

Novato USD

Board Policy

Charter School Facilities

BP 7160

Facilities

*****Note: The following optional policy may be revised to reflect district practice. *****

The Governing Board believes that all students, including those attending charter schools, should have access to adequate facilities that are safe and support student learning.

~~Upon request by a charter school operating within the district, the Board of Education shall provide facilities in accordance with law, Board policy, and administrative regulation.~~

~~(cf. 0420.4—Charter Schools)~~

~~(cf. 7110—Facilities Master Plan)~~

~~A charter school must be operating in the district as defined in Education Code 47614 before it submits a request for facilities. A new or proposed charter school operating within the district is eligible to request facilities for a particular fiscal year only if it submits its charter petition before November 1 of the fiscal year preceding the year for which facilities are requested. A new charter school is entitled to be allocated and/or provided access to facilities only if it receives approval of the petition before March 15 of the fiscal year preceding the year for which facilities are requested. (5 CCR 11969.9)~~

~~The Superintendent or designee shall ensure that requests received are evaluated and processed in accordance with law, Board policy, and administrative regulation.~~

*****Note: CSBA's publication Charter Schools: A Guide for Governance Teams recommends that the Governing Board and charter school enter into a memorandum of understanding detailing terms and conditions including, but not limited to, use of facilities, payment for facilities, compliance with applicable building codes and health and safety codes, indemnification and liability insurance, and compliance with district operations and maintenance policies. *****

Facilities to be used by a charter school shall be specified in the school's charter pursuant to Education Code 47605 and also may be addressed in a written memorandum of understanding between the district and charter school.

(cf. 0420.4 - Charter School Authorization)

(cf. 0420.41 - Charter School Oversight)

As applicable, charter school facilities shall comply with the California Building Standards Code adopted by the local building enforcement agency pursuant to 24 CCR 101 et seq. or the Field Act pursuant to Education Code 17280-17317 and 17365-17374. (Education Code 47610, 47610.5)

***Note: Pursuant to Education Code 47614, as added by Proposition 39 (2000), and 5 CCR 11969.1-11969.10, the district must make facilities available, upon request, to a charter school "operating in the district." A charter school is "operating in the district" if it is either currently serving students who are entitled to attend a district school or has identified at least 80 students who are entitled to attend a district school and are meaningfully interested in enrolling in the charter school for the following year. The facilities provided by the district must be furnished, equipped, and reasonably equivalent to those in other district schools. See the accompanying administrative regulation for definitions and the detailed process and timelines that the district must follow in evaluating a charter school's request. ***

***Note: Pursuant to 5 CCR 11969.2, charter school facilities may be located at more than one site if the charter school's students cannot be accommodated on any single district site, provided that the district minimizes the number of sites and considers student safety. In Ridgecrest Charter School v. Sierra Sands Unified School District, an appellate court held that a district must begin with the assumption that all charter school students will be assigned to a single school site and then adjust other factors to accommodate this goal. How those factors will be weighed and whether those factors would make a single school site feasible will be a case-by-case determination. Districts with questions on this issue should consult legal counsel. ***

Upon request, the Board shall make facilities available to an eligible charter school operating in the district, as defined in law and administrative regulation. In accordance with law, such facilities shall be contiguous, furnished, equipped, and sufficient to accommodate all the charter school's in-district students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending other district schools. The Board shall make reasonable efforts to provide the charter school with facilities near where the charter school wishes to locate and shall not move the charter school unnecessarily. If the district's preliminary proposal or final notification of space does not accommodate the charter school at a single school site, the Board shall ~~consider the offer~~, make a specific finding that the district cannot accommodate the charter school's students at a single ~~school~~ site, and shall adopt a written statement of reasons explaining the finding. (~~5-CCR-11969.2~~ Education Code 47614; 5 CCR 11969.1-11969.10)

(cf. 7110 - Facilities Master Plan)

The district shall not be required to use unrestricted general fund revenues to rent, buy, or lease facilities for charter schools. (Education Code 47614)

(cf. 3100 - Budget)

*****Note: The Charter School Facilities Program (Education Code 17078.52-17078.66) allows charter schools that provide site-based instruction to access state facility funding, either directly or through the district where the school will be physically located, for construction of new facilities or rehabilitation of existing district facilities for charter school use. Preference is given to applications from charter schools in overcrowded school districts, schools in low-income areas, nonprofit charter schools, and those that use existing district facilities. Pursuant to 2 CCR 1859.172, title to the facilities may be held by the district or, under certain conditions, by a local governmental entity or by the charter school itself. *****

*****Note: In addition, subject to the annual Budget Act, charter schools may apply for funding under the Charter School Facility Grant Program (Education Code 47614.5), a noncompetitive grant program that provides assistance with facilities rent and lease expenditures. Eligible charter schools are those that have at least 70 percent of students eligible for free or reduced-price meals or are physically located in an elementary school attendance area where at least 70 percent of students are eligible for free or reduced-price meals. Charter schools occupying existing district or county office of education facilities and charter schools receiving reasonably equivalent facilities pursuant to Education Code 47614 are not eligible. *****

The Superintendent or designee may assist eligible charter schools in applying for state facilities funding for new construction or rehabilitation of facilities pursuant to Education Code 17078.52-17078.66 and/or for rent and lease expenditures pursuant to Education Code 47614.5.

Legal Reference:

EDUCATION CODE

17070.10-17080 Leroy F. Greene School Facilities Act of 1998, including:

17078.52-17078.66 Charter schools facility funding; state bond proceeds

17280-17317 Field Act

46600 Interdistrict attendance agreements

47600-47616.5 Charter Schools Act of 1992, ~~as amended~~

48204 Residency requirements for school attendance

GOVERNMENT CODE

53094 Authority to render zoning ordinance inapplicable

53097.3 Charter school ordinances

CODE OF REGULATIONS, TITLE 2

1859.2 Definitions

1859.31 Classroom inventory

1859.160-1859.171.172 Charter school facilities program, new construction

CODE OF REGULATIONS, TITLE 5

11969.1-11969.10 Charter school facilities

COURT DECISIONS

Bullis Charter School v. Los Altos School District, (2011) 200 Cal.App.4th 1022

Ridgecrest Charter School v. Sierra Sands Unified School District, (2005) 130 Cal.App.4th 986

Sequoia Union High School District v. Aurora Charter High School (2003) 112 Cal.App.4th 185

ATTORNEY GENERAL OPINIONS
80 Ops.Cal.Atty.Gen. 52 (1997)

Management Resources:

CSBA PUBLICATIONS

[Charter Schools: A Manual for Governance Teams, rev. 2008](#)

The Role of the Charter School Authorizer, Online Course

Charter Schools: A Guide for Governance Teams, rev. 2016

Charter School Facilities and Proposition 39: Legal Implications for School Districts, 2005

OFFICE OF PUBLIC SCHOOL CONSTRUCTION PUBLICATIONS

School Facility Program Handbook, May 2008

WEB SITES

CSBA: <http://www.csba.org>

California Charter Schools Association: <http://www.charterassociation.org>

California Department of Education, Charter Schools Office: <http://www.cde.ca.gov/sp/cs>

Coalition for Adequate School Housing: <http://www.cashnet.org>

Office of Public School Construction: <http://www.opsc.dgs.ca.gov>

Policy NOVATO UNIFIED SCHOOL DISTRICT

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