

CSBA Sample

Board Policy

Charter School Revocation

BP 0420.43

Philosophy, Goals, Objectives and Comprehensive Plans

Note: The following policy is optional. Education Code 47607 and 5 CCR 11968.5.2-11968.5.3 authorize the Governing Board to revoke the charter of a charter school in its jurisdiction when certain substantiated findings are made. In Today's Fresh Start, Inc. v. Los Angeles County Office of Education, the California Supreme Court confirmed that the revocation process prescribed in the Education Code provides a charter school with sufficient due process and that a charter school is not entitled to any additional evidentiary hearing by a neutral third party.

Note: In addition, Education Code 47604.5 authorizes the State Board of Education (SBE), upon the recommendation of the Superintendent of Public Instruction (SPI), to revoke the charter of any charter school, whether or not the SBE is the chartering authority, if it makes certain findings relating to gross financial mismanagement, illegal or improper use of funds, substantial and sustained departure from measurably successful practices that may jeopardize the educational development of students, or, as amended by AB 97 (Ch. 47, Statutes of 2013), failure to improve student outcomes across multiple state and school priorities identified in the charter pursuant to Education Code 47605 or 47605.6. SBE revocation procedures are specified in 5 CCR 11968.5-11968.5.1.

The Governing Board 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.

(cf. 0420.4 - Charter School Authorization)

(cf. 0420.41 - Charter School Oversight)

(cf. 0420.42 - Charter School Renewal)

(cf. 0500 - Accountability)

The Board may revoke a charter before the date it is due to expire whenever the Board makes a written factual finding, supported by substantial evidence, that the charter school has done any of the following: (Education Code 47607)

1. Committed a material violation of any of the conditions, standards, or procedures set forth in the charter
2. Failed to meet or pursue any of the student outcomes identified in the charter
3. Failed to meet generally accepted accounting principles or engaged in fiscal

mismanagement

4. Violated any provision of law

Note: Education Code 47607.3, as added by AB 97 (Ch. 47, Statutes of 2013), provides additional criteria for considering revocation of a charter, as described below. Pursuant to Education Code 47607.3, if, in three out of four consecutive years, a charter school fails to improve outcomes for three or more numerically significant student subgroups served by the school, 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, then the district (1) must provide technical assistance to the school using an evaluation rubric adopted by the SBE pursuant to Education Code 52064.5, or (2) may request that the SPI assign the California Collaborative for Educational Excellence (CCEE) to provide advice and assistance to the school; see BP 0420.41 - Charter School Oversight. If the CCEE informs the Board that the school has failed or is unable to implement the CCEE's recommendations or continues to have persistent or acute inadequate performance, then the Board must consider revocation of the charter.

The Board 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 the Board either of the following findings: (Education Code 47607.3)

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

In determining whether to revoke a charter, the Board shall consider increases in student academic achievement for all "numerically significant" groups of students served by the charter school, as defined in Education Code 52052, as the most important factor. (Education Code 47607, 47607.3)

At least 72 hours prior to any Board meeting at which the Board will consider issuing a Notice of Violation, the Board shall provide the charter school with notice and all relevant documents related to the proposed action. (5 CCR 11968.5.2)

(cf. 9320 - Meetings and Notices)

If the Board takes action to issue a Notice of Violation, it shall deliver the Notice of Violation to the charter school's governing body. The Notice of Violation shall identify: (Education Code 47607; 5 CCR 11965, 11968.5.2)

1. The charter school's alleged violation(s).

2. All evidence relied upon by the Board in determining that the charter school committed the alleged violation(s), including the date and duration of the alleged violation(s). The Notice shall show that each alleged violation is both material and uncured and that it occurred within a reasonable period of time before the Notice of Violation is issued.

3. The period of time that the Board has concluded is a reasonable period of time for the charter school to remedy or refute the identified violation(s). In identifying this time period, the Board shall consider the amount of time reasonably necessary to remedy each identified violation, which may include the charter school's estimation as to the anticipated remediation time.

By the end of the remedy period identified in the Notice of Violation, the charter school's governing body may submit to the Board a detailed written response and supporting evidence addressing each identified violation, including the refutation, remedial action taken, or proposed remedial action. (5 CCR 11968.5.2)

Within 60 calendar days of the conclusion of the remedy period, the Board shall evaluate any response and supporting evidence provided by the charter school's governing body and shall take one of the following actions: (5 CCR 11968.5.2)

1. Discontinue revocation of the charter and provide timely written notice of such action to the charter school's governing body

Note: Pursuant to Education Code 47607 and 5 CCR 11968.5.2, a decision to issue a Notice of Intent to Revoke as provided in item #2 below must be supported by substantial evidence that the charter school has failed to remedy or refute a violation. "Substantial evidence" is not defined in law or state regulations. The district should consult legal counsel as necessary.

2. If there is substantial evidence that the charter school has failed to remedy a violation identified in the Notice of Violation or to refute a violation to the Board's satisfaction, continue revocation of the charter by issuing a Notice of Intent to Revoke to the charter school's governing body

If the Board issues a Notice of Intent to Revoke, it shall hold a public hearing concerning the revocation on the date specified in the notice, which shall be no later than 30 days after providing the notice. Within 30 calendar days after the public hearing, or within 60 calendar days if extended by written mutual agreement of the Board and the charter school, the Board shall issue a final decision to revoke or decline to revoke the charter. (Education Code 47607; 5 CCR 11968.5.2)

If the Board fails to meet the timelines specified above for issuing a Notice of Intent to Revoke or a final decision, the revocation process shall be deemed terminated. (5 CCR 11968.5.2)

Within 10 calendar days of the Board's final decision, the Superintendent or designee shall provide a copy of the final decision to the California Department of Education (CDE) and the County Board of Education. (Education Code 47604.32; 5 CCR 11968.5.2)

Note: Pursuant to Education Code 47604.32, if a charter school ceases operation for any reason, including revocation, the district must notify the California Department of Education; see BP 0420.41 - Charter School Oversight. In addition, the district and/or charter school must implement the school closure procedures specified in the charter in accordance with Education Code 47605 and 5 CCR 11962; see AR 0420.4 - Charter School Authorization.

Severe and Imminent Threat

The procedures specified above shall not be applicable when the Board determines, in writing, that any violation under Education Code 47607 constitutes a severe and imminent threat to the health or safety of students. In such circumstances, the Board may immediately revoke the school's charter by approving and delivering a Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety to the charter school's governing body, the County Board, and the CDE. (Education Code 47607; 5 CCR 11968.5.3)

Appeals

Note: Pursuant to Education Code 47607 and 5 CCR 11968.5.3-11968.5.5, within 30 days of the Board's final decision to revoke a charter, the charter school may appeal the revocation, including a revocation based on a severe and imminent threat, to the County Board of Education. The County Board may reverse the revocation if it determines that the district's findings are not supported by substantial evidence, in which case the district may appeal the reversal to the SBE. If the County Board upholds the revocation or does not issue a decision within 90 days of its receipt of the appeal, the charter school may appeal to the SBE. Pursuant to Education Code 47607, if either the County Board or the SBE reverses the revocation, the district remains the chartering authority.

Note: Education Code 47607 further provides that, while an appeal is pending, a charter school whose revocation is based on a material violation of any of the conditions, standards, or procedures set forth in its charter or on a failure to meet or pursue any of the student outcomes identified in the charter will continue to qualify as a charter school for funding and all other purposes of the Charter Schools Act and may continue to hold all existing grants, resources, and facilities in order to ensure that the education of students enrolled in the school is not disrupted.

Note: As added by AB 97 (Ch. 47, Statutes of 2013), Education Code 47607.3 provides that a charter school may not appeal a revocation made pursuant to Education Code 47607.3 based on findings of the CCEE that the school failed or is unable to implement the CCEE's recommendations or that revocation is warranted based on persistent or acute inadequate performance.

If the Board revokes a charter, the charter school may, within 30 days of the Board's final decision, appeal the revocation to the County Board. Either the charter school or the district may subsequently appeal the County Board's decision to the SBE. However, a revocation based upon the findings of the CCEE pursuant to Education Code 47607.3 may not be appealed.

(Education Code 47607, 47607.3; 5 CCR 11968.5.3-11968.5.5)

Legal Reference:

EDUCATION CODE

47600-47616.7 Charter Schools Act of 1992, especially:

47607 Charter renewals and revocations

52052 Numerically significant student subgroups; definition

CODE OF REGULATIONS, TITLE 5

11960-11969 Charter schools, especially:

11968.5-11968.5.5 Charter revocations

COURT DECISIONS

Today's Fresh Start, Inc. v. Los Angeles County Office of Education, (2013) 57 Cal.4th 197

Management Resources:

CSBA PUBLICATIONS

The Role of the Charter School Authorizer, Online Course

Charter Schools: A Guide for Governance Teams, rev. 2016

WEB SITES

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

California Charter Schools Association: <http://www.calcharters.org>

California Department of Education, Charter Schools: <http://www.cde.ca.gov/sp/cs>

National Association of Charter School Authorizers: <http://www.qualitycharters.org>

U.S. Department of Education: <http://www.ed.gov>

(3/12 11/12) 12/13