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## Avoiding the Breakup: Preparing for Renewal and Avoiding Revocation

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## Objectives

- Gain an understanding of the legal standards for renewal and revocation
- Review of the timing and process for submission of the renewal charter
- Practical tips to achieve a successful renewal
- Practical tips to avoid revocation



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## Renewal



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## Legal Authority for Renewal

- Education Code § 47607
  - ❖ May grant one or more renewals
  - ❖ Renewals governed by “standards and criteria” of Section 47605
  - ❖ Each renewal must be five years
  - ❖ Renewals shall include a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed.

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## AB 1137 – Ed. Code 47607

Once a charter school has been in operation for four years, a charter school shall meet at least one of the following criteria prior to receiving renewal:

- (1) Attained its Academic Performance Index (API) growth target in the prior year or in two of the last three years, or in the aggregate for the prior three years.
- (2) Ranked in deciles 4 to 10, inclusive, on the API in the prior year or in two of the last three years.
- (3) Ranked in deciles 4 to 10, inclusive, on the API for a demographically comparable school in the prior year or in two of the last three years.

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## AB 1137 (cont.)

(4) (A) The entity that granted the charter determines that the academic performance of the charter school is at least equal to the academic performance of the public schools that the charter school pupils would otherwise have been required to attend, as well as the academic performance of the schools in the school district in which the charter school is located, taking into account the composition of the pupil population that is served at the charter school.

(B) The determination made pursuant to this paragraph shall be based upon all of the following:

- (i) Documented and clear and convincing data.
- (ii) Pupil achievement data from assessments, including, but not limited to, the Standardized Testing and Reporting Program established by Article 4 (commencing with Section 60640) for demographically similar pupil populations in the comparison schools.
- (iii) Information submitted by the charter school.
  - must submit to SPI for recommendation and wait 30 days.

(5) Has qualified as an ASAM School.

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## Recent SBE Regulations

- New SBE Regulations included in the materials
- Clarify the timelines surrounding consideration of renewals and appeals of non-renewals
- Default approval if the school district fails to act on renewal within 60 days of submission
- Clarify that no signatures are required for renewal
- Requires that the following be considered: the past performance of the school's academics, finances, and operation in evaluating the likelihood of future success, along with future plans for improvement if any.
- Affirm standard for non-renewal to include standards and criteria for denial of original charter, plus the requirements for renewal under Education 47607
- Allow for renewal appeal to State Board of Education in the event County fails to act in 60 days
- Denies appeal of a countywide charter non-renewal



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## Timing for Submission and Renewal

**START EARLY!!**

Submitting To:	Submission Date	Action	Possible Extension
District	A year before lottery for students enrolling in the first year of new term. (*MYM suggestion)	60 days from submission	30 days
County Board	30 days from denial by District	60 days from submission	30 days
State Board of Education	180 days from denial or 60 days from no action taken by County	90 days from submission	30 days



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## Important Note

\* The charter submitted at the district level will be the same charter submitted on appeal to the county board and state board (no substantive changes on appeal)



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## Non-Renewal

- Renewals are judged by the same standards and criteria as the original charter
- District cannot deny a renewal request unless the district board makes written factual findings specific to the petition:
  - Charter school presents an unsound educational program
  - Petitioners are demonstrably unlikely to successfully implement the program
  - Signatures (not required)
  - Affirmations
  - Petition does not contain a reasonably comprehensive description of the 16 elements
- AB 1137 criteria

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## Elements of a Charter

The petition must contain reasonable comprehensive descriptions of the following 16 elements:

1. Educational Program	10. Suspension/Expulsion process
2. Measurable Pupil Outcomes	11. Employee Retirement Systems
3. Outcome Measurement	12. Student Attendance Alternatives
4. Governance Structure	13. Return Rights of District Employees
5. Employee Qualifications	14. Dispute Resolution
6. Health and Safety Policies	15. Collective Bargaining (EERA)
7. Racial and Ethnic Balance	16. Procedures for Closure
8. Admission Requirements	
9. Independent Financial Audits	

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## Appeal of Non-Renewal

- Non-renewal may be “appealed” in the same manner as a charter denial in the first instance
  - To the county board of education and then to the State Board of Education
- County and SBE consider appeal on same standards and criteria as school district consideration (not a review of school district or COE decision)

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## Meet with the Authorizer Define the Process

- Does the Authorizer expect major changes to the charter at renewal?
- Does the Authorizer understand what changes you want to make?
- Does the Authorizer understand you have to update the charter to reflect new laws?
- Are there any specific changes the Authorizer wants to see?
- Does the Authorizer want to see all changes to the charter reflected in track changes?
- What financial documents does the Authorizer want to see with the renewal charter, if any?
- Does the MOU need updating and renewal as well?
- Are we expecting any opposition?
- Are there any new policies/regulations of the Authorizer to consider?
- Timing? Consider holidays etc.

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## Do Your Homework

- Check the charter for anything you said that you would do and confirm that it has been done (examples policy development, parent surveys, performance audits). If not, get it done prior to submission
- Strategic Planning
- Check the charter for any major changes in practice – prepare to update the charter to reflect these changes
- Monitor and compile your achievements on an ongoing basis.
- Consider how strong (or weak) your case is for renewal. Hire consultants as needed: statisticians, PR specialists, lobbyists, financial, legal
- Watch for Authorizer action on other renewals and learn from process
- Maintain the strongest possible relationship with the Authorizer
- Put your best person as lead on renewal
- Prepare your stakeholders for renewal early

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## Make Your Best Play

(Drafting Tips for a Strong Renewal Charter)

- Start with a Brag Section – VERY IMPORTANT
  - Define and tell your own story: this is what we said we would do, this is what we did, this is what we've learned, and goals for the next 5 years
  - Show multiple pieces of evidence of success, such as standardized tests, authentic assessments, parent engagement, parent surveys, teacher retention, student attendance, graduations rates, growth rates, waiting lists
- Revise the charter to reflect major changes in practice
- Revise the charter to reflect new laws
- Revise the charter to reflect new authorizer policy or preference (if not otherwise illegal or impossible or undesirable (and you are willing to object))

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## Make Your Best Play

(Drafting Tips for a Strong Renewal Charter Contd.)

- Review pupil outcomes to determine whether they need to be adjusted (preferably upward)
- If you have a "skinny charter" and you think you will be appealing to county or state, the charter will have to be "fleshed out" to meet more contemporary levels of detail.
- Attention to detail (consistency is key)
- Help the reader (use headers – often)
- Support conclusions with empirical evidence
- Avoid the patchwork quilt effect (don't rely on other charters without fully incorporating)
- Appearance matters (color graphics, pictures of those kiddos, presentation, font, consistency)
- Keep the reader interested

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## Make Your Best Play

(Drafting Tips for a Strong Renewal Charter Contd.)

- Don't lose control of the document (version control, page numbers)
- Include legal citations to show reader the section of law to which you are responding
- Include table of contents to allow reader to find legally required elements, page number their rubric if they provide one
- Draft with an eye toward appeal

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## Quarter Backing Tips

(How to Aggressively Manage the Renewal Process)

- Meet with granting agency ahead of time
- Invite the granting agency to school events, or a special event to highlight schools success in preparation for renewal (or have a student invite)
- Lobby your board members
- Demonstrate strong public support (crowd the board room with representative supporters) – feed your parents to get them there.
- Create a strong visual effect (T-shirts, ribbons)
- Script and control communications with granting agency administration and board as much as possible

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## Quarter Backing Tips

(How to Aggressively Manage the Renewal Process Contd.)

- Act as a unit – assign a strong leader to lead the renewal discussions
- Represent the community of your district during public meetings
- Be sensitive and understand your impact upon the district
- Don't assume the granting agency knows the law OR your charter (use every moment to educate)
- Don't get lulled into a false sense of security – seek to confirm in writing

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## Avoiding Revocation

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## Revocation

Education Code Section 47607

- Statutory basis for revocation:
  - Committed a material violation of any of the conditions, standards, or procedures set forth in the charter
  - Failed to meet or pursue any of the pupil outcomes identified in the charter
  - Failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement
  - Violated any provision of law

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## Notice of Violation and Opportunity to Remedy

- Prior to revocation, the granting agency board must:
  - Issue a Notice of Violation that includes specific, alleged violations; all evidence showing violations are material and uncured, and occurred within a reasonable period of time before the Notice is issued; and “reasonable period of time” for the charter school to remedy or refute the violations
  - At least 72 hours prior to any board meeting in which an authorizer will consider issuing a Notice of Violation, the authorizer shall provide the Charter School with notice and all relevant documents related to the proposed action
  - Charter School Board may respond in writing to each alleged violation (refutation, remedial action taken, proposed remedial action) and provide evidence
- Unless the district board determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of pupils (results in immediate revocation and appeal procedures).

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## Notice of Intent to Revoke and Public Hearing

- After conclusion of the reasonable opportunity to remedy, the granting agency board shall evaluate the charter school’s response and any supporting evidence, and:
  - If substantial evidence that the charter school failed to refute or remedy a violation → continue revocation by issuing Notice of Intent to Revoke; OR
  - Discontinue revocation and provide timely written notice
- Notice of Intent to Revoke must include all evidence relied upon by authorizer in determining a violation occurred; and the date and time of the public hearing concerning revocation, which shall be held no more than 30 calendar days after the Notice is issued.
- If the authorizer does not act within 60 days of conclusion of remedy period, the revocation process is terminated and the Notice of Violation is void.

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## Final Decision

- No more than 30 calendar days after public hearing (or 60 calendar days by written mutual agreement with the charter school), the authorizer shall issue a Final Decision.

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## Appeal to County

- Yes, within 30 days of receipt of a Final Decision, must deliver a written Notice of Appeal to county board of education
- Notice of Appeal includes: copy of the Notice of Violation, Notice of Intent to Revoke and Final Decision; evidence of final vote; evidence relied on by authorizer to determine substantial evidence for failure to remedy violation(s) in Notice of Violation; written statement from charter school, minutes of any public meeting where the Authorizer considers or makes its decision to revoke; identifies any procedural omissions or errors the charter school alleges to have occurred. (Unless chartering authority did not provide)
- County must consider whether district allowed for all process outlined in regulations

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## Appeal to County (cont'd)

- If the County does not issue a written decision within 90 days, the authorizer's decision is upheld
- County may reverse revocation if it finds district decision is not supported by substantial evidence
  - Whether the district provide all procedural steps in regulations
  - Whether the charter school's response, if any, complied with procedures
  - Whether an alleged procedural deficiency negatively impacted charter school's ability to refute or remedy an alleged violation

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## Appeal to SBE

- Either charter school or district can appeal to SBE with a Notice of Appeal within 30 days of written decision by County, 90 days after no decision by the County, or on a County's Final Decision
- Appellant must provide documentation similar to appeal to County, plus a written argument in the form of a brief or letter
- Documents also must go to other party within 5 days of delivery to SBE.
- Respondent may submit a written argument (brief or letter) of opposition within 30 days of delivery of appellant's written argument
- Appellant may provide written response to Respondent's argument within 15 calendar days
- Documents must be page numbered

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## Appeal to SBE (con't)

- State Board may reverse if it determines the findings are not supported by substantial evidence
- If the appeal is granted by county board or State Board, the charter granting agency remains the original authorizer
- If SBE does not take action within 120 days of Appellant's argument; 150 days of Respondent's opposition; or 165 days after Appellant's reply, whichever is later, the appellant is deemed to have exhausted its administrative remedies

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## During Appeal

- Continue to operate and receive funding if revoked for violation of charter or failure to meet or pursue any pupil outcomes
- Charter school potentially denied funding, facilities, grants etc. if revoked for fiscal mismanagement or violations of law
  - All returned/reinstated if revocation overturned

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## State Board of Education Revocation

- Upon recommendation of the Superintendent of Public Instruction, the SBE may take appropriate action including revocation when the SBE finds any of the following:
  - Gross financial mismanagement that jeopardizes the financial stability of the charter school
  - Illegal or substantially improper use of charter school funds for the personal benefit of any officer, director, or fiduciary of the charter school
  - Substantial and sustained departure from measurably successful practices such that continued departure would jeopardize the educational development of the school's pupils
    - In operation 5 years or more
    - Not ASAM
    - Statewide rank of 1 on API base for last 2 years; and
    - No cumulative growth of at least 50 points over the last three API cycles

(Education Code Section 47604.5; 5 CCR 11968.5)

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## Avoiding the Most Common Mistakes

### Maintain Fiscal Viability

1. Maintain appropriate size
2. Adopt and maintain fiscal controls
3. Prepare for delays in funding
4. Maintain compliance with laws to avoid audit findings
5. Adopt process for documenting contemporaneous records of attendance
6. Monitor back office providers – change if needed



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## Avoiding the Most Common Mistakes

### Avoid Internal Disputes

1. Follow CAUSE
2. Adopt and maintain strong policies establishing roles at every level
3. Adopt and maintain strong policies for evaluation at every level
4. Adopt and maintain strong policies for dispute resolution
5. Establish Core Values and Code of Ethics
6. Engage in annual Board training



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## Avoiding the Most Common Mistakes

### Keep Your Authorizer Happy

1. Follow public accountability laws
2. Develop communication plan, keep Authorizer informed
3. Evaluate Administration his or her ability to communicate positively with District
4. Follow charter, MOU, and law, particularly with reporting requirements
5. Don't make change contrary to provisions of charter without notice to Authorizer
6. Handle internal issues on your own
7. Don't throw Authorizer under the bus
8. Support other schools of Authorizer



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## Avoiding the Most Common Mistakes

**Manage Local Politics**

1. Invite local politicians, especially Authorizer board members to school events
2. See political recognition of achievements to keep for renewal
3. Develop relationships with local politicians
4. Consider whether someone in your charter community wants to run for office

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## Avoiding the Most Common Mistakes

**Maintain Appropriate Health and Safety Policies and Procedures**

1. Safe facilities (e.g., appropriately permitted)
2. Immunizations
3. Fingerprinting
4. TB Testing
5. Emergency Plans
6. Adequate supervision

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## Avoiding the Most Common Mistakes

**Hire and Keep the Best Leader**

1. Set goals prior to hiring
2. Hire best person who can allow School to achieve goals
3. Evaluate annually against pre-defined criteria
4. Build capacity to ensure that School's success is not dependent upon one particular person
5. Recognize success

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## Avoiding the Most Common Mistakes

**Know Your Academic Performance**

1. Use a data management system
2. Use data to improve academic performance
3. Hire consultants as necessary (i.e. statisticians, professional development)

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## QUESTIONS & ANSWERS



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**Barclays Official California Code of Regulations**  
**Title 5. Education**  
**Division 1. California Department of Education**  
**Chapter 11. Special Programs**  
**Subchapter 19. Charter Schools**

**Article 2. General Provisions**

**§ 11966.4. Submission of a Charter School Renewal Petition to the Governing Board of a School District.**

(a) A petition for renewal submitted pursuant to Education Code section 47607 shall be considered by the district governing board upon receipt of the petition with all of the requirements set forth in this subdivision:

(1) Documentation that the charter school meets at least one of the criteria specified in Education Code section 47607(b).

(2) A copy of the renewal charter petition including a reasonably comprehensive description of how the charter school has met all new charter school requirements enacted into law after the charter was originally granted or last renewed.

(A) The signature requirement set forth in Education Code section 47605(a) is not applicable to a petition for renewal.

(b)(1) When considering a petition for renewal, the district governing board shall consider the past performance of the school's academics, finances, and operation in evaluating the likelihood of future success, along with future plans for improvement if any.

(2) The district governing board may deny a petition for renewal of a charter school only if the district governing board makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the grounds for denial set forth in Education Code section 47605(b) or facts to support a failure to meet one of the criteria set forth in Education Code section 47607(b).

(c) If within 60 days of its receipt of a petition for renewal, a district governing board has not made a written factual finding as mandated by Education Code section 47605(b), the absence of written factual findings shall be deemed an approval of the petition for renewal.

(1) The district governing board and charter petitioner may extend this date by an additional 30 days only by written mutual agreement.

Note: Authority cited: Section 33031, Education Code. Reference: Sections 47605 and 47607, Education Code.

**§ 11966.5. Charter Petitions That Have Not Been Renewed - Submission to County Board of Education.**

(a) When the governing board of a school district denies a charter school's petition for renewal, the charter school may submit a petition for renewal to the county board of education not later than 30 calendar days after the district governing board makes its written factual findings. The county board of education and the charter petitioner may extend this date by an additional 30 days only by written mutual agreement. A petition for renewal not submitted to the county board of education within this time shall be considered denied with no further options for administrative appeal.

(b) A petition for renewal, whether submitted to the county board of education as the chartering authority or on appeal from denial of the renewal petition by the local governing board, shall be considered by the county board of education upon receipt of the petition with all of the requirements set forth in this subdivision.

(1) Documentation that the charter school meets at least one of the criteria specified in Education Code section 47607(b).

(2) A copy of the renewal charter petition, as denied by the local board, including a reasonably comprehensive description of how the charter school has met all new charter school requirements enacted into law after the charter was originally granted or last renewed.

(A) The signature requirement set forth in Education Code section 47605(a) is not applicable to a petition for renewal.

(3) When applicable, a copy of the governing board's denial and supporting written factual findings, if available.

(4) A description of any changes to the renewal petition necessary to reflect the county board of education as the chartering entity.

(c)(1) When considering a petition for renewal, the county board of education shall consider the past performance of the school's academics, finances, and operation in evaluating the likelihood of future success, along with future plans for improvement, if any.

(2) The county board of education may deny a petition for renewal of a charter school only if the county board of education makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the grounds for denial set forth, as applicable, in Education Code sections 47605(b) and 47605.6(b), or failure to meet one of the criteria set forth in Education Code section 47607(b).

(d) If within 60 days of a county board of education's receipt of a petition for renewal the county board of education does not grant or deny the petition for the renewal of a charter school, the charter school may submit a petition for renewal to the State Board of Education (SBE). The county board of education and charter petitioner may extend this date by an additional 30 days only by written mutual agreement.

(e) If a county board of education denies a petition for renewal of a countywide charter school established under Education Code section 47605.6, the petitioner may not elect to submit the petition for renewal of the countywide charter school to the SBE.

Note: Authority cited: Sections 33031 and 47605, Education Code. Reference: Sections 47605, 47605.6, 47607 and 47607.5, Education Code.

**§ 11966.6. Charter Petitions That Have Not Been Renewed Locally - Submission to State Board of Education (SBE).**

(a) When the county board of education denies or takes no action on a charter school's petition for renewal, the charter school may submit a petition for renewal to the SBE.

(b) A petition for renewal shall include all of the following and shall be considered received when submitted to the SBE with all of the requirements set forth in this subdivision.

(1) Documentation that the charter school met at least one of the criteria specified in Education Code section 47607(b).

(2) A copy of the renewal charter petition, as denied, including a reasonably comprehensive description of how the charter school has met all new charter school requirements enacted into law after the charter was originally granted or last renewed.

(A) The signature requirement set forth in Education Code section 47605(a) is not applicable to a petition for renewal.



(3) A copy of district governing board's written factual findings denying the petition for renewal, and evidence of the county governing board's denial or, if the county board of education failed to act, evidence that the timeline set forth in section 11966.5(d) has expired.

(4) A description of any changes to the renewal petition necessary to reflect the SBE as the chartering entity.

(c)(1) When considering a petition for renewal, the SBE shall consider the past performance of the school's academics, finances, and operation in evaluating the likelihood of future success, along with future plans for improvement, if any.

(2) The SBE may deny a petition for renewal of a charter school only if the SBE makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the grounds for denial set forth in Education Code section 47605(b) or failure to meet one of the criteria set forth in Education Code section 47607(b).

Note: Authority cited: Sections 33031 and 47605, Education Code. Reference: Sections 47605, 47607 and 47607.5, Education Code.

**§ 11966.7. Categorical Funding for Charter Schools Renewed by a Different Authorizer.**

(a) A charter school whose charter is not renewed by the chartering authority but is subsequently approved on appeal by the county office of education or the SBE, and a charter school initially approved by a County Office of Education or the SBE on appeal and subsequently renewed by the district that previously had denied the charter, shall continue to be eligible for class size reduction funds provided that the charter school had applied for class size reduction funds in 2008-09 either directly or through its authorizer.

(1) A charter school that applied through its authorizer in 2008-09 shall, for purposes of Education Code section 52124.3, continue to be eligible for funding through its authorizer for the same number of classes for which its authorizer applied for funding on its behalf in 2008-09 and all subsequent years during which the school was operational. In order to receive funding, a charter school must provide timely reports of actual enrollment in each participating class, pursuant to Education Code sections 52124 and 52126, to its 2008-09 authorizer.

(2) A charter school that is eligible for funding pursuant to this subdivision shall not be eligible for class size reduction funding pursuant to section 42606.

(3) This subdivision shall be in effect until such time as Education Code section 52124.3 is no longer in effect.

Note: Authority cited: Section 33031, Education Code. Reference: Sections 42605, 42606, 52121.5 and 52124.3, Education Code.

**§ 11967. Appeals on Petitions for the Establishment of a Charter School That Have Been Denied.**

(a) A charter school petition that has been previously denied by the governing board of a school district must be received by the county board of education not later than 180 calendar days after the denial. A charter school petition that has been previously denied by a county board of education must be received by the State Board of Education (SBE) not later than 180 calendar days after the denial. Any petition received by the county board of education or SBE more than 180 days after denial shall not be acted upon by the county board of education or the SBE.

(b) When filing a petition with the county board of education or the SBE for the establishment of a charter school, petitioner(s) shall provide the following:

(1) A complete copy of the charter petition as denied, including the signatures required by Education Code section 47605.

(2) Evidence of the governing board's action to deny the petition (e.g. meeting minutes) and the governing board's written factual findings specific to the particular petition, when available, setting forth specific facts to support one or more of the grounds for denial set forth in Education Code section 47605(b).

(3) A signed certification stating that petitioner(s) will comply with all applicable law.

(4) A description of any changes to the petition necessary to reflect the county board of education or the SBE as the chartering entity, as applicable.

(c) The county board of education or SBE shall deny a petition for the establishment of a charter school only if that board makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the grounds for denial set forth in Education Code section 47605(b)(1)-(5).

(d) If within 60 days of a county board of education's receipt of a petition appealing the denial to establish a charter school, the county board of education does not grant or deny the petition for the establishment of a charter school, the charter school may submit the petition for the establishment of a charter school to the SBE. The county board of education and charter petitioner may extend this date by an additional 30 days only by written mutual agreement.

(e) If, within 120 days of the SBE's receipt of a petition appealing the denial to establish a charter school, the SBE does not grant or deny the charter petition, the decision of the governing board of the school district to deny the petition is subject to judicial review. The SBE and the charter petitioner may extend this date by an additional 30 days only by written mutual agreement.

(f) In considering charter petitions that have been previously denied, the county board of education or SBE are not limited to a review based solely on the reasons for denial stated by the school district, but must review the charter school petition pursuant to Education Code section 47605(b).

Note: Authority cited: Sections 33031 and 47605, Education Code. Reference: Section 47605, Education Code.

**§ 11967.5.1. Criteria for the Review and Approval of Charter School Petitions and Charter School Renewal Petitions by the State Board of Education (SBE).**

(a) For purposes of Education Code section 47605(b), a charter petition shall be “consistent with sound educational practice” if, in the SBE's judgment, it is likely to be of educational benefit to pupils who attend. A charter school need not be designed or intended to meet the educational needs of every student who might possibly seek to enroll in order for the charter to be granted by the SBE.

(b) For purposes of Education Code section 47605(b)(1), a charter petition shall be “an unsound educational program” if it is any of the following:

(1) A program that involves activities that the SBE determines would present the likelihood of physical, educational, or psychological harm to the affected pupils.

(2) A program that the SBE determines not to be likely to be of educational benefit to the pupils who attend.

(3) If the petition is for renewal of a charter school, and either the charter school has not met the standards for renewal pursuant to Education Code section 47607(b), as applicable, or the charter school has not met the measurable pupil outcomes as described in its charter.

(c) For purposes of Education Code section 47605(b)(2), the SBE shall take the following factors into consideration in determining whether charter petitioners are “demonstrably unlikely to successfully implement the program.”

(1) If the petitioners have a past history of involvement in charter schools or other education agencies (public or private), the history is one that the SBE regards as unsuccessful, e.g., the petitioners have been associated with a charter school of which the charter has been revoked or a private school that has ceased operation for reasons within the petitioners' control.

(2) The petitioners are unfamiliar in the SBE's judgment with the content of the petition or the requirements of law that would apply to the proposed charter school.

(3) The petitioners have presented an unrealistic financial and operational plan for the proposed charter school. An unrealistic financial and operational plan is one to which any or all of the following applies:

(A) In the area of administrative services, the charter or supporting documents do not adequately:

1. Describe the structure for providing administrative services, including, at a minimum, personnel transactions, accounting and payroll that reflects an understanding of school business practices and expertise to carry out the necessary administrative services, or a reasonable plan and time line to develop and assemble such practices and expertise.

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

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

1. Include, at a minimum, the first-year operational budget, start-up costs, and cash flow, and financial projections for the first three years.

2. Include in the operational budget reasonable estimates of all anticipated revenues and expenditures necessary to operate the school, including, but not limited to, special education, based, when possible, on historical data from schools or school districts of similar type, size, and location.

3. Include budget notes that clearly describe assumptions on revenue estimates, including, but not limited to, the basis for average daily attendance estimates and staffing levels.

4. Present a budget that in its totality appears viable and over a period of no less than two years of operations provides for the amassing of a reserve equivalent to that required by law for a school district of similar size to the proposed charter school.

5. Demonstrate an understanding of the timing of the receipt of various revenues and their relative relationship to timing of expenditures that are within reasonable parameters, based, when possible, on historical data from schools or school districts of similar type, size, and location.

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

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

1. Describe the types and potential location of facilities needed to operate the size and scope of educational program proposed in the charter.

2. In the event a specific facility has not been secured, provide evidence of the type and projected cost of the facilities that may be available in the location of the proposed charter school.

3. Reflect reasonable costs for the acquisition or leasing of facilities to house the charter school, taking into account the facilities the charter school may be allocated under the provisions of Education Code section 47614.

(4) The petitioners personally lack the necessary background in the following areas critical to the charter school's success, and the petitioners do not have a plan to secure the services of individuals who have the necessary background in these areas:

(A) Curriculum, instruction, and assessment.

(B) Finance and business management.

(d) For purposes of Education Code section 47605(b)(3), a charter petition that "does not contain the number of signatures required by subdivision (a)" of Education Code section 47605 shall be a petition that did not contain the requisite number of signatures at the time of the submission of the original charter to a school district governing board pursuant to Education Code section 47605(a). The SBE shall not disregard signatures that may be purported to have been withdrawn or to have been determined to be invalid after the petition was denied by the school district. The signature requirement set forth in Education Code section 47605(a) is not applicable to a petition for renewal.

(e) For purposes of Education Code section 47605(b)(4), a charter petition that “does not contain an affirmation of each of the conditions described in subdivision (d)” of Education Code section 47605 shall be a petition that fails to include a clear, unequivocal affirmation of each such condition, not a general statement of intention to comply. Neither the charter nor any of the supporting documents shall include any evidence that the charter will fail to comply with the conditions described in Education Code section 47605(d).

(f) For purposes of Education Code section 47605(b)(5), the SBE shall take the following factors into consideration in determining whether a charter petition does not contain a “reasonably comprehensive” description of each of the specified elements.

(1) The description of the educational program of the school, as required by Education Code section 47605(b)(5)(A), at a minimum:

(A) Indicates the proposed charter school's target student population, including, at a minimum, grade levels, approximate numbers of pupils, and specific educational interests, backgrounds, or challenges.

(B) Specifies a clear, concise school mission statement with which all elements and programs of the school are in alignment and which conveys the petitioners' definition of an “educated person” in the 21st century, belief of how learning best occurs, and goals consistent with enabling pupils to become or remain self-motivated, competent, and lifelong learners.

(C) Includes a framework for instructional design that is aligned with the needs of the pupils that the charter school has identified as its target student population.

(D) Indicates the basic learning environment or environments (e.g., site-based matriculation, independent study, community-based education, or technology-based education).

(E) Indicates the instructional approach or approaches the charter school will utilize, including, but not limited to, the curriculum and teaching methods (or a process for developing the curriculum and teaching methods) that will enable the school's pupils to master the content standards for the four core curriculum areas adopted by the SBE pursuant to Education Code section 60605 and to achieve the objectives specified in the charter.

(F) Indicates how the charter school will identify and respond to the needs of pupils who are not achieving at or above expected levels.

(G) Indicates how the charter school will meet the needs of students with disabilities, English learners, students achieving substantially above or below grade level expectations, and other special student populations.

(H) Specifies the charter school's special education plan, including, but not limited to, the means by which the charter school will comply with the provisions of Education Code section 47641, the process to be used to identify students who qualify for special education programs and services, how the school will provide or access special education programs and services, the school's understanding of its responsibilities under law for special education pupils, and how the school intends to meet those responsibilities.

(2) Measurable pupil outcomes, as required by Education Code section 47605(b)(5)(B), at a minimum:

(A) Specify skills, knowledge, and attitudes that reflect the school's educational objectives and can be assessed, at a minimum, by objective means that are frequent and sufficiently detailed enough to determine whether pupils are making satisfactory progress. It is intended that the frequency of objective means of measuring pupil outcomes vary according to such factors as grade level, subject matter, the outcome of previous objective measurements, and information that may be collected from anecdotal sources. To be sufficiently detailed, objective means of measuring pupil outcomes must be capable of being used readily to evaluate the effectiveness of and to modify instruction for individual students and for groups of students.

(B) Include the school's Academic Performance Index growth target, if applicable.

(3) The method by which pupil progress is to be measured, as required by Education Code section 47605(b)(5)(C), at a minimum:

(A) Utilizes a variety of assessment tools that are appropriate to the skills, knowledge, or attitudes being assessed, including, at a minimum, tools that employ objective means of assessment consistent with paragraph (2)(A) of subdivision (f) of this section.

(B) Includes the annual assessment results from the Statewide Testing and Reporting (STAR) program.

(C) Outlines a plan for collecting, analyzing, and reporting data on pupil achievement to school staff and to pupils' parents and guardians, and for utilizing the data continuously to monitor and improve the charter school's educational program.

(4) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement in supporting the school's effort on behalf of the school's pupils, as required by Education Code section 47605(b)(5)(D), at a minimum:

(A) Includes evidence of the charter school's incorporation as a non-profit public benefit corporation, if applicable.

(B) Includes evidence that the organizational and technical designs of the governance structure reflect a seriousness of purpose necessary to ensure that:

1. The charter school will become and remain a viable enterprise.
2. There will be active and effective representation of interested parties, including, but not limited to parents (guardians).
3. The educational program will be successful.

(5) The qualifications to be met by individuals to be employed by the school, as required by Education Code section 47605(b)(5)(E), at a minimum:

(A) Identify general qualifications for the various categories of employees the school anticipates (e.g., administrative, instructional, instructional support, non-instructional support). The qualifications shall be sufficient to ensure the health, and safety of the school's faculty, staff, and pupils.

(B) Identify those positions that the charter school regards as key in each category and specify the additional qualifications expected of individuals assigned to those positions.

(C) Specify that the requirements for employment set forth in applicable provisions of law will be met, including, but not limited to credentials as necessary.

(6) The procedures that the school will follow to ensure the health and safety of pupils and staff, as required by Education Code section 47605(b)(5)(F), at a minimum:

(A) Require that each employee of the school furnish the school with a criminal record summary as described in Education Code section 44237.

(B) Include the examination of faculty and staff for tuberculosis as described in Education Code section 49406.

(C) Require immunization of pupils as a condition of school attendance to the same extent as would apply if the pupils attended a non-charter public school.

(D) Provide for the screening of pupils' vision and hearing and the screening of pupils for scoliosis to the same extent as would be required if the pupils attended a non-charter public school.



(7) Recognizing the limitations on admissions to charter schools imposed by Education Code section 47605(d), the means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted, as required by Education Code section 47605(b)(5)(G), shall be presumed to have been met, absent specific information to the contrary.

(8) To the extent admission requirements are included in keeping with Education Code section 47605(b)(5)(H), the requirements shall be in compliance with the requirements of Education Code section 47605(d) and any other applicable provision of law.

(9) The manner in which annual, independent, financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority, as required by Education Code section 47605(b)(5)(I), at a minimum:

(A) Specify who is responsible for contracting and overseeing the independent audit.

(B) Specify that the auditor will have experience in education finance.

(C) Outline the process of providing audit reports to the SBE, California Department of Education, or other agency as the SBE may direct, and specifying the time line in which audit exceptions will typically be addressed.

(D) Indicate the process that the charter school will follow to address any audit findings and/or resolve any audit exceptions.

(10) The procedures by which pupils can be suspended or expelled, as required by Education Code section 47605(b)(5)(J), at a minimum:

(A) Identify a preliminary list, subject to later revision pursuant to subparagraph (E), of the offenses for which students in the charter school must (where non-discretionary) and may (where discretionary) be suspended and, separately, the offenses for which students in the charter school must (where non-discretionary) or may (where discretionary) be expelled, providing evidence that the petitioners' reviewed the offenses for which students must or may be suspended or expelled in non-charter public schools.

(B) Identify the procedures by which pupils can be suspended or expelled.

(C) Identify the procedures by which parents, guardians, and pupils will be informed about reasons for suspension or expulsion and of their due process rights in regard to suspension or expulsion.

(D) Provide evidence that in preparing the lists of offenses specified in subparagraph (A) and the procedures specified in subparagraphs (B) and (C), the petitioners reviewed the lists of offenses and procedures that apply to students attending non-charter public schools, and provide evidence that the charter petitioners believe their proposed lists of offenses and procedures provide adequate safety for students, staff, and visitors to the school and serve the best interests the school's pupils and their parents (guardians).

(E) If not otherwise covered under subparagraphs (A), (B), (C), and (D):

1. Provide for due process for all pupils and demonstrate an understanding of the rights of pupils with disabilities in regard to suspension and expulsion.

2. Outline how detailed policies and procedures regarding suspension and expulsion will be developed and periodically reviewed, including, but not limited to, periodic review and (as necessary) modification of the lists of offenses for which students are subject to suspension or expulsion.

(11) The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security, as required by Education Code section 47605(b)(5)(K), at a minimum, specifies the positions to be covered under each system and the staff who will be responsible for ensuring that appropriate arrangements for that coverage have been made.

(12) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools, as required by Education Code section 47605(b)(5)(L), at a minimum, specify that the parent or guardian of each pupil enrolled in the charter school shall be informed that the pupils has no right to admission in a particular school of any local educational agency (LEA) (or program of any LEA) as a consequence of enrollment in the charter school, except to the extent that such a right is extended by the LEA.

(13) The description of the rights of any employees of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school, as required by Education Code section 47605(b)(5)(M), at a minimum, specifies that an employee of the charter school shall have the following rights:

(A) Any rights upon leaving the employment of an LEA to work in the charter school that the LEA may specify.

(B) Any rights of return to employment in an LEA after employment in the charter school as the LEA may specify.

(C) Any other rights upon leaving employment to work in the charter school and any rights to return to a previous employer after working in the charter school that the SBE determines to be reasonable and not in conflict with any provisions of law that apply to the charter school or to the employer from which the employee comes to the charter school or to which the employee returns from the charter school.

(14) The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter, as required by Education Code section 47605(b)(5)(N), at a minimum:

(A) Include any specific provisions relating to dispute resolution that the SBE determines necessary and appropriate in recognition of the fact that the SBE is not an LEA.

(B) Describe how the costs of the dispute resolution process, if needed, would be funded.

(C) Recognize that, because it is not an LEA, the SBE may choose to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, provided that if the SBE intends to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, it must first hold a public hearing to consider arguments for and against the direct resolution of the dispute instead of pursuing the dispute resolution process specified in the charter.

(D) Recognize that if the substance of a dispute is a matter that could result in the taking of appropriate action, including, but not limited to, revocation of the charter in accordance with Education Code section 47604.5, the matter will be addressed at the SBE's discretion in accordance with that provision of law and any regulations pertaining thereto.

(15) The declaration of whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act. Education Code section 47605(b)(5)(O) recognizes that the SBE is not an exclusive public school employer. Therefore, the charter school must be the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act (commencing with Government Code section 3540).

(g) A “reasonably comprehensive” description, within the meaning subdivision (f) of this section and Education Code section 47605(b)(5) shall include, but not be limited to, information that:

(1) Is substantive and is not, for example, a listing of topics with little elaboration.

(2) For elements that have multiple aspects, addresses essentially all aspects the elements, not just selected aspects.

(3) Is specific to the charter petition being proposed, not to charter schools or charter petitions generally.

(4) Describes, as applicable among the different elements, how the charter school will:

(A) Improve pupil learning.

(B) Increase learning opportunities for its pupils, particularly pupils who have been identified as academically low achieving.

(C) Provide parents, guardians, and pupils with expanded educational opportunities.

(D) Hold itself accountable for measurable, performance-based pupil outcomes.

(E) Provide vigorous competition with other public school options available to parents, guardians, and students.

Note: Authority cited: Sections 33031 and 47605, Education Code. Reference: Section 47605, Education Code.

**Barclays Official California Code of Regulations**  
**Title 5. Education**  
**Division 1. California Department of Education**  
**Chapter 11. Special Programs**  
**Subchapter 19. Charter Schools**

**Article 2. General Provisions**

**§ 11965. Definitions.**

For the purposes of Articles 1, 2 and 2.5, the following definitions shall apply:

(a) "Chartering authority" means the entity that grants a school's charter and includes the following:

(1) "County chartering authority" means a county board of education that has granted a school's charter. In making specific the provisions of Education Code section 47607(g)(1), these regulations use the term "county chartering authority" where Education Code section 47607(g)(1) uses the term "county office of education."

(2) "District chartering authority" means the governing board of a school district that has granted a school's charter. In making specific the provisions of Education Code section 47607(f)(1), these regulations use the term "district chartering authority" where Education Code section 47607(f)(1) uses the term "school district."

(3) "State chartering authority" is the State Board of Education (SBE) when the SBE has granted a school's charter. The SBE acts as a state chartering authority when it approves the operation of a charter school that has been denied by a local educational agency (LEA) and when it approves the operation of a state charter school pursuant to Education Code section 47605.8.

(b) "Final Decision" means the final written decision of the chartering authority to either revoke or decline to revoke a school's charter.

(c) "Notice of Appeal" means a written document notifying the county board of education or the SBE, as appropriate, that the charter school's governing body as described in the school's charter, or the district chartering authority is appealing the decision to revoke or reverse the revocation of a school's charter.

(d) "Notice of Intent to Revoke" means the written notice of a chartering authority's decision to pursue revocation of a school's charter due to the charter school's failure to remedy one or more violations identified in the Notice(s) of Violation. This notice shall identify all of the following:

(1) All evidence relied upon by the chartering authority in determining that the charter school failed to remedy a violation pursuant to this section;

(2) The date and time at which the chartering authority will hold a public hearing concerning revocation, which shall be held no more than 30 calendar days after the chartering authority issues this notice.

(e) “Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety” means the written notice of a chartering authority's decision to revoke a school's charter due to a severe and imminent threat to the health or safety of the pupils. This notice shall identify all of the following:

(1) The location of the facility;

(2) The provisions of Education Code section 47607(c) that the charter school has violated and a description of the emergency or urgent conditions that have resulted from this violation;

(3) A description of how the condition(s) identified in subdivision (2) severely and imminently threatens the health or safety of pupils.

(4) For purposes of this article, “a severe and imminent threat to pupil health or safety” occurs when a charter school's structures, systems or practices are in a condition that poses a severe and imminent threat to the health or safety of pupils while at school, and where the charter school has made no reasonable attempt to remedy the condition or no remedy exists to cure the condition.

(5) For purposes of this article, “a severe and imminent threat to pupil health or safety” does not include any cosmetic or nonessential repairs or severe threats for which the school has initiated corrective action and has removed the pupils from any immediate danger.

(f) “Notice of Violation” means the written notice of a chartering authority's identification of one or more specific alleged violations by the charter school based on the grounds for revocation specified in Education Code section 47607(c). This notice shall identify all of the following:

(1) The charter school's alleged specific material violation of a condition, standard, or procedure set out in the school's charter pursuant to Education Code section 47607(c)(1); the specific pupil outcome(s) identified in the school's charter that the charter school allegedly failed to meet or pursue pursuant to Education Code section 47607(c)(2); the charter school's alleged fiscal mismanagement or specific failure to follow generally accepted accounting principles pursuant to Education Code section 47607(c)(3); or the specific provision(s) of law that the charter school allegedly failed to follow pursuant to Education Code section 47607(c)(4), as appropriate.

(2) All evidence relied upon by the chartering authority in determining the charter school engaged in any of the acts or omissions identified in subdivision (f)(1) including the date and duration of the alleged violation(s), showing the violation(s) is/are both material and uncured, and that the alleged violation(s) occurred within a reasonable period of time before a notice of violation is issued; and

(3) The period of time that the chartering authority has concluded is a reasonable period of time for the charter school to remedy or refute the identified violation(s). In identifying the time period that will serve as the charter school's reasonable opportunity to remedy the identified violation(s), the chartering authority 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.

(g) "Private school" as that term is used in Education Code section 47602(b) means a school that meets the requirements set forth in Education Code sections 48222 and 48223.

(h) For each charter school, "satisfactory progress," as that term is used in Education Code section 47612, means uninterrupted progress (1) towards completion, with passing grades, of the substance of the course of study that is required for graduation from a non-charter comprehensive high school of the school district that authorized the charter school's charter, that the pupil has not yet completed, (2) at a rate that is at least adequate to allow the pupil to successfully complete, through full-time attendance, all of that uncompleted coursework within the aggregate amount of time assigned by the chartering agency for the study of that particular quantity of coursework within its standard academic schedule. If the chartering authority is not a school district having at least one non-charter comprehensive high school, the applicable high school graduation requirements and associated time assignments shall be those for the comprehensive high school(s) of the largest unified school district, as measured by average daily attendance, in the county or counties in which the charter school operates.

For individuals with exceptional needs, as defined in Education Code section 56026, "satisfactory progress," as that term is used in Education Code section 47612, means uninterrupted maintenance of progress towards meeting the goals and benchmarks or short-term objectives specified in his or her individualized education program made pursuant to 20 U.S.C. Section 1414(d) until high school graduation requirements have been met, or until the pupil reaches an age at which special education services are no longer required by law.

(i) "School's charter" is the document approved by the chartering authority, including any material revisions that have been approved by the chartering authority.

(j) "Statewide benefit charter" is a charter school authorized by the SBE to operate at multiple sites throughout the state pursuant to Education Code section 47605.8. In making specific the provisions of Education Code section 47605.8, these regulations use the term "statewide benefit charter" where Education Code section 47605.8 uses the term "state charter school."

Note: Authority cited: Sections 33031, 47602 and 47612, Education Code. Reference: Sections 47602, 47604.5, 47605.8, 47607 and 47612, Education Code; and 20 U.S.C. Section 1414(d).

## **Article 2.5. Establishment and Revocation**

### **§ 11968.5. Revocation of, or Other Action Related to, a Charter by the State Board of Education upon Recommendation by the State Superintendent of Public Instruction (SSPI) Pursuant to Education Code Section 47604.5(c).**

(a) The California Department of Education (CDE) on or before November 1 of each year shall identify and notify the State Board of Education (SBE) of each charter school that meets the conditions specified in subdivision (e) and any other charter school that the SSPI determines warrants action pursuant to Education Code section 47604.5(c).

(b) On or before November 1 of each year, the CDE shall notify the charter schools identified pursuant to subdivision (e) of these regulations and each school's authorizer in writing that:

(1) the SSPI may recommend, among other actions, revocation of the school's charter; and

(2) the SBE will consider the SSPI's recommendation and take appropriate action, including, but not limited to, revocation of the school's charter.

(c) The notice provided pursuant to subdivision (b) of these regulations shall provide that the charter school and the authorizer shall be given an opportunity to provide information in writing to the SSPI and the SBE as to why the school's charter should not be revoked. Such information may include, but is not limited to, action by the school or the local authorizer to address the departures such as the initiation of a plan of corrective action or other local authorizer board action.

(d) Any action to revoke a charter school shall be effective at the end of the fiscal year in which the action is taken, to allow sufficient time for transition in accordance with school closure regulations in section 11962 of these regulations, unless the SBE identifies cause for immediate revocation and closure and makes a public finding that the departures at the school are so significant as to require the immediate revocation and closure of the charter school. At the beginning of the revocation review, the CDE shall require any school being reviewed to immediately provide, at their own expense, written notification to every parent, guardian, or caregiver that fully describes the revocation process, all options including specific schools available to students to transfer if it is needed or desired, and any administrative assistance required for a timely transfer.



(e) Substantial and sustained departure from measurably successful practices that jeopardize the educational development of a school's pupils within the meaning of subdivision (c) of Education Code section 47604.5 occurs when a charter school:

(1) is in operation five years or more, and

(2) the charter school has not qualified for the Alternative School Accountability Model pursuant to subdivision (h) of Education Code section 52052, and

(3) The charter school has met each of the following:

(A) a statewide rank of 1 on API base data for the last two years, and

(B) did not achieve a cumulative API growth of at least 50 points over the last three API cycles (i.e., an API cycle represents the difference between a current year growth API and the prior year's base API).

(4) These criteria do not limit the discretion of the SSPI and SBE to recommend or take action relating to a charter school that does not meet these criteria, but which otherwise demonstrates a substantial and sustained departure from measurably successful practices that jeopardize the educational development of a school's pupils within the meaning of subdivision (c) of Education Code section 47604.5.

(f) Nothing in this section shall be interpreted to relieve the chartering authority of its duties as a charter authorizer.

(g) After the CDE determines the conditions in subdivision (e) exist for any charter school, and makes notifications in accordance with subdivisions (b) and (c), the following shall occur:

(1) If the charter school or the authorizer choose to submit any supporting materials, the materials shall be received by the CDE by 5:00 p.m. on December 1.

(2) The SSPI shall deliver his/her recommendation to the executive director of the SBE no later than January 15.

(3) No later than February 1, the CDE shall send notification to the charter school and its authorizer of the SSPI's recommendation and the date of the SBE meeting when the recommendation is scheduled to be heard.

(4) The SBE shall hold a public hearing and consider action in accordance with Education Code section 47604.5 no later than March 31.

(h) The authority of the SBE pursuant to Education Code section 47604.5 is not limited to revocation. Based on additional information provided by the charter school, the school's authorizer, or teachers and parents of pupils at the school, which may include data on more recent academic gains, similar schools rankings and other analysis of similar student populations, and school safety, the SBE may offer the charter school an opportunity to take specific corrective actions in lieu of revocation for the remaining term of the charter. The specific corrective actions shall address the sustained low academic achievement and may include, but is not limited to, a plan to address any subgroups failing to make academic progress. Corrective actions may include, but are not limited to, restructuring of the school's staffing or governance to ensure that the school and all numerically significant subgroups have substantial promise of increasing academic performance in subsequent years.

Note: Authority cited: Section 33031, Education Code. Reference: Sections 47604.5 and 47607, Education Code.

**§ 11968.5.1. Revocation of, or Other Action Related to, a Charter by the State Board of Education upon Recommendation by the State Superintendent of Public Instruction Pursuant to Education Code Sections 47604.5(a) and (b).**

(a) Prior to making a recommendation to the SBE under Education Code sections 47604.5(a) and (b), the SSPI shall deliver a written notice to the charter school's governing body as described in the school's charter and the SBE Executive Director, which identifies one or more specific alleged violations by the charter school based on the grounds specified in Education Code sections 47604.5(a) and (b). This notice shall identify all of the following:

(1) the charter school's alleged gross financial mismanagement that jeopardizes the financial stability of the charter school pursuant to Education Code section 47604.5(a); or the charter school's alleged illegal or substantially improper use of charter school funds for the personal benefit of any officer, director, or fiduciary of the charter school pursuant to Education Code section 47604.5(b);

(2) all evidence relied upon by the SSPI in determining the charter school engaged in any of the acts or omissions identified in subdivision (a)(1); and

(3) the period of time that will serve as the opportunity to remedy or refute the identified violation(s) by the charter school's governing body as described in the school's charter.

(b) Upon receipt of a written notice, the charter school's governing body as described in the school's charter, if it chooses to respond, shall take the following actions:

(1) Submit to the SSPI a detailed, written response to each identified violation which shall include the refutation or remedial action taken by the charter school's governing body as described in the school's charter, specific to each identified violation. The written response shall be due by the end of the remedy period identified in the written notice.

(2) Attach to its written response, supporting evidence of remedial action, if any, including written reports, statements, and other appropriate documentation.

(c) After conclusion of the remedy period, the SSPI shall evaluate the response of the charter school's governing body as described in the school's charter, if submitted, and shall take one of the following actions:

(1) Make a recommendation to the SBE to take appropriate action, including but not limited to, revocation of the school's charter, and provide timely written notice of such action within 30 calendar days to the charter school's governing body as described in the school's charter; or

(2) Discontinue action and provide written notice of such action to the charter school's governing body as described in the school's charter within 10 calendar days.

(d) In making a recommendation to the SBE to take appropriate action, including but not limited to, revocation of the school's charter, the SSPI shall present written findings to the SBE at the next regularly scheduled board meeting.

Note: Authority cited: Section 33031, Education Code. Reference: Sections 47604.5 and 47607, Education Code.

### **§ 11968.5.2. Charter Revocation.**

This section sequentially sets forth procedures the chartering authority and the charter school's governing body as described in the school's charter shall complete for the revocation of a school's charter pursuant to Education Code section 47607, except for charter revocation when the violation constitutes a severe and imminent threat to the health or safety of pupils which is subject to section 11968.5.3 rather than this section.

(a) At least 72 hours prior to any board meeting in which a chartering authority will consider issuing a Notice of Violation, the chartering authority shall provide the charter school with notice and all relevant documents related to the proposed action.

(b) The chartering authority shall deliver a Notice of Violation to the charter school's governing body as described in the school's charter.

(c) Upon receipt of a Notice of Violation, the charter school's governing body as described in the school's charter, if it chooses to respond, shall take the following actions:

(1) Submit to the chartering authority a detailed, written response addressing each identified violation which shall include the refutation, remedial action taken, or proposed remedial action by the charter school specific to each alleged violation. The written response shall be due by the end of the remedy period identified in the Notice of Violation.

(2) Attach to its written response supporting evidence of the refutation, remedial action, or proposed remedial action, if any, including written reports, statements, and other appropriate documentation.

(d) After conclusion of the reasonable opportunity to remedy, the chartering authority shall evaluate the response of the charter school's governing body as described in the school's charter response to the Notice of Violation and any supporting evidence, if submitted, and shall take one of the following actions:

(1) If the chartering authority has substantial evidence that the charter school has failed to refute to the chartering authority's satisfaction, or remedy a violation identified in the Notice of Violation, continue revocation of the school's charter by issuing a Notice of Intent to Revoke to the charter school's governing body as described in the school's charter; or

(2) Discontinue revocation of the school's charter and provide timely written notice of such action to the charter school's governing body as described in the school's charter.

(e) If the chartering authority does not act, as specified in subdivision (d), within 60 calendar days of the conclusion of the remedy period specified in the Notice of Violation, the revocation process is terminated and the Notice of Violation is void.

(f) On the date and time specified in the Notice of Intent to Revoke, the chartering authority shall hold a public hearing concerning revocation. No more than 30 calendar days after the public hearing (or 60 calendar days by written mutual agreement with the charter school) the chartering authority shall issue a Final Decision.

(g) The chartering authority shall provide a copy of the Final Decision to the CDE and its county board of education (unless the county board of education is also the chartering authority), within 10 calendar days of issuing the Final Decision.

(h) If the chartering authority does not act to issue a Final Decision within the timeframe specified in subdivision (f), the revocation process is terminated and the Notice of Intent to Revoke is void.

Note: Authority cited: Section 33031, Education Code. Reference: Sections 47604.32 and 47607, Education Code.

**§ 11968.5.3. Charter Revocation When There is a Severe and Imminent Threat to the Health or Safety of Pupils and Appeal of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety to a County Board of Education and the State Board of Education.**

This section sets forth procedures the chartering authority shall complete for the revocation of a school's charter when the chartering authority has determined that any violation under Education Code section 47607(c) constitutes a severe and imminent threat to the health or safety of pupils and the procedures that a charter school and county office of education and SBE must follow if the charter school elects to appeal a chartering authority's Final Decision to revoke the school's charter.

(a) If there is a severe and imminent threat to pupil health or safety, the chartering authority is exempt from the requirements of section 11968.5.2 and 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 as described in the school's charter, the county board of education (unless the county board of education is also the chartering authority), and the CDE.

(b) Following the approval and delivery of the Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety by the chartering authority, the charter school's governing body as described in the school's charter may appeal to the county board of education or the SBE, as applicable, pursuant to Education Code sections 47607(f) and (g).

(c) In an appeal to a county board of education, within 30 calendar days of receipt of a Final Decision revoking the school's charter, the charter school's governing body as described in the school's charter shall approve and deliver a written Notice of Appeal to the county board of education that:

(1) includes a copy of the Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety issued pursuant to this article except that the charter school shall not be responsible for providing this document if the chartering authority did not provide it to the charter school as required in this section;

(2) includes evidence of the final vote of the chartering authority, if available;

(3) includes all evidence relied upon by the chartering authority in determining that a violation under section 11965(e) existed;

(4) includes minutes of any public meeting at which the chartering authority considers or makes its decision to revoke the school's charter, if available; and

(5) includes a written statement explaining why the charter school does not believe the district chartering authority's factual findings are supported by substantial evidence.

(d) If the county board of education does not issue a written decision that explains whether, in the county board of education's judgment, the district chartering authority's factual findings are supported by substantial evidence within 90 calendar days of receiving a Notice of Appeal that includes the documents listed in subdivision (c) of this section, the district chartering authority's decision is upheld, pending any further appeal.

(e) In determining whether the district chartering authority's factual findings are supported by substantial evidence, the county board of education shall consider whether the district chartering authority provided the charter school's governing body as described in the school's charter a Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety pursuant to Education Code sections 47607(c) and (d).

(f) The county board of education shall provide the CDE and the chartering authority a copy of its written decision within 10 calendar days of its action.

(g) If the district chartering authority or the school's governing body as described in the school's charter elects to appeal to the SBE, the appellant shall approve and deliver a written Notice of Appeal to the SBE within 30 calendar days following the final decision by the county board of education, or within 30 calendar days upon the expiration of 90 calendar days pursuant to subdivision (d) of this section, or within 30 calendar days of a county chartering authority's Final Decision.

(h) The appellant shall, at the same time it delivers a Notice of Appeal to the SBE, deliver to the SBE the following documents that shall be individually and sequentially numbered, one number per page, and be delivered to the respondent and the county board of education, if applicable, within five calendar days of delivery to the SBE:

(1) copies of the Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety, the Final Decision, and the Notice of Appeal delivered to the county board of education, and the county board of education's written decision, as applicable;

(2) evidence of the final vote of the chartering authority, if available;

(3) evidence relied upon by the chartering authority in determining that a violation under section 11965(e) existed; and

(4) minutes of any public meeting at which the chartering authority considers or makes its decision to revoke the school's charter, if available.

(i) At the same time the appellant submits its Notice of Appeal to the SBE, the appellant shall also submit to the SBE a written argument in the form of a brief or letter that shall be individually and sequentially numbered, one number per page; be delivered to the respondent within five calendar days of delivery to the SBE; and contain the following:

(1) a summary of the procedural and substantive facts limited to matters in the record;

(2) a summary of the arguments in support of the appellant's position that the chartering authority and/or the county board of education erred in its decision; and

(3) specific citations to the administrative record in support of each argument presented.

(j) If the respondent chooses to submit a written opposition to the SBE, it must do so within 30 calendar days of the delivery of the appellant's written argument to the SBE. This written opposition shall be in the form of a brief or letter that shall be individually and sequentially numbered, one number per page; be delivered to the appellant within five calendar days of delivery to the SBE; and contain the following:

(1) a summary of the procedural and substantive facts limited to matters in the record as submitted to the chartering authority and the county board of education, as appropriate;

(2) a summary of the arguments in support of the respondent's position that the chartering authority and/or the county board of education did not err in its decision; and

(3) specific citations to the administrative record in support of each argument presented.

(k) Within 15 calendar days of the delivery of the respondent's written opposition to the SBE, the appellant may submit to the SBE a written reply to the respondent's written opposition in the form of a brief or letter. If submitted, this written reply shall be individually and sequentially numbered, one number per page; be delivered to the respondent within five calendar days of delivery to the SBE; and contain the following:

(1) a summary of the arguments refuting the arguments raised in the respondent's opposition; and

(2) specific citations to the administrative record in support of each argument presented.

(l) If the SBE does not take action within 120 calendar days of receipt of the appellant's written argument, if submitted pursuant to subdivision (i); or within 150 days of receipt of the respondent's written opposition, if submitted pursuant to subdivision (j); or within 165 days of

receipt of the appellant's written reply, if submitted pursuant to subdivision (k); whichever is later, the appellant is deemed to have exhausted its administrative remedies.

Note: Authority cited: Section 33031, Education Code. Reference: Sections 47604.32 and 47607, Education Code.

**§ 11968.5.4. Appeal of a District Charter Revocation to a County Board of Education.**

This section establishes the procedures that a charter school and county office of education must follow if the charter school elects to appeal to a county board of education a district chartering authority's Final Decision to revoke the school's charter.

(a) Within 30 calendar days of receipt of a Final Decision revoking the school's charter, the charter school's governing body as described in the school's charter, shall approve and deliver a written Notice of Appeal to the county board of education that:

(1) Includes a copy of the Notice of Violation, Notice of Intent to Revoke and the Final Decision issued pursuant to this article except that the charter school shall not be responsible for providing these documents if the chartering authority did not provide them to the charter school as required in section 11968.5.2;

(2) Includes evidence of the final vote of the chartering authority, if available;

(3) Includes all evidence relied upon by the chartering authority 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) Includes all evidence and correspondence submitted by the charter school's governing body as described in the school's charter in response to the chartering authority's Notice of Violation and Notice of Intent to Revoke;

(5) Includes minutes of any public meeting at which the chartering authority considers or makes its decision to revoke the school's charter, if available;

(6) Includes a written statement explaining why the charter school does not believe the district chartering authority's factual findings are supported by substantial evidence; and

(7) Identifies any procedural omissions or errors the charter school alleges to have occurred in the revocation process.



(b) If the county board of education does not issue a written decision that explains whether, in the county board of education's judgment, the district chartering authority's factual findings are supported by substantial evidence within 90 calendar days of receiving a Notice of Appeal that includes the documents listed in subdivision (a) of this section, the district chartering authority's decision is upheld, pending any further appeal.

(1) In determining whether the district chartering authority's factual findings are supported by substantial evidence, the county board of education shall consider whether the district chartering authority provided the charter school's governing body as described in the school's charter a Notice of Violation, a reasonable opportunity to remedy the identified violation(s), a Notice of Intent to Revoke, a public hearing, and Final Decision, pursuant to Articles 2 and 2.5 and Education Code sections 47607(c) through (e), inclusive.

(2) If the charter school submits a response to the Notice of Violation pursuant to section 11968.5.2(c), the county board of education shall, in determining whether the district chartering authority's factual findings are supported by substantial evidence, consider whether the charter school complied with the procedures set forth in that section.

(3) The county board of education shall also consider whether an alleged procedural deficiency negatively impacted the charter school's ability to refute or remedy the alleged violation or the chartering authority's ability to comply with its procedural obligations or authorizing duties.

(c) The county board of education shall provide the CDE and the chartering authority a copy of its written decision within 10 calendar days of its action.

(d) An appeal to a county board of education of a Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety is subject to section 11968.5.3 rather than this section.

Note: Authority cited: Section 33031, Education Code. Reference: Sections 47604.32 and 47607, Education Code.

**§ 11968.5.5. Appeal of Charter Revocation to the State Board of Education and Submission of the Administrative Record.**

(a) If the district chartering authority or the charter school's governing body as described in the school's charter elects to appeal to the SBE, the appellant shall approve and deliver a written Notice of Appeal to the SBE within 30 calendar days of receiving a written decision by the county board of education, within 30 calendar days upon the expiration of 90 calendar days pursuant to section 11968.5.4(b), or within 30 calendar days of a county chartering authority's Final Decision.

(b) The appellant shall, at the same time it delivers a Notice of Appeal to the SBE, deliver to the SBE the following documents that shall be individually and sequentially numbered, one number per page, and be delivered to the respondent and the county board of education, if applicable, within five calendar days of delivery to the SBE:

(1) copies of the Notice of Violation, Notice of Intent to Revoke, the Final Decision, the Notice of Appeal to the county board of education, and the county board of education's written decision, as applicable;

(2) evidence of the final vote of the chartering authority if available;

(3) evidence relied upon by the chartering authority in determining whether substantial evidence existed that the charter school failed to refute to the chartering authority's satisfaction or remedy one or more violations identified in the Notice(s) of Violation;

(4) evidence and correspondence submitted by the charter school's governing body as described in the school's charter in response to the chartering authority's Notice of Violation and Notice of Intent to Revoke; and

(5) minutes of any public meeting at which the chartering authority considers or makes its decision to revoke the school's charter if available.

(c) At the same time the appellant submits its Notice of Appeal to the SBE, the appellant shall also submit to the SBE a written argument in the form of a brief or letter that shall be individually and sequentially numbered, one number per page; be delivered to the respondent within five calendar days of delivery to the SBE; and contain the following:

(1) a summary of the procedural and substantive facts limited to matters in the record;

(2) a summary of the arguments in support of the appellant's position that the chartering authority and/or the county board of education erred in its decision; and

(3) specific citations to the administrative record in support of each argument presented.

(d) If the respondent chooses to submit a written opposition to the SBE, it must do so within 30 calendar days of the delivery of the appellant's written argument to the SBE. This written opposition shall be in the form of a brief or letter that shall be individually and sequentially numbered, one number per page; be delivered to the appellant within five calendar days of delivery to the SBE; and contain the following:

(1) a summary of the procedural and substantive facts limited to matters in the record as submitted to the chartering authority and the county board of education, as appropriate;

(2) a summary of the arguments in support of the respondent's position that the chartering authority and/or the county board of education did not err in its decision; and

(3) specific citations to the administrative record in support of each argument presented.

(e) Within 15 calendar days of the delivery of the respondent's written opposition to the SBE, the appellant may submit to the SBE a written reply to the respondent's written opposition in the form of a brief or letter. If submitted, this written reply shall be individually and sequentially numbered, one number per page; be delivered to the respondent within five calendar days of delivery to the SBE; and contain the following:

(1) a summary of the arguments refuting the arguments raised in respondent's opposition; and

(2) specific citations to the administrative record in support of each argument presented;

(f) If the SBE does not take action within 120 calendar days of receipt of the appellant's written argument, if submitted pursuant to subdivision (c); or within 150 days of receipt of the respondent's written opposition, if submitted pursuant to subdivision (d); or within 165 days of receipt of the appellant's written reply, if submitted pursuant to subdivision (e); whichever is later, the appellant is deemed to have exhausted its administrative remedies.

(g) An appeal to the SBE of a Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety is subject to section 11968.5.3 rather than this section.

Note: Authority cited: Section 33031, Education Code. Reference: Section 47607, Education Code.