



# **Bullet Proofing Your Charter Petition and Navigating Through the Charter Approval Process**

**Presented by:**

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# Workshop Goals

- Understand legal authority regarding the charter submission and approval process
- Review the charter submission and approval process
- Review timelines
- Review drafting and process tips



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# Current Charter School Landscape

- The Charter School Act is 16 years old
  - Over 1062 charters granted to date
  - 9 charter districts (comprising 18 charters)
  - 749 active, 41 pending
  - 15 SBE charters (2 state-wide) (13 charter appeals; 2 are no longer operating)
  - Estimate less than 50 county charters



## Overview of Process

1. Draft Charter, Appendices, and Budget Documents
2. Gather Signatures, Organize Stakeholders
3. Submit the Charter
4. Public Hearing
5. Action to Approve or Deny
6. Appeal COE or SBE



# Signature Requirement

- **The petition may be submitted to the governing board of the school district for review after either of the following conditions are met:**
  - (A) The petition has been signed by a number of parents or guardians of pupils that is equivalent to at least one-half of the number of pupils that the charter school estimates will enroll in the school for its first year of operation.**
  - (B) The petition has been signed by a number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the school during its first year of operation.**
- **A petition that proposes to convert an existing public school to a charter school may be submitted to the governing board of the school district for review after the petition has been signed by not less than 50 percent of the permanent status teachers currently employed at the public school to be converted.**
- **A petition shall include a prominent statement that a signature on the petition means that the parent or guardian is meaningfully interested in having his or her child, or ward, attend the charter school, or in the case of a teacher's signature, means that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition.**



# Timelines

Start Early!

<b>Submitting To:</b>	<b>Public Hearing</b>	<b>Action</b>	<b>Possible Extension</b>
District	30 days from submission	60 days from submission	30 days
County	30 days from submission	60 days from submission	30 days
State Board of Education	60 days from submission	90 days from submission	30 days

- Districts typically will not comply with legal timelines
- SBE/ACCS agenda requirements are difficult
- Calendar backwards carefully!



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# At a Minimum Gather and Review Prior to Submission

- Charter Schools Act
- District Board Policy/Review Matrix
- County Board Policy/Review Matrix
- State Board Regulations on Charter Approval, Title 5 CCR 11967.5.1 (attached)
- State Board Recommended Model Application
- Other charters approved by the District/County/SBE
- Reviews of denied charters at SD, COE and SBE



# Important Note

- \* The charter submitted at the school district level will be the same charter submitted on appeal to the county board and State Board of Education (no substantive changes).



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## Ed Code Section 47605

- Legislative intent: “charter schools are and should become an integral part of the educational system and establishment of charters should be encouraged.”
- Shall grant if consistent with sound educational practice



## Ed Code Section 47605 (cont.)

Shall not deny unless district makes written factual findings specific to the petition that:

- (1) The charter presents “unsound educational program”
- (2) Petitioners are “demonstrably unlikely to successfully implement the program set forth in the petition”
- (3) The petition is missing required affirmations
- (4) The petition does not contain the required number of signatures
- (5) The petition does not contain reasonably comprehensive description of the 16 required elements



# SBE Regulations on CS Approval 5 CCR 11967.5.1

- “Unsound educational program”: “A program that involves likelihood of physical, educational, or psychological harm to students” or is a program “that is not likely to be of educational benefit to pupils who attend.”



## **SBE Regulations on CS Approval 5 CCR 11967.5.1 (cont.)**

- “Demonstrably unlikely to successfully implement program”: If operators have past history working with CS that was revoked; operators are unfamiliar with charter and law; or petitioners have presented unrealistic financial or operational plan.



## **SBE Regulations on CS Approval 5 CCR 11967.5.1 (cont.)**

- “Consistent with sound educational practice” if it is likely to be of educational benefit to pupils who attend.”
- “A charter need not be designed to meet the educational needs of every student who seeks to enroll.”



## SBE Regulations on CS Approval 5 CCR 11967.5.1 (cont.)

- A “reasonably comprehensive” description shall include, but not be limited to, information that:
  - Is substantive and is not, for example, a listing of topics with little elaboration
  - Addresses all aspects of multiple elements
  - Is specific to the charter petition being proposed
  - Describes, as applicable among the different elements, how the charter school will: (1) improve pupil learning; (2) increase learning opportunities; (3) expand educational opportunities; (4) hold itself accountable for outcomes; and (5) provide vigorous competition in the public school system.



# Elements of a Charter

The petition must contain a reasonably comprehensive description of the following element:

## 1. Educational Program

### **Education Code Section 47605(b)(5)(A)(i)**

A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an "educated person" in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.



# Elements of a Charter

The petition must contain a reasonably comprehensive description of the following element:

## 1. Educational Program (Continued)

### **Education Code Section 47605(b)(5)(A)(ii)**

If the proposed school will serve high school pupils, a description of the manner in which the charter school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable and courses approved by the University of California or the California State University as creditable under the "A" to "G" admissions criteria may be considered to meet college entrance requirements.



# Elements of a Charter

The petition must contain a reasonably comprehensive description of the following element:

## 2. Measurable Pupil Outcomes

### **Education Code Section 47605(b)(5)(B)**

The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes," for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program.



# Elements of a Charter

The petition must contain a reasonably comprehensive description of the following element:

## 3. Outcome Measurement

### **Education Code Section 47605(b)(5)(C)**

The method by which pupil progress in meeting those pupil outcomes is to be measured.



# Elements of a Charter

The petition must contain a reasonably comprehensive description of the following element:

## 4. Governance Structure

### **Education Code Section 47605(b)(5)(D)**

The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.



# Elements of a Charter

The petition must contain a reasonably comprehensive description of the following element:

## 5. Employee Qualifications

### **Education Code Section 47605(b)(5)(E)**

The qualifications to be met by individuals to be employed by the school.



# Elements of a Charter

The petition must contain a reasonably comprehensive description of the following element:

## 6. Health and Safety

### **Education Code Section 47605(b)(5)(F)**

The procedures that the school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the school furnish the school with a criminal record summary as described in Section 44237.



# Elements of a Charter

The petition must contain a reasonably comprehensive description of the following element:

## 7. Racial and Ethnic Balance

### **Education Code Section 47605(b)(5)(G)**

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.



# Elements of a Charter

The petition must contain a reasonably comprehensive description of the following element:

## 8. Admissions Requirements

### **Education Code Section 47605(b)(5)(H)**

Admission requirements, if applicable.



# Elements of a Charter

The petition must contain a reasonably comprehensive description of the following element:

## 9. Independent Financial Audits

### **Education Code Section 47605(b)(5)(I)**

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.



# Elements of a Charter

The petition must contain a reasonably comprehensive description of the following element:

## 10. Student Suspension and Expulsion

### **Education Code Section 47605(b)(5)(J)**

The procedures by which pupils can be suspended or expelled.



# Elements of a Charter

The petition must contain a reasonably comprehensive description of the following element:

## 11. Employee Retirement Systems

### **Education Code Section 47605(b)(5)(K)**

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.



# Elements of a Charter

The petition must contain a reasonably comprehensive description of the following element:

## 12. Student Attendance Alternatives

### **Education Code Section 47605(b)(5)(L)**

The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.



# Elements of a Charter

The petition must contain a reasonably comprehensive description of the following element:

## 13. Return Rights of District Employees

### **Education Code Section 47605(b)(5)(M)**

A description of the rights of any employee 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.



# Elements of a Charter

The petition must contain a reasonably comprehensive description of the following element:

## 14. Dispute Resolution

### **Education Code Section 47605(b)(5)(N)**

The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.



# Elements of a Charter

The petition must contain a reasonably comprehensive description of the following element:

## 15. Collective Bargaining (EERA)

### **Education Code Section 47605(b)(5)(O)**

A declaration 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 Chapter 10.7 (commencing with *Section 3540*) of *Division 4 of Title 1 of the Government Code*.



# Elements of a Charter

The petition must contain a reasonably comprehensive description of the following element:

## 16. Procedures for Closing

### **Education Code Section 47605(b)(5)(P)**

A description of the procedures to be used if the charter school closes. The procedures shall ensure a final audit of the school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of pupil records.



# Other Requirements

In addition, petitioners need to provide other information to the District:

- The facilities to be utilized by the school
- How administrative services will be provided to the School
- Potential effects and civil liability effects, if any upon the school and school district
- First year operational budget, including startup costs (include assumptions page)
- Monthly Cash flow and financial projections for first three years



## Required Affirmations – Education Code Section 47605(d)

- Shall be non-sectarian in its programs, admissions policies, employment practices, and all other operations. [Ref. Education Code Section 47605(d)(1)]
- Shall not charge tuition. [Ref. Education Code Section 47605(d)(1)]
- Shall not discriminate against any pupil on the basis of the characteristics listed in Section 220 (actual or perceived disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code or association with an individual who has any of the aforementioned characteristics). [Ref. Education Code Section 47605(d)(1)]



## Required Affirmations– Education Code Section 47605(d) (cont.)

- Shall admit all students who wish to attend the Charter School. However if the number of pupils who wish to attend the Charter School exceeds the School's capacity, attendance, except for existing pupils of the Charter School, shall be determined by public random drawing. Preference in the public random drawing shall be extended only in accordance with Education Code Section 47605(d)(2)(B). In the event of a drawing, the chartering authority shall make reasonable efforts to accommodate the growth of the Charter School in accordance with Education Code Section 47605(d)(2)(C)
- Except as provided in Education Code Section 47605(d)(2), admission to the Charter School shall not be determined according to the place of residence of the student or his or her parents within the State. [Ref. Education Code Section 47605(d)(2)(A)-(B)]



## Required Affirmations– Education Code Section 47605(d) (cont.)

- If a pupil is expelled or leaves the charter school without graduating or completing the school year for any reason, the charter school shall notify the superintendent of the school district of the pupil's last known address within 30 days, and shall, upon request, provide that school district with a copy of the cumulative record of the pupil, including a transcript of grades or report card and health information. [Ref. California Education Code Section 47605(d)(3)]
- (See sample affirmations in packet)



# Charter Strategies

- Make Your Best Play
- Quarterbacking Tips
- Read Your Playbook
- Don't Forget Your Equipment



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# Make Your Best Play

## (Drafting Tips for a Strong Renewal Charter)

- Try to meet with the District ahead of time – to define charter elements/interests
- 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 (colors, graphics, presentation, font, consistency)
- Don't Put Off till Tomorrow What You Can Do Today (policy development)
- Keep the Reader Interested (quotations to inspiring work)
- Build the Reader's Confidence (show them that you know what you are talking about)
- 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



# Make Your Best Play

(Drafting Tips for a Strong Renewal Charter Contd.)

- Include Charter Schools Act Intent
- Include Table of Contents to Allow Reader to Find Legally Required Elements
- Don't Make Promises You Can't Keep
- Don't Obligate Third Parties or the Granting Agency Without Actual Agreement
- Don't Forget to Request a Charter Term
- Draft with an Eye Toward Appeal
- Attach Documents as "Draft"
- Use Non-Exhaustive Lists



# QUARTER BACKING TIPS

(How to Aggressively Manage the Renewal Process)

- Try to Meet with District Ahead of Time – to define process
- Control the Audience
- Understand Charter Law
- Be Prepared to Offer Contingent Operation (approval with contingencies)
- Lobby Your Board Members
- Talk to Other Successful Charter School Operators
- No Surprises – get staff report before meeting
- Demonstrate Strong Public Support (crowd the board room)
- Create A Strong Visual Effect (T-shirts, ribbons)
- Script and Control Communications with Granting Agency Administration and Board
- Involve Stakeholders Early
- Fundraise Early



# QUARTER BACKING TIPS

(How to Aggressively Manage the Renewal Process  
Contd.)

- Identify the Strengths of Your Founding Group
- Identify the Weaknesses of Your Founding Group and Fill Weaknesses with Solutions, Experts (curriculum, legal, fiscal), etc.
- Maintain Courteous, Non-Adversarial Relations with Granting Agency
- Engage In Early Strategic Planning
- Act as a Unit – Assign a Strong Leader
- 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



# READ YOUR PLAY BOOK

## (Required Reading List)

- State Board Model Application
- Title 5 California Code of Regulations 11967.5.1 (Charters on Appeal to the State Board of Education)
- Charter Schools Act
- Granting Agency Assessments of Other Charters on Renewal
- Granting Agency Charter School Policy; County charter school policy
- CDE Website (Q&A)
- Other Reliable Websites (MYMCHARTERLAW.COM ☺, CCSA)
- CDE Assessments of Charters on Appeal



# DON'T FORGET YOUR EQUIPMENT

## (List of Possible Appendices)

- Curriculum Samples
- Health and Safety Policies\*
- Suspension and Expulsion Policy\*
- Instructional Materials List
- Additional Details Regarding English Learners, GATE, Section 504, Special Education
- Day in the Life Summary (Describe Typical Day for a Student)
- School Calendaring
- Bell Schedule
- Content and Performance Standards (to extent beyond standards)
- Resumes or Brief Bios of Administrative Team (or renewal committee) and/or Consultants
- Letters of Support
- Bylaws/Articles of Incorporation/Conflicts Code
- Description of the Facilities
- Lease
- Current MOU (include special education agreement)
- Facilities Use Agreement
- Financial Documents\*

**\* Required by law to be in your charter or appendices**





# Questions, Final Thoughts



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