

SUMMARY OF MAJOR CHANGES TO PETITION REVIEW AND APPEAL PROCESS AND CRITERIA UNDER AB 1505

Governor Gavin Newsom, on October 3, 2019, signed AB 1505 into law, resulting in significant modifications to the charter review and appeal criteria and procedures. Following is a brief summary of the primary changes in how school districts, county boards of education, and the State Board of Education will process charter petitions and appeals. A separate update summarizing changes to the charter renewal process will follow.

If you have any questions, please contact John R. Yeh, Burke, Williams & Sorensen, LLP, at jyeh@bwsllaw.com.

Education Code Section	Change to Law (Effective July 1, 2020)
47605(a)(4)	<p><u>Material Revision Requirements</u></p> <ul style="list-style-type: none"> ■ Adds requirement that charter schools request a material revision to expand grade levels. (The Education Code already requires a material revision for a charter school to add a site.)
47605(b)	<p><u>School District Public Hearing and Determination Meeting Deadlines/Posting Requirements</u></p> <ul style="list-style-type: none"> ■ Expands public hearing deadline from 30 to 60 days after receiving a petition, and deadline to grant or deny petition from 60 to 90 days. ■ Petition is deemed received when submitted to the District Office with certification that the petitioner deems it to be complete. ■ Board shall publish staff recommendations (and county superintendent financial certification, if applicable), no less than 15 days before the “public hearing” at which the Board grants or denies the petition. ■ Petitioner shall have equal time at the “public hearing” at which the Board grants or denies the petition to present evidence and testimony to respond to staff findings and recommendation.
47605(c)	<p><u>Additional Petition Requirements</u></p> <ul style="list-style-type: none"> ■ Adds special education pupils, and English learner pupils, including redesignated fluent English proficient pupils, to pupil racial/ethnic balance requirement.

	<ul style="list-style-type: none"> ■ Requires granting of petition to be consistent with “the interests of the community in which the school is proposing to locate,” and that the Board “consider the academic needs of the pupils the school proposes to serve.” ■ Additional grounds for denial: <ul style="list-style-type: none"> ■ “The charter school is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate. Analysis of this finding shall include consideration of the fiscal impact of the proposed charter school. A written factual finding under this paragraph shall detail specific facts and circumstances that analyze and consider the following factors: <ul style="list-style-type: none"> ■ (A) The extent to which the proposed charter school would substantially undermine existing services, academic offerings, or programmatic offerings. ■ (B) Whether the proposed charter school would duplicate a program currently offered within the school district and the existing program has sufficient capacity for the pupils proposed to be served within reasonable proximity to where the charter school intends to locate.” ■ “The school district is not positioned to absorb the fiscal impact of the proposed charter school. A school district satisfies this paragraph if it has a qualified interim certification pursuant to Section 1240 and the county superintendent of schools, in consultation with the County Office Fiscal Crisis and Management Assistance Team, certifies that approving the charter school would result in the school district having a negative interim certification pursuant to Section 1240, has a negative interim certification pursuant to Section 1240, or is under state receivership. Charter schools proposed in a school district satisfying one of these conditions shall be subject to a rebuttable presumption of denial.”
47605(k)(1)(A)(i)	<p><u>County Board Appeals:</u></p> <ul style="list-style-type: none"> ■ Changes deadline for submission of appeals of denial to county board of education to 30 days. ■ County board shall remand the petition to the school district that denied it if the petition contains “new and material terms.” The school district shall grant or deny the appeal petition within 30 days. If denied, petitioner must resubmit appeal to the county board within 30 days.

	<ul style="list-style-type: none"> County board shall consider appeal under the traditional standards, criteria and procedures, subject to the amendments under AB 1505.
47605(k)(1)(B) 47605(k)(2)(A)-(E) 47605(k)(6)	<p><u>Role of the State Board in Charter Appeals</u></p> <ul style="list-style-type: none"> Petitioner may appeal a County Board denial within 30 days of denial. Petitioner, school district and County Board may make written submissions to SBE. School District and County Board must, within 10 business days of approval, prepare the documentary record and transcript of the public hearing and meeting at which the denial took place. If the appeal contains new and material terms, the SBE must remand it to the school district that denied the petition, which shall grant or deny the petition within 30 days. The SBE shall either hear or summarily deny the appeal. If the SBE hears the appeal, it may affirm the determination of the school district or county board, or reverse the determination “only upon a determination that there was an abuse of discretion.” Charter schools authorized by the SBE as of January 1, 2019 on appeal shall apply to their local district for renewal. Statewide benefit charters granted as of January 1, 2019 shall apply to the SBE for renewal, and, if renewed, the SBE shall designate a local authorizer.
47605(l), 47605.4 47605(a)(5) 47612.7	<p><u>Other Revisions</u></p> <ul style="list-style-type: none"> Charter School teachers must be fully credentialed by July 1, 2025 Charter Schools located outside the boundaries of their authorizer, and within the county, must either obtain the written approval of, or submit the renewal request to, the school district of location, to continue operating at the out-of-jurisdiction charter school after the renewal. Places a moratorium on the approval of non-classroom based charters from January 1, 2020, to January 1, 2022, with an exception to allow existing non-classroom based charters to submit petitions to achieve compliance with the geographical requirements set forth by the Court in the case <i>Anderson Union High School District v. Shasta Secondary Home School</i> (2016) 4 Cal.App.5th 262.