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Board Cover Memorandum

To Board of Education

From Charter Matters Committee
Mike Hutchinson, Chair
Clif Thompson, Board Member

Meeting Date June 29, 2022

Subject Proposed Amendments to Board Policy 0420.4

Ask of the Board Adoption by the Board of Education of either the proposed amendment to BP 0420.4 (Option 1) or the proposed amendment to BP 0420.4 (Option 2)

Background Board Policy 0420.4 includes the philosophy, goals, and objectives for the Board as a charter authorizer. This Policy was last updated on September 23, 2020 to align with AB 1505. The Board expressed interest in BP 0420.4 to more accurately convey the Board’s philosophies, goals, and objectives in regards to charter authorization.

Discussion The Charter Matters Committee has been working on proposed edits BP 0420.4 most of the past year:

- *August 26, 2021 (In Charter Matters Committee):* Staff shared existing BP 0420.4 language and examples of similar policies from other districts. Committee members discussed their likes and dislikes of the existing language. Committee members also discussed the format for community engagement for changes to BP 0420.4.
- *September 23, 2021 (In Charter Matters Committee):* Staff continued reviewing existing language of BP 0420.4 and provided a summary of the themes that previously arose from Committee members. Committee members discussed what they would like to see updated. Committee members also discussed staff recommendations for the format of future community engagements.
- *October 28, 2021 (In Charter Matters Committee):* Based on feedback from Committee members from the previous two meetings, staff presented, for Committee discussion, potential red-line edits to three sections of BP 0420.4 (framing, new petition review, and renewal determinations). Committee members also discussed what edits they wanted to see in the fourth section on oversight. Committee members scheduled three engagement sessions – one with each Committee member.

- *November 2021*: The engagement sessions were postponed to 2022, based on community feedback that more time was needed prior to engaging the community. Engagements were rescheduled for February 2022.
- *February 2022*: Directors Gonzales and Thompson held separate engagement sessions to solicit feedback on proposed edits to BP 0420.4.
- *February 24, 2022 (In Charter Matters Committee)*: Staff provided a summary of themes and highlights from the first two engagement sessions as well as written feedback. Committee members discussed how to move forward with this feedback.
- *April 2022*: Director Hutchinson held an engagement sessions to solicit feedback on proposed edits to BP 0420.4.
- *May 23, 2022 (In Charter Matters Committee)*: Committee members (only Directors Hutchinson and Thompson members of the Committee) voted to advance two versions to the full Board for consideration.

Fiscal Impact N/A

Attachment(s)

- Proposed Amendment to BP 0420.4 (Option 1)
- Proposed Amendment to BP 0420.4 (Option 2)

OAKLAND UNIFIED SCHOOL DISTRICT

Board Policy

BP 0420.4

Philosophy, Goals and Objectives

Charter Schools

The Governing Board is committed to ensuring quality and equity for all Oakland students, both in the District schools that OSUD operates and in the charter schools that OUSD authorizes. The Board recognizes its ongoing responsibility to provide high quality authorization that is responsive to the needs of all Oakland Families.

An overview of the guiding principles underlying the Board's review of new petitions, renewal petitions, and material revisions is provided below. Detailed policies and procedures related to new petitions, renewals, and material revisions are provided in Staff Handbooks, updated annually and posted on the Office of Charter Schools website.

~~believes that charter schools provide one opportunity to implement school-level reform and to support innovations that improve student learning, especially for low-achieving students, and to expand educational choices for parents and pupils within the public school system. (cf. Education Code, 47601~~

NEW PETITION REVIEW

In recognition that the Board is focused on the health and sustainability of existing Oakland schools, the Board is not actively seeking new charter petitions. Potential petitioners interested in collaborating with the District to open a new District program are encouraged to consult with OUSD's Chief Academic Officer. For any new petitions submitted, the Board encourages a strong emphasis on serving a high-needs student population and serving the interests of the entire community in which the school is proposing to locate.

~~The Governing Board expects the education program of each charter school to fulfill the intent of the Charter Schools Act as listed in Education Code 47601.~~ In reviewing petitions for the establishment of charter schools pursuant to this section, the Governing Board shall be guided by the intent of the Legislature and the needs of Oakland students. In determining whether to grant or deny a new charter petition, the Board shall carefully review the proposed charter and any supplementary information, consider public and staff input, and determine whether the charter petition adequately addresses all the provisions required by law. The Superintendent or designee shall develop Administrative Regulations, consistent with Board Policy, for the review and approval of petitions. The Governing Board may deny a charter school request for any of the reasons outlined in the Charter Schools Act. (cf. Education Code Sections 47601 and 47605)

The Board expects charter developers to create their charter proposals independently from the District as one indication of their readiness to operate a charter school.

The Board may interpret failure to open an approved charter school for more than two years following Board approval as evidence of inability to implement the charter school's educational program.

~~New Charter Petitions Submitted after July 1, 2020:~~ A new charter petition seeking to establish a charter school located in the District must be submitted to the District and the District will only accept a petition if it is to establish a charter school located in the District.

Within sixty (60) days from when a new charter petition has been submitted, the Board shall hold a public hearing. Within ninety (90) days from when a new charter petition has been submitted, the Board shall either grant or deny it at a determination public hearing. If both the District and the petitioner agree in writing, the deadline for the Board to either grant or deny the new charter petition may be extended another thirty (30) days.

The Board may grant a new charter petition for a period not to exceed five years.

~~In order to protect the District and students, the Superintendent or designee shall establish Administrative Regulations, consistent with Board Policy, including appropriate controls, defining oversight requirements and other aspects of the relationship between the charter school and the District. The Superintendent or designee shall develop Administrative Regulations, consistent with Board Policy, for revocation and renewal of a charter. In accordance with law and pursuant to any applicable administrative regulations, the Superintendent or designee shall provide technical assistance to a charter school eligible for technical assistance under Education Code section 47607.3. The Superintendent or designee may provide technical assistance to a charter school not eligible for technical assistance under Education Code section 47607.3 for a fee. The Superintendent or designee may work with charter school operators to establish workable plans for contracted services, which the District may provide to charter schools for a fee.~~

~~The Board shall not deny a charter school petition unless specific written factual findings are made pursuant to law and administrative regulation.~~

Charter Renewals: RENEWAL DETERMINATIONS

In exchange for the significant degree of autonomy afforded to charter schools under state law, the Board believes that charter schools being considered for renewal must be held to high levels of accountability in order to ensure quality and equity for all Oakland students.

In determining whether to grant or deny a charter, the Board shall follow state law, as detailed in Administrative Regulations. Unlike a new charter petition, a charter renewal shall not be denied based on the fiscal impact of the charter school on the District or a finding that the charter school is unlikely to serve the interests of the entire community in which the school is located (cf. Education Code, 47607). From the date of petition submission, the District has 60 days to hold an initial public hearing and 90

days to hold a determination public hearing; the timeline may be extended by 30 days upon mutual agreement between the District and the charter school.

A request to renew a charter must be submitted on or after September 15 of the final academic year of the charter term, following form, format and process defined in the Administrative Regulations and consistent with Board policy. ~~Any charter petition submitted between September 15, 2020 and October 3, 2020 that was properly submitted but for being submitted prior to 270 days from the expiration of the charter shall be deemed properly submitted upon approval by the Board of an amendment adding this sentence to this policy.~~ Charter renewal petitions are strongly encouraged to be submitted to the Governing Board no later than February 1 of the final academic year of the charter term. ~~Charter renewal submissions must include, but not be limited to, a reporting of: fiscal accountability systems, public governance systems, multiple measures for evaluating the educational program, and student performance data. Applicable renewal conditions and evaluation criteria will vary, depending on a school's State-identified renewal tier. Generally, in reviewing charter petitions for renewal, emphasis will be given to academic performance data, additional measures of students success, equitable enrollment, fiscal health and sustainability, and governance and compliance practices.~~

Appeals: APPEALS

If the Board denies a new charter petition or a charter renewal petition, the petitioner may appeal the denial to the Alameda County Board of Education but (i) must do so within thirty (30) days of the Board's denial, (ii) must provide a copy of the appeal petition to the District, and (iii) cannot include new or different material terms in the appeal petition. If the appeal petition does include new or different material terms in the appeal petition, the Alameda County Board of Education will remand the petition back to the Board for reconsideration and the Board shall grant or deny the revised petition within thirty (30) days. If the Board denies the revised petition, the petitioner may again appeal to the Alameda County Board of Education under the conditions outlined in this paragraph.

If the Alameda County Board of Education denies a new charter petition (that has been previously denied by the Board), the petitioner may further appeal the State Board of Education but (i) must do so within thirty (30) days of a denial by the Alameda County Board of Education, (ii) must include additional information as required by law, (iii) must provide a copy of the appeal petition to the District, and (iv) cannot include new or different material terms in the appeal petition. If requested by the petitioner, the Superintendent or designee shall prepare the documentary record, including transcripts of the public hearing at which the Board denied the charter request, within ten (10) working days of the request. If the appeal petition does include new or different material terms in the appeal petition, the State Board of Education will remand the petition back to the Board for reconsideration and the Board shall grant or deny the revised petition within thirty (30) days. If the Board denies the revised petition, the petitioner may again appeal directly to the State Board of Education under the conditions outlined in this paragraph.

Within thirty (30) days of receipt of the appeal submitted to the State Board of Education, the Superintendent or designee shall submit, on behalf of the Board, a written opposition to the appeal

petition describing how the Board and the Alameda County Board of Education did not abuse its discretion in denying, respectively, the petition and the appeal petition.

The State Board of Education shall either hear the appeal or summarily deny review of the appeal based on the documentary record. If the State Board of Education hears the appeal, it may reverse the decision of the Board and the Alameda County Board of Education only upon a determination that there was an abuse of discretion. If the State Board of Education does reverse the decision of the Board and the Alameda County Board of Education, the State Board of Education shall designate, in consultation with the petitioner, either the District or the Alameda County Board of Education as the chartering authority.

OVERSIGHT

The Board recognizes that charter schools are independent of the District, but shall endeavor to structure relationships between charter schools and the District that stimulate continual improvements in all ~~public~~ schools and ensure that all students are being equitably served.

Charter schools must comply with the Charter Schools Act; otherwise, they are generally exempt from state laws governing school districts, except where specifically included. (cf. Education Code, 47610)

The charter between the District and the charter school is a contract that holds charter schools accountable for increasing student achievement and meeting other state requirements. Charter schools are obligated to comply with the provisions of federal law, specified state law, their charters, and administrative requirements that are components of Board oversight. Charters may not be unilaterally amended. Material revisions of the provisions of a charter require Board approval. The Superintendent or designee shall develop Administrative Regulations, consistent with Board Policy, for the review and approval of material revisions of the provisions of a charter. The Board may revoke charters with schools that fail to meet any of these requirements by following provisions in the California Charter Schools Act. (cf. Education Code, 47605)

Any charter granted or renewed by the Board shall contain adequate processes and measures for holding the school accountable for fulfilling the terms of its charter. These shall include, but not be limited to, fiscal accountability systems, public governance systems, resolution of parent complaint systems and multiple measures for evaluating the educational program. In accordance with law, charter provisions, and District administrative regulations, charters shall provide regular reports to the District to assist the Board in fulfilling its oversight responsibility. These reports shall be in a form and timeline prescribed by the Administrative Regulations, consistent with Board policy, and shall include at least a reporting of: (1) fiscal accountability systems, (2) public governance systems, and (3) multiple measures for evaluating the educational program. The Superintendent or designee may inspect or observe any part of the charter school at any time. (cf. Education Code 47607; Code of Federal Regulations 0500 - Accountability).

All requests for new charters, major amendments, charter renewals, and conversions must be submitted to the District's Office of Charter Schools, in forms and formats and by process defined in the Administrative Regulations, consistent with Board Policy. All submissions must be complete at the time of submission. The Board will consider petition signatures that are more than six months old upon

petition submission to be stale and will disregard them. Petitioners are strongly encouraged to submit no later than November 15 of the year prior to their proposed school opening. In the case of petitions received after that date, the Governing Board reserves the right to consider approval on the basis of a one-year delay in the commencement of charter school operation.

All charter schools operating in the District must operate as, or be operated by, a nonprofit public benefit corporation, formed and organized pursuant to the California Nonprofit Corporation Law and organized under Section 501(c)(3) of the Internal Revenue Service. The Board may choose to exercise its right to place a representative on any charter school's governing board at any time. The Board may select any individual it deems appropriate to serve in this capacity and to determine whether that person will be a voting or nonvoting member on the charter school's board. (cf. Education Code 47604)

The Board shall not require any student to attend a charter school and shall not require any District employee to work at a charter school. (cf. Education Code 47605)

Legal Reference:

EDUCATION CODE

33054 Waivers

41365 - 41367 Charter School Revolving Loan Program

42100 Annual Statement of Receipts and Expenditures

42238.51-42238.53 Funding for Charter Districts

44237 Criminal Record Summary

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45122.1 Classified Employees, Conviction of a Violent or Serious Felony

46201 Instructional Minutes

47600-47616.5 Establishment, Operation, Evaluation and Oversight of Charter Schools

47610 Education Code General Exemption and Exceptions

47640-47647 Special Education Funding for Charter Schools

47652 Funding of First-Year Charter Schools

48000 Minimum Age of Admission (Kindergarten)

48010 Minimum Age of Admission (First Grade)

48011 Minimum Age of Admission from Kindergarten or Other School

51745-51749.3 General Independent Study
52052 Alternative Accountability System
54032 Limited English or Low-Achieving Pupils
56026 Special Education
56145-56146 Special Education Services in Charter Schools
47600-47604.5 Charter School General Provisions
47605-47608 Establishment of Charter Schools
47610-47615 Charter School Operation
47616.5-47616.7 Notice
47620-47626 University Charter Schools
47630-47632.5 Funding - General Provisions
47633-47635 Funding - Charter School Block Grant
47636-47638 Funding - Other Operational Funding Available to Charter Schools
47640-47647 Funding - Special Education
47650-47652 Funding - Apportionment
47660-47664 Funding - Computations Affecting Sponsoring Local Educational Agencies
60605 Academic Content and Performance Standards; Assessments
60600-60618, 60630, 60640-60649 California Assessment of Academic Achievement;
Standardized Testing and Reporting Program
60850-60859 California High School Exit Examination

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act
5110-6910 California Corporations Code, Nonprofit Corporation Law
54950-54963 The Ralph M. Brown Act

PENAL CODE

667.5 Definition of Violent Felony

1192.7 Definition of Serious Felony

CODE OF REGULATIONS, TITLE 5

11960-11969 Charter Schools

11960 Charter School Average Daily Attendance

11963, 11963.1, 11963.2, 11963.3, 11963.4, 11963.5, 11963.6 SB740 Funding Determination

11969.1-11969.9 Charter School Facilities

11967.5 & 11967.5.1 Criteria for the Review and Approval of State Board Charter School Petitions

11700, 11700.1, 11701, 11701.5, 11702-11705 Independent Study

11965 Definitions, including Satisfactory Progress and Private Schools

11969 Numbering of Charter School Petitions

11967 Appeals on Charter Petitions That Have Been Denied

UNITED STATES CODE, TITLE 20

6311 Adequate Yearly Progress

6319 Qualifications of Teachers and Paraprofessionals

8061-8067 Charter Schools Program

8071 Charter School Facilities

CODE OF FEDERAL REGULATIONS, TITLE 34

200 Accountability

ATTORNEY GENERAL OPINIONS

96-1206 Ops. Cal. Atty. Gen. (1997)

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

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

Management Resources:

CSBA PUBLICATIONS

Charter Schools: A Manual for Governance Teams, 2002

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

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WEB SITES

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

CDE: <http://www.cde.ca.gov/sp/cs/>

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

National Association of Charter School Authorizers: www.qualitycharters.org

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

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

8/25/04; 12/13/06A; 10/31/07A; 09/23/20A

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Board Policy

BP 0420.4

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

National Association of Charter School Authorizers: www.qualitycharters.org

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

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

8/25/04; 12/13/06A; 10/31/07A; 09/23/20A