

## **BYLAWS OF THE BOARD**

### **Charter Schools**

The San Joaquin County Board of Education (CBE) believes that charter schools provide one opportunity to implement school-level reform and to support innovations that improve student learning. These schools shall operate under the provisions of their charters, federal laws, state laws, and general oversight of the CBE.

In considering any petition to establish a charter school, the CBE shall give careful consideration to the potential of the charter school to provide students with a high-quality education that enables them to achieve to their fullest potential. The CBE also believes that authorizing charter schools includes a rigorous, comprehensive application process and that charters should be granted to petitioners who demonstrate strong potential for establishing and operating a high quality charter school over the lifetime of the charter including, but not limited to, the charter school's ability to effectively administer a public school agency.

The Charter Schools Act of 1992, Education Code 47600 *et seq.*, authorizes the establishment of public charter schools. To establish a charter school, petitioners must submit to the CBE for approval a petition that includes all components required by law and CBE policy. Charter schools are generally exempt from the laws and rules that regulate non-charter public schools and, instead, the parameters for their operation, including the manner in which they educate students, maintain transparency, and ensure public accountability, must be set forth in their individual charter petitions. As such, the CBE will hold charter school petitioners strictly accountable for compliance with all aspects of the Charter Schools Act of 1992 and will hold approved charter operators strictly accountable for compliance with their approved charter petition.

The determination whether to grant or deny a charter, shall include review of the proposed charter, consideration of public and staff input, and a determination of whether the charter petition adequately addresses all of the provisions required by law.

Any charter granted by the CBE shall contain adequate processes and measures for holding the school accountable for fulfilling the terms of its charter. These shall include, but not be limited to, fiscal accountability systems as well as multiple measures for evaluating the educational program. In accordance with laws and the charter provisions, charters shall provide regular reports to the CBE to assist the CBE in fulfilling its oversight responsibility.

**San Joaquin County Office of Education  
County Board of Education  
Charter School Policy and Procedures**

The San Joaquin County Office of Education (SJCOE) supports the development of charter school educational programs as outlined in California Education Code, and SJCOE and the CBE will follow the procedures and requirements for considering and acting upon requests for approval/renewal of charters under the CBE's oversight.

**A. Submission/Renewal Deadlines**

The CBE encourages petitioners who are seeking approval to commence charter school operations at the start of the next school year to initiate the process so that the CBE receives the charter in accordance with this regulation prior to November 1st of the preceding school year. In the case of petitions received after that date, the CBE reserves the right to consider approval on the basis of a one-year delay in the commencement of the charter school operation if the CBE deems such a delay necessary for approval of the charter to be consistent with sound educational practice.

The CBE discourages charter petitioners (or operators seeking material revision or renewal) from submitting a charter at a time that would cause the CBE's time period for action to include any significant holiday periods during which all or most of the SJCOE staff has vacation or non-work time. Specifically, these periods include, but may not be limited to, the Thanksgiving holiday break, winter break, and spring break.

The CBE recommends that a charter school submit its petition for renewal sufficiently early in the last year of the current term to allow the CBE's deliberations and decision on the renewal petition to be completed in ample time to allow students and staff to plan appropriately for the following year(s). Renewal requests, including all required documents, may be submitted only during the last year of the charter's current term, and should be submitted only when the school's California Dashboard data and state-wide testing data from the immediately preceding two years of the charter's operations, including the data from the penultimate year of the charter's current term are available, and by no later than February 1st of the fiscal year preceding the first year of the proposed renewal term.

The approval or denial of a charter petition shall not be controlled by collective bargaining agreements nor subject to review or regulation by the Public Employment Relations Board. (Education Code 47611.5)

**B. Definitions**

*Chartering Authority* – the agency that grants the charter for a charter school, or if a charter is granted by the State Board of Education (SBE), the entity designated by SBE as the chartering authority. Under most circumstances, the chartering authority has primary responsibility for monitoring and oversight of the charter school and has authority to renew the charter as well as revoke the charter if the school does not meet the requirements of its charter or of the law. The CBE may act as the chartering authority to the following:

*Direct County Charter* – a charter school that serves students for whom the SJCOE would otherwise be responsible for providing direct education and related services. A petition for this type of charter school is submitted directly to the CBE. A denial of a petition shall be subject to the same process as a previously denied charter petition on appeal. (Education Code 47605.5)

*Countywide Charter* – a charter school that operates at one or more sites within the geographic boundaries of the county and provides instructional services not generally provided by the SJCOE. Specific additional requirements and findings are required for charter schools, including that there must be reasonable justification for why the charter could not be established by petition to a local school district and that the school will provide services that will benefit the students and that cannot be served as well by a charter school operating in only one school district in the county. A petition for this type of charter school is submitted directly to the CBE. (Education Code 47605.6)

*County Conversion Charter* – An existing public school operated by the SJCOE that converts to a charter school. The petition must be signed by at least 50% of the permanent status teachers employed at the school. A petition for this type of charter school is submitted directly to the CBE. (Education Code 47605.5)

*Previously Denied Charter Petition on Appeal* – The CBE considers petitions for the establishment or renewal of a charter school if a school district board denied the petition based on written factual findings and the petitioner wishes to appeal that decision. The CBE may receive petitions on appeal for new and non-renewed charter schools. The charter petition submitted on appeal must be the charter petition as denied or non-renewed by the school district, and the charter petitioner must also submit all of the other information and documentation specified in law and regulation. If the CBE grants the charter, the CBE shall be the chartering authority and shall have primary responsibility and oversight of the charter school, and subsequent requests for material revision and renewal shall be submitted directly to the CBE. (Education Code 47605(k)(1)). If the CBE denies the petition, the petitioner may be able to appeal to the SBE.

*Direct-funded charter* – A charter school that elects to receive funding directly from the state and can apply for and receive funding directly for state or federal programs. (Education Code 47651(a))

*Locally funded charter* – A charter school that elects to receive funding through its authorizing LEA or the LEA designated by the SBE.

The following terms are not defined in Education Code, but are commonly used to describe charter schools with different relationships with their authorizer/oversight agency:

*Dependent Charter School* – Generally connotes a closer relationship between the charter school and its authorizer in various areas, such as the origin of the school's formation, the governance structure, the extent to which the charter school depends on the authorizer for administrative services, and the funding relationship. It is frequently, though not exclusively, used to describe a charter school created by the authorizing agency itself.

*Independent Charter School* – Generally connotes the more common relationship in which the charter school is established and operated with more of an independent, “arm’s length” relationship to its authorizing and oversight agency.

*Signed Certification* – The Charter Schools Act and this policy require charter petitioners to provide signed certifications with charter petition submittals. The SJCOE may maintain appropriate forms to be used by charter school petitioners/operators for such signed certifications. The SJCOE Staff may update and revise these certification forms in a manner consistent with the law and this policy. The signed certification submitted with a charter on appeal will also certify that the petition submitted on appeal is the same as that denied by the district, with no new or different material terms, and that the petitioner concurrently provided to the denying district a copy of all documents submitted to the CBE on appeal.

### **C. Required Petition General Information**

In order to expedite the CBE’s consideration of and action on charter requests, a petition to the CBE – whether initial, renewal, or material revision – shall include all of the following:

1. The name, address, and telephone number of the petitioner(s).
2. A thorough description of the education, work experience, credentials, degrees, and certifications of the individuals comprising, or proposed to comprise, the directors, administrators, and managers of the proposed charter school.
3. A list of consultants whom the charter school has engaged, or proposes to engage, for the purpose of developing, operating, and evaluating the charter school, together with a thorough description of the qualifications of such consultants. If no consultants are to be used, provide a statement to that effect.
4. The bylaws, articles of incorporation, conflict of interest code, and other management documents, as applicable, governing, or proposed to govern the charter school.
5. At least 14 hard copies (in notebooks or otherwise bound) of the entire charter (including the signatures for an initial charter request), with the entire document (including any appendices, exhibits, or attachments) sequentially numbered from the first through the last page, and also including a table of contents that includes references to all appendices/exhibits/attachments.
6. An electronic (Word) version of the charter, including all appendices, and an electronic (Excel) version of the budget and Local Control Funding Formula (LCFF) Calculator showing all calculations/formulas and including a budget narrative and budget assumptions.
7. In the case of an appeal, the petition should be the same as that acted upon by the denying school district, other than changes necessary to reflect the CBE as the authorizer or 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, or state law. The petitioner shall include

a redline version of the charter and a separate list of all revisions and/or additions, no matter the nature or extent of the change, including a description of any changes to the petition necessary to reflect the CBE as the authorizing entity.

8. When applicable, the petitioner shall include a copy of the district governing board's denial and supporting written factual findings.
9. When submitting a charter or on appeal, the petitioner shall submit a signed certification stating that the petitioner(s) will comply with all applicable laws.
10. Charter petitions submitted directly to CBE pursuant to Education Code Section 47605.5 or 47605.6 shall comply strictly with all different and additional requirements imposed by those Education Code provisions.
11. Additionally, for material revisions or renewal requests, the submittal shall also include:
  - (a) The petition shall be updated to include a reasonably comprehensive description of how the charter school is/will comply with any new legal requirements since the charter was most recently granted or renewed and as necessary to reflect the charter school's current program.
  - (b) The bound copies shall include a redline indicating all of the revisions from the currently approved version of the charter.
  - (c) An electronic (Word) version of the currently approved and operating version of the charter.
  - (d) An electronic (Word) version of the redline.
  - (e) A summary of the changes requested or made from the currently approved charter.

In addition, any renewal' charter shall include the California Dashboard data and state-wide testing data from the immediately preceding two years of the charter's operations, including the data from the penultimate year of the charter school's current term or the alternative verifiable data provided for in Education Code 47607(c)(6) for that period and any and all other data, plans, or information necessary to support renewal pursuant to Education Code 47607 and 47607.2. The charter school shall specify which renewal criteria of Education Code Sections 47607 and/or 47607.2 it believes it has met.

It is the CBE's expectation that a charter petition submitted requesting material revision or renewal shall include a reasonably comprehensive description of how the charter school will address, improve, and remediate any issues the charter school has experienced during the preceding term. This includes, but is not limited to, the charter school's academics, finances, and operations, specifically including decreases or failure to achieve increases in pupil academic achievement schoolwide and for all pupil subgroups in any or all academic areas and/or low performance on the state indicators included in the evaluation rubrics adopted pursuant to Education Code 52064.5 for which the school receives performance levels and/or measurements of academic performance that are the same or lower than the statewide average schoolwide

and/or for pupil subgroups, inadequate student enrollment, issues affecting fiscal solvency and stability, issues indicating fiscal mismanagement, failure to comply with generally accepted accounting principles and/or requirements of law, and/or any areas in which the SJCOE has issued a letter of concern or otherwise expressed concern to the charter school.

#### **D. Additional Information**

In addition to providing comprehensive descriptions of all the required elements, charter statutes also require petitioners to provide other information about their proposed school. The CBE has established the following criteria that will be included in evaluating the additional information provided.

##### Additional Requirement 1, Operation and Effects of School

1. As mandated by Education Code Sections 47605 and 47605.6, charter petitioners, “shall be required to provide “information regarding the proposed operation 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 potential civil liability effects, if any, upon the school and upon the school district” where the charter school will operate, and upon the CBE and SJCOE. The CBE expects charter petitions to include, but not be limited to, the information described below.

Applicants who have identified a site should:

Describe the demographics of the surrounding neighborhood, including nearest district school and neighborhood characteristics and include at least the following information.

1. Provide the address and physical description of the site to include the square footage, basic floor plan, strategy for meeting the fire life safety requirements, disabled accessibility requirements, and building code requirements, food/food service facilities, adult and student bathroom facilities, and indoor and play and physical education space.
2. Describe how the school anticipates securing the site, if this has not been done at the time of application.

Applicants who have not identified a site should:

1. Describe the community or communities in which the school plans to locate its facilities, including the area or areas, if any, in which the school requests or anticipates requesting an allocation of district facilities pursuant to Proposition 39.

2. Provide a physical description of the minimum requirements for any site to be used by the school, including a basic description of the minimum required square footage, number of classrooms and additional teaching and office spaces, fire life safety requirements, disabled accessibility requirements, food/food service facilities, adult and student bathroom facilities, and indoor and outdoor play and physical education spaces.
3. Ensure the petitioners understand that future identification of a site that would limit the school's ability to reach its intended student population as identified in Element 1 of the charter petition would constitute a material revision of the charter requiring submission and prior approval of the amendment by the CBE.
4. Ensure the charter school will notify the SJCOE 30 days in advance of occupancy of every site to be leased, purchased, or controlled by the school for instructional purposes and the obligation to provide all occupancy permits and other permits by the time specified by CBE or SJCOE prior to opening.

In accordance with Education Code Sections 47605(a)(1) and 47605.6(b)(5)(D), charter schools on appeal that propose to operate at multiple sites and all countywide petitions must also include the location of each charter school facility that the petitioner proposes to operate.

All applicants should:

1. Describe the manner in which administrative services are to be provided. Applicants are strongly encouraged to include, but not limit this description to the following:
  - Describe the plans and systems the school will use to manage its business affairs efficiently, effectively, and with transparency, including, but not limited to, payroll, purchasing, grants, contributions, inventory, and employee retirement and health plan contributions, and how the costs and means of providing these services will be readily available for SJCOE and public inspection.
  - Describe the systems of internal controls the charter school will employ to achieve sound fiscal practices and clear delineation of responsibility for business affairs.
  - Ensure that the charter school, including any entity managing a charter school and/or any charter management organization or education management organization associated with and/or providing services to the charter school, will make provisions for the liabilities, debts, and financial obligations of the school and the governing/associated entity and will indemnify, defend and hold harmless CBE/SJCOE for damages resulting from the acts of the school and the governing/associated entity, and that the charter school and the governing/associated entity will carry insurance of a type and amount similar to a noncharter public school and that all such insurance will cover CBE, SJCOE and their representatives that complies with SJCOE's requirements. The charter school shall comply

with the insurance and indemnification, defense, and hold harmless requirements established by SJCOE's risk manager.

- Provide a plan for the event of school closure. This plan should include, but not be limited to, the process for physical property liquidation, debt and liability payments, notification of students/parents, notification to CBE/SJCOE, assurance that all assets of the charter school which have been determined to have been generated exclusively through state and federal apportionment funds for charter school students, after payment of all debts and liabilities and refunds to applicable agencies, shall be distributed to a California public school or school district, and comply fully with the closure requirements in the applicable regulations.

#### Additional Requirement 2, Provision of Financial Statements

1. The petitioners shall 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. This documentation shall include the budget narrative and a description of budget assumptions and the Local Control Funding Formula (LCFF) Calculator showing all calculations/formulas.
2. The budget documents shall be provided in Excel format (rather than PDF) unless the SJCOE Business Office requests that petitioners use an alternative format or template.

#### Additional Requirement 3, Reporting Requirements

1. The petitioners shall commit to adhere to the statutory reporting requirements.
2. The petitioners shall adhere to the SJCOE's reporting requirements, including provision of the following reports as required by the CBE/SJCOE as an authorizer. The requests for these reports constitute reasonable inquiries by CBE/SJCOE of all charters under its oversight:
  - Documentation as requested by SJCOE to monitor the fiscal condition of the charter school, such as monthly statements of accounts for dependent charter schools.
  - Detailed assumptions at the time the preliminary budget and interim reports are submitted to SJCOE including a reconciliation of the changes from period to period.
  - Copies of test results reports for all state-mandated assessments, to include, but not be limited to:
    - California Assessment of Student Performance and Progress system tests
    - English Learner Proficiency Assessments for California
    - California Spanish Assessment

Changes in or additions to reporting requirements may be included in the Memorandum of Understanding between a charter and the CBE, and irrespective of policy or agreement, each CBE-authorized charter shall promptly respond to all reasonable inquiries from CBE/SJCOE, including but not limited to inquiries regarding the charter school's financial records.

#### Additional Requirement 4, Term of Charter

The petitioners for a new charter will state, within legal limits, the requested term for the charter and will justify why that length of time is appropriate. The CBE may approve a charter for a shorter initial term than that requested by the petitioners.

#### Additional Requirement 5, Complaints

The charter should commit to establish and maintain policies and procedures to enable any person to file a complaint, including the filing of complaints in accordance with the uniform complaint procedures as specified in 5 CCR 4600-4687, including, but not limited to, for allegations of the school's noncompliance with Education Code 47606.5 or 47607.3, for Williams Act complaints, and for charging unlawful pupil fees.

#### Additional Requirement 6, Credentials and Clearances

The charter shall commit to comply with the teacher qualifications and clearances requirements of the Charter Schools Act, and shall commit to provide evidence of compliance with such requirements, including teachers' compliance with the certificate, permit, or other required documents and that each teacher has obtained a certificate of clearance and satisfied the requirements for professional fitness pursuant to Education Code Section 44339, 44340, and 44341, prior to commencing or continuing operations pursuant to a CBE-authorized charter and as otherwise required by SJCOE, including pursuant to any ongoing credential authorization schedule specified by SJCOE.

### **E. Evaluating Charters**

Whether the charter is a direct submission or an appeal, the CBE will thoroughly, fairly, and consistently evaluate each charter school petition.

When a charter is submitted to SJCOE for CBE consideration, SJCOE staff may conduct an initial evaluation of the charter for procedural compliance, including verification that the charter contains the required number of valid signatures. Should the SJCOE staff determine that the charter does not meet the prerequisites for submittal of a charter, including but not limited to inclusion of the required valid signatures, the SJCOE staff may return the petition without CBE action. Nothing herein shall serve to excuse a petitioner's failure to comply with all requirements for charter submittal or approval, and the fact that SJCOE does not return a petition without action shall not be interpreted as a determination that the charter meets the mandatory legal prerequisites for CBE action or foreclose the CBE from making findings relative to each and every cause for denial of a charter.

For countywide charter petitions, the CBE retains the option to reach a determination whether the charter meets the minimum criteria and findings for countywide status, rather than submission to a local school district, prior to or concurrently with the usual processing and procedures for evaluating and acting on the request for charter approval. The CBE may halt the processing of a countywide petition at any point that it determines that the charter does not meet the minimum criteria and findings for countywide status.

SJCOE staff will evaluate the completeness of a petition including its compliance with all requirements of law, including the merits of a proposed educational program and the requirements under state and federal law. SJCOE staff may consult with legal counsel, as appropriate, regarding compliance of the charter petition with legal requirements. The County Superintendent or designee may, in his/her discretion, form a committee or use an existing SJCOE committee to evaluate a charter or may assign the evaluation to one or more employees, consultants, or legal advisors. The SJCOE or its outside consultants may use a variety of evaluation tools to assess a charter, including but not limited to a rubric or matrix, but no tool or evaluation instrument is binding on either the SJCOE's recommendation or the CBE's action on a charter, and SJCOE staff and/or the CBE may give different weight to different criteria, charter components, facts, and findings. Based on this evaluation, SJCOE may make a recommendation to the CBE regarding approval or denial of the charter or charter renewal prior to the CBE's final action on the petition.

The CBE shall consider whether any charter seeking CBE approval contains adequate processes and measures for holding the school accountable for fulfilling the terms of its charter. These shall include, but not be limited to, fiscal accountability systems, multiple measures for evaluating the educational program, and regular reports to the Superintendent or designee and the CBE.

The CBE shall grant a charter for the operation of a direct county charter, county conversion charter, or previously denied charter petition appeal if it is satisfied that granting the charter is consistent with sound educational practice and the charter complies with the requirements of the Charter Schools Act, including the information described in this policy. The CBE may deny any such charter if it makes written factual findings, specific to the petition, in support of one or more of the statutory causes for denial.

The CBE may grant a charter for the operation of a countywide charter only if the CBE is satisfied that granting the charter is consistent with sound educational practice and the charter school has reasonable justification for why it could not be established by petition to a school district under Education Code 47605, and only if the CBE finds that the charter will offer services to a pupil population that will benefit therefrom and that cannot be served as well by a charter school that operates in only one district in the county. The CBE may impose any additional requirements beyond those of Education Code 47605.6 that it considers necessary for the sound operation of a countywide charter. The CBE shall deny a petition for the establishment of a countywide charter if it finds one or more of the statutory findings set forth in Education Code Section 47605.6(b), including any reason that the CBE finds justifies denial.

It shall be the responsibility of the petitioners to provide written notice of the CBE's approval and a copy of the final approved charter to the California Department of Education (CDE) and the State Board of Education (SBE). (Education Code 47605 and 47605.6)

**F. Charter Renewal or Material Revision of an Approved Charter**

1. Renewing or materially revising a charter is subject to the approval of the CBE, including appeals of renewals denied by a school district.
2. Petitions to renew or materially revise a charter shall include all the same information described above as proposals for a new charter, but shall also include all additional information and documentation required by law and regulation and shall include, but not be limited to, a reasonably comprehensive description of any new requirement for charter schools enacted into law after the charter was originally granted or last renewed and the charter shall be updated as necessary to reflect the current program offered by the charter school.
3. Applications to materially revise a charter may be submitted at any time during the life of the approved charter. Renewal requests may be submitted only during the last fiscal year of the charter's current term, and should be submitted only when the school's California Dashboard data and state-wide testing data from the immediately preceding two years of the charter's operations, including the data from the penultimate year of the charter's current term are available, and by no later than February 1st of the fiscal year preceding the first year of the proposed renewal term..
4. A material revision is a change to the content of an authorized charter that affects substantively the process or manner in which the charter school operates. A non-exhaustive list of some examples of material revisions include changes to the vision, mission, instructional design, accountability plan, location of facilities, governance or operational structure, number of pupils to be served, admissions requirements or procedures, student discipline procedures, and changes that affect the charter school's fiscal status. Material revisions to a charter also include additions or changes to "material terms" of the charter, as defined in Education Code 47605(k)(1)(A)(iii) and the expansion to additional site or grade levels. The CBE shall have the authority and also hereby delegates authority to the County Superintendent or his/her designee(s) to determine whether a proposed change in charter school operations or documents (including governance documents such as articles of incorporation and bylaws) constitutes a material revision of the approved charter. Material revisions to a charter may only be made with CBE approval.
5. If an approved charter school proposes to move the location of its operations to a different school site, other than through acceptance of an offer of facilities from a school district pursuant to Education Code section 47614 (known as Proposition 39), or to expand operations to one or more additional sites or grade levels, including the addition of a resource center(s) pursuant to Education Code Section 47605.1(c), whether during the term of the charter or concurrently with a renewal request, 'such move or expansion constitutes a material revision to the charter and the charter school shall request a material revision to its charter, and the charter school shall notify the CBE of those additional locations or grade levels. These requests shall be subject to all requirements and procedures for the submittal, consideration of, and action on any request for material revision to a charter. The CBE shall consider approval of the additional locations or grade levels as material revisions at an open meeting. If an approved countywide charter school proposes to establish operation at additional sites within the geographical boundaries of the CBE, the charter school shall notify the school district(s) where that

site(s) will be located and request a material revision of its charter, and the CBE's consideration of that material revision request shall be at an open meeting held no sooner than 30 days after the charter school notifies the school district(s).. (Education Code 47605, 47605.6, 47607)

6. The CBE believes that the ongoing operation of a charter school authorized by the CBE should be dependent on the school's effectiveness in achieving its mission and goals for student learning and other student outcomes. Whenever a charter school submits a petition for renewal of its charter, the CBE shall review the petition thoroughly and in accordance with the statutory and regulatory requirements and timelines. The County Superintendent or designee shall provide notification to the CDE, within 10 calendar days of the CBE's action, whenever a renewal of a charter is granted or denied.
7. Any charter school approved by the CBE shall at all times maintain clean, electronic (Word) copies of each version of its charter that is approved by the CBE and shall maintain such prior approved versions in clean, electronic (Word) format even after submitting a request that a revised version of the charter be approved on renewal or materially revised, including after such time as the CBE may approve any such revised version. In no event shall a charter school make revisions to the approved version of its charter without maintaining a clean, electronic (Word) version of all forms of the charter that have previously been approved by the CBE.

#### Criteria for Granting or Denying Renewal

Renewals of all charters shall be governed by the same standards and criteria that apply to initial charter petitions as set forth in Education Code 47605 and 47605.6, respectively, as well as the statutory requirements specifically applicable to charter renewals and any implementing regulations.

Charter renewal shall not be denied based on the fiscal impact of the charter school on the district or CBE or a finding that the charter school is unlikely to serve the interests of the entire community in which the school is located, as defined in Education Code 47605(c)(7) and(8). However, the CBE may use either of these bases to deny a proposed expansion constituting a material revision. (Education Code 47607)

The signature requirement is not applicable to petitions for renewal. (Education Code 47607)

The CBE shall consider the performance of the charter school on the state and local indicators included in the California School Dashboard. If the Dashboard indicators are not yet available for the most recently completed academic year before renewal, the CBE shall consider verifiable data provided by the charter school related to the Dashboard indicators, such as data from the California Assessment of Student Performance and Progress, or any successor system, for the most recent academic year. (Education Code 47607)

Following the CBE's review, a renewal of a charter petition may be granted in accordance with a three-tiered system based on school performance, as specified in Education Code 47607 and 47607.2 and generally summarized below (Education Code 47607):

1. Renewal of Five to Seven Years

A renewal for a period of five to seven years may be granted to a charter school that is not eligible for technical assistance pursuant to Education Code 47607.3 and that, for two consecutive years immediately preceding the renewal, achieved either of the following:

- a. Received the two highest performance levels schoolwide on all the state indicators included in the Dashboard for which the charter school receives performance levels; or
- b. For all measurements of academic performance, received performance levels schoolwide that are the same or higher than the state average and, for a majority of numerically significant student subgroups performing statewide below the state average in each respective year, received performance levels that are higher than the state average.

2. Denial with Option for Two-Year Renewal

- a. The CBE generally shall not renew a charter if, for two consecutive years immediately preceding the renewal decision, either of the following applies: (Education Code 47607.2)
  - (1) The charter school has received the two lowest performance levels schoolwide on all the state indicators included in the Dashboard for which it receives performance levels; or
  - (2) For all measurements of academic performance, the charter school has received performance levels schoolwide that are the same or lower than the state average and, for a majority of numerically significant student subgroups performing statewide below the state average in each respective year, received performance levels that are lower than the state average.
- b. However, the CBE may grant a two-year renewal to any such charter school if the CBE makes written factual findings, setting forth specific facts to support the findings, that:
  - (1) The charter school is taking meaningful steps to address the underlying cause(s) of low performance, and those steps are reflected, or will be reflected, in a written plan adopted by the governing body of the charter school; and
  - (2) There is clear and convincing evidence showing either of the following:
    - (a) Measurable increases in academic achievement, as defined by at least one year's progress for each year in school; or
    - (b) Strong postsecondary outcomes, as defined by college enrollment, persistence, and completion rates equal to similar peers.

3. Renewal of Five Years

A renewal for five years may be granted to charters for which the criteria in sections 1 and 2 above do not apply.

- a. The CBE shall consider schoolwide performance and performance of all pupil subgroups on the state indicators included on the Dashboard and the performance of the charter school on the local indicators included in the Dashboard. The CBE shall provide greater weight to performance of measurements of academic performance in determining whether to grant renewal.
- b. The CBE shall also consider if clear and convincing evidence, demonstrated by verified data, shows either of the following: (Education Code 47607.2)
  - (1) Measurable increases in academic achievement, as defined by at least one year's progress for each year in school; or
  - (2) Strong postsecondary outcomes, as defined by college enrollment, persistence, and completion rates equal to similar peers.
- c. For any such charter school, the CBE may deny the renewal petition upon making written factual findings that the charter school failed to meet or make sufficient progress toward meeting standards that provide a benefit to students at the school, that the closure of the charter school is in the best interest of students, and that the CBE's decision provided greater weight to performance on measurements of academic performance. (Education Code 47607.2)

A charter school that is eligible for the state's Dashboard Alternative School Status shall not be subject to any of the above criteria. Instead, in determining whether to grant a charter renewal for such a charter school, the CBE shall consider, in addition to the charter school's performance on the state and local indicators included in the Dashboard, the charter school's performance on alternative metrics applicable to the charter school based on the student population served. The County Superintendent or designee shall meet with the charter school during the first year of the charter school's term to mutually agree to discuss alternative metrics to be considered and shall notify the charter school of the alternative metrics to be used within 30 days of this meeting. The CBE may deny a charter renewal pursuant to this paragraph only upon making written findings, setting forth specific facts to support the findings, that the closure of the charter school is in the best interest of students. (Education Code 47607)

In addition to the other grounds for denial of a charter petition, the CBE may deny renewal of a charter upon a finding that the school is demonstrably unlikely to successfully implement the program set forth in the petition due to substantial fiscal or governance factors or a finding that the school is not serving all students who wish to attend. Such findings shall be based on a review of aggregate data reflecting student enrollment patterns at the charter school, any data provided by the (CDE), and any substantiated complaints that the charter school has not complied with the suspension and expulsion procedures contained in the charter, any memorandum of understanding with the CBE/SJCOE, and mandated by Education Code Section 47605(c)(5)(J) or 47605.6(b)(5)(J), as applicable. The CBE may deny renewal of a charter school for such reasons only after it has provided at least 30 days' notice to the charter school of the alleged violation and provided the charter school with a reasonable opportunity to cure the violation, including submission of a corrective action plan proposed by the charter school. The CBE may deny renewal only by finding that the corrective action proposed by the charter school has been unsuccessful

or that the violations are sufficiently severe and pervasive as to render a corrective action plan unviable. Any finding that a school is not serving all students who wish to attend shall specifically identify the evidence supporting the finding. (Education Code 47607)

### **G. Timelines**

The CBE delegates to the Superintendent or designee authority to waive or extend the timelines in a charter, law, applicable California regulation, or SJCOE policy or regulation related to charter schools, including but not limited to, for consideration or action on material revisions and/or renewals of charters.

The CBE's timelines for holding a public hearing and acting on requests for charter approval, material revision, or renewal (whether on appeal or direct submittal to the CBE), all run from receipt of the charter document by the CBE. A petition is deemed received on the day the petitioner submits a petition to the SJCOE, along with the signed certification that the petitioner deems the petition to be complete. (Education Code 47605, 47605.6) '

The charter submittal shall comport with the requirements of the **Required Petition General Information in Section C** above and the signed certification shall comport with the definitions above and any templates or forms developed by SJCOE.

CBE will follow the timelines set forth in the Charter Schools Act, as they may change from time to time.

#### Appeal of Denied Petitions

If the charter petition has been previously denied by a district governing board, the petition must be received by the CBE not later than 30 calendar days after the denial. Any petition received more than 30 calendar days after denial will not be acted upon by the CBE, unless the parties mutually agree to an extension of time, in the case that law or regulation explicitly permits such an extension process.

If the charter submitted on appeal includes new or different material terms from that denied by the school district, the petition will be immediately returned to the district for reconsideration. The district would have 30 days in which to take action. If the district again denies the charter, the petition may be resubmitted to the CBE on appeal. The CBE delegates to the County Superintendent or designee the authority to determine whether a charter submitted on appeal (whether an initial or renewal petition) includes new or different material terms and to remand such a charter to the denying school district. For these purposes, "material terms" means the petition signatures, affirmations, disclosures, documents, and descriptions described in Education Code 47605(a), (b), (c) and (h), but does not include minor administrative updates to the petition or related document because of changes in circumstances based on the passage of time, related to fiscal affairs, facilities arrangements, or state law, or to reflect the CBE as the chartering authority.

#### Renewal Submission Timing

If the CBE is the authorizing agency (whether on appeal from a district denial, through a petition submitted directly to the CBE, or by delegation from SBE), the charter operator may submit a request for renewal

only during the last year of its current term, by submitting the petition for renewal and all of the information and documentation specified in Education Code 47605, 47605.6, 47607, and their implementing regulations or the provisions of law that may supersede, modify, amend, or succeed those provisions. All renewal charter terms shall commence on the July 1 immediately following the submittal of the renewal request.

### CBE Decision

All SJCOE staff recommendations, including the recommended findings, and if applicable, the certification from the County Superintendent pursuant to Education Code 47605(c)(8), shall be published at least 15 calendar days before the public meeting at which the CBE is scheduled to act on the charter petition. At the meeting at which the CBE is scheduled to take action, the petitioners will be provided equivalent time and procedures to present evidence and testimony to respond to the SJCOE staff recommendation and findings. (Education Code 47605 and 47605.6)

### **Conditions of Approval**

If the CBE approves the establishment or renewal of a charter, the governing board of the charter school shall, prior to commencing operations under the term of that charter, fulfill all the conditions of approval, which may include, but are not limited to the following:

1. Making changes to the petition, including but not limited to, changes necessary to reflect the CBE as the authorizer;
2. Signing a memorandum of understanding (MOU) and/or other agreement(s) with CBE/SJCOE that includes adherence to all requirements established therein;
3. Finalizing the curriculum to be used and the scope and sequence of all subjects to be offered;
4. Providing verifiable written evidence of membership in a SELPA if the charter school will serve as a local educational agency for purposes of compliance with the Individuals with Disabilities Education Act;
5. Providing evidence of insurance that meets the SJCOE's standards and requirements;
6. Agreeing to indemnification, defense, and hold harmless provisions for the protection of the CBE, County Superintendent, and SJCOE, as well as the charter school's students, employees, and stakeholders, that meet the SJCOE's standards and requirements;
7. Completion of a site visit; and/or
8. Providing the appropriate facilities documentation to operate the school, including but not limited to, certificate of occupancy, facility or conditional use permit, fire inspection, CDS code, documentation from State, etc.

Additionally, the charter school shall commence operations within the timeframe specified in the approval action and commence instruction by September 30 of the first year of operation.

In the case of a countywide charter, the CBE may impose any additional requirements for authorization it deems necessary. (Education Code 47605.6)

The CBE may require a charter petitioner, either upon consideration of an initial petition or at the time of renewal, to make technical amendments and/or clarifications to the charter, which technical amendments may be made in the charter itself or set forth in an MOU or other agreement. Should the charter school and CBE/SJCOE enter into an MOU or other agreement, the MOU/agreement's provisions shall necessarily prevail over any conflicting provisions of the charter.

The charter school's failure to fulfill the conditions of authorization is grounds for withdrawal or termination of the approval, implementation of alternative findings of denial, and/or revocation of the charter.

If the CBE denies the charter or renewal, the petitioner may appeal to the SBE except in the case of a countywide charter.

#### **H. Monitoring and Oversight**

CBE-authorized charter schools shall comply with all requirements of law. This policy is not intended to describe each provision of law that applies to charter schools. Charter schools and charter school operators are cautioned not to rely on the information in this policy as a summary of all laws and legal standards to which they are subject, and charter schools must understand that they are subject to all applicable laws, not only the terms of the Charter Schools Act of 1992 and their charters.

1. SJCOE may charge up to the maximum amount permitted by law for the costs of supervisory oversight of each charter school under its oversight. The SJCOE's oversight fee shall be deducted from the monthly apportionment and in lieu of property tax transfer process, and transferred to the County Superintendent of Schools.
2. In the case of a countywide charter, the CBE may, at the expense of the charter school, engage a third-party, selected by the CBE, to oversee, monitor, and report to the CBE and County Superintendent on the operations of the charter school pursuant to Education Code 47605.6(c).
3. The CBE expects any charter school it authorizes to provide a sound educational program that promotes student learning and to carry out its operations in a manner that complies with law, the terms of its charter, and any memorandum of understanding or other agreement(s) between the CBE/SJCOE and the charter school.
4. In performing its oversight responsibilities, the fundamental interest of the CBE is, on an ongoing basis, to be reasonably assured all charter schools under its authority are:
  - Providing a sound education to all of its students,

- Implementing their charters as written,
- Complying with all applicable laws, and
- Engaging in sound fiscal management and following generally accepted accounting principles.

The CBE delegates the administrative function of monitoring and oversight of its charter schools to the County Superintendent or designee. To ensure that charter schools are performing these functions, the SJCOE will be responsible for conducting the oversight activities of the CBE. The SJCOE will:

- a. Serve as the principal point of contact between the CBE and its charter schools and designate at least one staff member to serve as a contact person for each charter school.
  - b. Visit each charter school at least once per fiscal year.
  - c. Monitor ongoing charter school compliance with reporting requirements.
  - d. Monitor the fiscal condition of each charter school under the CBE's authority.
  - e. Provide timely notification to the CDE of changes in a charter school's status as required by Education Code Section 47604.32(a)(5).
  - f. May receive and determine how to respond to complaints regarding the charter school consistent with its oversight role.
5. Inspection or observation of any part of a CBE-authorized charter school may be conducted by the SJCOE at any time, with or without prior notice. The SJCOE may inspect and receive copies of all records relating to the operation of the charter school, including financial, personnel, attendance accounting, and pupil records, and records of any corporations or entities that operate or govern the charter school. Charter schools are subject to the California Public Records Act (CPRA); however, the SJCOE's right to inspect and receive records is not based on the CPRA, but rather on the SJCOE's oversight role. A CBE-authorized charter school shall promptly comply with all reasonable inquiries from the SJCOE in accordance with Education Code 47604.3.
6. CBE-authorized charter schools shall, on or before June 1 of each year, submit to the SJCOE an approved school calendar for the following year establishing that the charter school is complying with the required minimum number of school days and an approved bell schedule establishing that the charter school is complying with the minimum number of instructional minutes. At least one month prior to the commencement of each new semester, the charter school shall provide the SJCOE with a list of classes evidencing the class offerings for the semester.
7. The Superintendent or designee shall visit each charter school at least annually. SJCOE representatives may attend meetings of a charter school board, and may meet with charter school representatives periodically.

8. In the case of any charter school under the CBE's oversight that chooses to be operated by or as a nonprofit public benefit corporation, the CBE reserves its right pursuant to Education Code Section 47604(b) to have a representative serve as a voting member of the corporation's board of directors and may exercise such right at any time. "It will be within the CBE or designee's sole discretion whether or not to appoint such a representative at any time. Any CBE representative shall serve solely at the CBE or designee's discretion and shall have no limit on the number of consecutive or total terms s/he may serve. Any CBE representative shall be excepted from any provisions of bylaws or other governing documents for appointment, removal, term limits, any/or any additional requirements or restrictions on the appointment and services on the board applicable to other directors.
9. A charter school that receives approval of its petition from the CBE on appeal shall be subject to the same requirements concerning geographic location and grade levels to be served to which it would otherwise be subject if it received approval from the entity to which it originally submitted its petition.
10. Charter schools shall at all times comply with the terms and requirements of the free schools guarantee of the California Constitution, Article IX, Section 5, Education Code Section 49010-49013 and California Code of Regulations, Title 5, Section 350, in all aspects of the charter school program. Under no circumstances shall any student be adversely impacted, in any manner, in admission, registration, offers of course credit or educational activities for financial reasons, including without limitation a failure to make a financial contribution of any kind or for failure to make donations of goods or services, including in-kind or volunteer services, to the charter school, nor shall any course credit or privileges related to charter school educational activities be provided in exchange for money or donations of goods or services, including in-kind and/or volunteer services. Charter schools shall not charge students fees, deposits, or other charges for participation in educational activities offered by the charter school, including curricular and extracurricular activities. Charter schools shall not require parents to volunteer or donate to the school. Charter schools shall maintain policies with regard to student fees and provide a complaint process under the uniform complaint procedures.
11. Charter schools shall not deny a pupil enrollment or readmission solely on the basis that the student has had contact with the juvenile justice system. (Education Code 48645.5)
12. The CBE sets forth as a standing request for information from all charter schools it has authorized a requirement that if a pupil is expelled or leaves the charter school without graduating or completing the school year for any reason, the charter school shall provide notice to the County Superintendent or designee, concurrently with the notice to the student's school district of last known address, as required by Education Code 47605(e)(3)/47605.6(e)(3). (Education Code 47604.3)

### Fiscal Accountability

The CBE and the SJCOE will require evidence that a CBE-authorized charter school demonstrates effective fiscal accountability. In addition to the reports required by law:

1. A charter school must demonstrate that it has established and maintains positive fund and cash balances to ensure solvency. Failure to remain solvent is grounds for revocation of the charter.
2. The SJCOE will not provide funds to meet on-going fiscal operations or obligations to an independently funded charter school authorized by the CBE.
3. A charter school authorized by the CBE must provide written notification prior to accepting public, private, or commercial loans or other debt instruments. Loans must be consistent with sound fiscal practices and repayment schedules included in budget proposals and other appropriate financial reports. Funding shortfalls will be the responsibility of the Charter School; however, any debt issuance by or on behalf of the charter school must be reported to the SJCOE, including financial details and conditions of such debt. This information must be reported to SJCOE as part of SJCOE's oversight and monitoring of the charter school's fiscal condition, but SJCOE will not advise a charter school on the issuance of debt and in no way shall the reporting of this information to SJCOE be interpreted as SJCOE opining on or approving the issuance of debt by or on behalf of a charter school. The SJCOE shall have no responsibility or liability for any debt issuance by or on behalf of a charter school under its oversight. All loans received by the charter school will be the sole responsibility of the charter school and the SJCOE shall have no obligation for repayment.

#### Technical Assistance/Intervention

Whenever one or more numerically significant student subgroups at a charter school within San Joaquin County meets SBE-established performance criteria used in identifying charter schools in need of technical assistance in two or more years, the charter school shall receive technical assistance. The technical assistance shall be from the County Superintendent for charter schools not authorized by the CBE and from a COE identified as a geographic lead agency or its designee for CBE-authorized charters. Such technical assistance shall be focused on building the charter school's capacity to develop and implement actions and services responsive to student and community needs, including, but not limited to, any of the following: (Education Code 47607.3)

1. Assisting the charter school to identify its strengths and weaknesses in regard to the state priorities applicable to the charter school pursuant to Education Code 47605. This shall include working collaboratively with the charter school to review performance data on the state and local indicators included in the California School Dashboard and other relevant local data and to identify effective, evidence-based programs or practices that address any areas of weakness.
2. Working collaboratively with the charter school to secure assistance from an academic, programmatic, or fiscal expert or team of experts to identify and implement effective programs and practices that are designed to improve performance in any areas of weakness identified by the charter school. Another service provider, including, but not limited to, a school district, COE, or charter school, may be solicited to act as a partner to the charter school in need of technical assistance.

3. Obtaining from the charter school timely documentation demonstrating that it has completed the activities described in items 1 and 2 or substantially similar activities, or has selected another service provider to work with the charter school to complete the activities described in items 1 and 2 or substantially similar activities, and ongoing communication with the CBE to assess the charter school's progress in improving student outcomes.

If, in three out of four consecutive school years, a charter school fails to improve outcomes for three or more student subgroups identified in Education Code 52052, or for all of the student subgroups if the school has fewer than three, in regard to one or more state or school priorities identified in the charter, the County Superintendent may request assistance from the California Collaborative for Educational Excellence. (Education Code 47607.3, 52072)

### Waivers

If the charter school wishes to request a general waiver of any applicable state law or regulation applicable to it, it shall request that the CBE submit a general waiver request to the SBE on its behalf. If the CBE approves such a request, the CBE shall ask the County Superintendent or designee to submit the waiver request to SBE on behalf of the charter school.

### **I. Revocation**

CBE expects any charter school it authorizes to provide a sound educational program that promotes student learning and to carry out its operations in a manner that complies with law and the terms of its charter. CBE may revoke a charter before the date it is due to expire for any of the causes authorized by law by following the procedures and standards set forth in Education Code 47607 and its implementing regulations.

If a revocation decision by a school district is appealed to the CBE and the CBE does not issue a decision within 90 days of receipt or if the CBE upholds the district's revocation decision, the charter school may appeal the decision to the SBE. If the CBE is the chartering authority and it revokes a charter, the charter school may appeal the revocation to the SBE within 30 days following the CBE's revocation decision.

If the revocation decision is reversed on appeal, the agency that granted the charter shall continue to be the chartering authority.

CBE shall also consider revocation of a charter whenever the California Collaborative for Educational Excellence (CCEE), after providing advice and assistance to the charter school pursuant to Education Code 47607.3, submits to CBE either of the following findings:

1. That the charter school has failed or is unable to implement the recommendations of the CCEE; or
2. That the inadequate performance of the charter school, as based on an evaluation rubric adopted by the SBE, is so persistent or acute as to require revocation of the charter.

Should a school's charter be revoked, or should the charter school cease operating for any reason, the SJCOE shall notify the California Department of Education within 10 calendar days of the official action closing the charter school and the charter school must implement the school closure procedures specified in the charter in accordance with Education Code 47605, 47605.6, and 5 CCR 11962.

Legal Reference:

EDUCATION CODE

33050 Waivers

41365 Charter school revolving loan fund

42100 Annual statement of receipts and expenditures

42238.02 *et seq.* Funding

44237 Criminal record summary

44830.1 Certificated employees, conviction of a violent or serious felony

45122.1 Classified employees, conviction of a violent or serious felony

47600-47663 Charter Schools Act of 1992

48000 Minimum age of admission (kindergarten)

48010 Minimum age of admission (first grade)

48011 Minimum age of admission from kindergarten or other school

51745-51749.6 Independent Study

52052 Public school performance accountability program

56026 Special education

56145-56146 Special education services in charter schools

60600-60649 Leroy Greene California Assessment of Academic Achievement Act

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

54950-54963 The Ralph M. Brown Act

PENAL CODE

667.5 Definition of violent felony

1192.7 Definition of serious felony

CODE OF REGULATIONS, TITLE 5

11700.1-11705 Independent Study

11960-11969 Charter Schools

ATTORNEY GENERAL OPINIONS

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

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

Management Resources:

CSBA PUBLICATIONS – Charter Schools: A Manual for Governance Teams, 2002

CDE PUBLICATIONS: Special Education and Charter Schools: Questions and Answers, September 10, 2002

USDOE DRAFT NONREGULATORY GUIDANCE: Charter School Program, August 31, 2003; The Impact of the New Title I Requirements on Charter Schools, March 4, 2003

**WEB SITES**

CSBA: <http://www.csba.org>

CDE: <https://www.cde.ca.gov/sp/ch/>

Education Commission of the States: <http://www.ecs.org>

NSBA: <http://www.nsba.org>

U.S. Department of Education: <http://www.ed.gov>, including  
<https://www2.ed.gov/about/offices/list/oii/csp/index.html>