

Material Revisions – Best Practices and Procedures

CARSNET 4th Annual Conference

September 24, 2019

John R. Yeh, Burke, Williams & Sorensen, LLP

Stephanie Medrano Farland

Collaborative Solutions for Charter Authorizers



Collaborative Solutions
for Charter Authorizers



Today's Agenda

- * What is a Material Revision?
 - * When is a revision “material?”
- * What are the submission requirements?
- * When can a material revision be submitted?
- * What are the applicable criteria for evaluation?
- * What is the procedure for acting on a material revision?

Education Code section 47607(a)(2)

- * “A material revision of the provisions of a charter petition may be made only with the approval of the authority that granted the charter.”
- * “Renewals and material revisions of charters are governed by the *standards and criteria* in Section 47605, and shall include, but not be limited to, a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed.”

3 Different Processes

- * “As relevant to this case, there are three categories of approval governing charter schools: an initial petition for the establishment of a charter school; a petition to renew an existing charter; and a petition for approval of a material revision to an existing charter.”
- * *Today’s Fresh Start Charter School v. Inglewood Unified School District* (2018) 20 Cal.App.5th 276

Standards/Criteria v. Procedure

- * “Although the *standards* and *criteria* in section 47605 apply to all three types of approval, the *procedure* applicable to each is different.” (*Today’s Fresh Start*)



*PROCEDURES

Petition to Establish Charter School

- * Education Code section 47605(b) (See also AB 1505)
 - * Submission of petition
 - * Meet parent/teacher signature requirement
 - * Public hearing within 30 days
 - * Grant or deny within 60 days
 - * Written findings required for denial
- * Appeal available to county board or SBE.

Request to Renew Charter

- * Education Code section 47607(a); 5 C.C.R. section 11966.4
 - * Consider increases in pupil academic achievement by subgroup as most important factor
 - * Determine if new charter school requirements met
 - * “Consider the past performance of the school’s academics, finances and operations, in evaluating the likelihood of future success, along with future plans for improvement if any.”
 - * Findings required for denial
 - * “Deemed granted” if not denied with findings within 60 days.

Request for Material Revision

- * Request for material revision to add site must be considered at an open, public meeting. (Ed. Code 47605(a)(4).) (See also AB 1505)
- * No time frame for decision
- * No findings requirement for denial
- * Not “deemed granted” if not denied within 60 days. (*Today’s Fresh Start*)
- * No time limits on submission



*STANDARDS AND CRITERIA

The Charter

- * 15 Required Elements:
- * Description of educational program
- * Measurable pupil outcomes
- * Method for assessing pupil progress
- * Governance structure of the school
- * Employee qualifications
- * Health & safety procedures
- * Means to achieve race/ethnic balance
- * Admission requirements, if applicable
- * Manner in which annual independent financial audits shall be conducted

The Charter

- * 15 Required Elements:
- * Student suspension & expulsion procedures
- * Staff coverage by State Teachers' Retirement System, Public Employees' Retirement System or Social Security
- * Public school attendance alternatives
- * District employee leave & return rights
- * Dispute resolution process
- * Procedures for closure of school

Other Requirements

- * Information re proposed operation and potential effects of school:
 - * facilities to be utilized
 - * provision of administrative services
 - * potential civil liability effects, if any
 - * proposed 1st year budget, and 3 years of financial projections/cash flow

Other Requirements

- * Affirmations
- * Nonsectarian program
- * No tuition
- * No discrimination
- * Admission not according to residence of pupil or parents

Bases for Denial

- * Unsound educational program
- * Petitioners demonstrably unlikely to successfully implement program
- * Affirmations not “clear, unequivocal”
- * Lacks reasonably comprehensive descriptions of the 15 charter criteria
- * Lacks declaration regarding collective bargaining

When is a Revision “Material?”

- * No definition in statute, regulation, or case law
 - * Exception: Request for material revision to add site must be considered at an open, public meeting. (Ed. Code 47605(a)(4)) (See also AB 1505)
- * Guidelines:
 - * Alignment to 15-required elements, other requirements

Examples – Material Revisions?

Proposed Material Revision	Yes/No?
Educational Program	
Change in name of school	
Change in, or addition of, school site	Ed. Code 47605(a)(4)
Change in grade levels	AB 1505
Change in enrollment	
Addition of cohorts to existing grade levels	
Change in instructional materials	
Measurable Pupil Outcomes	
Change in assessment measures	
Governance	
Addition of new board members	
New non-profit corporation	

Examples – Material Revisions?

Proposed Material Revision	Yes/No?
Employee Issues	
Addition of new key positions	
Change in job descriptions	
Student Issues	
Change in admissions preferences in lottery	
Change in student discipline policy	
Fiscal/Budget	
Significant change in enrollment/A.D.A	
Significant change in budgeted revenues/expenditures	
Change in facility/facilities costs	

Approach to Material Revisions

- * Staff evaluates request for material revision before Board consideration
- * Use the same standards and criteria for petition review
 - * 15 required elements
 - * Grounds for denial
- * Review for “any new requirement of charter schools enacted into law after the charter was originally granted or last renewed”

Approach to Material Revisions

Material Revision	Impact?
Enrollment/A.D.A.	Budget
Addition/Subtraction of Grade Levels	Educational Program/Budget
Change in admissions lottery preferences	Racial/Ethnic Balance/Measurable Pupil Outcomes
Change in Educational Program	Measurable Pupil Outcomes

THANK YOU FOR ATTENDING!

Stephanie Farland, Collaborative Solutions for Charter
Authorizers

stephanief@charterauthorizers.com

John R. Yeh, Burke, Williams & Sorensen, LLP

jyeh@bwslaw.com