



WINTON CHARTER HIGH SCHOOL

MUHSD Governing Board Meeting Minutes
Evidencing Action to Deny Winton High's
Charter Petition and MUHSD Findings, dated
10/14/2015

**Minutes
Board of Trustees
Regular Board Meeting
Merced High School Library
October 14, 2015
4:30 pm**

1. Call Open Session to Order

The meeting was called to order at 4:30 p.m.

2. Roll Call

Members Present: Crane, Honey, Lopez, Opinski and Schiber

Members Absent: None

3. Identify Closed Session Agenda Items

The public was invited to comment on identified items prior to adjournment into Closed Session.

4. Closed Session

- Conference with Legal Counsel - Anticipated Litigation. (Government Code Section 54956.9(b)(1)) - Significant exposure to litigation (one case).
- Public Employee: Discipline/Dismissal/Release
- Labor negotiations conference with District Labor Negotiator Ralph Calderon regarding negotiations with the Merced Union High School District Teachers' Association and California School Employees Association, Chapter 252.
- Student Disciplinary Cases #1, #2, #3, #4, #5, #6, #7, #8, #9.
- Public Employment Appointment: Principal of Yosemite High School
- Public Employee Employment: Superintendent

5. Open Session

The Board meeting reconvened to Open Session at 6:00 pm. In Closed Session the Board appointed Charles Jolly as Principal of Yosemite High School. The roll call vote was as follows: Trustees Crane, Honey, Lopez, Opinski and Schiber voted yes.

The Interim Superintendent recommends the Board approve Student Disciplinary Cases #1, #2, #3, #4, #5, #6, #7, #8, and #9, as submitted.

Action on Student Disciplinary Case #1: Student has been expelled from all comprehensive schools in the District and enroll at Valley High School through June 1, 2016. Student should apply for readmission through the Child Welfare, Attendance and Safety Department two to four weeks prior to this date. Consideration for readmission will be based upon completion of the student's rehabilitation plan.

Action on Student Disciplinary Case #2: Student has been expelled from all comprehensive schools in the District and enroll at Valley High School through June 1, 2016. Student should apply for readmission through the Child Welfare, Attendance and Safety Department two to four weeks prior to this date. Consideration for readmission will be based upon completion of the student's rehabilitation plan.

Action on Student Disciplinary Case #3: Student has been expelled from all comprehensive schools in the District and enroll at Valley High School through June 1, 2016. Student should apply for readmission through the Child Welfare, Attendance and Safety Department two to four weeks prior to this date. Consideration for readmission will be based upon completion of the student's rehabilitation plan.

Action on Student Disciplinary Case #4: Student has been expelled from all comprehensive schools in the District and enroll at Valley High School through June 1, 2016. Student should apply for readmission through the Child Welfare, Attendance and Safety Department two to four weeks prior to this date. Consideration for readmission will be based upon completion of the student's rehabilitation plan.

Action on Student Disciplinary Case #5: Student has been expelled from all comprehensive schools in the District and enroll at Valley High School through June 1, 2016. Student should apply for readmission through the Child Welfare, Attendance and Safety Department two to four weeks prior to this date. Consideration for readmission will be based upon completion of the student's rehabilitation plan.

Action on Student Disciplinary Case #6: Student has been expelled from all comprehensive schools in the District and remain at Yosemite High School through June 1, 2016. Student should apply for readmission through the Child Welfare, Attendance and Safety Department two to four weeks prior to this date. Consideration for readmission will be based upon completion of the student's rehabilitation plan.

Action on Student Disciplinary Case #7: Student has been expelled from all comprehensive schools in the District and enroll at Yosemite High School through June 1, 2016. Student should apply for readmission through the Child Welfare, Attendance and Safety Department two to four weeks prior to this date. Consideration for readmission will be based upon completion of the student's rehabilitation plan.

Action on Student Disciplinary Case #8: Student has been expelled from all comprehensive schools in the District and enroll at Valley High School through June 1, 2016. Student should apply for readmission through the Child Welfare, Attendance and Safety Department two to four weeks prior to this date. Consideration for readmission will be based upon completion of the student's rehabilitation plan.

Action on Student Disciplinary Case #9: Student has been expelled from all comprehensive schools in the District and enroll at Valley High School through June 1, 2016. Student should apply for readmission through the Child Welfare, Attendance and Safety Department two to four weeks prior to this date. Consideration for readmission will be based upon completion of the student's rehabilitation plan.

Motion by Dora Crane, second by Phil Schiber.
Final Resolution: Motion Carries
Aye: Dora Crane, Dave Honey, Richard Lopez, Greg Opinski, Phil Schiber

6. Flag Salute

Board President Dave Honey led Pledge Allegiance to the Flag.

7. Approval of Agenda

The Interim Superintendent recommends the Board approve the Agenda as submitted.

Motion by Dora Crane, second by Richard Lopez.
Final Resolution: Motion Carries
Aye: Dora Crane, Dave Honey, Richard Lopez, Greg Opinski, Phil Schiber

8. Showcase

Principal John Olson and Associate Principal Janette McAuley introduced the MHS Link Crew whose objective is to create a welcoming environment for freshmen as they transition to high school. Freshmen are encouraged to participate in clubs, activities and to be part of the culture of the MHS campus in positive ways and to journey towards academic success.

9. General Public Comment Period

- Mike Conway and Joey Chavez from the City of Merced thanked the Board for their continued partnership in the community regarding facility use. Mr. Conway indicated that on a normal weekend 2500 adults and children are using the MUHSD facilities in Merced.
- Michael Boykin addressed the Board regarding the Winton Charter High School. Mr. Boykin discouraged the Board from approving the current application.
- Anthony Gonzales addressed the Board regarding the need of a software tool to assist teachers in classroom management when students are using Chromebooks.
- Val Fogelberg addressed the Board regarding teacher's benefits and compensation and the upcoming negotiations.

10. Employee Associations Comment Period

DTA President Blaine Barrick addressed the Board regarding upcoming negotiations and the staff directory. Personally, he addressed the Board regarding the Winton Charter School.

11. Superintendent's Report

Superintendent had no report.

12. Consent

The Board is asked to approve the Consent Agenda items as submitted.

- Minutes - Special Board Meeting - September 2, 2015
- Minutes - Regular Board Meeting - September 9, 2015
- Minutes - Special Board Meeting - September 30, 2015
- 2015-2016 Personnel Report #4
- Warrant Registers/Payroll Report #4
- Cash Donation for Atwater High School - Ag Department
- Cash Donation for Atwater High School - Ag Department
- Cash Donation for Atwater High School
- Cash Donation for Golden Valley High School - Football Program
- Cash Donation for Livingston High School - Boys Soccer Program
- Cash Donation for Golden Valley High School - Jesus Salvador Gallegos Memorial Scholarship
- Cash Donation for Merced High School - Munawer Family Scholarship

- Cash Donation for Atwater High School - Rinks Sano Memorial Scholarship
- Cash Donation for Merced High School - Kevin and Brian Nannini Foundation Scholarship
- Cash Donation for Buhach Colony High School - Soccer
- Cash Donation for Atwater High School - Ag Department
- Cash Donation for Atwater High School - Ag Department
- Donation for Golden Valley High School - Athletic Department
- Cash Donation for El Capitan High School - FFA Program
- Cash Donation for Golden Valley High School - Athletic Department
- Donation to MUHSD
- Donation for Buhach Colony High School - Baseball Program
- Donation for Atwater High School - Basketball Program
- Donation for Buhach Colony High School - Aquatics Program
- Cash Donation for Buhach Colony High School - Rinks Sano Agriculture Scholarship
- Donation for Atwater High School - Math Department
- Donation for Atwater High School - Basketball Program
- Cash Donation for Atwater High School - Karen Bizzini Scholarship
- Out-of-State Travel – Chris McKenna – National Association of Agricultural Educators Convention in New Orleans
- Out-of-State Travel – Karen Creighton – National FFA Convention in Louisville and Washington, DC
- Out-of-State Travel – Norma Cardona – NAEHCY Conference in Phoenix
- Out-of-State Travel – John Hall – AVID/Women in Society Classes to Washington, DC
- Out-of-State Travel – Nathan Braga – CADA Conference in Reno, Nevada
- Associated Student Body Application for Organizational Recognition for the League of Legends Club at Merced High School
- Associated Student Body Application for Organizational Recognition for the Paranormal Research & Investigative Club/Team at El Capitan High School
- Associated Student Body Application for Organizational Recognition for the Adventure Club at Atwater High School
- Associated Student Body Application for Organizational Recognition for the Innovation Club at Atwater High School
- Associated Student Body Application for Organizational Recognition for the RC Club at Atwater High School
- Associated Student Body Application for Organizational Recognition for FREE Club at Buhach Colony High School
- Associated Student Body Application for Organizational Recognition for Academic Mentor Club at Merced High School
- Associated Student Body Application for Organizational Recognition for the Skills USA Club at Golden Valley High School
- Sale and Discard of Surplus Instructional Materials
- Child Development Center Administrative Responsibility - Resolution #10-15
- Annual Approval of Comprehensive Safety Plans

Motion by Dora Crane, second by Phil Schiber.
Final Resolution: Motion Carries
Aye: Dora Crane, Dave Honey, Richard Lopez, Greg Opinski, Phil Schiber

13. Action Agenda

Winton Charter High School - Winton Educational Foundation

The Interim Superintendent recommends that the Board of Trustees DENY the request from the Winton Educational Foundation to establish Winton Charter High School within the boundaries of the Merced Union High School District.

Belia Zambrano read a letter from Supervisor Deidre Kelsey in support of the Winton Charter High School. Comments were made by Julio Valadez and Gonzalo Ayala in support of the Winton Charter High School.

Motion by Dora Crane, second by Greg Opinski.
Final Resolution: Motion Carries
Aye: Dora Crane, Dave Honey, Richard Lopez, Greg Opinski, Phil Schiber

Credential Provisional Internship Permit

The Interim Superintendent recommends the Board of Trustees approve the Provisional Internship Permits for Marisela Torres (Mathematics) and Gregory Euker (English), as submitted for the 2015-16 school year.

Motion by Dora Crane, second by Phil Schiber.
Final Resolution: Motion Carries
Aye: Dora Crane, Dave Honey, Richard Lopez, Greg Opinski, Phil Schiber

14. Reports/Discussion Only

Measure M Bond Committee Annual Report 2015: Chairperson Ida Johnson presented the Measure M Bond Committee Annual Report of 2015 to the Board.

Note: At approximately 7:40 pm. the Board took a short break. President Honey left the meeting at this time. The meeting reconvened at 7:50 pm.

Summer School Report: Summer School Principals, Kurt Kollmann, Charles Jolly and Abraham Olivares reported to the Board the successes of the 2015 Summer School program.

International Exchange Students: Assistant Superintendent Tammie Calzadillas introduced this parent requested agenda item regarding our International Exchange Student board policy.

Comments were made by Mr. Kyle Ford and Mrs. Christine Ford regarding an exchange student they currently have living with them whose agency is not on our approved agency list.

Curriculum and Instruction Update: Assistant Superintendent Tammie Calzadillas and Executive Directors Costa Aguilar and Scott Weimer updated the Board on the current curriculum available to teachers in our district as well as some new programs we are developing.

15. Communications/Information/Future Agenda Items

- Trustee Schiber: Reported that he had attended the ECHS Open House. He also attended the MCOE Excellence in Education event where Levi (Dale) Middleton, ECHS Custodian, received an award.
- Trustee Crane: Had no comment
- Trustee Opinski: Reported his attendance at the MCSBA Fall Conference in Monterey. He reported that it was a great event. Trustee Opinski requested a board agenda item to review past architects contracts on construction projects regarding the errors and omissions and possible reimbursements to our district. Mr. Opinski also requested that the Board consider interviewing and hiring a different legal counsel or in-house counsel in case of a conflict of interest issue with our current counsel.
- Trustee Lopez: Reported his attendance at the American Legion recognitions, the dedication of the Roddy Svendsen Aquatic Center, the BCHS College Awareness Night, and the MCSBA Fall Conference. He also thanked Ed Felt and Lori Mollart. Lastly, he reported that he had recently met with the Merced Operating Project (MOP) regarding the Superintendent hiring process.

16. Adjournment

Board Vice President Lopez adjourned the meeting at 8:36 pm.

Respectfully submitted,

Ed Felt, Secretary

Richard Lopez, Vice President

Dora Crane, Clerk

**MERCED UNION HIGH SCHOOL DISTRICT
RESOLUTION NO. 11-15**

**Resolution Of The Board Of Trustees
To Deny The Petition Of The “Winton Charter High School”**

WHEREAS, pursuant to Education Code section 47607, a petition for grant of a charter shall be governed by the standards and criteria set forth in Education Code section 47605; and

WHEREAS, on or about September 10, 2014, Dr. Juan M. Martinez (“Petitioner”) submitted a petition and supporting documentation to the Merced Union High School District (“District”) for the grant of a charter to establish the “Winton Charter High School” (“Charter School”), which was subsequently denied by the Board of Trustees (“Board”) at a regularly scheduled meeting on November 12, 2014; and

WHEREAS, on or about July 1, 2015, Petitioner submitted a new petition and supporting documentation (“Petition”) to the District for the grant of a charter to establish the Charter School. Pursuant to a mutual agreement between the Petitioner and District, the petition was presented to the Board of Trustees at a regularly scheduled meeting on August 12, 2015.

WHEREAS, the Petition was presented to the Board at a public hearing on September 9, 2015, 2015 to determine the level of support for the Petition by teachers, other employees of the District, and parents/guardians in accordance with Education Code section 47605(b); and

WHEREAS, the Petition is now before the Board for final action at a public meeting on October 14, 2015, in accordance with Education Code section 47605(b); and

WHEREAS, in reviewing the Petition for the charter, the District’s Board of Trustees is cognizant of 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; and

WHEREAS, the Superintendent, and/or his designees, have reviewed the Petition and supporting documentation submitted by Petitioner.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the Board of Trustees of the District, having fully considered and evaluated the Petition for grant of a charter for establishment of the Charter School, hereby denies the Petition as not consistent with sound educational practice based upon the following findings:

(A) The Petition does not contain reasonably comprehensive descriptions of all of the elements prescribed by law. [Ed. Code § 47605(b)(5).]

(B) The Petitioners are demonstrably unlikely to successfully implement the program set forth in the Petition. [Ed. Code § 47605(b)(2).]

(C) The Petition presents an unsound educational program for the pupils to be enrolled in the Charter School. [Ed. Code § 47605(b)(1).]

BE IT FURTHER RESOLVED AND ORDERED, that the Board of Trustees of the Merced Union High School District hereby determines the foregoing findings are supported by the following specific facts:

THE PETITION DOES NOT CONTAIN REASONABLY COMPREHENSIVE DESCRIPTIONS OF ALL OF THE ELEMENTS PRESCRIBED BY LAW.

[Ed. Code § 47605(b)(5)]

1. Educational Program. [Ed. Code §§ 47605(b)(5)(A), (B) & (C).] The description of the Charter School's educational program is not reasonably comprehensive based on numerous reasons including, but not limited to, the following:

(A) Special Education. The Petition does not provide a reasonably comprehensive description of its plan for special needs students. The Petition states the Charter School will be its own "local educational agency" for special education, pursuant to Education Code section 47641(a) and will apply directly for membership in a Special Education Local Plan Area ("SELPA"). However, the Petition does not provide any specific information regarding the Charter School's application and/or status in joining a SELPA. The Petition does not provide specific information regarding its plan for working with the District in serving special needs students including but not limited to identifying special needs students at enrollment, conducting IEP meetings, Charter School staffing, training and educational background, etc. The District may require the Petitioner to provide more comprehensive information regarding its specific curriculum and alignment with State and local standards to ensure that the proposed charter school meets the requirements of individuals with special needs in accordance with State and federal laws.

(B) Section 504. The Petition does not provide a reasonably comprehensive description the Charter School's plan for fulfilling Section 504 responsibilities. The Petition states the Charter School will comply with Section 504 requirements. However, the Petition does not include any information regarding the Charter School's handling of all complaints filed under Section 504 of the Rehabilitation Act, does not designate what staff member will be responsible for handling such complaints, and does not provide any procedures including timelines for handling such complaints.

2. Governance Structure. [Ed. Code § 47605(b)(5)(D).] The description of the Charter School's governance structure is not reasonably comprehensive.

(A) Conflicts of Interest. The Petition states the Charter School will comply with the "Political Reform Act" ("PRA"). However, the Petition does not state compliance with Government Code section 1090 and all other conflicts of interest laws applicable to the District's Board of Trustees and Administration.

(B) Articles of Incorporation and Non-Profit Bylaws. The Articles of Incorporation and corporate Bylaws submitted with the Petition do not identify the operation of a California public charter school as a stated purpose of the entity. The Petitioner's failure to clearly establish that the operation of a California public charter school is a stated purpose of the

nonprofit public benefit corporation proposed to operate the Charter School is a material omission. Under the law, the District is not insulated from liability for the Charter School's debts, obligations, errors and/or omissions unless the Charter School is operated by a nonprofit public benefit corporation. (Ed. Code § 47604(c).)

(C) Founders/Board of Directors Qualifications. The Petition does not provide any specific information regarding the qualifications and/or expertise of its founders and Board of Directors. The Petition does not state what experience, if any, the Charter School's founders and Board of Directors have with forming and operating a public charter school. It also appears that the Petitioner's teaching and/or administrative credentials have been revoked by the California Commission on Teacher Credentialing.

3. Employee Qualifications. [Ed. Code § 47605.6(b)(5)(E).] The description of the Charter School's employee qualifications is not reasonably comprehensive. The Petition's qualification requirements for its "Principal" do not require a teaching and/or administrative credential. The Petition provides no requirements for non-certificated support staff.

4. Health and Safety. [Ed. Code § 47605.6(b)(5)(F).] The description of the Charter School's employee Health and Safety policies is not reasonably comprehensive. The Petition states the Charter School has "developed" discrimination and harassment policies but fails to provide student or staff policies addressing harassment for District review to ensure compliance with State and federal requirements. The Petition fails to identify the staff member responsible for handling sexual and/or racial harassment complaints, the procedures and timelines for handling and responding to such complaints, and how staff and students will be notified of these procedures.

5. Admissions. [Ed. Code § 47605(b)(5)(H).] The description of the Charter School's admissions criteria is not reasonably comprehensive. The Petition's enrollment preferences applicable when the school reaches its enrollment capacity are inconsistent with the law. Preference must first be given to pupils currently attending the Charter School and pupils who reside in the District (except in connection with the charter school facility grant program). (Ed. Code § 47605(d)(2)(B).) However, the Petition gives preference to students of "Founding Families" who reside in the District over other District residents. Such preferences may not be implemented unless authorized by the Board.

6. Employee Rights. [Ed. Code § 47605(b)(5)(M).] The description of the rights of any District employee leaving District employment to work at the Charter School and rights of return are not reasonably comprehensive. The Petition implies District employees may obtain a leave of absence to work at the Charter School and may have return rights to District employment through an agreement with the District. The Charter School has no authority to suggest leaves of absence from District employment or confer any rights of return to District employees.

7. Dispute Resolution Procedure. [Ed. Code § 47605(b)(5)(N).] The Petition does not contain a reasonably comprehensive description of the procedures to be followed by the Charter School and the District to resolve disputes related to the charter. The Petition provides a procedure limited to resolving disputes with the District that includes informal meetings between

the District and Charter School, with “arbitration” as a final step if still unresolved. However, the Petition does not provide any information regarding its procedures to resolve internal disputes between the Charter School and students, parents, etc., involving matters within the Board’s oversight authority. The Petition does not provide any procedure for notifying the District of such disputes to ensure that matters within the Board’s oversight obligations are timely resolved.

8. Closure Protocol. [Ed. Code § 47605(b)(5)(P).] The Petition’s closure protocol does not include a reversion to the District, after payment of all debts and liabilities, of any remaining assets obtained with public monies.

9. Facility Location. [Ed. Code § 47605(a)(1) and (g).] The description of the site and/or facility to be used by the Charter School is not reasonably comprehensive. The Petition states only that the Charter School will locate at “6765 N. Winton Way, Winton CA 95388.” However, the Petition fails to provide any additional information regarding its proposed use of the sites including floor plans, renovations, etc. The first year budget makes no allocation for lease fees and/or related costs.

10. Administrative Services. [Ed. Code § 47605(g).] The descriptions of the manner in which administrative services are to be provided for the Charter School are not reasonably comprehensive. The Petition states the Charter School “has an experienced administrative staff that handles ‘back office’ services like payroll, accounting, and purchasing.” However, the Petition does not provide any specific information regarding the qualifications of its administrative staff to handle such services. The Petition also states the Charter School will contract with “California Charter Management Corporation” for “back office support services” but fails to provide any information regarding the terms and conditions of that proposed agreement. Since the Petition proposes a first year budget involving approximately Three Million Dollars (\$3,000,000.00) of public monies, the Board may require the Petitioner to provide more information regarding the manner in which administrative services will be provided pursuant to Education Code section 47605(g) to ensure the Charter School will handle and manage business affairs and public monies efficiently and effectively to achieve sound fiscal practices.

11. Operational Budget And Financial Statements. [Ed. Code § 47605(g).] The operational budget and financial statements for the Charter School are not reasonably comprehensive.

(A) Projected Enrollment. The Petition does not provide any documentation to support its projected enrollment of “200” students in the 2016-17 school year other than the parent/guardian signatures submitted with the Petition. The signature pages do not identify how many children of those signing will attend the Charter School. Signing the Petition does not obligate parents to enroll their children in the Charter School.

(B) Expenditures Unsupported And Understated. The presumed cash-flow analysis does not appear to be complete or accurately labeled and funding sources appear overstated and inconsistent with District dollar amounts received from the same sources. The Petition’s budget proposes preliminary expenditures with little or no documentation to support

such expenses. Further, the budget's expenditures do not appear to allocate sufficient funds for Special Education and related services cost. The budget does not allocate funds for lease expenses and no documentation is presented to support estimated costs including but not limited to equipment, insurance, consultant fees, etc. No specific information is provided to support projected staffing costs, including but not limited to certificated and classified salaries, salary schedules, etc.

12. Potential Civil Liability Effects. [Ed. Code § 47605(g).] The Petition does not adequately address the potential civil liability effects of the Charter School on the District. The Petition states the Charter School will maintain general liability, workers compensation, and other insurance and/or liability coverage but fails to provide any information regarding the insurance company to offer the specific coverage.

**THE PETITIONERS ARE DEMONSTRABLY UNLIKELY TO SUCCESSFULLY
IMPLEMENT THE PROGRAM SET FORTH IN THE PETITION
[Ed. Code § 47605(b)(2)]**

13. The specific findings of fact set forth in paragraphs 1 through 12, above, are realleged and incorporated herein by reference. Said specific facts evidence that Petitioner is demonstrably unlikely to successfully implement the program set forth in the Petition.

**THE PETITION PRESENTS AN UNSOUND EDUCATIONAL PROGRAM
[Ed. Code § 47605(b)(1)]**

14. The specific findings of fact set forth in paragraphs 1 through 13, above, are realleged and incorporated herein by reference. Said specific facts evidence that Petitioner presents an unsound educational program.

There was little or no showing of support by teachers, other employees, and/or parents of the District for the Charter School at the public hearing on September 9, 2015.

PASSED AND ADOPTED this 14th day of October 2015 by the Board of Trustees of the Merced Union High School District by the following vote:

AYES:	Trustees Crane, Honey, Lopez, Opinski and Schiber
NOES:	None
ABSENT:	None
ABSTENTIONS:	None

CERTIFICATION

State of California)
) ss.
County of Merced)

I certify the above is a true copy of a Resolution adopted by the Board of Trustees of the Merced Union High School District at its regularly scheduled meeting on Wednesday, October 14, 2015.

Dated: October 14, 2015

BOARD OF TRUSTEES OF THE
MERCED UNION HIGH SCHOOL DISTRICT,

MERCED,
CALIFORNIA

By: _____


Ed Felt
Interim Superintendent

**CHARTER PETITIONER'S RESPONSE TO
MERCED UNION HIGH SCHOOL DISTRICT
FINDINGS FOR DENIAL**

On July 1, 2015, the Winton Educational Foundation (“WEF”) presented a comprehensive charter petition to the Merced Union High School District (“MUHSD” or “District”) for a charter high school to be located in Winton, California. Winton is a rural, primarily Hispanic, primarily socioeconomically disadvantaged, agricultural community that has a high number of high school aged children but no high school of its own. Winton has a large number of high school dropouts and many students in our town turn to gangs and drugs. WEF has been working for more than 5 years to change that, through community service and education. The Winton community has been advocating for its own high school separate from MUHSD for many years—a safe place for our children to receive an education that will get them college and career ready, and a local high school our families can be part of and be proud of.

The District held a public hearing on September 9, 2015 and at least 25 members of the community attended, many speaking in support of the charter petition. On October 14, 2015, WEF and our supporters were extremely disappointed when MUHSD again denied our charter. As background, WEF’s original charter was denied in 2014 and after that denial WEF really tried to work with the District—we took the District’s comments to heart and came back to MUHSD in 2015 with a revised petition that we believed addressed each and every concern. We were surprised and disheartened when MUHSD again denied our charter, based on *findings that are not supported by law*.

This document provides WEF’s response to MUHSD’s “findings of fact” adopted on October 14, 2015 denying the charter.

DISTRICT’S FINDINGS:

- #1: The Petition does not contain reasonably comprehensive descriptions of all of the elements prescribed by law. (Ed. Code, § 47605(b)(5).)***
- #2: The Petitioners are demonstrably unlikely to successfully implement the program set forth in the Petition. (Ed. Code, § 47605(b)(2).)***
- #3: The Petition presents an unsound educational program for the pupils to be enrolled in the Charter School. (Ed. Code, § 47605(b)(1).)***

As a preliminary matter, the MUHSD’s “findings” do not meet the standard in Education Code section 47605(b). The governing board of a school district may deny a petition for the establishment of a charter school *only if* it makes “written factual findings, specific to the particular petition, setting forth specific facts” to support one or more of the legal grounds for denial. The District failed to meet this burden. MUHSD’s three conclusory findings each refer back to the same 13 paragraphs. Those paragraphs contain a list of opinions of what the District believes *should be* part of a charter submission—

many of which are not actually required by law. These opinions are not facts, and they do not individually support the three stated grounds for denial.

DISTRICT'S GENERAL "FACTS" IN SUPPORT:

- **1. Educational Program: Special Education and Section 504.** MUHSD denied the charter because it found the charter did not provide a reasonably comprehensive description of the plan for special needs, specifically: (1) information regarding the school's application and/or status in joining a SELPA; (2) information regarding the school's plan for working with the District in serving special needs students; and (3) information regarding the school's handling of all complaints filed under Section 504 of the Rehabilitation Act, what staff member will be responsible for handling such complaints, and procedures including timelines for handling such complaints.

WEF's Response.

First, we note that for years, WEF has tried to work with the District. We specifically tailored the language in the special education portion of our charter to use language we believed would be familiar to the District and that the District would approve, but we would have happily made amendments to our charter document to address the technical issues raised in the findings. The standard applied by MUHSD is not the standard in the law: charter elements must be reasonably comprehensive, but not exhaustive. We would have made changes to make this section of the charter more exhaustive if the District had communicated its concerns to us.

The charter for Winton High provides a reasonably comprehensive description of "how the charter school will meet the needs of students with disabilities," and describes "the charter school's special education plan, including, but not limited to, 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 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." (5 C.C.R. § 11967.5.1(f)(1).)

As for joining a SELPA, the charter states that Winton High "will be its own local educational agency ("LEA") and will apply directly for membership in a Special Education Local Plan Area (SELPA) in conformity with Education Code Section 47641(a)." (Charter, p. 48.) The charter states that Winton High would apply to participate in the same SELPA as the District (Merced County SELPA), and that the school will assume full responsibility for the provision of special education and related services to eligible students. (Charter, p. 52.) A charter is not required to provide information about the "application and/or status in joining a SELPA," since this is an ongoing process. When the charter was first provided to the District, the school had not yet applied to be a member of any SELPA, which is common. We have already contacted the Merced County SELPA and scheduled a meeting to discuss more specifics about SELPA membership.

As for “working with the District in serving special needs students,” as stated in the charter Winton High will be its own LEA and seek membership in a SELPA independent of the District. The high school was never intended to be a school of the district for special education. There is no legal requirement to work with a SELPA *and* with the authorizer to provide special education services.

As for Section 504, Winton High will provide a discrimination-free education to all of its students, including those with a disability. A copy of our draft Compliance with Section 504 Procedures is attached. We were surprised to read this finding given that serving a diverse population with special needs is at the core of our mission, and given that our charter *does* include a comprehensive Section 504 section. Although not legally required in a charter, there is an entire section in ours called “Title IX, Section 504, and Uniform Complaint Procedures” that discusses how the school will handle Section 504 complaints. The charter states Winton High will designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Section 504, “including any investigation of any complaint filed with [Winton High] alleging its noncompliance” and that Winton High “shall notify all its students and employees of the name, office address, and telephone number of the designated employee or employees.” (Charter, p. 74.) Designating or naming a particular individual in the charter is not required. The charter cannot be denied simply because the school has not yet designated an employee; indeed, the school cannot *have* any employees until it opens. We would have been happy to designate a job title for this, if required. This section of our charter goes on to state that the school will adopt and publish complaint procedures providing for prompt and equitable resolution of student and employee complaints alleging any violation of Section 504. Further, there is another section of the charter called “Addressing Family Concerns and Complaints” on page 73 that clearly encourages parents to share their concerns with the school, and affirms the school’s commitment to addressing those concerns. WEF, which is the California nonprofit public benefit corporation that proposes to operate Winton High (more on this below), has already established a complaint process and Community Complaint Form (our draft Community Complaint Form is attached). The timelines and procedures for complaints to the school will be outlined in our formal policy once the charter is approved. This is more than what is required by law.

Nonetheless, we have proposed replacing this description to comply with what we understand to be the state’s requirements for serving special education students, as described in the letter describing changes to the petition to reflect the state as authorizer. (See Tab 2.)

- **2. Governance Structure.** The District found: (1) the charter raises conflict of interest issues because it does not state the school will comply with Government Code section 1090 and “all other conflict of interest laws applicable to the District’s Board of Trustees and Administration”; (2) the Articles of Incorporation and Bylaws of WEF do not identify the operation of a charter school as the corporation’s primary purpose; and (3) the charter does not provide specific information regarding the qualifications and/or expertise of its founders and board of directors in forming and operating a public charter school and one of the school leader’s credentials has been revoked.

WEF's Response.

Again, we believe all of these issues could have been easily resolved by a technical amendment to the charter or in the case of the credential issue, by a conversation.

As for conflicts of interest, there is no legal requirement that a charter school comply with Government Code section 1090. Some California charters do agree to abide by Section 1090, and some do not. The District never communicated to us that it expected the school to follow Section 1090, and there are no other MUHSD-authorized charters to compare to. Unless compliance is expressly required by a statute or agreed to, charter schools are, as a legal default, exempt from the laws governing schools districts. (Ed. Code, § 47610.) A school district cannot legally deny a charter for failure to include a law that does not apply to the school, and which the District never told us it expected the school to follow.

We note the law also does not require a charter to specify compliance with each and every law applicable to it. That would require that every charter in the state contain pages and pages of statutes. Instead, the Winton High charter clearly indicates that it will comply with “any and all federal, state, and local laws and regulations that apply to the Charter School,” including, *but not limited to*, the Public Records Act, Ralph M. Brown Act, and the Political Reform Act. (Charter, p. 4-5.) This is conventional language in a California charter, and it is more than what is required under the law.

Winton Charter High School will be operated by the Winton Educational Foundation (“WEF”), a California nonprofit public benefit corporation, pursuant to Education Code section 47604. (Charter, p. 69). As such, the District would have been immune from the debts and obligations of Winton High had MUHSD approved the charter. (Ed. Code, § 47604(c).) This immunity is provided by law; it is not limited based on what language is in a corporation’s articles of incorporation.

Moreover, operation of a school *is* within WEF’s charitable purposes. WEF’s articles of incorporation state:

“The specific purpose of this corporation is *to provide education*, social services, and economic development services to low income and other eligible individuals.”

The operation of a public charter high school in a socioeconomically disadvantaged area like Winton, California clearly falls within the purpose “to provide education...to low income and other eligible individuals.” As a nonprofit organized for public and charitable purposes, the law requires the Foundation’s articles to include a specific statement of the corporation’s purposes and WEF’s articles properly do so. (Corp. Code, § 5130(b).)

The law similarly does not require a charter to include specific qualifications and information about its leaders and board members, since many of those roles are not fully cemented at the time a charter is drafted. However, here, the WEF board exists and currently contains 11 members. We would have been happy to provide more information about each member of the WEF board to the District.

WEF's founder and Board President, Dr. Juan Martinez, has been involved with charter schools and education reform for 16 years. He has experience developing and operating charter high schools throughout the country. In 2009, an unhappy family member of Dr. Martinez filed a false police report that led to charges being brought against Dr. Martinez. *The charges were entirely unfounded and all charges were dropped prior to a hearing.* However, as a result of the charges, when Dr. Martinez's Pupil Personnel Services credential was up for renewal the State did not renew it, and his teaching credential was revoked. At his age, and since he was already retired, Dr. Martinez felt that it was not worth it to go through the process of renewing his credential. Dr. Martinez has never had any negative evaluation on his teaching record.

The rest of WEF's board of directors includes individuals with diverse backgrounds and knowledge, *including credentialed teachers*, with decades of cumulative experience running nonprofit and for-profit organizations. Most critically, our board members have first-hand knowledge about our local community and the needs of our target population.

We are confident that our team of leaders will be successful operating Winton High.

- **3. Employee Qualifications.** The District found: (1) the requirements for the Principal position do not require a teaching and/or administrative credential; and (2) there are no requirements listed in the charter for non-certificated support staff.

WEF's Response.

There is no legal requirement that a Principal of a California charter school hold a teaching and/or administrative credential. Under the Winton High charter, the Principal must have a bachelor's degree (although a Master's or Ph.D. is preferred), at least seven years of teaching and administrative experience (three years as a full-time teacher with urban students is preferred), and experience in performance assessment. (Charter, p. 76-77.) WEF's board believes this required experience will ensure the Principal of Winton High is qualified to be the instructional leader of the school.

Additionally, the law only requires a charter to identify *general* qualifications for the various categories of employees, not an exhaustive list for each category. (5 C.C.R. § 11967.5.1(f)(5)(A).) The Winton High charter meets this threshold. The school intends to recruit personnel, including non-certificated support staff, who are "professional, effective, and qualified," are fingerprinted and can pass a criminal background check and a tuberculosis screening, are properly immunized, and can meet the specific requirements outlined in each employee's job description. (Charter, pgs. 75, 79, 81.) These descriptions are *reasonably* comprehensive, which is all that's required under the law.

- **4. Healthy and Safety.** The District found the description of the employee health and safety policies: (1) fails to include discrimination and harassment policies for review; and (2) fails to identify the staff member responsible for harassment complaints, the procedures and timelines for handling such complaints, and how staff will be notified of these procedures.

WEF's Response.

The law requires a charter to reasonably describe the “procedures” a school will follow to ensure the health and safety of its pupils. (Ed. Code, § 47605(b)(5)(F).) Under the SBE’s regulations, this requires the charter to state that each employee must pass a background check and be screened for tuberculosis, immunizations of pupils are a condition of enrollment, and the school will screen pupils for vision, hearing, and scoliosis. (5 C.C.R. § 11967.5.1(f)(6).) Nothing requires, nor is it customary in our experience, for a new petitioner to include discrimination and harassment policies along with the charter submission. Nonetheless, we have attached a copy of our draft Anti-Discrimination and Anti-Harassment Policy.

Again, the charter clearly *does* describe a complaint procedure for students and parents on pages 73-74, which would include any complaints regarding harassment at the school.

- **5. Admissions.** The District found the description of the admissions criteria is not reasonably comprehensive because the charter describes enrollment preferences that must be authorized by the District Board of Education.

WEF's Response.

We want to be clear that the enrollment preferences outlined in the charter are *not* inconsistent with the law. The law requires that a charter school give preference to pupils currently attending the charter school and pupils who reside in the district, which our charter does, *and also explicitly permits other preferences if approved and consistent with the law.* (Ed. Code, § 47605(d)(2)(B).)

We note it is legally permissible and common for a charter school to extend an enrollment preference to children of founding families as long as that preference is allowed by the chartering authority, but we would have been happy to discuss changing this admissions preference upon request from the District. We were never given that opportunity. The enrollment preferences in the charter are comprehensively described and consistent with the law, which is what is required.

- **6. Employee Rights.** The District found this element is not reasonably comprehensive because the District believes the charter implies District employees may obtain a leave of absence to work at the school and have return rights to District employment through an agreement with the District.

WEF's Response.

The District’s conclusion is completely void of merit. The charter does *not* make any implications that are inconsistent with the District’s rights, and does *not* confer any return rights upon employees that leave the District. The charter specifically states that District employees

“*shall have no automatic rights of return*” to the District after employment with the school. (Charter, p. 103.)

- **7. Dispute Resolution Procedure.** The District found the description of the dispute resolution procedures is not reasonably comprehensive because: (1) the procedure is limited to informal meetings between the District and the school, with arbitration as a final step if still unresolved; (2) the charter does not provide any procedure for resolving internal disputes between the school and its students, parents, etc.; and (3) the charter does not provide any procedure for notifying the District of such internal disputes.

WEF's Response.

The law requires a charter petition to describe the procedures to be followed by the school and the charter authorizer to resolve disputes relating to provisions of the charter. (Ed. Code, § 47605(b)(5)(N).) Winton High's charter does precisely that. It is unclear to us why MUHSD did not want dispute resolution to include informal meetings or arbitration. Again, we would have welcomed input from the District about their preferred dispute resolution preferences. As for internal disputes, these will be handled by the charter school and its board. (Charter, p. 73.) We have attached a copy of our draft Community Complaint Form. Notice to the District is not required by law, and cannot be the basis for denial. The school will, of course, respond to reasonable requests for information from our authorizer. (Charter, p. 74-75.) MUHSD's opinion that the procedures are somehow inadequate is *not* a legal basis for denial.

- **8. Closure Protocol.** The District found the description of the closure protocol is not reasonably comprehensive because it does not require assets to revert back to the District, after payment of all debts and liabilities.

WEF's Response.

This finding is unusual, and unsupported by law. There is no legal requirement that charter school assets “revert” to a school district upon closure of the charter school. The charter specifically describes how the school will ensure appropriate disposal of its property on pages 113-114 in the event the school closes. Such disposal includes the return of any donated materials and property according to any conditions set when the donations were accepted, and the return of any grant and restricted funds to their source in accordance with the law. This is all that's required by law. (See 5. C.C.R. § 11962(g).) Any remaining assets will remain the property of the Foundation for use, sale, or disposal in furtherance of the purposes for which they were acquired.

- **9. Facility Location.** The District found the charter: (1) fails to provide, aside from an address, any information regarding its proposed use of the sites including floor plans, renovations, etc.; and (2) the first year budget makes no allocation for lease fees and/or related costs.

WEF's Response.

All that is required by law when it comes to identifying a facility is for a charter to “provide information regarding...the facilities to be used by the school” and “specify where the school intends to locate.” (Ed. Code, § 47605(g).) The charter for Winton High does this. (See Charter, pgs. 120-123.) It even provides an address, which is more than many new schools are able to do. There is no requirement to provide leases, contracts, floor plans, renovation plans, or other documents in an initial submission; indeed, a new charter school cannot usually pin down a site until it has received an approved charter. (See 5 C.C.R., § 11967.5.1(c)(3)(D) [only requiring a description of the “potential location of facilities” and contemplating situations when “a specific facility has not been secured...”].)

The preliminary operating budget submitted with the charter specifically stated as a budget assumption that the numbers are calculated “Before Lease Payments.” This was done because the lease costs were not finalized: we wanted to be financially responsible and not simply guess what facility costs would be. We have identified two potential facilities, and we will happily provide more information once our charter is approved so we can actually secure a facility.

- **10. Administrative Services.** The District found the charter did not provide any specific information regarding the qualifications of administrative staff and contractors.

WEF’s Response.

First, a description of the “manner in which administrative services are to be provided” is not an element of a charter petition under the law. (See Ed. Code, § 47605(b)(5).) Indeed, a new charter school does not often have administrative services contracts or staff in place prior to approval of a charter.

Second, the qualifications for our staff members are described in Element 5 of the charter, as discussed above. The law does not require a charter to repeat information in multiple places.

Third, the charter does “*provide information*” about the administrative services to be provided. (Ed. Code, § 47605(g).) WEF already has some experienced administrative staff that can handle a variety of services like payroll, accounting, and purchasing, and will hire more upon charter approval. Further, to ensure the school’s operations are solid, Winton High has contracted with a charter school back office service provider, Charter Impact, to provide additional support services, as contemplated in our charter. (Charter, p. 123.)

- **11. Operational Budget and Financial Statements.** The District found (1) the charter fails to provide any documentation to support its enrollment projection of 200 students in the 2016-2017 school year; (2) the presumed cash-flow analysis does not appear to be complete or accurately labeled and funding sources appear overstated and inconsistent with District dollar amounts received from the same sources; (3) the budget does not appear to allocate sufficient funds for special

education and related services and lease expenses; and (4) the budget does not provide information to support its estimated costs.

WEF's Response.

The law requires the petitioner “provide financial statements that include a proposed first-year operational budget, including startup costs, and cashflow and financial projections for the first three years of operation.” (Ed. Code, § 47605(g).) Winton High has done so. Our projected enrollment is based on the current enrollment of the middle schools that will matriculate into Winton High if our charter is approved. The 8th grade class at the Winton Middle School—one of five middle schools in the area—has 218 students. Our budget includes a projected first year enrollment of only 190 students, which is a conservative estimate. As shown in our updated budget (Tab 7), our funding sources are all formula-based, and consist of LCFF state aid (both EPA and in lieu of property taxes), state and federal child nutrition programs, special education funding, and the SB 740 facility grant program, as well as state lottery funds and mandated cost reimbursements beginning in year two of operations. For spending on special education and related services, we have budgeted for \$76,000 in year one, which will increase to \$338,000 in year five. These numbers are over and above the revenues that will be received from the Merced County SELPA and will ensure our students with disabilities are provided with all necessary supports and services. Our cost estimates are based on competitive employee compensation and adequate staffing, a potential below market rate lease agreement for facilities, and spending on necessary equipment and supplies for school start up, like laptops, tablets, desktop computers, furniture, and new textbooks. We are happy to discuss this more with our authorizer.

- **12. Potential Civil Liability Effects.** The District found the description of the potential civil liability effects is not reasonably comprehensive because the charter fails to provide any information regarding the insurance company to offer the specific coverage.

WEF's Response.

Once again, this is not an element of a charter. (See Ed. Code, § 47605(b)(5).) The charter includes a recitation of the law that ensures the district will not be liable for the charter school. (Charter, p. 123.) In the area of insurance, the law only requires a charter to “provide for the acquisition of and budgeting for general liability, workers compensations, and other necessary insurance of the type and in the amounts required for an enterprise of similar purpose and circumstance.” (5 C.C.R. § 11967.5.1(c)(3)(C).) The charter for Winton High does this and more. (Charter, pgs. 118-119.) Naming a specific insurance company at the time of charter submission is not required, and failure to do so is *not* a legal basis for denial.



WINTON CHARTER HIGH SCHOOL

**MCBOE Meeting Minutes Evidencing Action to
Deny Winton High's Charter Petition and
MCBOE Findings, dated 02/16/2016**

MINUTES
MERCED COUNTY BOARD OF EDUCATION
February 16, 2016

REGULAR BOARD MEETING

I. Opening

- A. Board Chairperson, Dennis Hanks, called the regular meeting of the Merced County Board of Education to order at 3:15 PM.
- B. Members present were Chris Chavez, Tom Bates, Gloria Honey, Fred Honoré, and Dennis Hanks.
- C. Others Present: Tammie Calzadillas, Torrin Johnson, Juan Martinez, Octavio Valencia, Sean McDaniel, George Solis, Josie Solis, Mario Luja, Richard Carrillo, Jesse Ochoa, Maria Luvette, Matt Stowell, Pat Dillon, Dominico Johnston, Debbie Gomes, Mark Pintor, Carrie Harkreader, Lori Gattuso, Dean Derrek, Karla Paul, Ceci Perez, Linda Kaercher, Michelle Symes, Ken Robbins, Holly Newlon, Eva Chavez, Christie Hendricks, Janet Riley, Yolanda Campos-Assistant to the Superintendent, and Steven E. Gomes-County Superintendent.

II. Flag Salute – Pledge of Allegiance to the Flag

III. Consent Agenda Items listed under Consent Agenda are considered to be routine administrative functions and will be acted on by the Board in one motion and one vote. Any items under the Consent Agenda may be discussed; however, if the item needs further clarification and discussion, it may be removed from the Consent Agenda at the request of the Board or the Superintendent, and considered separately. Information concerning Consent Agenda items will be provided to each Board member for study prior to the meeting. It is understood that the Superintendent recommends approval of all consent items, unless otherwise noted. (*Board Bylaw 9322*)

- A. Minutes of Regular Meeting on January 19, 2016
(*approved with corrected board absence on Agenda item I.B.*)
- B. Resolution No. 2016-02 Recognizing March 2016 as Arts Education Month

Tom Bates moved and **Fred Honoré** seconded the motion to approve the Consent Agenda as submitted. The motion carried with a vote of 5-0.

IV. Written Communications

- A. Correspondence Received By Chairperson: None.
- B. Correspondence Received By Board Members:
 - 1. Form 700 – Statement of Economics Interests
 - 2. Thank you letter from Merced College Foundation for the \$200.00 donation to the Schelby Agriculture Scholarship
- C. Correspondence Received By Superintendent: None.

V. Call for Public Comments on Agenda & Non-Agenda Items

The public was invited to address agenda items, submit items within the subject matter jurisdiction of the Board for future consideration, or speak to issues related to the function and operation of the County Board of Education.

No comments were made.

VI. Future Agenda Items

VII. Business Item for Action – Winton Charter High School Petition

A. Winton Charter High School Petition (Resolution No. 2016-03)

The Board of Education considered and took action to approve/deny the charter petition of the Winton Charter High School

1. MCOE Charter School Petition Review Team recommendation report of the Winton Charter High School

Attorney Ken Robbins provided his legal opinion and advice based on the totality of the petition.

2. Open Public Hearing: Dennis Hanks opened the public hearing.

Public Comments were made by Dr. Juan Martinez, Salvador Wally, Martha Guiterrez, and Gustavo Andrade supporting the charter petition. No public comments were made opposing the charter petition.

3. Close Public Hearing: The public hearing was closed.

4. Approve Resolution No. 2016-03 Denying Appeal Filed by Winton Charter High School by the Governing Board of the Merced County Board of Education

It is recommended that the Board of Education approve Resolution No. 2016-03 Denying Appeal Filed by Winton Charter High School by the Governing Board of the Merced County Board of Education

Chris Chavez moved and Fred Honoré seconded a motion to approve Resolution No. 2016-03 Denying Appeal Filed by the Winton Charter High School by the Governing Board of Merced County Board of Education. The motion carried with a vote of 5-0.

VIII. Superintendent's and Board Members' Report (Information/Discussion Only)

- A. Public Input on Sunshine 2016-2017 Bargaining Unit Proposal from MCOTA: The public was invited to provide input on the proposal. No comments were made.

- B. Sunshine 2016-2017 Bargaining Unit Proposal from MCOE to MCOTA: The 2016-2017 Bargaining Unit proposal from MCOE to MCOTA was submitted.

- C. Departmental Report

1. Career & Alternative Education:

- School Site Safety Plan for Valley Community Schools (Atwater, Los Banos and Merced), Merced County Juvenile Hall Court School and Merced Scholars Charter School: Holly provide a report on MCOE's comprehensive school safety plan for each school per Education Code 32288

- D. Board Member's Report (*if any*): Chris Chavez reported his visit to the Merced Symphony Children's Concert at the Art Kamangar Center, Merced Theatre where in these two performances over 3,300 students attended and the Los Banos performances at Pacheco High School there were approximately 650 students who attended.

- E. Superintendent's Report – Steven E. Gomes reported on the following:

1. Report on Our Schools – February 25 (*Merced*) & February 29 (*Los Banos*)
2. County Superintendent's Retirement Announcement

IX. Business Items for Action

A. Uniform Complaint Report Summary

It is recommended that the Board of Education review and approve the Uniform Complaint Report Summary for Quarterly Period October 2015 through December 2015

Chris Chavez moved and **Gloria Honey** seconded a motion to approve the Uniform Complaint Report Summary for Quarterly Period October 2015 through December 2015. The motion carried with a vote of 5-0.

B. Adult Education Fund (Resolution No. 2016-04)

It is recommended that the Board of Education approve Resolution No. 2016-04 Establishing an Adult Education Fund (Fund 11) to administer and account for the funds associated with the Adult Education Block Grant

Gloria Honey moved and **Tom Bates** seconded a motion to approve Resolution No. 2016-04 Establishing an Adult Education Fund (Fund 11) to administer and account for the funds associated with the Adult Education Block Grant. The motion carried with a vote of 5-0.

C. School Accountability Report Cards (SARCs)

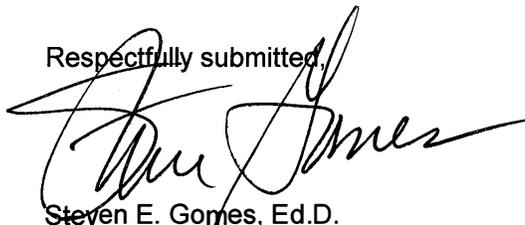
It is recommended that the Board of Education approve the 2015-2016 SARCs for the following programs/schools: Valley Community School (Atwater), Valley Community School (Los Banos), Valley Community School (Merced), Merced County Juvenile Hall Court School, Merced Scholars Charter School

Tom Bates moved and **Chris Chavez** seconded a motion to approve the 2015-2016 SARCs for the following programs/schools: Valley Community School (Atwater), Valley Community School (Los Banos), Valley Community School (Merced), Merced County Juvenile Hall Court School, Merced Scholars Charter School. The motion carried with a vote of 5-0.

X. Adjournment

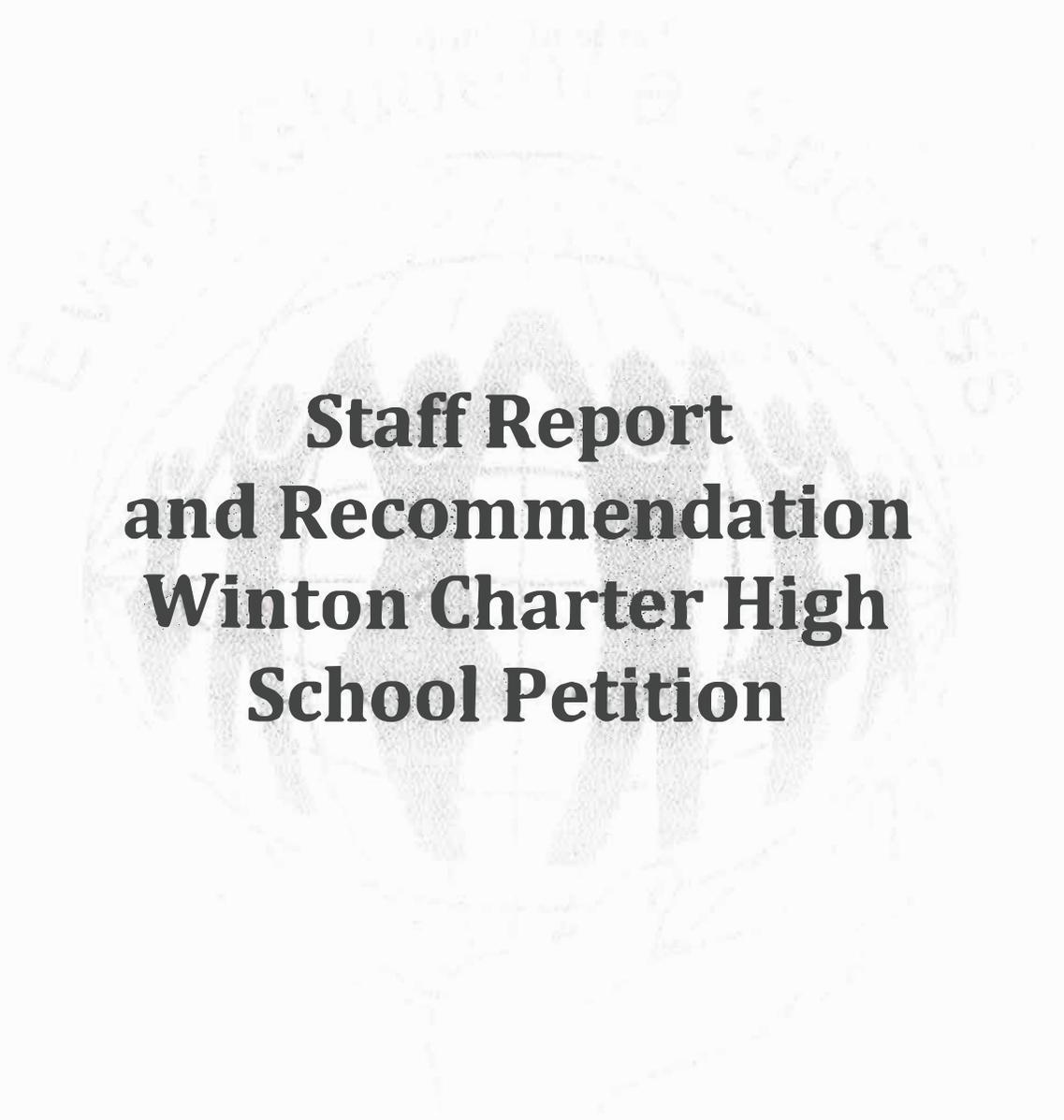
Fred Honoré moved and **Tom Bates** seconded the motion to adjourn the regular meeting of the Merced County Board of Ed a vote of 5-0.

Respectfully submitted,



Steven E. Gomes, Ed.D.
County Superintendent of Schools
Secretary to the Board of Education

SEG:yc



**Staff Report
and Recommendation
Winton Charter High
School Petition**

***Steven E. Gomes, Ed.D
Merced County Superintendent of Schools***

***For Board Action
February 16, 2016***

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Merced County Office of Education

Steven E. Gomes, Ed.D., Superintendent



Equal Opportunity Employer

Petition Review Winton Charter High School Executive Summary February 16, 2016

The Merced County Office of Education (MCOE) conducted a comprehensive review of the Winton High School Charter School petition, which was submitted on appeal to MCOE on November 30, 2015, in accordance with Education Code Section 47605b.

The Winton High School Charter School petition was first submitted to Merced Union High School District (MUHSD) on September 10, 2014, and subsequently denied by the MUHSD board on November 12, 2014. The first petition was not submitted to the MCOE board on appeal. A second Winton High Charter School petition was submitted to the MUHSD board on July 1, 2015, and subsequently denied by the MUHSD on August 12, 2015. Both the second petition and the findings of fact related to the District's second denial are included in the attached documents.

On December 14, 2015, the Merced County Board of Education conducted a public hearing on the provisions of the petition and to consider the level of support for the petition by teachers, other employees of the district, and parents. At that hearing, lead petitioner, Dr. Juan Matinez, several additional Winton Education Foundation board members, one parent and one UC Merced student made public comments in favor of the school. No public comments were made in opposition to the petition.

Mindful of the intent of the Legislature for charter schools that are consistent with sound educational practice to become an integral part of the public education system, MCOE completed a comprehensive evaluation of each element of the petition, and carefully reviewed the findings for denial made by MUHSD. Based on sound authorizing practices recommended by the National Association of Charter School Authorizers, MCOE also conducted a capacity interview of petitioners to ensure an accurate understanding of the potential benefits of the charter school for the community the petitioners' intend to serve, as well as to determine the capacity of the petitioners to implement a sound educational program and sustainable school.

Upon completion of the petition review and the capacity interview, it is clear that petitioners are sincerely committed to bringing a high school to Winton Community and its neighbors, and MCOE staff hold petitioners in high esteem for their desire to contribute to public education in a meaningful way.

However, MCOE has concluded that petitioners have not provided convincing evidence that they can establish and operate a successful public high school.

Recommended Action: Motion for Denial of Petition for Winton Charter High School

MCOE recommends that the Merced County Board of Education take action to approve the following recommended motion.

Deny the petition for Winton Charter High School based on the following findings of fact:

- 1. The petition presents an unsound educational program for the pupils to be enrolled in the charter school. 47605(b)(1)**
 - The petition is poorly organized and contains substantive errors and/or omissions. The academic program is undefined and unfocused. Several components of the program, including the curriculum and instructional strategies, are described too briefly to determine whether the petitioner has a clear understanding of public education, including state standards, high school course and graduation requirements, special education, the needs of English language learners and how to meet them, how to develop a safe school climate and strong school culture, and how to use data to drive instructional improvement. These deficiencies indicate that the petitioners have not solidified their overall education program.
 - The education program does not integrate the various proposed components (early college, on line learning, extended school day, interventions, etc.)
 - The petition does not identify nor describe the supports necessary for its targeted population, as described the petitioner to be students who currently do not plan to attend high school. It does not provide comprehensive descriptions of strong school/home communication supports, including parent education, intervention strategies for struggling students, nor student engagement strategies.
 - The petition does not comprehensively address the provision of special education services as required by law.
 - The petition does not provide measurable pupil outcomes as required by law.
- 2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition. 47605(b)(2)**
 - The budget submitted with the petition and the petitioners' subsequent budget documents contain unreasonable and inconsistent budget assumptions:
 - Financial documents submitted by the petitioner do not include any leasing costs. Although petitioners are not required to identify a facility in the charter petition or budget, they are required to include facilities goals and assumptions in these documents. After submission

of the petition, the petitioners have identified two potential sites but have not yet provided any financial assumptions regarding either of them.

- **Certificated costs:** There are several inconsistencies between the staffing model for the school and the submitted budget, particularly related to critical support positions that are mentioned in the petition as reasons for making the school and its students successful: Guidance Counselor (pg 20) Reading Intervention Specialist (pg 44), Director of Secondary Programs (pg 31 and 61), Intervention Teacher and Educational Specialist (pg 47).
- **Special education:** The submitted budget allows for approximately \$100/student for “3rd Party” special education. This amount is understated by approximately \$400-\$800 per student. In a budget update submitted with appeal, a special education teacher was identified, but the overall amount allocated for special education services remained understated by \$80-\$380 per student.
- **Start-up budget & grant (PCSGP):** The petitioners were unsuccessful in obtaining federal start up funds. The budget is based on the receipt of these funds, and petitioners have not provided information on how these budgeted funds will be replaced.
- The petition submitted to the district does not contain information about the capacity of current board members. This information was provided to the county as appendices. Although it is appropriate to engage in dialog for the purposes of *clarification* of a petition on appeal, board capacity information appears to be new in the appeal petition. Further, these appendices do not provide evidence of a diverse and strong capacity in the areas of educational programming and accountability on the board, nor are these skills/capacity described to exist in key staff positions.
- The petition states that the board will meet four times a year. Again this is cause for concern related to the petitioner’s understanding of the demands of starting a public charter school, especially a high school. In at least the first few years, a board will likely need to provide much more oversight and direction than is possible in quarterly meetings. Although the Charter Schools Act does not require a specific frequency of board meetings, this petition is silent on how the board will execute its fiduciary responsibility to provide effective, data driven oversight within the confines of quarterly regular meetings.
- Although it is acceptable to change a budget and submit the latest information available during the petition review process, the errors in the original petition are cause for concern. In addition, neither budget matched either petition provided to MCOE, and the claims made in the petitioner’s responses to the district findings do not match the materials provided to the district.

Per the Education Code, you must take action today in order to comply with statutory time frames.

Should you approve the recommended motion of denial, the petitioners' are, by law, eligible to appeal your decision to the State Board of Education (SBE). Should they do so, the California Department of Education (CDE) will review the charter petition, the district and county staff reports, and the district and county board actions. It will then make a recommendation to the Advisory Commission on Charter Schools (ACCS) to approve or deny the petition. The ACCS is appointed by the SBE to make recommendations for most charter school issues. Both the CDE and the ACCS recommendations will be presented to the SBE. The SBE will hold a public hearing during a regularly scheduled meeting, and will take action, most likely on the same day.

Should the SBE approve the charter, Winton High School Charter School will be under the oversight of the State Board of Education. Should the SBE deny the charter, petitioners are able to submit a new petition to MUHSD or any other district they choose.

Charter Petition Review Team Winton High School Charter School

Name & Title	Entity	Contact Numbers	Assignment
Yolanda Campos Assistant to the Superintendent & Community Liaison Superintendent's Office	Merced County Office of Ed 632 W 13 th Street Merced, CA 95341	209-381-6603	Liaison with Petitioner and Review Support
Eva Chavez Assistant Superintendent Human Resources	Merced County Office of Ed 632 W 13 th Street Merced, CA 95341	209-381-6627	Human Resources
Susan Coston Assistant Superintendent Special Education	Merced County Office of Ed 632 W 13 th Street Merced, CA 95341	209-381-6711	Special Education
Dominico Johnston Director Internal Fiscal Services	Merced County Office of Ed 632 W 13 th Street Merced, CA 95341	209-381-6732	Fiscal Review
John Magneson Assistant Superintendent Instructional Services	Merced County Office of Ed 632 W 13 th Street Merced, CA 95341	209-381-6634	Curriculum
Holly Newlon Assistant Superintendent Career and Alternative Ed	Merced County Office of Ed 632 W 13 th Street Merced, CA 95341	209-381-6678	Curriculum
Janet Riley Assistant Superintendent Business Services	Merced County Office of Ed 632 W 13 th Street Merced, CA 95341	209-381-6725	Fiscal Review
Michelle Symes Coordinator Federal and State Programs	Merced County Office of Ed 632 W 13 th Street Merced, CA 95341	209-381-5904	Curriculum
Mary Whited Coordinator, ROP	Merced County Office of Ed 632 W 13 th Street Merced, CA 95341	209-381-6677	Curriculum
Ken Robbins Attorney	Mason, Robbins, Browning, & Godwin PO Box 2067 Merced, CA 95344-0067	209-383-9334	Overall Review

MERCED COUNTY OFFICE OF EDUCATION CHARTER SCHOOL PETITION REVIEW CHECKLIST

Initial Petition

Renewal Petition

Proposed Charter School: Winton Charter High School

Proposed Location: Winton, CA

Petitioner Contact Information	Denial Information	Petition Review and Presentation Timelines (Office Use Only)		
Name Juan Martinez, PHD Winton Educational Foundation Phone 209-777-2872, 209-676-0855 (Cell) Address 6584 N Winton Way Winton, CA 95388 Email wintonef@gmail.com	District Denying Petition: Merced Union High School District Date of Board Action: November 14, 2015	Petition Presented to MCOE (Maximum of 180 days from denial) Date: <u>November 30, 2015</u>	Public Hearing (30 days from receipt) Date Due: <u>December 30, 2015</u> Date Held: <u>December 14, 2015</u>	Decision by Board of Education <small>(60 days from receipt, may be extended 30 days if agreed by petitioner(s) and MCOE)</small> Date Due: <u>January 30, 2016</u> <input checked="" type="checkbox"/> 30 day extension to <u>February 16, 2016</u> Date of Board Decision: <u>February 16, 2016</u>

Instructions to Review Committee: This checklist is designed to guide the review of charter school petitions. Throughout the evaluation, you are asked to rate the petitioner's response as Exceeds, Meets, or Fails to Meet the criteria required for each specific area. The following rating definitions should be used to guide your assessment.

- Exceeds Required Standard:* The response reflects a thorough understanding of key issues and indicates capacity to open and operate a quality charter school. The section addresses the topic with concise, specific and accurate information that shows thorough preparation, presenting a clear, realistic picture of how the school expects to implement and operate its program.
- Meets Required Standard:* The response indicates solid preparation and grasp of key issues that would be considered reasonably comprehensive. Overall it contains many of the characteristics of a response that exceeds the required standard, although it may require additional specificity, support or elaboration in places.
- Fails To Meet Required Standard:* The response addresses some of the selection criteria, but lacks meaningful detail and requires important additional information in order to be reasonably comprehensive. It demonstrates lack of preparation, is unclear, or otherwise raises substantial concerns about the petitioner's understanding of the issue in concept and/or ability to implement or meet the requirement in practice.

At the end of each section, please elaborate, in the comment section, in the areas you rated as Fails to Meet, or Exceeds. Your comments are essential to understanding your assessment and will be used as part of the final analysis and report to the County Board.

Ed Code 47605 A Education Program			
Evaluation Criteria A-P	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
1. Targeted School Populations		X	
2. Attendance		X	
3. What it Means to be an Educated Person in The 21 st Century		X	
4. Description of How Learning Best Occurs		X	
Evaluation Criteria A-P	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
5. Additional Requirements for Charter Schools Serving High School Students			
How Charter School will inform parents about the transferability of courses to other public high schools		X	
How Charter School will inform parents about the eligibility of courses to meet college entrance requirements		X	
Education Program – Comments			
<p>If Exceeds Required Standard, include Strengths:</p>	<p>If Fails to Meet Standard, include Concerns and/or Additional Questions:</p> <p>The mission does not identify the petitioner’s stated goal to serve a population that currently does not intend to attend high school. The education program description lacks in specificity: several components of the program, including the curriculum and instructional strategies, are described too briefly to determine whether the petitioner has a clear understanding of education strategies, including Common Core, high school course and graduation requirements, instructional supports, the needs of struggling students (i.e. The petition states that it is assumed all students will have passed algebra before entering high school. This seems unreasonable given the targeted student population and the needs they have as described in the petition.), special education, the needs of English language learners and how to meet them, how to develop a safe school climate and strong school culture, and how to use data to drive instructional improvement.</p> <p>The education program does not describe or link the various proposed components (early college, on line learning, extended school day, interventions, etc.) into a cohesive, coherent program that is likely to be successful, nor does it have a plan/partnership to implement its proposed early college program.</p> <p>The early college program is only briefly mentioned in the petition, providing no description of college partnerships, staffing, highly qualified requirements, etc. The petition does not identify nor describe the supports necessary for early college attendance by its targeted population, as described the petitioner to be students who currently do not plan to attend high school.</p> <p>The petition does not provide comprehensive descriptions of strong school/home communication supports, including parent education, intervention strategies for struggling students, nor student engagement strategies.</p>		

Ed Code 47605 B Measurable Student Outcomes			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
Pupil outcomes are measurable and address State Priorities			x
Measurable Student Outcomes – Comments			
If Exceeds Required Standard, include Strengths:	If Fails to Meet Standard, include Concerns and/or Additional Questions:		
	The petition does not provide measurable pupil outcomes to meet the goals presented to address eight state priorities as required by law.		
Ed Code 47605 C Student Progress Measurement			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
Assessments include multiple, valid and reliable measures using traditional/alternative tools			x
Assessment tools include all required state and federal assessments (STAR, API, and AYP)			x
Chosen assessments are appropriate for standards and skills they seek to measure			x
Outlines plan for collecting, analyzing/utilizing and reporting student/school performance			x
Student Progress Measurement - Comments			
If Exceeds Required Standard, include Strengths:	If Fails to Meet Standard, include Concerns and/or Additional Questions:		
	Assessments are referenced briefly but petition provides no evidence that the assessments are to be utilized in a formative or summative manner nor have measureable outcomes been identified. This a statutory requirement for a charter petition.		
Ed Code 47605 D Government Structure			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
Describes what role parents have in the governance and operation of the school		x	
Describes key features of governing structure (usually a board of directors) such as:		x	
Government Structure - Comments			
If Exceeds Required Standard, include Strengths:	If Fails to Meet Standard, include Concerns and/or Additional Questions:		

Ed Code 47605 E Employee Qualifications			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
Identifies all key staff positions with the school			X
Describes specific key qualifications (knowledge, experience, education, certification, etc.)			X
Defines core, college preparatory teachers & affirms they will hold appropriate Commission on Teacher Credentialing certificate, permit or other equivalent document as required by Law including the No Child Left Behind Act.		X	
Employee Qualifications – Comments			
If Exceeds Required Standard, include Strengths:	If Fails to Meet Standard, include Concerns and/or Additional Questions:		
	The governance section of the petition identifies key positions of Director, Education Associate Director and principal. The Employee Qualifications sections lists only the principal and teachers, which demonstrates inconsistency in the program design and is an example of the petitioner lack of clarity for the program they are proposing. Further the budget identifies a director, assistant director, business manager, principal. The lack of consistency among multiple elements of the petition indicates petitioner has not solidified the operational structure of the school.		
Ed Code 47605 F Health and Safety			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
Affirms that each employee will furnish the school with a criminal record summary		X	
Outlines specific health and safety procedures		X	
Health and Safety - Comments			
If Exceeds Required Standard, include Strengths:	If Fails to Meet Standard, include Concerns and/or Additional Questions:		
Ed Code 47605 G Racial & Ethnic Balance			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
Practices and policies appear likely to achieve targeted racial and ethnic balance		X	
Racial & Ethnic Balance – Comments			
If Exceeds Required Standard, include Strengths:	If Fails to Meet Standard, include Concerns and/or Additional Questions:		

Ed Code 47605 H Admission Requirements			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
Non discriminatory admission procedures		x	
Admission Requirements – Comments			
If Exceeds Required Standard, include Strengths:	If Fails to Meet Standard, include Concerns and/or Additional Questions:		
Ed Code 47605 I Annual Financial Audits			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
Procedure to select and retain independent auditor			x
Audit will employ generally accepted accounting procedures			x
The manner in which the audit will be conducted			x
Process for resolving audit exceptions and deficiencies to the satisfaction of the Merced County Office of Education			x
Annual Financial Audits – Comments			
If Exceeds Required Standard, include Strengths:	If Fails to Meet Standard, include Concerns and/or Additional Questions:		
	No information was provided for this element, which is required by law.		
Ed Code 47605 J Suspension and Expulsion			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
Detailed, step-by-step process by which student may be suspended or expelled		x	
Outlines or describes strong understanding of relevant laws protecting constitutional rights of students, generally, and of disabled and other protected classes of students		x	
Policies balance students' rights to due process with responsibility to maintain a safe learning environment		x	
Suspension and Expulsion – Comments			
If Exceeds Required Standard, include Strengths:	If Fails to Meet Standard, include Concerns and/or Additional Questions:		

Ed Code 47605 K Staff Retirement System			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
Statement of whether staff will participate in STRS, PERS, or Social Security (if STRS, then all teachers must participate)		X	
Staff Retirement System – Comments			
If Exceeds Required Standard, include Strengths:	If Fails to Meet Standard, include Concerns and/or Additional Questions:		
Ed Code 47605 L Attendance Alternative			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
States that students may attend other schools or pursue an inter-district transfer in accordance with existing enrollment and transfer policies of their district or county of residence and/or description of other attendance alternatives		X	
Attendance Alternatives – Comments			
If Exceeds Required Standard, include Strengths:	If Fails to Meet Standard, include Concerns and/or Additional Questions:		
Ed Code 47605 M Description of Employee Rights			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
States that collective bargaining contracts of MCOE will be controlling		X	
Description of Employee Rights – Comments			
If Exceeds Required Standard, include Strengths:	If Fails to Meet Standard, include Concerns and/or Additional Questions:		

Ed Code 47605 N Dispute Resolution Process			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
Outlines a process for the charter school and the Merced County Office of Education to settle disputes relating to the provisions of the charter		X	
Dispute Resolution Process – Comments			
If Exceeds Required Standard, include Strengths:		If Fails to Meet Standard, include Concerns and/or Additional Questions:	
Ed Code 47605 O Labor Relations			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
States whether charter or MCOE will be employer for EERA purposes		X	
Labor Relations – Comments			
If Exceeds Required Standard, include Strengths:		If Fails to Meet Standard, include Concerns and/or Additional Questions:	
Ed Code 47605 P Closure Procedures			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
Outlines a description of the process to be used if the charter school closes.		X	
Process includes a final audit of the charter school, specific plans for disposition of all net assets and liabilities, as well as for the maintenance and transfer of pupil records		X	
Closure Procedures – Comments			
If Exceeds Required Standard, include Strengths:		If Fails to Meet Standard, include Concerns and/or Additional Questions:	

Likelihood that the Petitions Will be Able to Successfully Implement the Program of the Proposed Charter			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
The Petition includes a thorough description of the education, work experience, credentials, degrees and certifications of the individuals comprising, or proposed to comprise, the directors, administrators and managers of the proposed charter school.			x

Likelihood that the Petition will be able to successfully implement the program of proposed charter – Comments	
If Exceeds Required Standard, include Strengths:	If Fails to Meet Standard, include Concerns and/or Additional Questions:
	<p>The petition submitted to the district does not contain information about the capacity of current board members. This information was provided to the county as appendices. Although it is appropriate to engage in dialog for the purposes of clarification of a petition on appeal, board capacity information appears to be new in the appeal petition. Further, even if MCOE accepts the additional information, these appendices do not provide evidence of a diverse and strong capacity in the areas of educational programming and accountability.</p> <p>The petition states that the board will meet four times a year. Again this is cause for concern related to the board starting a public charter school, especially a high school. In at least the first few years, a board will likely need to provide much more oversight and direction than is possible in quarterly meetings. There are no specific requirements for the frequency of board meetings, but this petition is silent on how its board will execute its fiduciary responsibility to provide effective, data driven oversight within the confines of quarterly regular meetings.</p>

REQUIRED SUPPLEMENTAL INFORMATION

Evaluation Criteria	Budget		
	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
Proposed first year operational budget			
• Start-up costs			x
• Cash flow for first three years			x
• Financial projections for first three years			x

Financial Plan – Comments	
If Exceeds Required Standard, include Strengths:	If Fails to Meet Standard, include Concerns and/or Additional Questions:
	<p>There is no reasonable plan for replacing start-up grant funds if not received.</p> <p>There are several inconsistencies between the staffing model for the school and the budget, particularly related to critical support positions that are mentioned in the petition as reasons for making the school and its students successful. For example, the petition clearly identifies on page 20 an “exclusive Guidance Counselor” for the Freshmen Academy, however this position is not included in the budget. Another example is the on-site Spanish-speaking mental health provider mentioned on page 18. This position is also missing from the budget. During the capacity meeting on January 22, clarification was requested regarding these positions. The lead petitioner responded that there would be a single hybrid position of PPS counselor/MH provider for the school. The response is a new idea and indicates a significant shift from what is presented in the petition and still does not address the question about why such critical positions were not included in the budget. This same concern exists for the following other positions listed in the petition but not included in the budget: Reading Intervention Specialist (page 44); Director of Secondary Programs (page 31 and page 63); Intervention Teacher and Educational Specialist (page 47); and Regional Student Support Coordinator (page 99). The instructional program is presented as being built on specific and necessary positions as well as increased instructional time and yet there is no provision in the budget.</p> <p>Although the petition states that all employees will be in STRS or PERS if qualified for membership, the First Year Month-by-Month Cash flow document included in the petition does not provide enough detail to determine whether expenses associated with retirement have been considered and included in the budget.</p> <p>Although it is acceptable to change a budget and submit the latest information available during the petition review process, the errors in the original petition are cause for concern. In addition, neither budget matched either petition, and the claims made in the petitioner district findings do not match the budgets I reviewed (specifically back office contracts and facilities</p> <p>The Five year financial assumptions and calculations included in Section III of the appeal binder do not agree with the cash flow or summary financial statements in section IV of the binder.</p> <p>The financial plan lacks facility lease expenses, back office services and staff positions described in the petition.</p>

Annual Operating Budget			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
Annual revenues and expenditures clearly identified by source		x	
Revenue assumptions closely related to applicable state and federal funding formulas		x	
Expenditure assumptions reflect school design plan			x
Expenditure assumptions reflect market costs			x

Annual Operating Budget – Comments	
If Exceeds Required Standard, include Strengths:	If Fails to Meet Standard, include Concerns and/or Additional Questions:
	<p>Though the budget provided with the petition identifies funding sources and reasonable per student revenue. It is unclear the petitioner understands the Local Control Funding Formula. In addition we believe the enrollment/ADA assumptions are over optimistic.</p> <p>The budget does not include:</p> <ul style="list-style-type: none"> • Sufficient expenses for key personnel, including certificated costs • Sufficient Special Education Expenses consistent with current experience in the school district/county. (i.e. encroachment on general fund, positions needed such as mental health specialist, speech therapist or expenses to contract these services with the SELPA) • No line item for legal fees • No leasing or facility acquisition fees • Supplemental budget identifies a private loan, but does not provide how the loan will be repaid <p>The start-up budget & grant (PCSGP): The petitioners were unsuccessful in obtaining start-up funds. The budget is based on the receipt these funds, and petitioners have not provided information on how these budgeted funds will be replaced.</p>

Cash Flow Analysis			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
Monthly projection of revenue receipts in line with local/state/federal funding disbursements			x
Expenditures projected by month and correspond with typical/reasonable schedules			x
Show positive cash balance each month and/or identify sources of working capital			x

Cash Flow Analysis – Comments	
If Exceeds Required Standard, include Strengths:	If Fails to Meet Standard, include Concerns and/or Additional Questions:
	See comments in Budget Section above. No Cash flow analysis was provided with the petition, it was provided as additional information in appeal binder.

Long-Term Plan			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
▪ Projects revenues and expenditures for at least two additional years		x	
▪ Revenue assumptions based on reasonable potential growth in local, state and federal revenues			x
▪ Revenue assumptions based on reasonable student growth projections			x
▪ Reasonable cost-of-living and inflation/funding reduction assumptions		x	
▪ Annual fund balances are positive or sources of supplemental working capital are identified			x

Long-Term Plan - Comments	
If Exceeds Required Standard, include Strengths:	If Fails to Meet Standard, include Concerns and/or Additional Questions:
	See comments in Budget Section above.

Impact Statement			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
Describes the manner in which administrative services of the charter school are to be provided		x	
Addresses potential civil liability effects, if any, upon the school and the MCOE or district (appeal).		x	

Impact Statement – Comments	
If Exceeds Required Standard, include Strengths:	If Fails to Meet Standard, include Concerns and/or Additional Questions:

Facilities			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
Describe the types and potential location of facilities needed to operate the size and scope of educational program proposed in the charter.		x	
In the event a specific facility has not been secured, provide evidence of the type and projected cost of the facilities that may be available in the location of the proposed charter school.			x
Are reasonable costs for the acquisition or leasing of facilities to house the charter school reflected in budget (taking into account the facilities the charter school may be allocated under the provisions of Education Code section 47614)			x

Facilities - Comments	
If Exceeds Required Standard, include Strengths:	If Fails to Meet Standard, include Concerns and/or Additional Questions:

Ed Code 47641 Special Education			
Evaluation Criteria	Exceeds Required Standard	Meets Required Standard	Fails To Meet Required Standard
Petition specifies the means by which the charter school will comply with the provisions of Education Code section 47641			x
Describes how special education services will be provided.			x
Includes the process to be used to identify students who qualify for special education programs and services.			x
The petition describes the school's understanding of its responsibilities under law for special education pupils, and how the school intends to meet those responsibilities.			x

Special Education - Comments	
If Exceeds Required Standard, include Strengths:	If Fails to Meet Standard, include Concerns and/or Additional Questions:
	<p>Petitioners have not described a full continuum of special education options, such as Special Day Class, RSP, and Non Public School.</p> <p>The petition lacks a description of a comprehensive Student Study Team process. This is a requirement of regular education and the expected first step before special education.</p>

Merced County Board of Education
Dennis Hanks, Chairperson
Chris Chavez, Vice Chairperson
Tom Bates, Member
Gloria Honey, Member
Fred Honoré, Member



Resolution No. 2016-03

DENYING APPEAL FILED BY
WINTON HIGH SCHOOL CHARTER SCHOOL
GOVERNING BOARD OF THE
MERCED COUNTY BOARD OF EDUCATION

WHEREAS, pursuant to Education Code section 47605(j)(1) *et seq.*, the Governing Board of the Merced County Board of Education (“County” or “County Board”) is authorized to consider appeals arising from the denial of a petition submitted to a local school district; and

WHEREAS, the review of such an appeal is governed by the standards and criteria set forth in Education Code section 47605(b); and

WHEREAS, petitioner, Winton High School Charter School (“Petitioner”), submitted a charter petition and supporting documentation (the “Petition”) to the Merced Union High School District (“MUHSD”) on or about September 10, 2014, for the establishment of a charter high school (“Charter”); and

WHEREAS, MUHSD denied the Petition on or about November 12, 2014, and adopted written findings to support that decision; and

WHEREAS, Petitioner submitted an appeal to the County that the County review the decision rendered by MUHSD. On or about November 30, 2015, the County received the final set of documentation to allow Petitioner’s appeal of MUHSD’s decision (the “Appeal”) to be placed on the County’s December 14, 2015, agenda for a public hearing; and

WHEREAS, a public hearing on the Appeal was held on December 14, 2015, to determine the level of support for the Petition in accordance with Education Code section 47605(b); and

WHEREAS, at the public hearing, several individuals spoke on behalf of the Petitioners and to the County Board; and

WHEREAS, in response to the Appeal submitted, the County directed County staff in consultation with experts in curriculum, business, special education, student welfare, personnel, and governance (“Staff”) to review the Appeal to determine if the Petition, and supporting documents were in compliance with the provisions of the Education Code; and

WHEREAS, Staff prepared a written report regarding its review of the Petition and set forth in the report concerns about the Petition and supporting documents. Staff’s report on the Appeal was submitted to the Petitioner’s before the February 16, 2016 hearing. The Staff’s report on the Appeal was submitted to and reviewed by the County Board prior to the February 16, 2016 hearing; and

WHEREAS, in reviewing the Appeal, the County Board has been cognizant of the intent of the Legislature that charter schools are and should become an integral part of the California educational system and the establishment of charter high schools should be encouraged; and

WHEREAS, the County Board has reviewed and analyzed all information received with respect to the Petition and Charter, including information related to the operation and potential effects of the proposed Charter.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED AS FOLLOWS:

That the Governing Board of the Merced County Office of Education, having fully considered and evaluated the Appeal for the establishment of the Charter high school, hereby *denies* the Appeal pursuant to Education Code section 47605(b) because it has determined that the granting of the Petition would be inconsistent with sound educational practice, based on the following factual findings:

I. THE PETITION PRESENTS AN UNSOUND EDUCATIONAL PROGRAM FOR THE PUPILS TO BE ENROLLED IN THE CHARTER SCHOOL. [EDUCATION CODE § 47605(b)(1)]

1. The County Board does hereby incorporate the analysis and concerns of Staff as set forth in the staff report.
2. The petition is poorly organized and contains substantive errors and/or omissions. The academic program is undefined and unfocused. Several components of the program, including the curriculum and instructional strategies, are described too briefly to determine whether the petitioner has a clear understanding of public education, including state standards, high school course and graduation requirements, special education, the needs of English language learners and how to meet them, how to develop a safe school climate and strong school culture, and how to use data to drive instructional improvement. These deficiencies indicate that the petitioners have not solidified their overall education program.
3. The education program does not integrate the various proposed components (early college, on line learning, extended school day, interventions, etc.)
4. The petition does not identify nor describe the supports necessary for its targeted population, as described the petitioner to be students who currently do not plan to attend high school. It does not provide comprehensive descriptions of strong school/home communication supports, including parent education, intervention strategies for struggling students, nor student engagement strategies.
5. The petition does not comprehensively address the provision of special education services as required by law.
6. The petition does not provide measurable pupil outcomes as required by law.

II. THE PETITIONERS ARE DEMONSTRABLY UNLIKELY TO SUCCESSFULLY IMPLEMENT THE PROGRAM SET FORTH IN THE PETITION. [EDUCATION CODE 47605(b)(2).]

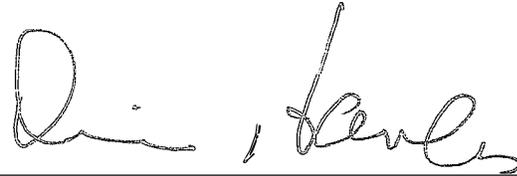
1. The County Board does hereby incorporate the analysis and concerns of Staff as set forth in the staff report.
2. The budget submitted with the petition and the petitioners' subsequent budget documents contain unreasonable and inconsistent budget assumptions.
3. Financial documents submitted by the petitioner do not include any leasing costs. Although petitioners are not required to identify a facility in the charter petition or budget, in order to understand the fiscal condition, the petition should include facilities goals and assumptions in these documents. After submission of the petition, the petitioners have identified two potential sites but have not yet provided any financial assumptions regarding either of them.
4. Certificated costs: There are several inconsistencies between the staffing model for the school and the submitted budget, particularly related to critical support positions that are mentioned in the petition as reasons for making the school and its students successful: Guidance Counselor (pg 20) Reading Intervention Specialist (pg 44), Director of Secondary Programs (pg 31 and 61), Intervention Teacher and Educational Specialist (pg 47).
5. Special education: The submitted budget allows for approximately \$100/student for "3rd Party" special education. This amount is understated by approximately \$400-\$800 per student. In a budget update submitted with appeal, a special education teacher was identified, but the overall amount allocated for special education services remained understated by \$80-\$380 per student.
6. Start-up budget & grant (PCSGP): The petitioners were unsuccessful in obtaining federal start up funds. The budget is based on the receipt of these funds, and petitioners have not provided information on how these budgeted funds will be replaced.
7. The petition submitted to the district does not contain information about the capacity of current board members. This information was provided to the county as appendices. Although it is appropriate to engage in dialog for the purposes of *clarification* of a petition on appeal, board capacity information appears to be new in the appeal petition. Further, these appendices do not provide evidence of a diverse and strong capacity in the areas of educational programming and accountability on the board, nor are these skills/capacity described to exist in key staff positions.
8. The petition states that the board will meet four times a year. Again this is cause for concern related to the petitioner's understanding of the demands of starting a public charter school, especially a high school. In at least the first few years, a board will likely need to provide much more oversight and direction than is possible in quarterly meetings. Although the Charter Schools Act does not require a specific frequency of board meetings, this petition is silent on how the board will execute its fiduciary responsibility to provide effective, data driven oversight within the confines of quarterly regular meetings.

9. Although it is acceptable to change a budget and submit the latest information available during the petition review process, the errors in the original petition are cause for concern. In addition, neither budget matched either petition provided to MCOE or the claims made in the petitioner's responses to the district findings do not match the materials provided to the district.

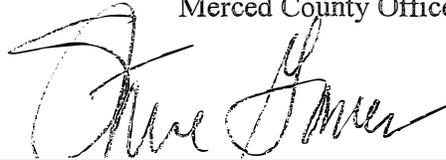
BE IT FURTHER RESOLVED AND ORDERED that the terms of this resolution are severable. Should it be determined that one or more of the findings and/or factual determinations supporting the findings is invalid, the remaining findings and/or factual determinations and the denial of the Charter shall remain in full force and effect. In this regard, the County Board specifically finds that each factual determination, in and of itself, is a sufficient basis for the finding it supports, and each such finding, in and of itself, is a sufficient basis for denial.

CONSIDERED, PASSED, AND ADOPTED this 16th day of February 2016 by the following vote:

	Ayes in Favor	Noes Against
Dennis Hanks	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chris Chavez	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Tom Bates	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gloria Honey	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Fred Honoré	<input checked="" type="checkbox"/>	<input type="checkbox"/>



Dennis Hanks, Chairperson to the Board
Merced County Office of Education



Steven E. Gomes, Ed.D., Secretary to the Board
Merced County Superintendent of Schools

CHARTER PETITIONER'S RESPONSE TO MERCED COUNTY BOARD OF EDUCATION FINDINGS FOR DENIAL

On November 30, 2015, the Winton Educational Foundation (“WEF”) appealed the district denial of its comprehensive charter petition to the Merced County Board of Education (“MCOE” or “County”) for a charter high school to be located in the underserved community of Winton, California. WEF and the Winton community has been advocating for its own high school for many years, and we’ve done years of due diligence to put together a comprehensive charter and dedicated team. At the County public hearing to gauge support for the charter school held on December 14, 2015, several WEF board members, parents, and a local student who now attends UC Merced spoke in favor of the school, and over 50 supporters attended, many wearing WEF shirts in support of the proposed high school. Notably, *no one* spoke against the school. As noted in the County’s staff report, “it is clear that petitioners are sincerely committed to bringing a high school to Winton Community and its neighbors, and MCOE staff hold petitioners in high esteem for their desire to contribute to public education in a meaningful way.”

On February 16, 2016, WEF and our supporters were extremely disappointed when the County denied our charter, which seemed to be based largely on “requirements” the County referenced in the executive summary were from “sound authorizing practices recommended by the National Association of Charter School Authorizers.” Our understanding is that the practices recommended by a national association of authorizers do not hold weight above California law, and our charter is legally adequate under California law.

This document provides WEF’s response to the County’s “findings of fact” adopted on February 16, 2016.

We note that under the law, the County Board was required to set forth “*specific facts*” to support one of the five legal grounds for denial. (Ed. Code, § 47605(b).) The County Board failed to describe “specific facts; instead, the “findings of fact” are just general conclusions about large sections of our charter.

COUNTY FINDING #1. The petition presents an unsound educational program for the pupils to be enrolled in the Charter School. (Ed. Code, § 47605(b)(1).)

- **Organization of educational program.** The County denied the charter because it found the academic program “undefined and unfocused,” and brief, particularly as to State Standards, high school course and graduation requirements, special education, English learners, school culture and use of data.

WEF’s Response.

Under the law, a charter petition presents “an unsound educational program” in only a few limited circumstances, including the following:

- (1) A program that involves activities that the [authorizer] determines would present the likelihood of physical, educational, or psychological harm to the affected pupils.
- (2) A program that the [authorizer] determines not to be likely to be of educational benefit to the pupils who attend.

(5 C.C.R. § 11967.5.1(c).) None of the County Board's conclusions about the charter describe either of these circumstances. The educational program for Winton High is described in reasonably comprehensive detail, as required by law, covering 48 pages of the charter.

A discussion about state standards and how they are integrated into all facets of our educational program can be found throughout Element 1 (e.g. pgs. 14-15, 21-30, 41). WEF understands the state standards and specifically included them in the charter. The curriculum is described in the charter for each subject. As for specific state standards-based curriculum materials (e.g. the specific books our students will use), those will be determined through an organization-wide adoption process as described on page 22.

High school course and graduation requirements, including the University of California's A-G standards, are described in detail on pages 25 and 31-34. The charter school will seek WASC accreditation and will offer courses, listed and described in the charter, that are recognized by UC/CSU as well as out of state universities and colleges.

Our plans for serving students with disabilities, including how we will comply with state and federal law and provide special education services to qualified students, are described on pages 48-53 of the charter. Mr. George Solis, a school principal and WEF board member, has vast experience working with special education students. As does Mrs. Beatrice Martinez, a member of our advisory group, who is a former school principal and holds a Master's in Curriculum and Instruction, a Bachelor's in Exceptional Children and Youth, and a Language Development Specialist Credential. Both are examples of the leadership team that have already developed the draft Compliance with Section 504 Procedures for Winton High. We have also proposed replacing this description to comply with what we understand to be the state's requirements for serving special education students, as described in the letter describing changes to the petition to reflect the state as authorizer. (See Tab 2.)

Our plans for serving English Learners and the supports to be provided, including curriculum aligned with Common Core State Standards, ongoing assessment, reclassification procedures, and constant monitoring and evaluation of the program, are described in detail on pages 41-45. However, since our English Learner program was tailored for submission to the district, the charter provides that the school will either adopt the district's English Learner master plan or adopt its own EL master plan. Because there is no district master plan to adopt on appeal, we have proposed updating this section of the charter to reflect the state as the school's authorizer, as described in the letter describing changes to the petition to reflect the state as authorizer. (See Tab 2.)

We understand the importance of a safe school climate, as the charter expressly recognizes “that positive school climates increase student achievement” on page 93 and describes how that philosophy is integrated into our discipline policies. The supports necessary for our unique target student population to succeed are described throughout Element 1, including emotional and behavioral support (pgs. 17-18), tutoring access and goal setting (pgs. 21-22), additional tutoring, time with a reading intervention specialist, and direct classroom support (p. 44), in-school and after-school programs, specialized instruction, and positive behavior support (p. 46), among others. Intervention strategies for at-risk students can be found on pages 16-18 and interwoven throughout the rest of the charter. School culture is a primary piece of our program, and it’s described throughout our charter, including in detail on pages 15-16 and in the description of our community’s need for a charter school on pages 12-13.

As for use of data, there is an entire section in the charter about “Collecting, Analyzing, and Reporting Data” that details the school’s plan to use data to drive instruction on page 64. As described in the charter, the school will analyze data and will share it with staff to improve instruction, will share it with parents and guardians to keep them informed and collaborate for their child’s success, and will share it with our authorizer to ensure the school is meeting its goals.

WEF would welcome the opportunity to meet with State staff to further describe how our educational program is “organized.”

- **Integration of components.** The County denied the charter because it found various components—early college, online learning, extended school day, interventions—were not integrated.

WEF’s Response.

This finding is very short and we are not exactly clear what the County meant by it. However, each of the listed components of our educational program is woven into our charter. For example, early college is described on page 24 as a way for our students to earn up to two years of college credit at the same time they are earning a high school diploma. Early college is again discussed on page 31, in the context of high school graduation requirements. As for extended learning time, the charter describes on page 19 that our school will start earlier than traditional calendars, and will also run later into the summer. As for interventions, the charter discussed interventions throughout. As described throughout, the school will utilize the Response to Intervention framework of tiered intervention to ensure that students below grade level, or students achieving below expected levels of performance, receive additional instruction or intervention to ensure progress towards expected levels. Pages 16-18 describe social-emotional and behavioral responses to intervention, and page 24 refers back to these interventions in the context of health instruction. Our English Learner provisions refer to interventions specific for English Learner students, and as described in the charter, *all students* receive the appropriate academic interventions as part of their personalized learning plans. As for online learning, our charter describes several limited ways online learning will be integrated into our program; for example, to make up a course

a student has failed (p. 66), to complete an in-class project on-line (p. 55), for specialized coursework (p. 22), or to complete college courses (p. 25).

- **Supports for target population.** The County denied the charter because it found the charter failed to describe supports for students at-risk of dropping out, and failed to describe home supports for parents and struggling or disengaged students.

WEF's Response.

We feel very passionately about educating at-risk students in the Central Valley with a small rural community school that can meet their individualized needs, so we were surprised to see this finding. In fact, our school culture is premised on having a team of advocates for each and every student, who support our students when they fall short. (Charter, p. 15.) Pages 16-18 describe some of the ways we will support social-emotional and behavioral issues of our students. Page 16 integrates “coping” as a primary part of our culture *because* we know our students’ lives typically involve a variety of stressors in addition to school. We will help students through use of a full-time counselor (Charter, p. 16), advisory groups (Charter, p. 18), our 9th grade (Freshman) Academy (Charter, p. 19), one-on-one instructor support for students who need to recover classes (Charter, p. 31), and many classroom supports like technology tools that help students prepare not only for classwork but for careers and life goals in the 21st century (Charter, p. 36), literacy tutoring or second language tutoring (Charter, p. 21). The school’s academic counselor will work to track all students who are falling behind in course work and then leverage support systems such as study hall and advisory to assist students in developing the skills that are required to meet A-G expectations. For students who still fail the occasional class, credit recovery options include re-taking the course at the school, taking the class from an online or external provider, summer school and on occasion college replacement courses. (Charter, p. 34.) Importantly, each student will have a personalized learning plan that provides *individually tailored* support, whether a student needs behavioral supports in the classroom or after-school tutoring. (Charter, p. 46.) Our charter discusses supports for our low-achieving students on pages 46-47 and the student success team on page 65. In short, our school’s mission is to support at-risk students, and we have a comprehensive, multi-dimensional plan to do so.

As for home supports and communication between parents and the school, again, it is part of our *mission* that our staff will be trained to maintain enhanced communication with parents compared to the high schools our students would otherwise attend. (Charter, p. 20.) The charter describes on page 68 the way we intend to send home progress reports four times per year, implement and provide training for parents on how to use a PowerSchool portal for parents who wish to access student grades on a daily basis, and parent-teacher conferences. Once each term for each student, the teacher, parents, and student will discuss the student’s learning strengths and weaknesses, and set goals for the next semester. (Charter, p. 22.) Parents are also important partners in our school’s supports and interventions, for example on page 18 and page 65, and in personalized learning plans for their student(s), see page 46. As described on pages 38-39 and page 72, our parents will also have the opportunity to be involved through numerous volunteer opportunities, membership on the Advisory School

Council, and through parent surveys. Volunteer opportunities will include helping in classrooms, leading extra-curricular activities, assisting in event planning, attending study trips, and serving on family committees. (Charter, p. 73.)

- **Special education.** The County denied the charter because it found the charter failed to comprehensively describe the provision of special education services.

WEF's Response.

The County failed to identify any specific failings of our special education plan, which is covered on pages 48-53 of the charter. Again, we are working with multiple individuals on our WEF board and advisory group with years of experience with special education students. We are confident in their ability to provide for our students who are in need of various supports and services. Nonetheless, we have proposed replacing this description to comply with what we understand to be the state's requirements for serving special education students, as described in the letter describing changes to the petition to reflect the state as authorizer. (See Tab 2.)

- **Measurable pupil outcomes.** The County denied the charter because it found the charter "does not provide measurable pupil outcomes as required by law."

WEF's Response.

This finding is the most blatant misstatement in the County's findings. Even a cursory review of the charter evidences this is simply untrue. In our experience, it is common for charters, like Winton High's, to combine Elements 2 (Measurable Pupil Outcomes) and 3 (Method by Which Pupil Progress is to be Measured) because much of the information and ideas are intertwined. However, WEF has *not* shorted either element. The Winton High charter affirms the school's commitment to pursuing measurable pupil outcomes aligned to the State priorities: from basic skills, to thinking skills and life skills. (Charter, p. 56.) Our measurable student outcomes include higher education, career readiness, and citizenship—aligned to the State's priorities. (Charter, p. 56.) Winton High's charter describes the outcomes and methods to achieve these outcomes in detail on pages 58-63. The charter also describes the skills and knowledge that differentiate the different levels on the school's grading scale, and how those skills and knowledge are measured. (Charter, pg. 67.) This is more than what is required by law.

COUNTY FINDING #2. The Petitioners are demonstrably unlikely to successfully implement the program set forth in the Petition. (Ed. Code, § 47605(b)(2).)

- **Leasing costs.** The County denied the charter because it found the charter failed to include leasing costs.

WEF's Response.

Our budget documents submitted to the County do not include facilities costs because we have not yet secured a facility. This is common for charter schools. However, we have identified two potential facilities capable of housing our first year enrollment and have entered into a nonbinding "letter of intent to lease" with the Evergreen Christian Center, the owner of one of the facilities. The proposed rent for the facility is \$6,000 per month (\$72,000 per year), which is far below market rate and a great deal for the school. Our updated budget in Tab 7 includes these leasing costs in year one, plus an estimated \$30,000 in start-up leasehold improvements and \$30,000 in continued improvements and repairs. Beginning in year two, our projected facilities costs will increase each year as we add additional grade levels and our enrollment increases. Because we are unsure whether we will remain in the same facility or lease or acquire another facility, we estimate our facilities costs will be \$1,000 per pupil from years two through five, which is a conservative estimate for facilities that will suit our needs in Merced County. When we have a lease in place, we will of course provide it to our authorizer.

- **Certificated costs.** The County denied the charter because it found several positions identified in the charter were not reflected in the school's budget.

WEF's Response.

We worked with our back office services provider Charter Impact to create a comprehensive, multi-year staffing chart that ties the budget to each position we intend to have at Winton High. The five positions identified by the County as missing in our previous budget are now included in the updated budget. (See Tab 7.)

- **Special education costs.** The County denied the charter because it found the school under-budgeted for special education.

WEF's Response.

Our budget allocations for special education and related services are conservative and more than adequate. As reflected in the updated budget provided to the SBE, there will be one resource teacher starting in year one, and another will be added each year for a total of four resource teachers in year four. The school has budgeted for spending \$76,000 on special education and related services in year one, which will increase to \$338,000 in year five. These numbers are over and above the revenues that will be received from the Merced County SELPA and will ensure our students with disabilities are provided with all necessary supports and services.

- **Start-up budget and grants.** The County denied the charter because Winton High did not receive funding from the PCSGP.

WEF's Response.

Failure to qualify for a grant is not a proper basis for denial of a charter. Even without the PCSGP funding, our budget is still balanced, conservative, and viable. (See Tab 7.) We

have engaged an outside consultant who has alerted us to the possibility of resubmitting our grant application in the event funds are still available. We will continue to explore that option, but the PCSGP funding is not included in our updated budget.

- **WEF Board capacity.** The County denied the charter because it did not have enough information about our board members' capacity to operate a charter school.

WEF's Response.

In response to comments from the Merced Union High School District about the qualifications of our board members and key staff, we provided what we thought would be helpful supplemental information about WEF's board members when we submitted our appeal to the County Board. We do not believe this extra information required by law, but we also do not believe it was improper to submit it to the County. The law prescribes what *must* be submitted to the County Board on appeal, but it does not limit what *can* be submitted. (See 5 C.C.R. § 11967(b).) The establishment of charter schools is expressly encouraged under the law, so we believe a county board should encourage petitioners to supplement as much information as necessary, especially as time passes and school leaders and charter boards solidify. (See Ed. Code, § 47605(b).)

Regardless, the background and knowledge of our board members and key personnel is not *new* information, it is a set of facts. The Winton Educational Foundation has been serving our community for years by providing free classes to the community in English, U.S. citizenship support, G.E.D. preparation, and guitar, and providing hot meals to the homeless monthly out of our community center. WEF was also instrumental in starting the Nuevo Latino Rotary Club of Winton, which is only the second chapter of the organization in California. Our board is made up of individuals with diverse experience, including working as credentialed teachers, and running nonprofit organizations and local businesses. Most critically, our board members personally deal with the lack of quality educational opportunities in the community and are committed to improving our students' options. Our founder and president Dr. Juan Martinez has been involved with charter schools and education reform for 16 years, and has direct experience developing and operating charter high schools throughout the country. WEF has also organized working groups to provide our board advice and support in the process of opening Winton High. These working groups are made up of a college professor, former teachers, a former high school principal, business owners, and others with valuable knowledge about the Winton community. We are confident that with the leadership of our WEF board, Winton High will be a success.

- **WEF Board meetings.** The County denied the charter states that the WEF board will meet four times per year, and the County believes the board will need to provide more oversight and direction than is possible in quarterly meetings.

WEF's Response.

The concern about when our board regularly holds meetings is not a valid ground for denial, especially since the charter states that regular board meetings are *typically* held four times per year but frequency of meetings is subject to change. (Charter, pg. 71.) We will certainly hold meetings

as often as necessary to ensure the school maintains smooth operations, especially during our first year, and we are open to a technical amendment to the charter to require monthly meetings if necessary.