

CHARTER SCHOOL REVOCATION

The Monterey County Board of Education (County Board) expects any charter school it authorizes to provide a sound educational program that promotes student learning and to carry out its operations in a manner that complies with law and the terms of its charter.

(cf. 0420.4 - Charter School Authorization)
(cf. 0420.41 - Charter School Oversight)
(cf. 0420.42 - Charter School Renewal)
(cf. 0500 - Accountability)

The County Board may revoke a charter before the date it is due to expire whenever the County Board makes a written factual finding, supported by substantial evidence, that the charter school has done any of the following: [Education Code (E.C.) 47607]

1. Committed a material violation of any of the conditions, standards, or procedures set forth in the charter
2. Failed to meet or pursue any of the student outcomes identified in the charter
3. Failed to meet generally accepted accounting principles or engaged in fiscal mismanagement
4. Violated any provision of law

In determining whether to revoke a charter, the County Board shall consider increases in student academic achievement for all "numerically significant" groups of students served by the charter school, as defined in Education Code 52052, as the most important factor. [E.C. 47607]

At least 72 hours prior to any County Board meeting at which the County Board will consider issuing a Notice of Violation, the County Board shall provide the charter school with notice and all relevant documents related to the proposed action. [5 CCR 11968.5.2]

(cf. 9320 - Meetings and Notices)

If the County Board takes action to issue a Notice of Violation, it shall deliver the Notice of Violation to the charter school's governing body. The Notice of Violation shall identify: [E.C. 47607; 5 CCR 11965, 11968.5.2]

1. The charter school's alleged violation(s).
2. All evidence relied upon by the County Board in determining that the charter school committed the alleged violation(s), including the date and duration of the alleged violation(s). The Notice shall show that each alleged violation is both material and uncured and that it occurred within a reasonable period of time before the Notice of Violation is issued.
3. The period of time that the County Board has concluded is a reasonable period of time for the charter school to remedy or refute the identified violation(s). In identifying this time period, the County Board 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.

By the end of the remedy period identified in the Notice of Violation, the charter school's governing body may submit to the County Board a detailed written response and supporting evidence addressing each identified violation, including the refutation, remedial action taken, or proposed remedial action. [5 CCR 11968.5.2]

Within 60 calendar days of the conclusion of the remedy period, the County Board shall evaluate any response and supporting evidence provided by the charter school's governing body and shall take one of the following actions: [5 CCR 11968.5.2]

1. Discontinue revocation of the charter and provide timely written notice of such action to the charter school's governing body

Note: Pursuant to Education Code 47607 and 5 CCR 11968.5.2, a decision to issue a Notice of Intent to Revoke as provided in item #2 below must be supported by substantial evidence that the charter school has failed to remedy or refute a violation. "Substantial evidence" is not defined in law or state regulations. The County Board should consult legal counsel as necessary.

2. If there is substantial evidence that the charter school has failed to remedy a violation identified in the Notice of Violation or to refute a violation to the County Board's satisfaction, continue revocation of the charter by issuing a Notice of Intent to Revoke to the charter school's governing body

If the County Board issues a Notice of Intent to Revoke, it shall hold a public hearing concerning the revocation on the date specified in the notice, which shall be no later than 30 days after providing the notice. Within 30 calendar days after the public hearing, or within 60 calendar days if extended by written mutual agreement of the County Board and the charter school, the County Board shall issue a final decision to revoke or decline to revoke the charter. [E.C. 47607; 5 CCR 11968.5.2]

If the County Board fails to meet the timelines specified above for issuing a Notice of Intent to Revoke or a final decision, the revocation process shall be deemed terminated. [5 CCR 11968.5.2]

Within 10 calendar days of the County Board's final decision, the Monterey County Superintendent of Schools (County Superintendent) or designee shall provide a copy of the final decision to the California Department of Education (CDE). [E.C. 47604.32; 5 CCR 11968.5.2]

Note: Pursuant to Education Code 47604.32, if a charter school ceases operation for any reason, including revocation, the County Superintendent must notify the California Department of Education [See BP 0420.41 - Charter School Oversight] In addition, the County Superintendent or designee and/or charter school must implement the school closure procedures specified in the charter in accordance with Education Code 47605 and 5 CCR 11962. [See AR 0420.4 - Charter School Authorization]

Severe and Imminent Threat

The procedures specified above shall not be applicable when the County Board determines, in writing, that any violation under Education Code 47607 constitutes a severe and imminent threat to the health or safety of students. In such circumstances, the County Board 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 and the CDE. [E.C. 47607; 5 CCR 11968.5.3]

Appeals

The charter school authorized by the County Board, including county-wide charters, may appeal the revocation decision of the County Board to the SBE within 30 days of the County Board's final decision. [Today's Fresh Start, Inc. v. Los Angeles County Office of Education, (2011) 197 Cal.App.4th 436]

In the event that the district Board revokes the charter, the charter school may appeal the revocation to the County Board within 30 days of the district Board's final decision. The County Board may reverse the revocation if it determines that the district's findings are not supported by substantial evidence, in which case the district may appeal the reversal to the SBE. If the County Board upholds the revocation or does not issue a decision within 90 days of its receipt of the appeal, the charter school may appeal to the SBE. If either the County Board or the SBE reverses the revocation, the district remains the chartering authority. [E.C. 47607; 5 CCR 11968.5.3-11968.5.5]

Education Code 47607 provides that, while an appeal is pending, a charter school whose revocation is based on a material violation of any of the conditions, standards, or procedures set forth in its charter or is based on a failure to meet or pursue any of the student outcomes identified in the charter will continue to qualify as a charter school for funding and all other purposes of the Charter Schools Act and may continue to hold all existing grants, resources, and facilities in order to ensure that the education of students enrolled in the school is not disrupted.

Legal Reference:

EDUCATION CODE

47600-47616.7 *Charter Schools Act of 1992, especially:*
47607 *Charter renewals and revocations*
52052 *Numerically significant student subgroup; definition*

CODE OF REGULATIONS, TITLE 5

11960-11969 *Charter schools, especially:*
11968.5-11968.5.5 *Charter revocations*

COURT DECISIONS

Today's Fresh Start, Inc. v. Los Angeles County Office of Education, (2011) 197 Cal.App.4th 436

Adopted: 06/19/13

Revised: 10/02/13