



Winton Educational Foundation
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June 6, 2016

Cindy Chan
Director, Charter Schools Division
California Department of Education
1430 N Street, Room 5401
Sacramento, CA 95814

Re: Description of Changes to the Winton Charter High School Charter Petition on
Appeal to Reflect the State Board of Education as the Chartering Entity

Dear Ms. Chan:

In accordance with California Code of Regulations, title 5, section 11967(b)(4), we believe the following changes are necessary to the Winton Charter High School (“Winton High”) charter petition to reflect the State Board of Education (“SBE”) as the chartering entity.

1. Chartering Authority

Throughout the charter petition, any text referring to the “Merced Union High School District” or “MUHSD” as the chartering entity would be revised to read “State Board of Education” or “SBE,” or the “California Department of Education” or “CDE,” as appropriate.

2. Local Control and Accountability Plan (“LCAP”) – Element 1

The charter would be revised on page 11 to require the school to annually update and submit the school’s LCAP to the SBE and the county superintendent of schools only as required by Education Code section 47604.33 and 47606.5, and not the “Charter Schools Division” of the District.

3. English Learner Instruction – Element 1

The charter would be revised on page 40 to remove the need to submit a certification to the Merced Union High School District that the school will either adopt and implement the District’s English Learner Master Plan or implement the school’s own English Learner Master Plan. The charter would also be revised to remove the requirements to implement its own “EL Master plan,” provide an annual report to the District’s CSD, and provide a copy of its EL

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Master plan to the District's CSD. Otherwise, Winton High intends to implement the plan for serving its EL students as described in the charter.

4. Special Education – Element 1

The special education section of the charter contains language tailored for the District, a lot of which would not apply if the SBE is our charter authorizer, such as requiring a MOU regarding special education between Winton High and the District and requiring the school to utilize the District's Special Education Policies and Procedures Manual. Thus, we propose removing the "STUDENTS WITH DISABILITIES" section of the charter on pages 48-53, and replacing it with the following:

Students with Disabilities

Overview

Winton Charter High School shall comply with all applicable State and Federal Laws, and County requirements, in serving students with disabilities, including, but not limited to, AB 602, Section 504 of the Rehabilitation Act of 1973 ("Section 504"), Title II of the Americans with Disabilities Act ("ADA") and the Individuals with Disabilities in Education Improvement Act of 2004 ("IDEIA").

Winton Charter High School will be its own local educational agency ("LEA") and will apply directly for membership in the Merced County Special Education Local Plan Area ("SELPA") in conformity with Education Code Section 47641(b). Should Winton Charter High School be denied membership in a Merced County SELPA, it will apply for membership in an alternative SELPA, Winton Charter High School will provide notice to the CDE in advance. By participating in SELPA membership as its own LEA, Winton Charter High School will be solely responsible for the provision of special education and related services. As described below, Winton Charter High School shall enter into a memorandum of understanding ("MOU") between the SELPA and the school regarding the provision and funding of special education services. Winton Charter High School shall follow SELPA policies as they apply to all SELPA schools for responding to implementation of special education services.

Winton Charter High School shall comply with all state and federal laws related to the provision of special education instruction and related services and all SELPA policies and procedures, and shall utilize appropriate SELPA forms. Winton Charter High School will participate in the state's quality assurance process for special education (i.e., verification reviews, coordinated compliance self-reviews, complaints monitoring, procedural safeguards, and the local plan). Winton Charter High School will participate in internal validation review.

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Winton Charter High School may request related services (e.g., Speech, Occupational Therapy, Adapted P.E., Nursing, and Transportation) from the SELPA, subject to SELPA approval and availability. Winton Charter High School may also provide related services by hiring credentialed or licensed providers through private agencies or independent contractors.

Winton Charter High School hereby provides the following further assurances:

- Per Federal Law, all students with disabilities will be fully integrated Winton Charter High School's programs, with the necessary materials, services, and equipment to support their learning;
- Winton Charter High School will ensure that any student with a disability attending Winton Charter High School is properly identified, assessed and provided with necessary services and supports;
- Winton Charter High School will meet all the requirements mandated within a student's Individual Education Plan (IEP);
- Winton Charter High School will comply with the federal mandate of the "least restrictive environment", meaning that the school will make every attempt to educate special education students along with their non-disabled peers. Winton Charter High School will mainstream all of its students as much as is appropriate according to each individual IEP, offering a comprehensive inclusion program that includes specialized individual tutoring. However, if the student's needs as documented on the plan require a program other than inclusion, the school will work with the SELPA to provide an appropriate placement and services.
- Each student's IEP requires different kinds of modifications for instruction and services, therefore the educational strategies of the IEP will be built around the student's needs and how these fit within the general educational program of the school. The instruction outlined in each student's IEP will be delivered by personnel qualified to do so.
- Winton Charter High School will work with the SELPA to make time and facilities available to meet the needs of the student's IEP;
- Winton Charter High School will actively participate in all aspects of the IEP to enable the student to be successful, including the appropriate individual tutoring schedule and classroom modifications, strategies, and techniques. The school will make available student's work products for analysis and evaluation of progress and will include the SELPA in IEP reviews conducted by Winton Charter High School, where applicable;

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- If a parent or faculty member feels the student's educational needs are not being met, they may request a reassessment or a review of the IEP by the IEP team at any time during the year via written notice to Winton Charter High School, which will then forward such written notice to the SELPA;
- The charter school will encourage open communication between the parents and Winton Charter High School and/or SELPA for any items related to the special education services;
- Students at Winton Charter High School who have IEPs will continue to attend the school, unless the IEP recommends otherwise;
- In order to comply with Child Find requirements as specified by law, Winton Charter High School will establish a referral and assessment process that brings together the parent/guardian, student and school personnel to address any problems that interfere with a student's success at the school. This process will entail search and serve, Student Study Team ("SST") referral, assessment and IEP review; and
- The facilities to be utilized by Winton Charter High School shall be accessible for all students with disabilities.

Services for Students under the IDEIA

Winton Charter High School intends to provide special education instruction and related services in accordance with the IDEIA, Education Code requirements, and applicable policies and practices of the SELPA. Winton Charter High School will comply with SELPA protocol and the MOU as to the delineation of duties between the central office and the local school site in providing special education instruction and related services to identified pupils.

Winton Charter High School will follow SELPA policies and procedures, and shall utilize SELPA forms in seeking out and identifying and serving students who may qualify for special education programs and services, and for responding to record requests and parent complaints, and for maintaining the confidentiality of pupil records.

Staffing and Special Education Professional Development

All special education services at Winton Charter High School will be delivered by individuals or agencies qualified to provide special education services as required by California's Education Code and the IDEIA. Charter School staff shall participate in all mandatory County and/or SELPA in-service trainings relating to special education.

Winton Charter High School will be responsible for the hiring, training, and employment of site staff necessary to provide special education services to its

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students, including, without limitation, special education teachers, paraprofessionals, and resource specialists. Winton Charter High School shall ensure that all special education staff hired is qualified pursuant to SELPA policies, as well as meet all legal requirements.

The school's administration, regular and special education teaching staff, as well as other appropriate faculty and staff members will attend professional development and/or training meetings necessary to comply with state and federal special education laws, including those sponsored by the SELPA. Winton Charter High School also intends to seek professional development opportunities for its staff through potential trainings facilitated by the County and others.

Identification and Referral

Winton Charter High School shall have the responsibility to identify, refer, and work cooperatively in locating the school's students who have or may have exceptional needs that qualify them to receive special education services. Winton Charter High School will implement SELPA policies and procedures to ensure timely identification and referral of students who have, or may have, such exceptional needs. Students possibly in need of special education can be screened from already available data (i.e. school tests, teacher observations, grades, etc.) regarding the student's progress or lack of progress within the general program. A pupil shall be referred for special education only after the resources of the regular education program have been considered, and where appropriate, utilized.

Winton Charter High School will follow child-find procedures to identify all students who may require assessment to consider special education eligibility and special education and related services in the case that general education interventions do not provide a free appropriate public education to the student in question. Winton Charter High School may also choose to refer a student for services through the provisions of a Section 504 Plan, if appropriate.

Notice and Coordination

Winton Charter High School shall follow SELPA policies as they apply to all SELPA LEAs for responding to implementation of special education services. Parents will be informed that special education and related services are provided at no cost to them.

Winton Charter High School will serve its special education students by providing many of the following school supports, when circumstances permit:

- Implementing smaller class sizes;

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- Utilizing a longer school day and/or an extended school year (as described in the instructional days and minutes calendar, Winton Charter High School already provides instructional minutes above the State requirements);
- Pushing-in or pulling-out services by special education personnel: Push-In: The special education teacher may provide services in the classroom during regular instruction, such as working side by side with a student to understand academic vocabulary when an IEP calls for academic vocabulary comprehension. Pull-Out: The student(s) will be pulled out of his/her classroom to receive special education instruction and/or services in the special education office or classroom;
- Using technology/accelerated learning software; and
- Parent learning about how to support special education identified children at home through parenting classes, weekly newsletters, and parent support programs as an integral part of the communication process between school and home about available services.

Assessments

The term “assessments” shall have the same meaning as the term “evaluation” in the IDEIA, as provided in Section 1414, Title 20 of the United States Code. The Charter School will determine what assessments, if any, are necessary and arrange for such assessments for referred or eligible students in accordance with the SELPA's general practice and procedure and applicable law. Winton Charter High School shall work to obtain parent/guardian consent to assess the school's students. Winton Charter High School will use SELPA forms to develop, maintain, and review assessments and IEPs in the format required by the SELPA, including assessment and IEP data into the SELPA data system in accordance with SELPA policies and procedures. Unless conflicting with SELPA policies and procedures, Winton Charter High School will follow the following assessment guidelines. If a conflict with SELPA policies and procedures exists, then SELPA policies and procedures will govern.

- Parents or guardians of any student referred for assessment must give their written consent for the school to administer the assessment;
- The assessment will be completed and an IEP meeting held within 60 days of receipt of the parent's written consent for assessment;
- The student must be evaluated in all areas related to his/her suspected disability;
- Assessments must be conducted by a person with knowledge of the student's suspected disability, and administered by trained and knowledgeable personnel and in accordance with any instructions provided by the producer of

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the assessments. Individually administered tests of intellectual or emotional functioning must be administered by a credentialed school psychologist;

- Assessments must be selected and administered so as not to be racially, culturally, or sexually discriminatory;
- Assessments will be delivered in the student's primary language, and a qualified interpreter will be provided if needed;
- Assessment tools must be used for purposes for which the assessments or measures are valid and reliable;
- Assessments will be adapted as necessary for students with impaired sensory, physical or speaking skills; and
- A multidisciplinary team will be assembled to assess the student, including a teacher knowledgeable in the disability.

Upon completion of the assessment, an IEP team will be assembled to review the results of the assessment and determine the student's need for special education. Winton Charter High School will be responsible for scheduling, coordinating and facilitating the IEP meeting. Educators qualified to interpret test results will present the assessment data at the IEP meeting. Parents will be provided with written notice of the IEP meeting, and the meeting will be held at a mutually agreeable time and place.

Winton Charter High School will maintain copies of assessments and IEP materials for review by the SELPA. Winton Charter High School will submit to the SELPA and CDE all required reports, in a timely manner as necessary to comply with state and federal laws. Winton Charter High School will use SELPA forms to develop, maintain, and review assessments and IEPs in the format required by the SELPA, including assessment and IEP data into the SELPA data system in accordance with SELPA policies and procedures. Winton Charter High School will maintain copies of assessments and IEP materials for review by the SELPA. As necessary, Winton Charter High School will develop Individual Transition Plans to help a student with disabilities, age 14 and older, in transitioning to adult living.

IEP Meetings

Winton Charter High School shall arrange and notice the necessary IEP meetings.

Each student who has an IEP will have an IEP team that oversees the IEP development, implementation and progress of the student. All decisions concerning the special education programs and services to be provided to a student with a disability are to be made by the IEP team. IEP team membership shall be in compliance with state and federal law. The IEP team must include all

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of the following members: a parent or guardian of the student for whom the IEP was developed; the Principal and/or Winton Charter High School designated representative with appropriate administrative authority as required by the IDEIA; the student's special education teacher; the student's general education teacher if the student is or may be in a regular education classroom; the student, if appropriate; a SELPA special education representative, if appropriate; if the child was recently assessed, the individual who conducted the assessment or who is qualified to interpret the assessment results; and other school representatives who are knowledgeable about the regular education program at Winton Charter High School and/or about the student. The school shall arrange for the attendance or participation of all necessary Winton Charter High School participants, who may include but are not limited to, an appropriate administrator, a speech therapist, psychologist, resource specialist, and behavior specialist; and Winton Charter High School shall document the IEP meeting and provide notice of parental rights. Winton Charter High School views the parent as a key stakeholder in these meetings and will make every effort to accommodate the parent's schedule and needs so that s/he will be able to participate effectively on the IEP team. The school will provide an interpreter if necessary to ensure that all parents and/or guardians understand and can participate in the IEP process.

IEP Development

Winton Charter High School shall make decisions regarding eligibility, goals/objectives, program, services, placement, and exit from special education pursuant to its IEP process. Programs, services and placements shall be provided to all eligible students in accordance with the policies, procedures and requirements of the SELPA and State and Federal law. Students at Winton Charter High School who have IEPs will be served in the Least Restrictive Environment (LRE). This means that a student who has a disability should have the opportunity to be educated with non-disabled peers, to the greatest extent appropriate. They should have access to the general education curriculum, or any other program that non-disabled peers would be able to access. The student should be provided with supplementary aids and services necessary to achieve educational goals if placed in a setting with non-disabled peers.

IEP meetings and IEP reviews will be held as required by law. A copy of the IEP will be given to the parent in accordance with state laws and SELPA policies. Upon written consent of the parent/guardian, the IEP will be implemented by Winton Charter High School, in cooperation with the SELPA in which Winton Charter High School is a member.

IEP Implementation

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The Charter School shall be responsible for all school site implementation of the IEP. Winton Charter High School shall provide the parents with timely reports on the student's progress as provided in the student's IEP, and at least quarterly or as frequently as progress reports are provided for Winton Charter High School's non-special education students, whichever is more. Winton Charter High School shall also provide all home-school coordination and information exchange. Winton Charter High School shall also be responsible for providing all curriculum, classroom materials, classroom modifications, and assistive technology.

All IEPs will be maintained in accordance with state and federal student confidentiality laws. Service providers from other agencies, who provide instruction or a related service off the school site, will also be provided a copy of the IEP.

Interim and Initial Placements of New Charter School Students

For students who enroll in Winton Charter High School from another school district outside of the SELPA with a current IEP, the SELPA and Winton Charter High School shall conduct an IEP meeting within thirty days. Prior to such meeting and pending agreement on a new IEP, Winton Charter High School shall implement the existing IEP at Winton Charter High School, to the extent practicable or as otherwise agreed between the Charter School and parent/guardian.

Non-Public Placements/Non-Public Agencies

The Charter School shall be solely responsible for selecting, contracting with, and overseeing all non-public schools and non-public agencies used to serve special education students.

Non-discrimination

It is understood and agreed that all children will have access to Winton Charter High School and no student shall be denied admission nor counseled out of Winton Charter High School due to the nature, extent, or severity of his/her disability or due to the student's request for, or actual need for, special education services.

Parent/Guardian Concerns and Complaints

Winton Charter High School shall respond to parental concerns or complaints related to special education services. Winton Charter High School shall instruct parents/guardians to raise concerns regarding special education services, related services and rights directly to the Charter School.

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The school's designated representative shall investigate as necessary, respond to, and address the parent/guardian concern or complaint.

The Charter School, as the LEA, shall be ultimately responsible for determining how to respond to parent concerns or complaints.

Winton Charter High School shall respond to any complaint to or investigation by the California Department of Education, the United States Department of Education, or any other agency.

Due Process Hearings

Winton Charter High School may initiate a due process hearing or request for mediation with respect to a student enrolled in the school if the school determines such action is legally necessary or advisable. In the event that the parents/guardians file for a due process hearing, or request mediation, Winton Charter High School shall defend the case.

Winton Charter High School shall have sole discretion to settle any matter in mediation or due process. The school shall also have sole discretion to file an appeal from a due process hearing or take other legal action involving any Winton Charter High School student necessary to protect its rights.

SELPA Representation

Winton Charter High School shall represent itself at all SELPA meetings.

Funding

Winton Charter High School understands that it will be subject to the allocation plan of its SELPA.

Section 504 of the Rehabilitation Act

Winton Charter High School recognizes its legal responsibility to ensure that no qualified person with a disability shall, on the basis of disability, be excluded from participation, be denied the benefits of, or otherwise be subjected to discrimination under any program of Winton Charter High School. Any student, who has an objectively identified disability which substantially limits a major life activity including but not limited to learning, is eligible for accommodation by the school.

A 504 team will be assembled by the principal of Winton Charter High School and shall include parents/guardians, the student (where appropriate), and other qualified persons knowledgeable about the student, the meaning of the evaluation data, placement options, and accommodations. The 504 team will review the

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student's existing records, including academic, social and behavioral records and is responsible for making a determination as to whether an evaluation for 504 services is appropriate. If the student has already been evaluated under the IDEIA, but found ineligible for special education instruction or related services under the IDEIA, those evaluations may be used to help determine eligibility under Section 504. The student evaluation shall be carried out by the 504 team who will evaluate the nature of the student's disability and the impact upon the student's education. This evaluation will include consideration of any behaviors that interfere with regular participation in the educational program and/or activities. The 504 team may also consider the following information in its evaluation:

a. Tests and other evaluation materials that have been validated for the specific purpose for which they are used and are administered by trained personnel.

b. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligent quotient.

c. Tests are selected and administered so as to ensure that when a test is administered to a student with impaired sensory, manual or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever factor the test purports to measure rather than reflecting the student's impaired sensory, manual or speaking skills.

The final determination of whether the student will or will not be identified as a person with a disability is made by the 504 team in writing and notice is given in writing to the parent or guardian of the student in their primary language along with the procedural safeguards available to them. If during the evaluation, the 504 team obtains information indicating possible eligibility of the student for special education per the IDEIA, a referral for special education assessment will be made by the 504 team.

If the student is found by the 504 team to have a disability under Section 504, the 504 team shall be responsible for determining what, if any, accommodations or services are needed to ensure that the student receives a free and appropriate public education ("FAPE"). In developing the 504 Plan, the 504 team shall consider all relevant information utilized during the evaluation of the student, drawing upon a variety of sources, including, but not limited to, assessments conducted by Winton Charter High School's professional staff.

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The 504 Plan shall describe the Section 504 disability and any program modification that may be necessary. All 504 team participants, parents, guardians, teachers and any other participants in the student's education, including substitutes and tutors, must have a copy of each student's 504 Plan. The site administrator will ensure that teachers include 504 Plans with lesson plans for short-term substitutes and that he/she review the 504 Plan with a long-term substitute.

A copy of the 504 Plan shall be maintained in the student's file. Each student's 504 Plan will be reviewed regularly to determine the appropriateness of the Plan, continued eligibility or readiness to discontinue the 504 Plan.

5. **Annual Financial Audits – Element 9**

The charter would be revised for Winton High to prepare and submit annual audits to the CDE in compliance with California law.

6. **Suspension and Expulsion Procedures – Element 10**

The charter would be revised to comply with any suspension and/or expulsion procedures required by the SBE or CDE, and to remove any language requiring notices to MUHSD and compliance with MUHSD policies and procedures.

7. **Dispute Resolution – Element 14**

This section of the charter would be revised to meet the requirements under California Code of Regulations, title 5, section 11967.5.1(f)(14). The charter would be amended to recognize that the SBE may choose to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, provided that if the SBE intends to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, it must first hold a public hearing to consider arguments for and against the direct resolution of the dispute instead of pursuing the dispute resolution process specified in the charter. 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 in accordance with Education Code section 47604.5, the matter will be addressed at the SBE's discretion in accordance with that provision of law and any regulations pertaining thereto. Recognizing the fact that the SBE is not a local educational agency, the dispute resolution language in the charter would be further revised to include specific provisions that the SBE determines necessary and appropriate.

8. **Closure Procedures – Element 16**

The closure procedures in Element 16 of the charter would be amended to provide that the SBE or CDE are the appropriate oversight authorities.

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9. Parent Volunteer Opportunities

We are aware of an increased level of scrutiny for any references in a charter petition for “requiring” or “mandating” parent or guardian involvement in a charter school. Although we fully intend to engage our parents and guardians, and we will encourage them to spend time volunteering at the school, and we will provide many opportunities for volunteer participation, we want to make it clear that all volunteer opportunities are optional, not mandatory. Any language in the charter to the contrary would be removed.

10. Insurance Requirements

This section of the charter would be revised such that the SBE or CDE, as appropriate, as additional insured on the school’s insurance policies, not the District and District Board of Trustees. This section would also be revised to require the school to secure and maintain coverage from insurance companies acceptable to the SBE, not the District, and to provide evidence of insurance to the CDE, not the District

11. Facilities

The section titled “County-Owned Facilities” on pages 120-122 would be removed entirely because it imposes unenforceable obligations upon the County and District.

12. Hold Harmless/Indemnification Provision

This section of the charter on page 123 would be revised to state that Winton High will indemnify, defend, and hold harmless the CDE and SBE against any and all claims, damages, losses, and expenses, and not the District and the District Board of Trustees.

13. Technical Amendments

Winton High will comply with additional technical amendments to the Winton High charter as required by the SBE and CDE.

Thank you very much for your consideration. We look forward to working with the SBE to finalize any additional and necessary changes to Winton High’s charter petition to reflect the SBE as the authorizing entity. Please let me know if you have any questions or would like additional information.

Sincerely,



Dr. Juan M. Martinez
President, Winton Educational Foundation