

Board Office Use: <b>Legislative File Info.</b>	
File ID Number	20-1769
Introduction Date	9/8/2020
Enactment Number	20-1400
Enactment Date	9/8/2020 lf



# Memo

**To** Charter Committee

**From** Kyla Johnson-Trammell, Superintendent  
Sonali Murarka, Director-Office of Charter Schools

**Board Meeting Date** September 8, 2020

**Subject** Proposed Amendments to BP 0420.4 (Charter Schools)

**Action** Approve referral of Proposed Amendments to BP 0420.4 (Charter Schools) to full Board for consideration and approval

**Background** Assembly Bill No. 1505 (“AB 1505”) was approved by the Legislature on September 10, 2019 and signed into law by the Governor on October 3, 2019. The law is now in effect.

AB 1505 includes significant changes in charter law, including the following:

- Extends the timeline for charter petition review from 60 days to 90 days
- Changes to the appeal process, particularly that the State Board of Education may only overturn a denial by a school board or county board of education if it determines that there was an abuse of discretion in denying the charter
- Modifies the submission process such that submissions must be to the District Office rather than at Board meetings

At the Charter Committee Meeting on June 26, 2020, staff and the Charter Committee members of the Board engaged in a discussion around the new charter law (AB 1505) and the implications for OUSD.

**Discussion** The proposed revisions to BP 0420.4 (Charter Schools) bring the policy into alignment with AB 1505. Doing so is time sensitive due to the need to start accepting charter renewals.

If amendments are approved by the Board, the Office of Charter Schools will make corresponding edits to the associated Administrative Regulations to bring it in alignment with both the amended BP 0420.4 (Charter Schools) and AB 1505. Additionally, the Office of Charter Schools had updated its Renewal Handbook and

Material Revision Handbook based on AB 1505 and may make additional updates based on the amended BP and AR 0420.4 (Charter Schools).

Lastly, it is important to note that the Office of Charter Schools is aware that the Board has expressed interest in a broader review and possible rewrite of BP 0420.4 (Charter Schools). Approving the proposed amendments does not prevent the Board from doing so; the proposed amendments simply align existing policy with state law.

**Fiscal Impact**

N/A

**Attachment**

Proposed Amendments to BP 0420.4 (Charter Schools) - REDLINE  
Proposed Amendments to BP 0420.4 (Charter Schools) - CLEAN

## 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 any of the reasons outlined in~~ the Charter Schools Act. (cf. Education Code Sections 47601 and 47605)

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 ~~measurable pupil outcomes and for~~ other ~~behaviors~~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)

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, 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.

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.

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 ~~technical assistance or other~~ contracted services, ~~after a Charter is granted~~, which the District may provide to charter schools for a fee.

**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.

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 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)~~

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

**Charter Renewals:** 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.

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.

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 ~~Board~~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 ~~filed at a regular meeting of~~ submitted to the District's Office of Charter Schools ~~Board~~ District office, in forms and formats and by process defined in the Administrative Regulations, consistent with Board Policy. All ~~filings~~ submissions must be complete ~~as submitted to~~ the public record. time of submission. The Board will consider petition signatures that are more than six months old upon petition filings submission to be stale and will disregard them. Petitioners are strongly encouraged to ~~file~~ 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.

~~The Board will accept a~~ A request to renew a charter must be that is submitted on or after prior to 270 days from September 15 of the ~~expiration~~ 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 ~~150 days prior to~~ February 1 of the ~~expiration~~ final academic year of the charter. ~~— Filings term. Charter renewal submissions 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.

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

The Board shall not require any student to attend a charter school and shall not require any Board 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  
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](http://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](#)



## **OAKLAND UNIFIED SCHOOL DISTRICT**

### **Board Policy**

#### **BP 0420.4**

#### **Philosophy, Goals and Objectives**

##### **Charter Schools**

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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.

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

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

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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.

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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.

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.

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)

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Education Commission of the States: <http://www.ecs.org>  
National Association of Charter School Authorizers: [www.qualitycharters.org](http://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