

**SIERRA SANDS UNIFIED SCHOOL DISTRICT**

**Board of Education  
Special Meeting**

**OCTOBER 11, 2018  
District Office  
113 W. Felspar Ave.  
*www.ssusd.org***

*We, the members of the Board of Education of the Sierra Sands Unified School District, are committed to providing the highest quality education in a safe environment to all K-12 students. We believe the school shares with the family, church, and community the responsibility for developing life-long learners who are responsible, productive citizens.*

**A G E N D A**

CALL TO ORDER AND PLEDGE TO THE FLAG

6:30 P.M.

Amy Castillo-Covert, President  
Bill Farris  
Tim Johnson  
Michael Scott  
Kurt Rockwell, Vice President/Clerk

Ernest M. Bell, Jr., Superintendent

MOMENT OF SILENCE

1. ADOPTION OF AGENDA
2. EDUCATIONAL ADMINISTRATION
  - 2.1 Ridgecrest Charter School: Determination of Renewal Charter Petition
3. ADJOURNMENT

## 2. EDUCATIONAL ADMINISTRATION

### 2.1 Ridgecrest Charter School: Determination of Renewal Charter Petition

---

**BACKGROUND INFORMATION:** On August 16, 2018, the Board of Education (“Board”) of the Sierra Sands Unified School District (“District”) received a charter renewal petition (“Petition”) from Ridgecrest Charter School (“Charter School”) to renew Charter School for another five-year term from July 1, 2019 to June 30, 2024. Charter School currently operates under a charter authorized by the California State Board of Education (“SBE”) in 2014 and submitted the Petition to the Board under Education Code section 47605(k)(3).

**CURRENT CONSIDERATIONS:** Education Code section 47607(a) provides that a charter may be renewed for one or more subsequent charter renewals and that each renewal shall be for a period of five years. Although Charter School is currently authorized by the SBE, Education Code section 47605(k)(3) provides that Charter School must submit the Petition to the District for consideration prior to submitting it to the SBE.

Education Code section 47607 provides that charter renewals are governed by the same standards and criteria in Education Code section 47605 that are evaluated upon an initial charter petition submission. Pursuant to Education Code section 47505(b), the Board held a public hearing on September 13, 2018, to consider the level of support for the Petition from teachers employed by the District, other employees of the District, and parents. Petitioners made a presentation, and Charter School staff, counsel, and a board member offered public comment. The Board must approve or deny the renewal petition within 60 days after receipt.

In accordance with Education Code section 47605(b), the Board will consider whether to grant or deny the Ridgecrest Charter School Charter Renewal Petition and make the requisite findings in support of its determination. District staff, in collaboration with legal counsel, conducted a comprehensive review and analysis of the Petition to develop a recommendation for the Board whether to grant or deny the Petition. Based on review and analysis, District Staff is not satisfied that granting the Petition is consistent with sound educational practice and developed the following findings:

- 1) Charter School fails to meet renewal criteria in Education Code section 47607(b);
- 2) Charter School is demonstrably unlikely to successfully implement the program presented in the Petition; and
- 3) The Petition fails to provide a reasonably comprehensive description of all required elements of a charter petition.

FINANCIAL IMPLICATIONS: None at this time.

SUPERINTENDENT'S RECOMMENDATION: The superintendent recommends that the Board deny the Ridgecrest Charter School Charter Renewal Petition on the grounds that Charter School failed to meet statutory renewal criteria, Charter School is demonstrably unlikely to successfully implement the program, and the Petition does not provide reasonably comprehensive descriptions of all required elements. The superintendent further recommends that the Board adopt the District Staff Report as its written findings in support of its determination at its October 11, 2018 meeting, in conformity with Education Code section 47605.

SIERRA SANDS UNIFIED SCHOOL DISTRICT  
Ridgecrest, California

October 11, 2018

STAFF REPORT  
Ridgecrest Charter School  
Renewal

---

**I. EXECUTIVE SUMMARY**

Ridgecrest Charter School ("Charter School") currently operates under a charter authorized by the California State Board of Education ("SBE") in 2014. Charter School's term will expire on June 30, 2019, and pursuant to Education Code section 47605(k)(3), it has submitted a renewal petition ("Petition") for another five-year term to the Board of Education ("Board") of the Sierra Sands Unified School District ("District"). Charter School was first approved by SBE in 2000-2001 and now seeks a third renewal. If the Board grants the Petition, the Charter School will continue as a legal entity with authorization by the District instead of the SBE. If the Board denies the Petition, Charter School may request a renewal directly from the SBE. (Ed. Code, § 47605(k)(3).)

Oversight of charter schools by public school officials is fundamental to the legality and legitimacy of charter schools under California law. Currently, the SBE delegates oversight of Charter Schools to the California Department of Education ("CDE"). As the oversight agent, the CDE possesses current and historical information and data relevant to Charter School's compliance (or lack thereof) with statutory and regulatory requirements, fiscal management and health, and cooperation and transparency with respect to the oversight relationship. The District, on the other hand, does not have that knowledge and despite the requirement for the Charter School to provide information to allow for an evaluation of past performance of the school's academics, finances, and operation in evaluating the likelihood of future success, such information was not provided with the renewal petition.

Oversight is mandated by statute and the Education Code provides that an authorizer may be held liable for the debts and obligations, acts, errors and omissions of a charter school if it does not meet its oversight obligations. (Ed. Code, 47604(c).) Under the current circumstances, Charter School has operated for many years, entering into various transactions certainly large and small. However, without a thorough knowledge of its financial management and health, the District is not able to either evaluate the future success of the Charter School or evaluate its own potential exposure to liability as an oversight agent. For these reasons, Staff believes that Charter School's current authorizer should evaluate whether Charter School has earned a renewal term. The information the District does possess weighs against such a conclusion.

In light of the District's statutory responsibility to evaluate the Petition, District staff, in collaboration with legal counsel, conducted a comprehensive review of the Petition. In accordance with statutory law, Staff considered increases in pupil academic achievement for all groups of pupils served by Charter School as the most important factor in its analysis of the Petition. Based on its analysis, Staff made the following major findings based on specific facts identified in this Staff Report:

1. Charter School does not meet statutory eligibility criteria to receive a charter renewal. Under Education Code section 47607(b), Charter School was required to submit documentation showing increases in pupil academic achievement for all groups of pupils and numerically significant subgroups or that academic performance of its pupils is at least equal to the performance of pupils attending District schools. As set forth in greater detail below, **Charter School failed to meet the eligibility requirement and concedes in the Petition that its pupil performance has declined, not increased, and is significantly behind the performance of students attending District schools and Statewide.** This finding is critical because it precludes the District from granting renewal for two reasons: (1) adequate academic performance is a legal prerequisite to renewal and (2) Staff does not believe sound educational practice or the best interest of students would be served by turning a blind eye to Charter School's inability to provide a successful educational program to students.
2. Charter School is demonstrably unlikely to successfully implement the program described in the Petition. This finding is important because renewal would risk the educational well-being of students enrolled in Charter School's program going forward and it shows that Charter School has not taken adequate steps to correct failures of past performance to ensure future improvement.
  - Charter School identifies its enrollment growth as a factor in the declining performance of its students, but also states that its goal is to continue to expand. Charter School is not likely to successfully implement the Petition when its plan is to keep doing the thing that it identifies as causing performance problems (i.e., growth).
  - Charter School also identifies leadership turnover as a factor in the declining performance of its students, but also indicates that additional changes are planned with respect to structure and administrative function. As with enrollment growth, Charter School risks the ability to improve academic performance with a plan to continue a course of conduct identified as causing the problem.
  - Among other things, Charter School's Dashboard reflects very low progress of English Learners, and the Petition does not adequately address how to correct the problem.
3. Charter School failed to comprehensively describe all required elements of its program in the Petition. This finding is important because a comprehensive description of the charter program is a cornerstone to the authorizer's ability to provide meaningful oversight. Recalling that charter schools are not bound by most of the Education Code, in exchange, charter schools must not only meet academic performance criteria but also clearly state how it will deliver its program in the charter document. Without clear expectations, there is an unacceptable risk of lack of accountability.
  - The Petition does not allow adequate oversight of the educational program, governance structure, employee qualifications, health and safety procedures, admissions requirements, suspension and expulsion procedures, or dispute resolution procedures.

- Some missing pieces relate to new charter school requirements enacted into law since the last renewal in 2014, a prerequisite to renewal under Section 47607(a)(2) (e.g., health and safety and suspension and expulsion procedures).
- The Petition is not adequately supported with information and documentation to provide the District with a full understanding of Charter School's debts and obligations, nor of its structure and relationship with third-party entities.

Staff is mindful that Petitioners and their counsel believe the Petition should be granted; however, after a fair and considered review, Staff disagrees with Petitioner's assessment of the Petition based on the findings in the Staff Report. Notably, the academic performance measures submitted by the Charter School are not consistent with the requirements of Education Code section 47607. Changes in law since the charter petition was last granted reflect that AYP and API measures under the State's prior accountability system are no longer valid for consideration in measuring pupil performance. Here, State testing under the current accountability system (CAASPP) demonstrates that Petitioner has not increased academic performance for all groups served by the Charter School and does not demonstrate that Charter School's performance is at least equal to District schools.

Accordingly, Staff recommends **denial** of the Petition because Staff is not satisfied that granting it is consistent with the requirements for academic performance and sound educational practice.

## **II. BACKGROUND**

Education Code section 47607(a) provides that a charter may be renewed for one or more subsequent charter renewals and that each renewal shall be for a period of five years. Although Charter School is currently authorized by the SBE, Education Code section 47605(k)(3) provides that Charter School must submit the Petition to the District for consideration prior to submitting it to the SBE.

The Board formally received the Petition at its meeting on August 16, 2018. Pursuant to Education Code section 47505(b), the Board held a public hearing on September 13, 2018, to consider the level of support for the Petition from teachers employed by the District, other employees of the District, and parents. Petitioners made a presentation, and Charter School staff, counsel, and a board member offered public comment.

The Board must approve or deny the renewal petition within 60 days after receipt. (Cal. Code Regs., tit. 5, ("5 C.C.R.") § 11966.4(c).) As such, the Board must act on whether to grant or deny the Petition at its meeting on October 11, 2018. If the Board grants the Petition, the Charter School will continue as a legal entity with authorization by the District instead of the SBE. If the Board denies the Petition, Charter School may request a renewal directly from the SBE. (Ed. Code, §47605(k)(3).)

## **III. STANDARD FOR REVIEW OF RENEWAL PETITION**

Charter renewals are governed by the same standards and criteria in Education Code section 47605 that are evaluated upon an initial charter petition submission. (Ed. Code, § 47607(a)(2).) Education Code section 47605, subdivision (b), provides that the chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged. As such, a school district governing board shall grant a charter for the operation of a school if it is satisfied that granting the charter is consistent

with sound educational practice. Review and analysis of a charter petition may be guided by the regulations promulgated for the SBE's evaluation of charter petitions at Title 5, Division 1, Chapter 11, Subchapter 19 of the California Code of Regulations ("Regulations").

When evaluating a renewal petition, the authorizer must consider increases in pupil academic achievement for all groups of pupils served by the charter school as the most important factor in determining whether to grant the charter renewal. (Ed. Code, § 47607(a)(3)(A).) To be considered for renewal, the charter school must submit with its renewal petition documentation that it meets at least one of the criteria specified in Education Code section 47607(b):

- (1) [Superseded by Education Code section 52052(f)]<sup>1</sup>
- (2) [Superseded by Education Code section 52052(f)]
- (3) [Superseded by Education Code section 52052(f)]
- (4) (A) The entity that granted the charter determines that the academic performance of the charter school is at least equal to the academic performance of the public schools that the charter school pupils would otherwise have been required to attend, as well as the academic performance of the schools in the school district in which the charter school is located, taking into account the composition of the pupil population that is served at the charter school.  
\* \* \*
- (5) Qualified for an alternative accountability system pursuant to subdivision (h) of Section 52052.

The renewal petition must also provide a reasonably comprehensive description of how the charter school has met all new charter school requirements enacted into law since the charter was granted or last renewed. (Ed. Code, § 47607(a)(2).)

In addition to consideration of pupil academic performance, the authorizer "shall consider the past performance of the school's academics, finances, and operation in evaluating the likelihood of future success, along with future plans for improvement if any." (5 C.C.R. § 11966.4(b).) Renewal may only be denied if the authorizer makes written factual findings

---

<sup>1</sup> The last Academic Performance Index ("API") reports were produced in 2013, over five years ago and predating Charter School's current term (2014-2019). As Charter School's data shows, performance can change dramatically over time. Effective June 27, 2018, Education Code expressly recognizes that API is no longer relevant to charter school renewals because the data is outdated and would not tie renewal factors to current performance indicators. Instead, "alternative measures that show increases in pupil academic achievement for all groups of pupils schoolwide and among numerically significant pupil subgroups shall be used" for purposes of paragraphs (1) to (3) of Education Code section 47607(b). (Ed. Code, § 52052(f).) Renewal eligibility criteria is addressed below in Section V.A.

supporting one of the grounds for denial in Education Code section 47605(b),<sup>2</sup> or that the charter school failed to meet one of the criteria in Education Code section 47607(b). (*Ibid.*)

#### **IV. RECOMMENDATION**

Based upon a comprehensive review and analysis of the Petition by legal counsel in collaboration with District Staff, denial of the Petition is recommended because Staff is not satisfied that granting the Petition is consistent with sound educational practice. Findings with respect to the primary deficiencies appear in numbered paragraphs in Section V below. This Staff Report contains analysis of the Petition, and the written factual findings supporting the recommendation of denial. Denial of the Petition is recommended on the grounds:

- **Charter School fails to meet renewal criteria in Education Code section 47607(b);**
- **Charter School is demonstrably unlikely to successfully implement the program presented in the Petition; and**
- **The Petition fails to provide a reasonably comprehensive description of all required elements of a charter petition.**

Factual findings regarding the most significant areas of concern with the Petition are described below. This Staff Report does not exhaustively list every concern, and focuses on those concerns believed to most greatly impact the Board's decision on whether to grant or deny the Petition. Should the Board take action to deny the Petition, it may adopt this Report as the written factual findings required to support its denial of the Petition.

#### **V. FINDINGS IN SUPPORT OF DENIAL**

Review and analysis of the Petition resulted in the following findings:

##### **A. Charter School Fails to Meet Eligibility Criteria for Renewal. (Ed. Code, § 47607(b).)**

To be considered for renewal, a charter school must submit with its renewal petition documentation that it meets at least one of the criteria specified in Education Code section 47607(b). Charter School puts forth an argument that it has met renewal criteria under section 47607(b), based in part on outdated data from a previous charter term; however, it simultaneously acknowledges that its scores are decreasing and it is performing below District schools on state English language arts and math assessments. Given performance decreases, Charter School does not make a showing of pupil achievement increases under section 52052(f).

On the whole, District schools are performing significantly better than Charter School on Smarter Balanced Assessment testing. Further, District schools are either near or exceeding

---

<sup>2</sup> Education Code section 47605(b) provides that a charter petition may be denied where "(1) The charter school presents an unsound educational program for pupils to be enrolled in the charter school. (2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition. (3) [Does not apply to renewals] (4) The petition does not contain an affirmation of each of the conditions described in subdivision (d). (5) The petition does not contain reasonably comprehensive description of all [required charter elements]."

statewide averages, whereas Charter School is significantly lagging statewide averages. With limited exceptions, District school Dashboard indicators are also better across the board.

COMPARISON DATA (EC 47607(a)(4))											
[academic performance of the charter school must be at least equal to the academic performance of the public schools charter pupils would otherwise attend, as well as schools in the district]											
	RCS	Las Flores	Inyokern	Pierce	Gateway	Murray	Richmond	Faller	Monroe	State (incl 11)	
<b>CAASPP (2017) – Percentage of Meets &amp; Exceeds</b>											
All ELA	28.62	59.22	49.46	38.03	43.35	54.08	50.00	42.72	37.68	48.56	
All Math	28.27	41.63	27.96	39.26	32.02	39.97	39.91	34.65	21.49	37.56	
Hispanic ELA	25.53	54.39	47.62	32.73	33.33	42.48	27.42	37.5	33.58	37.28	
Hispanic Math	21.27	35.09	33.33	29.09	29.17	26.14	20.97	29.63	16.91	25.20	
Soc/Ec Dis ELA	21.80	48.74	45.21	30.95	28.28	38.59	33.04	31.30	28.87	35.52	
Soc/Ec Dis Math	21.16	31.09	26.03	34.12	19.19	24.36	25.22	25.57	12.76	24.57	
<b>Dashboard (Fall 2017)</b>											
Suspension	High	Medium	Medium	V. Low	Medium	Medium	Low	Low	V. High		
EL Progress	V. Low	High	-	Low	Low	V. High	Low	Low	V. High		
ELA	Low	High	Low*	Low*	Low*	Medium	Medium	Low*	Low*		
Math	Low	Medium	Low*	Medium	Low*	Low*	Medium	Low*	Low		
		=Lower Performance than RCS					=Comparable, though technically lower than RCS				
*Although marked "Low," the performance number still outperforms RCS in the Low range.											

Nor does the composition of pupil population provide a convincing rationale to justify the discrepancy in performance. Subgroup balance between the District and Charter School is similar, though notably the District has higher numbers of students with disabilities (12.7% vs. 9.5%) and socio-economically disadvantaged students (61.6% vs. 55.0%). The two are also generally on par along racial/ethnic lines for White (57.5% vs. 55.5%) and Hispanic (27.5% vs. 29.3%) students, as well as other smaller minority groups. There is, however, a distinction among African American students (5.4% vs. 1.6%), although Two or More Races (3.0% vs. 7.6%) skews the other way.

Based on the foregoing, Staff concludes that the Charter School cannot demonstrate that its "academic performance ... is at least equal to the academic performance of the public schools that the charter school pupils would otherwise have been required to attend, as well as the academic performance of the schools in the school district in which the charter school is located, taking into account the composition of the pupil population that is served at the charter school." Accordingly, Charter School does not meet eligibility criteria to be renewed for another term.

**B. Charter School Is Demonstrably Unlikely to Successfully Implement the Program. (Ed. Code, § 47605(b)(2).)**

Education Code section 47605 ("Statute") requires Charter School to show it is demonstrably likely to successfully implement the program set forth in the Petition. (Ed. Code, § 47605(b)(2).) In determining whether Charter School is demonstrably likely to successfully implement the program, the Board "shall consider the past performance of the school's academics, finances, and operation ... along with future plans for improvement if any." (5 C.C.R. § 11966.4(b).)

Petitioners are demonstrably unlikely to successfully implement the program set forth in the Petition for the following reasons:

1. Failure to Meet Eligibility Criteria

As set forth herein, the Petition's failure to meet renewal eligibility criteria supports the finding that the program does not pass pedagogical or legal muster. Among other concerns:

- As a factor in explaining decreasing academic scores, Charter School identifies its growth in enrollment from 421 students in 2015-2016 to 475 students in 2016-2017, which is worrying in light of Charter School's continued growth to 530 students now and plans to grow to 627 students in the future. It should also be noted that Charter School's stated goals for the renewal term are additional expansion efforts, including before and after school day care and an extended school year program, without first stabilizing its academic performance indicators.
- According to the Petition, recent leadership turnover has been a factor in Charter School's declining academic performance scores. It is notable, therefore, that additional changes are planned with respect to the structure and functioning of the Charter School administration to the extent that they could result in further decline.
- Charter School's Dashboard reflects that the school's suspension rate is high, as also noted in State Priority 6 of the charter school outcomes, giving rise to concern about the Charter School's ability to implement other means of correction and measured discipline as discussed below.
- Charter School's Dashboard reflects very low progress of ELs, which is not adequately addressed as discussed below.

The Petition is therefore not consistent with sound educational practice and not likely to be successfully implemented.

2. Failure to Provide Information Regarding Charter School's Finances and Operation

Charter School is expected to provide historical information about its academic performance, its finances and its operations. (5 C.C.R. § 11966.4(b).) This information is particularly important where, as here, the Charter School has not been authorized by the District but has been operating for many years. During the last 15 years, Charter School has surely entered into various financial arrangements, purchasing property, and developing assets and liabilities. However, there is no information regarding this history or the Charter School's solvency provided.

3. Failure to Comprehensively Describe the Required Elements

As set forth below, the Petition's failure to comprehensively describe Elements 1, 4, 5, 6, 8, 10, and 14 supports the finding that the program is incomplete and does not pass pedagogical or legal muster. It is therefore not consistent with sound educational practice. As such, it is not likely to be successfully implemented.

**C. The Petition Fails To Set Forth Reasonably Comprehensive Descriptions of Charter Elements. (Ed. Code, § 47605(b)(5).)**

Education Code section 47605(b)(5)(A)-(O) and (b)(6) requires a charter petition to include “reasonably comprehensive” descriptions of numerous elements of the proposed charter school. The Regulations require the “reasonably comprehensive” descriptions required by Education Code section 47605(b)(5) to include, but not be limited to, information that:

- Is substantive and is not, for example, a listing of topics with little elaboration.
- For elements that have multiple aspects, addresses essentially all aspects of the elements, not just selected aspects.
- Is specific to the charter petition being proposed, not to charter schools or charter petitions generally.
- Describes, as applicable among the different elements, how the charter school will:
  - Improve pupil learning.
  - Increase learning opportunities for its pupils, particularly pupils who have been identified as academically low achieving.
  - Provide parents, guardians, and pupils with expanded educational opportunities.
  - Hold itself accountable for measurable, performance-based pupil outcomes.
  - Provide vigorous competition with other public school options available to parents, guardians, and students.

(5 C.C.R. § 11967.5.1(g).) In addition, a renewal charter petition must provide a reasonably comprehensive description of how the charter school has met all new charter school requirements enacted into law since the charter was granted or last renewed. (Ed. Code, § 47607(a)(2).)

**Element 1 - Educational Program**

The Statute and Regulations provide various factors for considering whether a charter petition provides a reasonably comprehensive description of the educational program of the school, including, but not limited to, a description of the following: the charter school’s target student population, including, at a minimum, grade levels; approximate numbers of pupils, and specific educational interests, backgrounds, or challenges; the charter school’s mission statement with which all elements and programs of the school are in alignment and which conveys the petitioners’ definition of an educated person in the 21st century; belief of how learning best occurs; goals consistent with enabling pupils to become or remain self-motivated, competent, and lifelong learners; the instructional approach of the charter school; the basic learning environment or environments; the curriculum and teaching methods that will enable the school’s students to meet state standards; how the charter school will identify and respond to the needs of pupils who are not achieving at or above expected levels; how the charter school will meet the needs of student with disabilities, English learners, students achieving substantially above or below grade level expectations; and the charter school’s special education plan, to include the means by which the charter school will comply with the provisions of Education Code section 47641; the process to be used to identify students who may qualify for special education programs and services; how the school will provide or access special education programs and services; the school’s understanding of its responsibilities under law for special education pupils; and how the

school intends to meet those responsibilities. (Ed. Code, § 47605(b)(5)(A); 5 C.C.R. § 11967.5.1(f)(1).)

The Petition does not contain a sufficient description of the Charter School's educational program based on the following findings:

1. Class Size & Differentiation

According to the Petition, Charter School focuses on students who need a small class setting within a small school option. School and class size projections, however, are not consistent with this focus and often match or exceed student-teacher ratios in District schools (i.e., Charter School stated ratios are 24:1, K-3; 30:1, 4-5; 32:1, 6-8). Although the Petition discusses various groups of students, it does not adequately explain how differentiation will occur within the classroom setting in order to allow progress regardless of achievement level given the actual and/or projected student-teacher ratios.

2. GATE

According to the Petition, Charter School will offer a Gifted and Talented Education ("GATE") program; however, the Petition does not describe the program or identify how high performance capability is defined for eligibility in the program, nor does it explain how assessment will be conducted.

3. English Learners

According to the Petition, all teachers are Crosscultural, Language, and Academic Development ("CLAD") certified (or equivalent); however, such certification is not a required qualification for core teachers in Element 5. Further, the Petition's discussion of English learners ("ELs") does not explain what integrated curriculum will be used and is unclear regarding implementation of English language development ("ELD") instruction. This is a particular concern given Charter School's Dashboard reflecting very low progress of ELs.

4. Special Education

According to the Petition, Charter School has changed from a "pull out" to a "push in" model of special education services; however, the Petition does not adequately describe the individualization necessary for individualized education program ("IEP") teams to make placement determination, instead appearing to match the IEP to the program, not the child's unique needs.

According to the Petition, Charter School is solely responsible for selecting and contracting with nonpublic schools and agencies; however, this may violate parent procedural rights by denying them the opportunity to meaningfully participate in the IEP process and have their input considered.

5. Promotion & Class Trips

The promotion and class trip prerequisites in the Parent-Student Handbook potentially discriminate against students with disabilities by failing to accommodate academic requirements, attendance, and behavior on an individualized basis.

#### **Element 4 – Governance Structure**

The Statute and Regulations provide for a charter petition to identify the governance structure including, at a minimum, evidence of the charter school’s incorporation as a non-profit public benefit corporation, if applicable, the organizational and technical designs to reflect a seriousness of purposes to ensure that the school will become and remain a viable enterprise, there will be active and effective representation of interested parties, and the educational program will be successful. (Ed. Code, § 47605(b)(5)(D); 5 C.C.R. § 11967.5.1(f)(4).) The Statute and Regulations also requires evidence that parental involvement is encouraged in various ways.

The Petition does not contain a sufficient description of the Charter School’s governance structure based on the following findings:

##### 1. Structure

According to the Petition, Charter School is a single member of RCS Facilities LLC; however, neither the Petition nor the supporting documentation provides any documentation or information regarding the structure and governance of RCS Facilities LLC, any agreements with Charter School, or the specifics of the property and facilities relationship between the entities. Although the governance section states that RCS Facilities LLC exists to support real property needs of Charter School, the facilities section states that Charter School owns and holds title to its real property.

##### 2. Conflicts of Interest

The Petition is silent on Government Code section 1090, a law of general application to public entities, compliance with which is a critical part of any public school accountability and transparency plan to ensure that public funds are protected from self-dealing in contract transactions.

#### **Element 5 – Employee Qualifications**

The Statute requires the Petition to describe the qualifications to be met by individuals employed by the Charter School. (Ed. Code, § 47605(b)(5)(E).) The Regulations provide that the qualifications should at a minimum, identify general qualifications for the various categories of employees; ensure the health and safety of the school’s faculty, staff, and students, and the academic success of the students; identify the key positions in each category and specify the additional qualifications expected for those positions; and specify applicable legal requirements will be met, including but not limited to credentials as necessary. (5 C.C.R. § 11967.5(f)(5).)

The Petition fails to reasonably comprehensively describe this element, as follows:

The Petition includes qualification descriptions of core teachers (but not non-core teachers), the CEO/Superintendent, Business Manager, and Principals; however, the information provided is incomplete and/or inconsistent. For example, the experience qualifications of the Business Manager are simultaneously “required” and “preferred,” effectively eliminating experience as a requisite for the position. Similarly, although the Principal of Special Services will act as the case manager for special education and 504 students, the position does not require a special education teaching credential, nor does there appear to be any requirement that special education teachers will hold a special education teaching credential. Paraprofessional and instructional support staff positions do not provide for any

qualifications beyond fingerprinting, TB clearance, and I-9 verification. The absence of such qualifications is problematic because the Petition confirms that Charter School is responsible for hiring, training and employing special education site staff such as teachers, paraprofessionals, and resource specialists.

### **Element 6 – Health and Safety Procedures**

The Statute requires the Petition to identify the procedures that the Charter School will follow to ensure the health and safety of students and staff. (Ed. Code, § 47605(b)(5)(F).) The Regulations provide the procedures should, at a minimum, require that each employee of the school provide a criminal records summary as described in Education Code section 44237, include the examination of faculty and staff for tuberculosis as described in Education Code section 49406, require immunization of students as a condition of school attendance to the same extent as would apply if the students attended a non-charter public school, and provide for the screening of students' vision and hearing and the screening of students for scoliosis to the same extent as would be required if the students attended a non-charter public school. (5 C.C.R. § 11967.5(f)(6).)

The Petition does not contain sufficient description of the Charter School's health and safety procedures based on the following findings:

#### 1. Sudden Cardiac Arrest

Although the Petition includes an athletics program, it does not provide for the adoption of policies and procedures to protect student athletes and to require sudden cardiac arrest training for coaches of athletic activities pursuant to Education Code section 33479 et seq. The draft Parent-Student Handbook mentions sudden cardiac arrest, but the handbook's language is not sufficient to meet the substantive statutory requirements and, in any event, is not part of the Petition and is subject to change.

#### 2. Concussion

Although the Petition includes an athletics program, it does not include a provision stating that Charter School will adhere to Education Code sections 35179.5 and 49475 limitations on public school athletic programs regarding number and length of practices and concussions. As with sudden cardiac arrest, the mention of concussion and head injury in the Parent-Student Handbook is not part of the Petition and is subject to change.

#### 3. Suicide Prevention Policy

Although the Petition states that Charter School will maintain a suicide prevention policy in accordance with Education Code section 215, no suicide prevention policy was identified in the Parent-Student Handbook or otherwise provided or attached to the Petition.

### **Element 8 – Admissions Requirements**

The Statute and Regulations require the Petition to identify admission requirements that are in compliance with applicable law. (Ed. Code, § 47605, subd. (b)(5)(H); 5 C.C.R. § 11967.5.1(f)(8).)

The Petition does not contain sufficient description of the Charter School's admission requirements based on the following findings:

1. Preferences

The Petition provides for a descending hierarchical preference policy under which District residents (mandatory preference) will have third level preference (i.e., all first and second level preferences will be admitted before third level preference). District residents should be afforded a first level preference ahead of discretionary preferences (e.g., siblings and children of charter school teachers and staff).

**Element 10 – Suspension and Expulsion Procedures**

The Statute and Regulations require the Petition to describe the procedures by which students can be suspended or expelled from the charter school for disciplinary reasons or otherwise involuntarily removed from the charter school for any reason. (Ed. Code, § 47605, subd. (b)(5)(J); 5 C.C.R. § 11967.5.1(f)(10).)

The Petition does not contain sufficient description of the procedures by which students can be suspended or expelled from the charter school for disciplinary reasons or otherwise involuntarily removed from the charter school for any reason based on the following findings:

The Petition provides a lengthy discussion of student suspension and expulsion procedures, designed in part to track the requirements of Education Code section 48900 et seq.; however, it improperly reserves to the Charter School the ability to amend the policies and procedures without first requesting a material revision of the charter. Such changes are material to the operation of the charter (as indicated by inclusion of Element 10 in section 47605(b)(5)) and therefore cannot be made outside the material revision process.

1. Willful Defiance

The Petition, which purports to allow unilateral changes to suspension and expulsion policies and procedures, is inconsistent with the Parent-Student Handbook. The Parent-Student Handbook identifies willful defiance as a basis to recommend expulsion. Although Education Code section 48900 does not apply directly to charter schools, Assembly Bill No. 420 (Stats. 2014, ch. 660) expresses a public policy that no student should be recommended for expulsion for willful defiance, in part because discipline for willful defiance has been disproportionately used to discipline minority students. It should be noted that Charter School's Dashboard reflects that the school's suspension rate is high, as also noted in State Priority 6 of the charter school outcomes, giving rise to concern about the Charter School's ability to implement other means of correction and measured discipline. (Ed. Code, § 47607(a)(2).)

2. Appeal

The Petition eliminates the student's right to appeal, demonstrating that Charter School may expel students for disciplinary infractions that otherwise should not rise to the level of full exclusion from school, and before other means of correction have been tried.

3. Due Process

The Petition purports to provide written notice of not less than five school days before involuntarily removing a student from the charter school; however, the procedures in the Parent-Student Handbook are in conflict with the Petition and Education Code. According to the Handbook, students will be disenrolled on the sixth day of absence following the first

day of school despite written notice not going home until after the third day of absence, thereby improperly shortening the notice period.

#### **Element 14 – Dispute Resolution**

The Statute requires the Petition to describe the procedures to be followed by the Charter School and the entity granting the charter to resolve disputes relating to provisions of the charter. (Ed. Code, § 47605(b)(5)(N).) The Regulations require a description of how the costs of the dispute resolution process, if needed, would be funded, and also a recognition that if the substance of a dispute is a matter that could result in the taking of appropriate action, including, but not limited to, revocation of the charter, it will be handled in accordance with that provision of law and any regulations pertaining thereto. (5 C.C.R. § 11967.5(f)(14).)

The Petition does not contain a sufficient description of the Charter School's dispute resolution process based on the following findings:

1. Selection & Cost

The Petition contemplates the use of a mediator where an impasse is reached; however, the Petition does not describe how the mediator will be engaged or the pool from which mediators will be "stricken," nor who will be financially responsible for paying for the mediator's services. (5 C.C.R. § 11967.5.1(f)(14).)

2. Section 47607

The Petition does not include an acknowledgement that the District is not required to pursue dispute resolution procedures for issues forming the basis of revocation, though the Petitioner apparently recognizes this legal requirement as to SBE only. The District's obligations in the context of revocation are prescribed by Education Code section 47607, which Charter School may not expand, decrease, or alter through the Petition.

#### **VI. CONCLUSION**

As reflected in this Report, Staff considered increases in pupil academic achievement for all groups of pupils served by the charter school as the most important factor in its analysis. For the reasons stated above, the Petition, as submitted, fails to demonstrate Charter School meets eligibility criteria for renewal, fails to provide a reasonably comprehensive description of several essential charter elements, and indicates that Charter School is demonstrably unlikely to successfully implement the program presented in the Petition. Accordingly, it is recommended that the Petition be denied. Should the Board take action to deny the Petition, such action will include adoption of this Report as the written factual findings in support its denial of the Petition.