

2000 ADMINISTRATION**2300 CHARTER SCHOOLS****2301 APPEALS OF DISTRICT DECISIONS REGARDING CHARTER SCHOOLS**

The Marin County Board of Education (MCBE) shall consider any appeal of a decision made by the governing board of a school district within the MCBE '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)

Individuals submitting a petition on appeal should receive a copy of this MCBE Policy and MCBE Policy 2302, as well as information regarding the general content of the Memorandum of Understanding (MOU), which is typically considered at the same time as the charter proposal.

The MCBE shall request that the Marin County Superintendent of Schools or designee communicate with charter petitioners and perform a review of the petition on behalf of the MCBE and report any findings to the MCBE at a public meeting.

All meetings of the MCBE 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 MCBE within 30 calendar days of the denial. Any petition submitted to the MCBE after this time frame shall be considered denied with no further options for administrative appeal. (Education Code 47605)

A petition to the MCBE 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.
5. A description of any changes to the petition necessary to reflect the MCBE as the chartering entity.

If the petition submitted on appeal contains new or different material terms, the MCBE 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 MCBE. (Education Code 47605)

Within 60 days of the receipt of the petition, the MCBE 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 county office of education, along with a signed certification that the petitioner deems the petition to be complete (Education Code 47605).

In considering the charter petition, the MCBE is not limited to a review based solely on the reasons for denial stated by school district. The MCBE shall review and approve or deny a petition based on the criteria specified in Education Code 47605 (Education Code 47605; 5 CCR 11967), and MCBE Policy 2302.

In conducting the review of the charter petition on appeal, the Marin County Superintendent of Schools shall utilize charter petition evaluation resources, including but not limited to charter petition evaluation resources developed by the Fiscal Crisis and Management Assistance Team (FCMAT).

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

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

Upon approval, the Charter Schools Section of the California Department of Education, and other agencies as required by law, will be notified that the charter has been approved.

A charter school authorized by the MCBE 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)

A charter school authorized by the MCBE on an appeal shall operate under the provisions of its charter, relevant policies and regulations adopted by the MCBE, any memorandum of understanding (MOU) between the MCBE and the charter school, and applicable state and federal laws. The MCBE may approve one or more MOUs with the charter school to clarify the 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 MCBE considers necessary for the sound operation of a charter school. Any such MOU shall be annually reviewed by the MCBE and the charter school governing body and be amended as necessary.

Any charter petition appealed to and denied by the MCBE may be submitted to the State Board of Education (SBE) within 30 days of the denial. Upon request by the petitioner, the MCBE shall prepare a documentary record, if any, 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 MCBE may submit a written opposition and supporting documentation or evidence that was considered by the

MCBE in reviewing and denying the petition. (Education Code 47605)

Denial of Petition, or Renewal, on Appeal– Findings

It is the intent of the Board that charter schools with sound educational and financial practices should be encouraged. The Board shall deny a petition only if the MCBE makes written factual findings, specific to the particular petition, setting forth specific facts to support one, or more, of the following findings:

1. The charter school presents an unsound educational program that presents a likelihood of physical, educational, or psychological harm to, or which is not likely to provide an educational benefit for the pupils who attend the school.
2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
3. The petition does not contain the number of signatures required by the Code (Section 47605(a) of the Code).
4. The petition does not contain an affirmation of each of the conditions set forth in Section 47605(d) of the Code.
5. The petition does not contain reasonably comprehensive descriptions of all the information required under this policy including but not limited to section (1) of the Components of the Charter Petition of MCBE policy 2302 (Section 47605(c) of the Education Code).
6. The petition does not contain a declaration of whether or not the charter school shall be deemed the exclusive public employer of the employees of the charter school for purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.
7. The charter school is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate. Analysis of this finding shall include consideration of the fiscal impact of the proposed charter school. A written factual finding shall detail specific facts and circumstances that analyze and consider the factors enumerated in Education Code Section 47605(c)(7).
8. The school district denying the petition on appeal has a qualified interim certification and is not positioned to absorb the fiscal impact of the proposed charter school as defined under Education Code Section 47605(c)(8) or the denying school district has a negative interim certification pursuant to Education Code Section 42131, or is under state receivership. Charter schools proposed in a school district satisfying one of these conditions shall be subject to a rebuttable presumption of denial. (Education Code Section 47605(c)(8)).

Monitoring and Supervision

Monitoring and supervision of an approved charter school on appeal shall follow the provisions outlined in Marin County Board of Education Policy 2302.

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 MCBE within 30 days 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 MCBE shall consider the following when determining whether 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)
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 County Board 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)

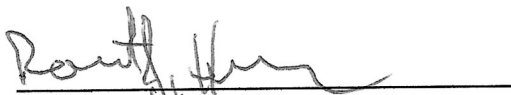
The County Board may reverse the district's decision if it determines the district's findings are not supported by substantial evidence. If the district's decision is reversed on appeal, the district shall continue to be regarded as the chartering authority. The school district may appeal the reversal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

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

Miscellaneous

1. Should a charter school elect to operate as, or be operated by, a nonprofit public benefit corporation, the Board of Education may appoint a representative to serve on the board of directors of the corporation, and the corporation shall confer upon the board's appointee all rights and responsibilities exercised by any other director of the corporation.
2. A charter school shall promptly respond to all reasonable inquiries from the Marin County Office of Education.
3. The Marin County Superintendent of Schools is charged with developing such administrative regulations or petition review guidelines as may be necessary or prudent to implement this policy.

Approved as to form:


 Robert J. Henry, MCOE Legal Counsel

Approved by the Marin County Board of Education: June 10, 2003

Approved by the Marin County Board of Education: November 18, 2008

Approved by the Marin County Board of Education: December 11, 2012

Approved by the Marin County Board of Education: November 18, 2014

Approved by the Marin County Board of Education: January 10, 2023

Federal

20 USC 7223-7225
34 CFR 200.1-200.79

Description

Charter schools
Accountability

Management Resources

Attorney General Opinion
Attorney General Opinion

Description

80 Ops.Cal.Atty.Gen. 52 (1997)
78 Ops.Cal.Atty.Gen. 297 (1995)

State

5 CCR 11960-11969.10
Ed. Code 220
Ed. Code 47600-47616.7
Ed. Code 60600-60648.5
Gov. Code 3540-3549.3
Gov. Code 54950-54963

Description

Charter schools
Prohibition of discrimination
Charter Schools Act of 1992
Assessment of academic achievement
Educational Employment Relations Act
The Ralph M. Brown Act