establish or renew a charter school that has been denied by a school district governing board shall include: [Education Code 47605; 5 CCR 11966.5, 11967]

1. A complete copy of the charter petition as denied, including, but not limited to, the signatures required by Education Code 47605 and the identification of the proposed site(s) where the charter school will operate.
  2. Evidence of the school district governing board's action to deny the petition, such as meeting minutes.
  3. Any written factual findings from the school district governing board setting forth specific facts to support the grounds for denial.
  4. A signed certification stating that the petitioner(s) will comply with all applicable law.
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5. A description of any changes to the petition necessary to reflect the RCBE as the chartering entity.

If the petition submitted on appeal contains new or different material terms, the RCBE shall immediately remand the petition to the governing board of the school district for reconsideration. If the governing board of the school district denies a petition after reconsideration, the petitioner may elect to resubmit the petition for the establishment of a charter school to the RCBE. [Education Code 47605]

Within 60 days of the receipt of the petition, the RCBE shall hold a public hearing to review documentation and obtain public input. A petition is deemed received on the day the petitioner submits a petition to the RCOE office, along with a signed certification that the petitioner deems the petition to be complete. [Education Code 47605, 47605.6] Procedures for submitting a petition, a deemed complete certification, and the petition review rubric is maintained on the RCOE website.

In considering the charter petition, the RCBE is not limited to a review based solely on the reasons for denial stated by the school district. The RCBE shall review and approve or deny a petition based on the criteria specified in Education Code 47605. [Education Code 47605; 5 CCR 11967]

When considering a petition for renewal, the RCBE shall also consider the charter school's past performance on academics, finances, and operations, along with any future plans for improvement, in evaluating the school's likelihood of future success. [5 CCR 11966.5]

Following a review of the petition and the public hearing, the RCBE shall either grant or deny the charter within 90 days of receipt of the petition, or within 120 days if the petitioner and RCBE agree to the extension. [Education Code 47605]

A charter school authorized by the RCBE on appeal shall be subject to the same requirements concerning geographic location to which it would otherwise be subject if it received approval from the school district to which it originally submitted its petition. [Education Code 47605, 47605.1]

### **Memoranda of Understanding**

Upon approval of a charter by the RCBE, the County Superintendent or designee shall enter into a memorandum of understanding (MOU) with the petitioner to develop one or more MOUs with the charter school to clarify financial and operational arrangements, such as how and when the charter school will establish governing bylaws, policies, and procedures or implement additional requirements that the RCBE considers necessary for the sound operation of a charter school. The MOU may also address any deficiencies in the petition, clarify charter provisions and operations, and remediate any missing, incomplete, or unacceptable charter provisions as noted by the RCBE or RCOE staff. Additionally, the MOU may address the role of the charter authorizer as required for oversight and monitoring.

The MOU template will be presented to petitioners at the time a petition is submitted. The MOU is an agreement to terms and conditions that implement, or clarify items of the charter and is binding only upon approval of the charter by the RCBE and when the MOU is signed by the County Superintendent or designee. If the petitioner fails to enter into an MOU, as outlined in

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this policy, by a date designated by the Board action, the RCBE may consider whether such failure to do so could be a basis of revocation of the charter.

Any such MOU shall be annually reviewed by the RCOE and the charter school governing body and be amended as necessary.

**Appeal of County Denial**

Any charter petition appealed to and denied by the RCBE may be submitted to the State Board of Education (SBE) within 30 days of the denial. Upon request by the petitioner, the RCBE shall prepare a documentary record, including transcripts of the public hearing at which the petition was denied, no later than 10 business days of the request. Within 30 days of receipt of the appeal submitted to SBE, the RCBE may submit a written opposition and supporting documentation or evidence that was considered by the RCBE in reviewing and denying the petition. [Education Code 47605]

**Appeal of District Charter School Revocations**

If a school district governing board revokes the charter of school it authorized, the charter school may appeal the revocation by delivering a written Notice of Appeal to the RCBE within 30 days of the district's final decision. [Education Code 47607; 5 CCR 11968.5.4]

The Notice of Appeal shall include all of the following: [5 CCR 11968.5.4]

1. A copy of the district's Notice of Violation, Notice of Intent to Revoke, and the Final Decision, unless the school district did not provide them to the charter school as required pursuant to 5 CCR 11968.5.2.
2. Evidence of the final vote of the school district governing board, if available.
3. All evidence relied upon by the school district in determining whether substantial evidence existed that the charter school failed to remedy one or more violations identified in the Notice(s) of Violation.
4. All evidence and correspondence submitted by the charter school's governing body in response to the school district's Notice of Violation and Notice of Intent to Revoke.
5. Minutes of any public meeting at which the school district governing board considered or made its decision to revoke the charter, if available.
6. A written statement from the charter school explaining why it does not believe that the school district's factual findings are supported by substantial evidence.
7. Identification of any procedural omissions or errors the charter school alleges to have occurred in the revocation process.

The RCBE shall consider the following when determining whether the school district's factual findings are supported by substantial evidence: [5 CCR 11968.5.4]

1. Whether the district provided the charter school a Notice of Violation and a reasonable opportunity to remedy the identified violation(s).
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2. If the charter school submitted a response to the Notice of Violation, whether the charter school complied with the procedures set forth for that response.
3. Whether the district provided the charter school a Notice of Intent to Revoke, a public hearing, and Final Decision.
4. Whether the school district provided the charter school a Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety, if applicable.
5. Whether an alleged procedural deficiency negatively impacted the charter school's ability to refute or remedy the alleged violation(s) or the school district's ability to comply with its procedural obligations or authorizing duties.

The RCBE shall provide the California Department of Education and the school district a copy of its written decision within 10 calendar days of its action. [5 CCR 11968.5.4]

The RCBE may reverse the district's decision if it determines the district's findings are not supported by substantial evidence. If the district's decision is reversed on appeal, the district shall continue to be regarded as the chartering authority. The school district may appeal the reversal to SBE. [Education Code 47607]

If the RCBE does not issue a decision within 90 days of receiving the Notice of Appeal, or if the RCBE upholds the district's decision to revoke the charter, the charter school may appeal to SBE. [Education Code 47607]

Legal Reference:

EDUCATION CODE

220 Nondiscrimination

33054 Waivers

47600-47616.7 Charter Schools Act of 1992, as amended

60600-60649 Assessment of academic achievement, including:

60605 Academic content and performance standards; assessments

60640-60649 Assessment of academic achievement

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

54950-54963 The Ralph M. Brown Act

CODE OF REGULATIONS, TITLE 5

11960-11969 Charter schools

UNITED STATES CODE, TITLE 20

7223-7225 Charter schools

CODE OF FEDERAL REGULATIONS, TITLE 34

200.1-200.78 Accountability

ATTORNEY GENERAL OPINIONS

80 Ops.Cal.Atty.Gen. 52 (1997)

78 Ops.Cal.Atty.Gen. 297 (1995)