



OAKLAND UNIFIED SCHOOL DISTRICT

Office of the State Administrator
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TO: Vincent Matthews, State Administrator
 & Members of the OUSD Board of Education

FROM: Kirsten Vital, Chief of Community Accountability

DATE: October 31, 2007

RE: Revisions to the current Board Policies re: Charter Schools

Legislative File

File # 07-1326
 Introduction Date 10-31-07
 Enactment No. _____
 Enactment Date _____
 By _____

ACTION REQUESTED

Approval by State Administrator the proposed Board Policy revisions regarding Charter Schools.

DISCUSSION

The following additions, subtractions, and modifications are proposed for the current Board Policies re: charter schools:

Reference	Policy language additions, modifications, and/or subtractions	Rationale
1	<ul style="list-style-type: none"> The Superintendent or designee shall develop procedures and guidelines for the review and approval of petitions. The Superintendent or designee shall develop procedures and guidelines for the review and approval of major amendments to a charter. The Superintendent or designee shall develop procedures and guidelines for revocation and renewal of a charter. 	California Charter Schools Act provides for the review and approval of charter petitions, review and approval of major amendments to a charter, and for the revocation and renewal of a charter by a local school district's Governing Board. However our district, as a charter school authorizer, would be strengthened in this area by board policy language that provides, essentially, a mandate to staff to establish and create the standard procedures and guidelines by which these functions will take place.
2	<ul style="list-style-type: none"> A charter granted by the Governing Board may be up to five years, beginning July 1 of the first year the school enrolls students, unless revoked following provisions in the 	California Charter Schools Act provides for the initial approval of a charter for up to five years. Subsequent renewals of a charter must be for a term of five years. The purpose of establishing July 1 as the

	<i>California Charter Schools Act.</i>	standard start date for all charter schools, is to a) align with the fiscal calendar, b) align with the academic calendar, and c) allow for the systemization of the Administrative Regulations, consistent with Board policy to become more efficient and more effective in its over-all charter school oversight.
3	<ul style="list-style-type: none"> • <i>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.</i> 	<p>California Charter Schools Act provides for the provision by the charter school to its authorizer of an annual report. This policy language will strengthen the ability to standardize reporting and hold charters' accountable for the timely and adequate submission of:</p> <ul style="list-style-type: none"> a) their annual audited financial reports, b) an annual update of their governing board membership and structure, any bylaw revisions, current contact information and c) annual submission of their School Accountability Report Card, which under the ambiguous state language in this regard, provides for the Administrative Regulations, consistent with Board policy to further clarify the required content of charter school SARC reporting to the Governing Board.
4	<ul style="list-style-type: none"> • <i>and by process (pertaining to the submission of a charter petition at a regularly scheduled board meeting)</i> 	<p>California Charter Schools Act is silent with respect to the actual submission process of charter petitions. This policy language preserves the requirements that all documents be submitted at a regularly scheduled meeting. However it also allows for the Administrative Regulations, consistent with Board policy to strengthen and clarify the process through which petitions are received.</p> <p>For example, administrative procedures may also require that petitioners be required to make contact with the Office of Charter Schools, in addition to submission at a regularly scheduled</p>

		board meeting. This would allow for the ability to create a timely, efficient, and transparent intake process.
5	<ul style="list-style-type: none"> • Requests for a new charter, conversion or a major charter amendment may be filed at any regular Board meeting. 	This is repetitive language that exists elsewhere in this policy and due to the term “may” used here; it weakens the previous policy use term “must”.
6	<ul style="list-style-type: none"> • 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. 	<p>California Charter Schools Act is silent with respect to the parameters within which a submitted charter is approved to open. This additional policy language strengthens the current policy language which states that petitioners are “strongly encouraged to file no later than November 15 of the year prior to their proposed school opening.” This existing and additional policy language is supported by the substantial and complex benchmarks that must occur in order for a new school to effectively open. This includes, but is not limited to: acquiring staff, recruiting students, acquiring funds, locating an adequate facility, and furthering the development of the educational program.</p> <p>This additional policy language allows for the development of a culture and practice that appreciates this preparatory stage, and reinforces the expectation that petitioners submit on or before this date. At the same time, this language permits for the consideration of extenuating circumstances which might allow for an approval that occurs within a shorter window of time.</p>
7	<ul style="list-style-type: none"> • following form, format and process defined in the Administrative Regulations, consistent with Board policy. <i>(pertaining to charter renewal)</i> 	California Charter Schools Act provides criteria that may be the basis for the renewal of a charter, but is silent as to the details of the form, format, and process. This policy language allows for the Governing Board to mandate that such procedures and guidelines be established.

8	<ul style="list-style-type: none"> Charter renewal petitions are strongly encouraged to be submitted to the Governing Board no later than 150 days prior to the expiration of the charter. 	<p>California Charter Schools Act provides that when a renewal petition is denied by a local Governing Board, the petitioner may appeal to the County Board of Education, as well as the State. This additional policy language is in the interest of:</p> <ul style="list-style-type: none"> a) ensuring that charters develop a practice of renewal submission which does not eliminate their own access to this due process b) allows for the Administrative Regulations, consistent with Board policy to institute an allocation of resources, based on a predictable window, so that the process is efficient, and of high quality <p>Lacking this policy language simply weakens the predictability for a charter to access the appeals process, or for our District to conduct a thorough and efficient renewal protocol when a charter renewal petition is submitted within a shorter window of time.</p>
9	<ul style="list-style-type: none"> 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. (<i>pertaining to charter renewals</i>) 	<p>California Charter Schools Act provides for the renewal of a charter based on "clear and convincing data". At a minimum this policy language allows for specificity that will be aligned with the annual report requirements.</p> <p>Additionally, previous policy language stated simply "performance data" as a requirement. Here the policy language is modified to specifically require "student performance data."</p>

Staff from OUSD Legal Office reviewed the proposed changes and concludes that the revisions are consistent with CA Education Code, and other applicable laws and regulations. These revisions will provide for the strengthening of Oakland Unified School District as a charter school authorizer.

BACKGROUND

The proposed revisions may be taken in whole or in part, as each revisions specifically addresses a key area of the role of the District as a charter school authorizer.

RECOMMENDATION

Staff recommends approval of the proposed Board Policy revisions re: charter schools.

**OAKLAND UNIFIED SCHOOL DISTRICT
Board Policy**

**BP 0420.4
Philosophy, Goals and Objectives**

Charter Schools

The Governing Board 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)

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. 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 presenting an unsound educational program if the educational program does not comply with the intent of the Charter Schools Act. (cf. Education Code Sections 47601 and 47605)

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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 meeting measurable pupil outcomes and for other behaviors. 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 major amendments to 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)

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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.

In order to protect the District and students, the Superintendent or designee shall establish Administrative Regulations, consistent with Board Policy, including appropriate controls, ~~including administrative regulations,~~ 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.

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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. 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 Superintendent or designee may work with charter school operators to establish workable plans for technical assistance or other contracted services, after a Charter is granted, which the District may provide to charter schools for a fee.

In determining whether to grant or deny a charter, 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 Board shall not deny a charter school petition unless specific written factual findings are made pursuant to law and administrative regulation. If the Board denies a charter, petitioners may submit the petition first to the County Board of Education and then, if denied by the County Board, to the State Board of Education. A charter granted by the Governing Board may be up to five years, beginning July 1 of the first year the school enrolls students, unless revoked following provisions in the California Charter Schools Act. (cf. Education Code, § 47605; 5 CCR 11967.5-11967.5.1)

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Any charter granted 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 Board 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).

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All requests for new charters, major amendments, charter renewals, and conversions must be filed at a regular meeting of the Board, in forms and formats and by process defined in the Administrative Regulations, consistent with Board Policy. All filings must be complete as submitted to the public record. The Board will consider petition signatures that are more than six months old upon petition filing to be stale and will disregard them. Requests for a new charter, conversion or a major charter amendment may be filed at a Regular Board meeting. Petitioners are strongly encouraged to file 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. The Board will accept a request to renew a charter that is not prior to 270 days

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from the expiration of the charter; following form, format and process defined in the Administrative Regulations, consistent with Board policy. Charter renewal petitions are strongly encouraged to be submitted to the Governing Board no later than 150 days prior to the expiration of the charter. Filings that request charter renewal 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.

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All charter schools operating in the District will 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. (c.f. Education Code 47604)

The Board shall not require any student to attend a charter school and shall not require any Board 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
44830.1 Certificated Employees, Conviction of a Violent or Serious Felony
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

CDE PUBLICATIONS

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

USDOE DRAFT NONREGULATORY GUIDANCE

Charter School Program, August 31, 2003

The Impact of the New Title I Requirements on Charter Schools, March 24, 2003

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

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