

Southern California Charter Schools

*Appeal to the San Bernardino County Board of Education
of a Charter Denial by Adelanto School District*

Report of Findings and Recommendations

San Bernardino County Superintendent of Schools Charter School Advisory Committee
Presented: October 5, 2009



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Executive Summary

On August 20, after meeting with SBCSS staff on three different occasions, Southern California Charter Schools (SCCS) submitted its complete petition to appeal the charter denial by the Adelanto School Board. The County Board of Education held a public hearing at its Tuesday, September 8 meeting in accordance to California charter law.

The charter describes itself as a K-12 career academy for science, technology, engineering, and mathematics (STEM). The charter wants to open in 2010. This was confirmed with the petitioner even though some pages of the petition still refer to 2009. In the letter of introduction on page 492, the petition clearly states the proposed opening date of 2010.

The charter plans to open with an initial enrollment of 480 students in grades 7-10 and eventually expand K-12 to approximately 1,850 students. The school proposes developing a 20-acre facility at the Southern California Logistics Airport in Victorville, also known as the former George Air Force Base. Students will each be issued a laptop computer that they will use to access textbooks and perform all assignments.

SCCS describes its program on page 15 of the petition:

SCCS will use small class sizes of 23 or fewer students to enable direct instruction, teacher responsiveness, student accountability, positive classroom management, and safe conduct of laboratory experiments. Parent involvement will support student engagement, effective completion of homework, and overall academic achievement. All students will complete A-G requirements for admission to UC/CSU. Support will be provided, whatever it takes, so that all students will graduate with the opportunity to attend university.

SCCS also states that it will extend the school day to eight hours on Mondays through Thursdays with students responsible for seven hours of distance learning each Friday. However, the petition does not explain what curriculum will be used for these distance learning days or how it will be monitored by SCCS. The 200-day, year-round school calendar will consist of four terms of core instruction, enrichment and remedial studies. SCCS intends to partner with educational institutions and businesses in and about the area of the Southern California Logistics Airport.

During the County Board of Education's September 8 meeting, the petitioner was asked if the SCCS petition had been submitted to districts other than Adelanto. Dr. Gary Wilkins responded that it had. SCCS submitted petitions to Barstow Unified, Lucerne Valley Unified, and Victor Valley Union High. In each case, the petition was denied.

Except where specifically required, charter schools are generally exempt from California State laws in the Education Code governing school districts. Some of the laws with which charter schools must comply are:

- State and Federal constitutions
- The California Charter Schools Act (Education Code Section 47600 et. seq.)
- All federal laws (for example, special education law (IDEA), Americans with Disabilities Act, and the Rehabilitation Act)
- Laws that generally apply to governmental entities but not specifically to school districts (for example, open meeting laws, employment laws, contracting laws)
- All laws that are specifically a condition of funding for a specific program for which the charter school chooses to participate (e.g., K-3 class size reduction)
- Laws establishing minimum age for school attendance
- Laws governing independent study programs (whether defined as home schooling, distance learning, or otherwise)

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- Educational Employees Relations Act (Government Code Section 3540 et. seq.)
- State pupil testing requirements (e.g. API, PSAA, STAR, CAHSEE)
- Specific provisions of law related to teacher’s retirement and employee relations

Since charter school law waives large portions of the Education Code, a properly written charter school petition is crucial because the chartering agency is held accountable for oversight. To pass muster, the petition must spell out the specifics of who does what, where, when, and how. At stake for this charter is a multi-million dollar agreement that uses public funds for the initial term of the charter. Potential students served by the charter also are at stake because the quality of their education affects them for a lifetime.

As to whether or not the governing board should approve a charter, the Education Code requires the board to answer five “yes-no” questions regarding charter petitions:

- 1) Is the proposal educationally unsound?
- 2) Are the petitioners demonstrably unlikely to successfully implement the program set forth in the petition?
- 3) Does the petition fail to meet signature requirements?
- 4) Does the petition fail to affirm that it is nonsectarian, will not charge tuition, and will not discriminate?
- 5) Does the petition fail to provide a reasonably comprehensive description of 16 required elements?

If the board answers “yes” to any of these questions, the petition may be denied.

Three options are open to the County Board regarding the appeal petition by Southern California Charter Schools. The County Board may:

1. Approve as submitted.
2. Approve with conditions.
3. Deny the charter appeal and make written factual findings.

Upon review of the Southern California Charter Schools appeal of a district denial to the San Bernardino County Board of Education, the SBCSS Charter School Advisory Committee found that the charter failed four of the five questions listed above. The committee found that the petitioner presented an unsound educational program for the pupils to be enrolled in the charter school. The committee found that the petitioners were demonstrably unlikely to successfully implement the program set forth in the petition. The committee found that the petition did not contain a sufficient number of signatures that comply with the requirements of Education Code Section 47605 (a)(3). The committee also found that the petition did not contain reasonably comprehensive descriptions of all 16 required elements.

The description of the educational program generally lacks clarity and does not provide reasonably comprehensive detail on the curriculum. The petition lacks sufficient detail regarding service to special education students. At this time, the program has not been delineated and refined clearly enough to provide a comprehensive program at which students may succeed.

Particularly concerning is its lack of thoughtful planning for students who will need immediate, in-depth support during the school day. This includes, but is not limited to, English learners and special education students. For example, the petition devotes only a single page to its plan for special education students (page 29) and most of that page focuses on how SCCS will identify students with special needs. There is almost no detail on how the charter will provide services to these students.

Covered in the fiscal management analysis of this report beginning on page 28, the committee felt that many of the budget assumptions and projections were unrealistic. The charter petition contains a budget summary (page 61) for the first five years of the charter’s operation, but the committee has identified several issues that raise some financial concerns about the charter’s ability to successfully implement the

program set forth in the petition. The concerns noted include estimated enrollment projections, Average Daily Attendance (ADA) calculations, enrollment to ADA projected ratios, state revenue projections, staffing and benefit expense projections, and financing of proposed construction of the charter school.

The site acquisition and construction funding outlined in the petition is extremely confusing and lacks the information necessary to accurately evaluate the chances for success. The SCCS states it will have 50,000 square feet of buildings constructed at \$6.1 million on 10 acres of property valued at \$2.4 million; however, the petitioners fail to identify their source(s) for their estimated construction and land acquisition costs. It is also unclear as to whether the petitioners view the \$6.1 million as total construction cost or SCCS's 50 percent share of the State-funded program. It would be a significant challenge to construct and furnish 30 classrooms, six laboratories, a gymnasium with pool, cafeteria, shower/locker room, and offices for \$6.1 million or \$122 per square foot. More importantly, construction of a facility is a multi-year process and the petitioners fail to adequately address student housing during that timeframe. The petitioners do not adequately address the SCCS facility acquisition plan and are, therefore, demonstrably unlikely to successfully implement the program.

Between August 28 and September 17, 2009, SBCSS staff conducted a random telephone survey of parents or legal guardians whose names were submitted petition signers. The survey revealed some disturbing findings. About 39 percent were **not** "meaningfully interested" in having their children attend the school. Some of these respondents were concerned about transportation issues and others just wanted more information to compare schools. Some signatures were collected more than a year ago. Not necessarily a disqualifier, signatures from a prior year coupled that with the fact that a third or more were not presented the opportunity to view the charter petition and that 39 percent stated they were not meaningfully interested to begin with leads to a reasonable conclusion that a large percentage of signatures were not valid.

Of the 16, the committee found that Elements A(i), B, C, D, E, F, G, J, K, L, and N either failed to have reasonably comprehensive descriptions or had serious flaws. The committee was particularly concerned with support for the school's education program, services to special education students, the governance structure, and dispute resolution.

It may be an oversimplification to compare a charter school petition to a table that has four legs, but the analogy underscores the difference between a piece of work that is well crafted and something that is not. Let's describe the legs of our "charter table." The first leg is the education program and usually is the one most visible. The other legs are: 1) budget and fiscal management, 2) governance structure including conflict of interest and the open meeting law, and 3) special education. In order for a table to support its own weight and the weight placed upon it, the table must have strong legs. It is not enough for just one or two or even three legs to be strong. Just one wobbly leg can undermine the strength of the entire table. In the case of SCCS, despite its high goals for academic success, all four legs have noticeable weaknesses. To place the fine china we call students on this table is risky. It is one thing for a table to collapse and for china plates to break; the consequences to students for broken lives when a charter collapses are far greater.

Although each finding in this report may not carry the same weight in the seriousness of its deficiency, the committee found a large number of troublesome concerns. Should it be determined that one or more of the findings of this committee are not valid, the remaining findings would still provide a sufficient basis for the committee's overall recommendation.

Therefore, the SBCSS Charter School Advisory Committee recommends that the San Bernardino County Board of Education **deny** the Southern California Charter Schools appeal of the district denial by Adelanto School District.

Required Element A: Description of the School’s Educational Program

Education Code 47605 (b) (5) (A) (i) “A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an “educated person” in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.”

Standard for Review

Does Southern California Charter Schools provide a reasonably comprehensive description of the required element?

Reasonably Comprehensive

- SCCS sets high goals for small class sizes, use of technology, and academic achievement

Not Sufficient

- The description of the educational program generally lacks clarity and does not provide reasonably comprehensive detail on the curriculum
- The petition is vague about the curriculum and monitoring of distance learning days
- The petition lacks sufficient detail regarding service to special education students

Committee Comments

Instruction

SCCS states that it will extend the school day to eight hours on Mondays through Thursdays with students responsible for seven hours of distance learning each Friday. However, the petition does not explain what curriculum will be used for these distance learning days or how it will be monitored by SCCS. The 200-day, year-round school calendar will consist of four terms of core instruction, enrichment and remedial studies. SCCS intends to partner with educational institutions and businesses in and about the area of the Southern California Logistics Airport.

Instructional strategies will be designed to ensure student involvement and a love of learning, emphasizing parent involvement, employing methods designed to reach diverse learners, using collaborative project-based learning as a core learning strategy, require the consistent use of a technology with an issued personal laptop computer. The strategies listed suggest a philosophy of active engagement as a key to student success, but do not precisely identify it. It will be important to be sure that there are structures to ensure parent involvement and teacher strategies for student engagement and the support that will be required by the school with time and training to ensure that these occur. These are always sought at all schools, but hard to ensure.

While SCCS describes several broad-brush approaches to student learning, the document does not articulate a detailed understanding of how learning occurs, directly supporting specific educational philosophies of learning schools of belief, research-based practices, or lesson design.

Technology will be relied upon as a key, too, for student use. Details about support for students who need in depth interventions, strategic support, or enrichment do not indicate clearly what occurs during, and what occurs beyond the school day. It is stated that there will be programs for special needs students provided outside of the school day. This lack of a clear, comprehensive picture for a large number of students is particularly concerning. It is critical that interventions be clearly required and woven into good first instruction and that this be identified and clearly structured for all students in their daily experience and then linked explicitly to after school programs.

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Program Structure

School will be structured so that the program is year-round, with a maximum of 23 in a class. The school day will last for eight hours a day (Mondays through Thursdays) and students will participate in seven hours of distance learning on Fridays to complete a two hundred day school year. The opportunity for Advisory, if it includes a “study hall” opportunity for students to receive help with their homework, is a strong feature of the program. Extended daily schedules and the year-round academic calendar will provide for supplemental needs of English learners, special education, and gifted students. Up to 5 percent of students may be home schooled. While the rationale for the long distance learning is not articulated, its substantial role is an interesting and a clear attempt to innovate in a way that responds to student needs to be proficient with technology. It may also be a strategy to bring high levels of teacher expertise and knowledge into the school for advanced science, technology, engineering and mathematics (STEM) content instruction. It is important that the rationale for the program structure be clearly defined, as well as the details for effective delivery.

Content Scope and Sequence

Courses will be aligned to California state academic standards. All students are required to complete the University of California (UC) A-G requirements and the California State University (CSU) requirements.

Courses will be phased in each school year, beginning with classes for students in grades 7-10 (2010-2011), 11th grade in 2011-2012, 12th grade courses in 2012-2013, 4th, 5th, and 6th grades in 2013-2014, and classes for kindergarten, 1st grade, 2nd grade and 3rd grade students in 2014-2015.

At the elementary level, independent study, collaborative learning and the use of technology will be emphasized for primary students. Intermediate students will have advanced instruction in science and mathematics. In regard to scope, students will take six years of English/language arts, mathematics, and science. All students will complete two years of foreign language, four years of physical education plus world history/geography and U.S. history/government. Finally, all students will have the opportunity, beginning in the 9th grade, to participate in one of six career academies.

Students will have the opportunity to enroll in courses concurrently in Emery-Riddle University to prepare those interested in careers as aircraft mechanics or private pilots. Local businesses on the Southern California Logistics Airport (SCLA) property *may* provide mentors for students. Other local organizations connected to STEM careers will be approached.

The rigor of the course scope is to be commended. It will be important for the school leadership to determine how the rigorous course load will be effectively integrated with the classes provided for proficiency in one of the six career academies. It will be critical for this school to deliver a core program competently so that students may be successful, rather than to provide a proliferation of options that are partially defined and developed.

At this time, the program has not been delineated and refined clearly enough to provide a comprehensive program at which students may succeed. Particularly concerning is its lack of thoughtful planning for students who will need immediate, in-depth support during the school day. This includes, but is not limited to, English learners and special education students.

Special Education

The petition states on page 29 that the charter school will “serve students with disabilities in the same manner as students with disabilities are served in schools in the district.” It also states on page 16 that SCCS will serve its special education students by utilizing small class sizes, extended daily schedules, year-round calendar, and other interventions.”

There is no mention of how the charter school intends to handle membership in a SELPA, how specialized services (such as speech therapy, occupational therapy, etc.) would be provided if needed.

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The staffing plan on page 40 contains no mention of special education teachers. There is a notation on page 473 that Nelda Colvin has a credential authorizing services to students with mild-moderate disabilities. Other than that, there is no indication that provisions have been made to meet the specific needs of students with disabilities.

The plan to serve special needs students is too vague to be considered reasonably comprehensive.

Conclusion

Southern California Charter Schools **does not** provide a reasonably comprehensive description of this element as required in Education Code 47605 (b) (5) (A) (i).

Required Element A: Description of the School's Educational Program (continued)

Education Code 47605 (b) (5) (A) (ii) "If the proposed school will serve high school pupils, a description of how the charter school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable and courses approved by the University of California or the California State University as creditable on under the "A" to "G" admissions criteria may be considered to meet college entrance requirements."

Standard for Review

Does Southern California Charter Schools provide a reasonably comprehensive description of the required element?

Reasonably Comprehensive

- SCCS sets forth its plan for accreditation by the Western Association of Schools and Colleges (WASC) on page 13 of the petition
- SCCS will notify parents of the transferability of courses through participation on committees, newsletters, and the school website

Not Sufficient

- None noted

Committee Comments

The SCCS document indicates that it is striving for WASC accreditation and that all courses will meet the requirements for acceptance for UC/CSU requirements. The process for seeking WASC candidacy is provided, including the one-day initial visit, the submission of A-G proposed courses, and the timeline for the WASC self-study in preparation for visitation in the spring of 2013. The school has identified who will provide consultation and how WASC preparation training will be received.

In regard to communication with parents, SCCS indicates that parents will be kept aware of the course acceptance status in regard to accreditation and UC/CSU acceptance through the parents' participation on committees, newsletters, and the school website. While these are commendable, it will be important for the school to ensure direct contact with each parent/guardian in addition to whole group information sharing.

In addition, SCCS still needs to set up a clear set of templates and understandable notification structures and protocols for communicating to parents about the transferability of their child's courses to other public high schools. This is particularly important at a charter school, where clear understanding of equivalency, and transferability can be challenging issues.

Conclusion

Southern California Charter Schools **does** provide a reasonably comprehensive description of this element as required in Education Code 47605 (b) (5) (A) (ii).

Required Element B: Measurable Pupil Outcomes

Education Code 47605 (b) (5) (B) “The measurable pupil outcomes identified for use by the charter school. ‘Pupil outcomes,’ for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school’s educational program.”

Standard for Review

Does Southern California Charter Schools provide a reasonably comprehensive description of the required element?

Reasonably Comprehensive

- SCCS sets high goals for student achievement

Not Sufficient

- It is not clear how the critical attributes described as core student outcomes will be measured

Committee Comments

SCCS provides a statement of student outcomes and a list of attributes that every student will possess upon graduation. The statement:

SCCS students will become self-motivated life-long learners. They will be prepared for success in science, technology, engineering, and mathematics careers. They will be proficient or above in core subjects in the California State Content Standards.

It also states that SCCS graduates will have:

Clearly developed personal and career goals; positive attitude towards life-long learning; literacy skills necessary for effective citizenship; ability to communicate clearly verbally and in writing; skills to learn independently using a variety of resources; success working in collaboration with others; experience using technology for academic tasks; practice using reasoning applied to real world situations; habitual linking of new knowledge to personal experience; appreciation of diverse cultures and societies; respectful attitudes and behaviors toward others; potential to achieve personal and academic goals; clearly developed personal and career goals.

The Academic Performance Index (API) and the California High School Exit Exam (CAHSEE) will be used as the primary measures of school success. The school will target subgroups for student achievement as needed in regard to success in making growth targets. SCCS states it will do whatever it takes to exceed 900 API. An achievement dashboard will be used to regularly keep goals before teachers and administrators. Assessments and instruction will be aligned to standards.

Use of the described measures, and the indicated alignment is key. However, in light of the goals described, it is not clear how the critical attributes described as core student outcomes will be measured. It will be important to determine benchmarks and multiple measures for these.

Conclusion

Southern California Charter Schools **does not** provide a reasonably comprehensive description of this element as required in Education Code 47605 (b) (5) (B).

Required Element C: Methods to Assess Pupil Progress Toward Outcomes

Education Code 47605 (b) (5) (C) “The method by which pupil progress in meeting those pupil outcomes is to be measured.”

Standard for Review

Does Southern California Charter Schools provide a reasonably comprehensive description of the required element?

Reasonably Comprehensive

- The petition lists API growth targets on page 30 and broad-based assessment and reporting tools on page 31 of the petition
- Measures of Academic Progress (MAP) tests for 7-10 grade math and English and CST test in the sciences for 9-12 graders are examples of concrete assessment tools to measure academic progress of the school

Not Sufficient

- It is unclear how the petitioner’s “lists” connect to higher student achievement in specific ways
- The petition uses buzzwords and popular phrases often without defining them and generally with little explanation as to how they correlate to objectives or strategies that support the charter’s goals

Committee Comments

The method for measuring academic achievement of the student body is to be the API and the CAHSEE. The growth targets will relate to student bodies. It is assumed, but not directly indicated, that the CAHSEE goal is to be at the 100 percent level. Other measures will include interim benchmarks, 504 plan criteria for special education students, and the CELDT for diagnosis and placement for English Learners.

It is not clear how the entire list of attributes (page 30), specified in Required Element B, (and particularly those which are not directly indicated in the state standards), are to be measured. If performance-based measures are to provide data that will be used to gauge student achievement in these areas, it is important to set clear targets and to develop relevant measures.

According to the SCCS description of the educational program, these attributes seem to be a defining part of what it means to be successful in the 21st century. Therefore, it is critical that individual student measures be clear, and that the school’s success in helping students reach these goals be included in the assessment and planning for continuous improvement in this school.

Conclusion

Southern California Charter Schools **does not** provide a reasonably comprehensive description of this element as required in Education Code 47605 (b) (5) (C).

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Required Element D: Governance Structure

Education Code 47605 (b) (5) (D) “The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.”

Standard for Review

Does Southern California Charter Schools provide a reasonably comprehensive description of the required element?

Reasonably Comprehensive

- The Articles of Incorporation and the Bylaws of the corporation that will govern the School are included with the Petition and appeal documents
- Southern California Charter Schools, Incorporated was incorporated as a public benefit corporation on April 17, 2009

Not Sufficient

- SCCS has demonstrated a lack of understanding of conflict of interest policies applicable to California charter schools
- Parent involvement opportunities are insufficient and ineffective, particularly as the School board is appointed and not elected and the five current members of the School board are slated to be School employees
- SCCS has demonstrated a lack of understanding of the applicability of the Brown Act to charter schools

Committee Comments

The Articles of Incorporation and the Bylaws of SCCS are set forth at pages 373-396 of the petition; the governance structure of the School is set forth at pages 34-36 and the conflict of interest provision is set forth at page 35.

Concerns regarding Conflict of Interest

The petition provides that the non-profit public benefit corporation, SCCS, will oversee and govern the operations of the school. Further, the petition provides that the activities of the board of directors of the corporation are to be in accordance with the articles of incorporation and bylaws.

The only reference in the petition to complying with conflict of interest provisions is set forth on page 33 that provides:

In compliance with nonprofit corporation laws SCCS board members will reveal all conflicts of interest as they arise in the conduct of school business. The school board members will not participate in a vote where such conflict exists. SCCS board members will be required to submit annual disclosure statements.

Disclosure statements from each of the five initial directors of the SCCS board are included on pages 486 to 490 of the appeal documents. These persons who have filed these statements are Gary Dean Wilkins President/Director; Dolores Phillips, Director; Edward Donovan, Director; Marie Colvin, Director; and Wayne Colvin, Director.

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Nowhere do the bylaws or the charter petition specifically state the School, directors, officers, and employees will comply with all provisions of California conflict of interest laws, commencing at Government Code section 1090, et seq., and Government Code Section 87000, The Political Reform Act.

During the public hearing on September 8, 2009, Dr. Gary Wilkins made a presentation to the Board during which he responded to questions from members of the Board regarding the governance structure of the School. Dr. Wilkins responded that the governing board of the school had not yet conducted a meeting and further stated that the persons who were identified in his presentation were “directors” of the School, and would be employed by the School as “directors,” but would not be on the governing board of the corporation that would oversee the School. Yet, on page 392, each of these persons has been elected to be a director of the corporation, in direct contravention of Dr. Wilkins representations to the Board. Additionally, page 393 provides that each of these persons has either provided monies and/or services for their shares in the corporation.

Service on the Board of Directors by officers or employees of the School would violate the prohibition of Government Code section 1099 on **simultaneous occupation of incompatible public offices**. This section states, in relevant part:

“A public officer, including, but not limited to, an appointed or elected member of a governmental board, commission, committee or other body shall not simultaneously hold two public offices that are incompatible. Offices are incompatible when any of the following circumstances are present, unless simultaneous holding of the particular offices is compelled or expressly authorized by law:

- (1) Either of the offices may audit, overrule, remove members of, dismiss employees of, or exercise supervisory powers over the other office or body.
- (2) Based on the powers and jurisdiction of the offices, there is a possibility of a significant clash of duties or loyalties between the offices.
- (3) Public policy considerations make it improper for one person to hold both offices . . .”

The Board of Directors hires, fires, and supervises school employees. Each of the five board members of the corporation is expected to be employed by the school. It is inappropriate to allow a situation whereby an employee could simultaneously serve on the same board that has the power to evaluate, discipline or terminate the employees.

Concerns regarding compliance with the Brown Act

While the petition provides at page 35 that the School board will conduct its meeting in accordance with the provisions of the Brown Act, the bylaws pursuant to which the School board will be conducting itself are in direct contradiction of that assurance. The bylaws allow for meetings to take place outside of California.

Moreover, the bylaws allow the Board to take action even without holding a meeting (Section 1.2). Accordingly, there are clearly concerns as to whether the School will be in fact complying with the Brown Act.

Parental involvement

On page 35 of the petition, it provides that parent involvement will be advocated through participating in the board of directors and advisory committees. Yet, as discussed above, the initial board has already been selected and it consists solely of the five persons that will be employed by the School as “directors.” There is nothing to guarantee or assure that the future appointees will be parents as the persons who currently serve on the board will be making the selection and as represented by Dr. Wilkins at the public hearing, they will likely select persons who are part of the “STEM” companies.

Though there is inference of parental involvement in the SCCS vision statement, there is no process stated for how the school would ensure parental involvement.

Conclusion

Southern California Charter Schools **does not** provide a reasonably comprehensive description of this element as required in Education Code 47605 (b) (5) (D).

Required Element E: Employee Qualifications

Education Code 47605 (b) (5) (E) “The qualifications to be met by individuals to be employed by the school.”

Standard for Review

Does Southern California Charter Schools provide a reasonably comprehensive description of the required element?

Reasonably Comprehensive

- SCCS lists qualification for executive directors, office managers, directors, and teachers

Not Sufficient

- Executive directors and directors have teaching duties but no requirement for teaching credentials
- Courses that count towards UC/CSU A-G requirements must be taught by credentialed teachers

Committee Comments

Pages 38-39 list employee qualifications for executive directors, office managers, directors, and teachers. Executive directors and directors are not required to have administrative credentials, but they do have teaching duties that require recognized teaching credentials. On page 40, courses in foreign language, visual and performing arts, and career technical education have an asterisk indicating that “certificated can be paired with non-certificated qualified by expertise.” The meaning of this statement is unclear. For example, a credentialed teacher with knowledge of second language acquisition pedagogy and methodology must teach foreign language. In this case, how would this pairing work?

The Human Resources Section (page 38) states:

- (1) *Teachers will be highly qualified per No Child Left Behind (NCLB).*
- (2) *Teachers will fulfill credential requirements per the Charter Schools Act, which allows for non-credentialed teachers in non-core subjects such as Physical Education, Music, Aviation, and various electives...*
- (3) *Non-credentialed teachers will provide evidence of experience in their subject area and ability to work with adolescents which will be verified by the Executive Directors.*

The Charter Schools Act cites Education Code Section 47605 (1), which states:

Teachers in charter schools shall hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold. These documents shall be maintained on file at the charter school and are subject to periodic inspection by the chartering authority. It is the intent of the Legislature that charter schools be given flexibility with regard to noncore, noncollege preparatory courses.

There is potential conflict between statements #1 and #2 above, NCLB requirements, and Education Code 47605 (1).

One of the NCLB core-defined areas is “Arts.” Music is included in this category and thus requires that the teacher be credentialed in order to meet NCLB subject matter requirements. This would apply to visual arts, drama/theater, dance, or any other “fine arts” courses.

Even though the Education code allows for some flexibility with regard to noncore and noncollege preparatory courses, if music or other fine arts courses are used to meet college entrance requirements, such as A-G requirements, then those courses do not meet the definition of “noncollege preparatory courses” and the teacher is subject to California credentialing requirements.

If a charter school intends to meet the NCLB highly qualified standards, then teachers in all NCLB core-defined areas must meet California credentialing requirements and NCLB subject matter requirements. In addition to the traditional core areas of (1) English/reading/language arts, (2) math, (3) science, and (4) social science (civics/government, economics, history, and geography), foreign language, arts, and self-contained/elementary subjects are defined as NCLB Core Academic subjects.

Section II.E. Curriculum and Instructional Design (page 15) states, “Students will be accountable to participate in a scheduled seven hours of distance learning on Fridays during which time the staff will collaboratively develop lessons.”

Clarification is needed as to the duties of the individuals who would be overseeing the students during distance learning to determine licensing requirements.

Section II.F. Addressing the Needs of All Learners (page 28) states, “At SCCS all teachers will be CLAD trained.”

Non-credentialed teachers would be unable to meet this requirement.

Conclusion

Southern California Charter Schools **does not** provide a reasonably comprehensive description of this element as required in Education Code 47605 (b) (5) (E).

Required Element F: Health and Safety Procedures

Education Code 47605 (b) (5) (F) “The procedures that the school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the school furnish the school with a criminal record summary as described in Section 44237.”

Standard for Review

Does Southern California Charter Schools provide a reasonably comprehensive description of the required element?

Reasonably Comprehensive

- The petition listed most of the health and safety topics it will develop in policies

Not Sufficient

- SCCS provided no sample or draft policies for health and safety procedures
- The school needs to add “violence-free” to the list of forbidden activities in the workplace
- The school should develop a school safety plan consistent with SB 198

Committee Comments

SCCS addresses health and safety matters on pages 43-44.

In consultation with the school’s insurance carriers, SCCS will adopt and implement health, safety, and risk management policies. Although SCCS states that the policies will be in effect prior to September 30, 2009, it is unclear if the intent is to link the policy adoption to the start of the school year in 2010. The petitioner could have clarified this with a technical change to the petition, but did not.

The charter states it will require that all enrolling student and staff provide records documenting required immunizations including tuberculosis screening for staff and volunteers. SCCS will develop a disaster plan appropriate to the school. The schools will require that each employee of the school complete a criminal background check.

Other areas of policy development include: blood-borne pathogens, emergency responder training, administration of drugs and other medicines, facility inspections, reporting of suspected child abuse and other acts of violence, a drug/alcohol/tobacco-free workplace, sexual harassment, training on health and safety, and food service.

The petition did not include sample or draft policies for health and safety procedures.

Adelanto School District in its findings of fact for denial also objected to the lack of health and safety policies for the original petition that intended for the school to open by September 30, 2009. On page 371, the district states, “The failure to actually put forth health and safety procedures with the Petition, particularly when the Charter School anticipates opening so soon after its approval, is troubling.”

Conclusion

Southern California Charter Schools **does not** provide a reasonably comprehensive description of this element as required in Education Code 47605 (b) (5) (F).

Required Element G: Means to Achieve a Reflective Racial and Ethnic Balance

Education Code 47605 (b) (5) (G) “The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.”

Standard for Review

Does Southern California Charter Schools provide a reasonably comprehensive description of the required element?

Reasonably Comprehensive

- None noted

Not Sufficient

- SCCS listed limited, non-comprehensive generic goals with no strategies, policies or procedures

Committee Comments

SCCS addresses this element in the section described as “Student Admission, Attendance, Disciplinary Policy, and Suspension/Expulsion Procedures” on pages 46-47. As far as the committee could determine, only the following statements applied:

SCCS will actively recruit a diverse student population ... The school will strive through recruiting efforts to achieve a racial and ethnic balance of students that reflects the general population within the territorial jurisdiction of the district. The school will establish an annual recruiting and admissions cycle, which shall include reasonable time for outreach and marketing, orientation session for students and parents, an admission application period, an admission lottery, if necessary, and enrollment. [Editor’s note: the charter listed student demographics for Silverado High School in 2006 on page 47.]

The charter lists limited, non-comprehensive generic goals to achieve racial and ethnic balance that is reflective of the community. There are no long-term strategies, policies, procedures that have been developed to ensure an ethnic balance reflective of the community at the school. The charter school does not list methods of transporting students to and from school or means available to assist families that desire to attend the charter but are unable to afford transportation.

Conclusion

Southern California Charter Schools **does not** provide a reasonably comprehensive description of this element as required in Education Code 47605 (b) (5) (G).

Required Element H: Applicable Admission Requirements

Education Code 47605 (b) (5) (H) "Admission requirements, if applicable."

Standard for Review

Does Southern California Charter Schools provide a reasonably comprehensive description of the required element?

Reasonably Comprehensive

- Admission to SCCS is open to all school age students in the state of California subject only to capacity per the petition

Not Sufficient

- No stated strategies for enrolling students without regard to student's disability, status as a juvenile offender, expelled students, students identified as special needs or second language learners

Committee Comments

Although reasonably comprehensive, the committee is concerned that the petition offers no strategies to enroll a population of students to be considered for admission without regard to student's disability, status as a juvenile offender, expelled students, students identified as special needs or second language learners. However, students that apply for admission are not guaranteed enrollment, but rather via a lottery process that suggests that the enrollment practices could be construed discriminatory in nature.

Conclusion

Southern California Charter Schools **does** provide a reasonably comprehensive description of this element as required in Education Code 47605 (b) (5) (H).

Required Element I: Financial Audits

Education Code 47605 (b) (5) (I) “The manner in which annual, independent financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority.”

Standard for Review

Does Southern California Charter Schools provide a reasonably comprehensive description of the required element?

Reasonably Comprehensive

- SCCS states its auditor will have experience in education finance
- SCCS states it will remedy audit exception and deficiencies in a timely manner

Not Sufficient

- None noted

Committee Comments

Page 57 of the petition states, “an annual fiscal audit will be performed by an auditor with experience in education finance and will use Generally Accepted Accounting Principles.” The results of the audit will be shared with the San Bernardino County Superintendent of Schools and exceptions and deficiencies will be remedied to the county’s satisfaction in a timely manner.

Conclusion

Southern California Charter Schools **does** provide a reasonably comprehensive description of this element as required in Education Code 47605 (b) (5) (I).

Required Element J: Student Suspensions and Expulsions

Education Code 47605 (b) (5) (J) “The procedures by which pupils can be suspended or expelled.”

Standard for Review

Does Southern California Charter Schools provide a reasonably comprehensive description of the required element?

Reasonably Comprehensive

- The petition set forth acts for which a student may be disciplined and procedures for such discipline

Not Sufficient

- The petition is somewhat consistent with current Education Code; however, student due process procedures are not compliant with current state and federal regulations
- It is not clear what the standard is for expulsion from the charter school

Committee Comments

Charter schools are required to describe their suspension and expulsion procedures. SCCS procedures mirror education code with an exception in the following areas:

- A. The charter does not list California Education code sections 48900 a-v.
- B. The charter does not list California Education code sections 48915 (a) 1-5
- C. The charter does not list California Education code sections 48915 (c) 1-5
- D. The charter school does authorize the San Bernardino County Board of Education to hear appeals of student expulsion from the charter school. (Note: The Education Code is silent in this matter.)
- E. The charter fails to list alternative placement options for students who are expelled.
- F. The charter school executive director is the sole authority and final say in determining whether or not a student is suspended, expelled or readmitted.

Conclusion

Southern California Charter Schools **does not** provide a reasonably comprehensive description of this element as required in Education Code 47605 (b) (5) (J).

Required Element K: Retirement Systems

Education Code 47605 (b) (5) (K) “The manner by which staff members of the charter schools will be covered by the State Teachers’ Retirement System, the Public Employees’ Retirement System, or federal social security.”

Standard for Review

Does Southern California Charter Schools provide a reasonably comprehensive description of the required element?

Reasonably Comprehensive

- SCCS identifies State Teachers Retirement System (STRS), the California Public Retirement System (CalPERS), and federal social security

Not Sufficient

- The charter petition does not address the charter school’s alternative retirement plan for part-time employees who do not qualify for the California Public Employees Retirement System (CalPERS)
- SCCS fails to address which agency (the charter school or the County Office of Education) will be responsible for the retirement reporting to CalPERS

Committee Comments

Retirement Systems information is located on page 41 of the SCCS petition.

The charter school must choose an alternative retirement plan (such as PARS, Apple, or Social Security) for those classified employees not qualified to participate in the California Public Employees Retirement System (CalPERS).

By law, State Teachers Retirement System (STRS) reporting must be performed by the County Office of Education. This will require that a written agreement be executed between SBCSS and Southern California Charter Schools delineating the fees structure, the procedures and protocols necessary to meet reporting requirements, mandatory timelines, etc. In addition, the charter school must decide and announce which agency will be performing the charter school’s CalPERS reporting. If SBCSS will be performing the CalPERS reporting on the charter school’s behalf, the written agreement will need to incorporate those details as well.

Conclusion

Southern California Charter Schools **does not** provide a reasonably comprehensive description of this element as required in Education Code 47605 (b) (5) (K).

Required Element L: Attendance Alternatives

Education Code 47605 (b) (5) (L) “The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.”

Standard for Review

Does Southern California Charter Schools provide a reasonably comprehensive description of the required element?

Reasonably Comprehensive

- No student shall be required to attend SCCS

Not Sufficient

- A process to notify parents of attendance alternatives is not indicated in the charter petition

Committee Comments

SCCS addresses this element in one paragraph on pages 48.

The petition states that parents/guardians of pupils who choose not to attend the charter school shall have the right to admission in the school district in which they reside or to pursue an inter-district transfer in accordance with existing enrollment and transfer policies of their school district. However, the process to notify parents of attendance alternatives is not indicated in the charter petition.

The proposed charter does not offer solutions or procedures for students who exhibit poor attendance or other problems related to school attendance.

Matriculation procedures and assistance back to the chartering district including notification of the student’s district of residence are not addressed in accordance with legislation effective January 1, 2006.

Conclusion

Southern California Charter Schools **does not** provide a reasonably comprehensive description of this element as required in Education Code 47605 (b) (5) (L).

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Required Element M: Description of rights and return rights of district employees

Education Code 47605 (b) (5) (M) “A description of the rights of any employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school.”

Standard for Review

Does Southern California Charter Schools provide a reasonably comprehensive description of the required element?

Reasonably Comprehensive

- SCCS employees are not employees of SBCSS and therefore have no rights relating to employment at SBCSS

Not Sufficient

- None significant

Committee Comments

SCCS addresses this element in one paragraph on pages 42. Although awkwardly worded, the petition appears to meet the minimum requirements of this element.

Conclusion

Southern California Charter Schools **does** provide a reasonably comprehensive description of this element as required in Education Code 47605 (b) (5) (M).

Required Element N: Dispute Resolution

Education Code 47605 (b) (5) (N) “The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.”

Standard for Review

Does Southern California Charter Schools provide a reasonably comprehensive description of the required element?

Reasonably Comprehensive

- SCCS will attempt to resolve disputes without resorting to formal proceedings

Not Sufficient

- The petition does not set forth a proposed policy for the resolution of disputes
- The dispute resolution process does not provide procedures for staff, parent or student disputes
- The dispute procedure set forth in the petition contemplates submission of dispute to an outside party for resolution

Committee Comments

Page 44 of the charter petition states, “Southern California Charter School will attempt to resolve disputes with the San Bernardino County Superintendent of Schools reasonably and without resorting to formal proceedings” in the event that SBCSS wants to revoke the charter’s petition. The petition states that the County will notify the school in writing and give the school time to respond and take correction action prior to revoking the charter. A timeline of 45 days has been outlined in a three-step process that may result in a revocation of the charter if the disputes cannot be settled using a third party administrator.

The procedures to be followed by the School and the entity granting the charter to resolve disputes relating to the provisions of the charter are not sufficient.

The process set forth in the charter contemplates numerous meetings and submission of the matter to a mediator if the process does not result in a resolution of the matter. This process does not provide for a prompt resolution of differences between a chartering entity and the School and therefore, may contribute to a failure in governance.

There is no timeline for completing the proposed mediation that could lead to disputes being unresolved for an inordinate amount of time.

Conclusion

Southern California Charter Schools **does not** provide a reasonably comprehensive description of this element as required in Education Code 47605 (b) (5) (N).

Required Element O: Status of Charter as Exclusive Public School Employer

Education Code 47605 (b) (5) (O) “A declaration whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for the purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.”

Standard for Review

Does Southern California Charter Schools provide a reasonably comprehensive description of the required element?

Reasonably Comprehensive

- See statement below

Not Sufficient

- None noted

Committee Comments

SCCS addresses this element in a short paragraph on pages 42 in a statement that reads:

SCCS will be the exclusive public school employer of its employees for the purposes of the Educational Employment Relations Act (EERA). The school recognizes its employees' right under the EERA provisions for collective bargaining.

Conclusion

Southern California Charter Schools **does** provide a reasonably comprehensive description of this element as required in Education Code 47605 (b) (5) (O).

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Required Element P: Description of Procedures for Closing the Charter School

Education Code 47605 (b) (5) (P) “A description of the procedures to be used if the charter school closes. The procedures shall ensure a final audit of the school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of pupil records.”

Standard for Review

Does Southern California Charter Schools provide a reasonably comprehensive description of the required element?

Reasonably Comprehensive

- SCCS’s closing protocol outlines a somewhat comprehensive notification process
- The charter describes some procedures for transferring student records to the appropriate agencies
- SCCS will file any annual reports required by charter law including and independent audit completed within six months after closure
- A description of the disposition of assets is provided

Not Sufficient

- There are no specific timelines regarding notification and transfers
- No clear statement of fiscal responsibility for all costs of closure

Committee Comments

The closure procedures set forth on pages 58 and 59 of the petition do provide a plan and process of ensuring that pupil records and staff records are maintained by the corporation and/or transferred to the appropriate agencies. The closure procedures do provide that monies received from state or federal sources will be disbursed to the appropriate government agencies upon closure of the school.

SCCS appears to adequately address the details of plans that would be executed in the event of the school’s closure.

Conclusion

Southern California Charter Schools **does** provide a reasonably comprehensive description of this element as required in Education Code 47605 (b) (5) (P).

SBCSS Charter Advisory Committee Findings

1. EDUCATIONAL PROGRAM

Education Code Section 47605(b)(1) “The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.”

Committee Comments

The charter describes itself as a K-12 career academy for science, technology, engineering, and mathematics (STEM). The charter wants to open in 2010 and plans to open with an initial enrollment of 480 students in grades 7-10 and eventually expand K-12 to approximately 1,850 students. The school proposes developing a 20-acre facility at the Southern California Logistics Airport in Victorville, also known as the former George Air Force Base. Students will each be issued a laptop computer that they will use to access textbooks and perform all assignments.

SCCS will use small class sizes of 23 or fewer students to enable direct instruction, teacher responsiveness, student accountability, positive classroom management, and safe conduct of laboratory experiments. Parent involvement will support student engagement, effective completion of homework, and overall academic achievement. All students will complete A-G requirements for admission to UC/CSU. Support will be provided, whatever it takes, so that all students will graduate with the opportunity to attend university.

SCCS also states that it will extend the school day to eight hours on Mondays through Thursdays with students responsible for seven hours of distance learning each Friday. However, the petition does not explain what curriculum will be used for these distance learning days or how it will be monitored by SCCS. The 200-day, year-round school calendar will consist of four terms of core instruction, enrichment and remedial studies. SCCS intends to partner with educational institutions and businesses in and about the area of the Southern California Logistics Airport.

SCCS has adopted ambitious goals, but its description of the program lacks needed clarity and does not provide reasonably comprehensive detail on the curriculum. Courses are listed, but the curriculum content for those courses is not described. Students will be issued laptops to access textbooks, but those instructional materials are not identified nor does the petition offer any evidence that they align with California Standards. The petition also fails to adequately address services for special education students. Additional concerns about the educational program are raised in Elements A(i), B, and C on pages 6-11.

Committee Finding

Southern California Charter Schools **does not** provide a reasonably sound educational plan that adequately addresses the continuum of student needs for the grade levels it wishes to offer.

2. FISCAL MANAGEMENT

Education Code Section 47605(b)(2) “The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.”

Committee Comments

The charter petition contains a budget summary (page 61) for the first five years of the charter’s operation, but the committee has identified several issues that raise some financial concerns about the

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charter's ability to successfully implement the program set forth in the petition. The concerns noted include estimated enrollment projections, Average Daily Attendance (ADA) calculations, enrollment to ADA projected ratios, state revenue projections, staffing and benefit expense projections, and financing of proposed construction of the charter school.

Projected enrollment in the charter petition appears to be overly ambitious. The charter petition states that enrollment in the first year of the charter's operation will consist of 480 students in grades 7-10, the second year of 720 students in grades 7-11, the third year of 880 students in grades 7-12, the fourth year of 1,340 students in grades 4-12 and the fifth year of 1,850 students in grades K-12. The projected growth appears to be 13.5 percent over five years or approximately 2.7 percent per year. The first year projects enrollment of approximately 120 students per grade level, but this is not consistent in the later years. The second year shows an additional 240 students with one new grade added, the third year an additional 160 students with one new grade added, the fourth year an additional 460 students with three grades added, and the fifth year with an additional 510 students with three grades added.

The charter petition states that enrollment growth from Silverado High School in the Victor Valley Union High School District is expected to grow an additional 800 students and the feeder schools to grow an additional 1,500 students over the next five years. Victor Valley Union High School, Adelanto Elementary School and Victor Elementary School Districts have been experiencing a slight decline in enrollment and anticipate either a flat or a decline in student population over the next three years. Although adding grade levels may account for some of the enrollment growth that they are projecting, the projections on page 14 of the petition are based on the growth of the local district's enrollment and the charter's ability to capture that growth. Based on this analysis, it seems unlikely that the charter will experience the total projected growth in the charter petition's budget.

Average Daily Attendance (ADA) is projected in the petition on page 431 at a rate of 97 percent of enrollment. This estimate appears to be much higher than the ratios of attendance to enrollment that is being experienced by the local school districts. The charter petition anticipates capturing enrollment in the first years mainly from Silverado High School that is part of the Victor Valley Union High School District. The three-year average of attendance to enrollment for the district is 91.82 percent. The feeder schools would likely come from either Victor Elementary School District whose three-year average is 94.98 percent or Adelanto Elementary School District whose three-year average is 94.41 percent. The student population of the charter over the first three years consists of junior high and high school students. Typically, schools experience a lower attendance to enrollment ratio for these grades so it seems highly unlikely that the charter will experience a 97 percent attendance to enrollment ratio. Since approximately 93 percent of the charter's budget is supported by state revenues that are based on ADA, the impact of experiencing a lower ratio could greatly affect the charter's ability to operate a successful program.

Fridays are set-aside for the students to participate in Distance Learning as stated on page 15 of the charter petition. Charter schools may participate without state review in up to 20 percent of non-classroom based attendance, but the accounting for such a program is labor intensive and subject to different rules. If the charter fails to meet all of the guidelines of the program then the charter could lose up to 20 percent of the funding that they need to operate the school. The petition does not outline the program or explain how the attendance for this portion of the program will be operated or accounted for to ensure that they capture all of the anticipated funding.

General Purpose, Categorical Block Grant and Lottery funding is based on grade level and the ADA earned. Based on the enrollment projections and an attendance rate of 97 percent of enrollment and using School Services of California's projected funding rates for both programs, it appears that the Charter has overstated state revenues. Below is a table of the charter's projections and the projections used by the committee:

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YEARS	GENERAL PURPOSE CHARTER ESTIMATE	GENERAL PURPOSE COMMITTEE ESTIMATE	DIFFERENCE OVER/(UNDER)
2010-2011	\$3,640,169	\$2,654,851	\$985,318
2011-2012	\$5,346,291	\$4,134,249	\$1,212,042
2012-2013	\$6,599,780	\$5,231,156	\$1,368,624
2013-2014	\$9,765,891	\$7,869,920	\$1,895,971
2014-2015	\$13,154,757	\$11,770,605	\$1,384,152
TOTALS	\$38,506,888	\$31,660,781	\$6,846,107

YEARS	CATEGORICAL BLK GRANT CHARTER ESTIMATE	CATEGORICAL BLK GRANT COMMITTEE ESTIMATE	DIFFERENCE OVER/(UNDER)
2010-2011	\$207,586	\$241,566	(\$33,980)
2011-2012	\$304,647	\$344,400	(\$39,753)
2012-2013	\$364,927	\$420,933	(\$56,006)
2013-2014	\$538,362	\$640,966	(\$102,604)
2014-2015	\$753,519	\$933,696	(\$180,177)
TOTALS	\$2,169,041	\$2,581,561	(\$412,520)

YEARS	LOTTERY CHARTER ESTIMATE	LOTTERY COMMITTEE ESTIMATE	DIFFERENCE OVER/(UNDER)
2010-2011	\$0	\$0	\$0
2011-2012	\$182,788	\$86,776	\$96,012
2012-2013	\$218,956	\$106,060	\$112,896
2013-2014	\$323,017	\$161,500	\$161,517
2014-2015	\$452,111	\$241,286	\$210,825
TOTALS	\$1,176,872	\$595,622	\$581,250

YEARS	STATE REVENUES (TOTALS) CHARTER ESTIMATE	STATE REVENUES (TOTALS) COMMITTEE ESTIMATE	TOTAL DIFFERENCE OVER/(UNDER)
2010-2011	\$3,847,755	\$2,896,417	\$951,338
2011-2012	\$5,833,726	\$4,565,425	\$1,268,301
2012-2013	\$7,183,663	\$5,758,149	\$1,425,514
2013-2014	\$10,627,270	\$8,672,386	\$1,954,884
2014-2015	\$14,360,387	\$12,945,587	\$1,414,800
TOTALS	\$41,852,801	\$34,837,964	\$7,014,837

Based on the tables presented, the charter has materially overestimated state revenues. Assuming the charter can realize a 97 percent attendance to enrollment ratio and that the estimated revenues received are based on the committee's estimate and that projected expenditures remain as outlined in the Annotated Budget on page 430 of the charter petition, the charter will have a negative fund balance in the first year and will not be able to realize a positive fund balance in the first five years of operation. The projected ending balance in the charter petition in the fifth year is \$4,214,236 and based on the committee's estimates the ending fund balance will be (\$2,800,601). It appears the budget presented is not reasonable and will severely impact the success of the charter.

On page 422 of the charter petition, the petitioners state, "the schools will be located at 13644 George Boulevard, Victorville, California. The school will acquire three units of the facility totaling approximately 36,000 square feet for a lease of approximately 12,000 dollars per month." Rent expenditures have been budgeted on page 440 in the amount of \$432,000 in the first year, \$864,000 in years two and three and \$1,728,000 in years four and five. The amounts are not explained and the

committee was unable to determine what the additional costs above the annual projection of rent in the statement above were.

The petition mentions that the charter plans to purchase 10 acres of land for a cost of \$2.1 million and construct the charter school on the land for a cost of \$6.4 million, but the petition did not mention the method of financing the construction of the school. It does not appear that the charter has the necessary capital to construct the school or purchase the land without obtaining a loan and a loan was not mentioned or detailed in the charter petition's budget on pages 430-458. The increase in the rental payments may account for some of the costs and the budget does allude to startup costs, but the petition fails to detail if this is the case. The petition also mentions that "modular classroom units" will be housed in the temporary location and will be moved to the permanent campus at a later date. The costs of leasing these facilities may be included in the rental costs in the budget, but again the petition does not explain these costs. An expanded analysis of additional facility concerns can be found under "Other Committee Comments" on page 34.

The petitioner mentioned at the County Board meeting on September 8, 2009 that the charter had been approved for an implementation grant of \$450,000. Conversations with the state revealed that the charter had submitted a petition for the implementation grant, but it had not yet been approved. The charter must be approved for the state to move forward in the approval process, but the state did mention that it is likely that the petitioner will qualify for the grant.

A charter school loan in the amount of \$250,000 is reflected in the budget on page 435, but it did not appear that the budget included the repayment of these monies to the state. Repayments typically amount to \$50,000 per year over a five-year period.

One additional area of note was that the staffing projections for classified staff appear to be too low. The charter only anticipates one business manager for the first three years and two business managers for years four and five. The charter did not budget for custodial, grounds keeping, maintenance, food service, secretarial staff or instructional aides, etc. Benefits equal to 41 percent of classified salaries are detailed on page 433, but the budget did not appear to include these expenses on page 438. The additional costs of hiring and training new staff can be costly and the budget may be understated in this area.

Based on our review of the budget and budget assumptions presented in the charter petition, it is deemed unlikely that the charter could successfully implement and operate the charter school.

Committee Finding

Southern California Charter Schools **does not** provide a reasonably comprehensive business plan that adequately addresses the timing and amount of revenue apportionments, expenses, cash flow, and accounting procedures.

3. REQUIRED SIGNATURES

Education Code Section 47605(b)(3) "The petition does not contain the number of signatures required by subdivision (a)."

Committee Comments

California charter law allows for two methods of collecting qualifying signatures. If the petition has been signed by parents or legal guardians of pupils, the number of signatures must be equivalent to at least one-half of the number of pupils that the charter school estimates will enroll in the school for its first year of operation. Alternatively, the petitioner may collect teacher signatures equivalent to at least one-half of the

number of teachers that the charter school estimates will be employed at the school during its first year of operation. The petitioner collected parent/guardian signatures.

Education Code Section 47605 (a)(3) states, “A petition shall include a prominent statement that a signature on the petition means that the parent or legal guardian is meaningfully interested in having his or her child or ward attend the charter school, or in the case of a teacher’s signature, means that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition.”

SCCS intends to open with 480 students in grades 7 to 10 in its first year of operation. The petitioner submitted 243 signatures (pages 99-342) on individual sheets described as “reservation form.” On page 98 of the petition there is a statement that reads, “A signature on the petition means that the parent or legal guardian is meaningfully interested in having his or her child or ward attend the charter school.” The statement is intended to fulfill Education Code 47605 (a)(3), however, the statement did not appear on the reservation form. The degree to which the signers of the reservation form understood that by signing the reservation forms that their signatures would be counted toward the signature requirements for establishing a charter school is unclear. Furthermore, there is no statement that the proposed charter was attached to the petition.

Between August 28 and September 17, 2009, SBCSS staff conducted a random telephone survey of parents or legal guardians whose names were submitted petition signers. The short questionnaire was designed with the assistance of Paul Gale, Ph.D., SBCSS Research and Evaluation director, and Sukhi Sandhu, attorney at law.

The original sample was 10 percent, but due to the high number of “unavailable” responses, the sampling was doubled to 20 percent. In all, 50 of the 243 names in the petition were called during business hours. Eighteen were “available” and answered the survey questions; 22 were “unavailable.” The remaining calls were to three “non-response,” two wrong numbers, and four non-working phone numbers. The random sample first selected all reservation forms whose page number ended with “9.” The second sample used the same methodology for those page numbers with the last digit was a zero.

Of the 18 who participated in the survey, 11 said at the time they signed the form that they were “meaningfully interested” in attending the school. Seven said they were not meaningfully interested and cited reasons such as too far to drive, wanted information only, looked into several schools, etc.

The form had no date and so a question was asked for each respondent to give a month and year of signing. Five said they signed in 2009 between January and April; eight signed between June and December of 2008. Six could not recall.

As to how they heard about the school, most cited friends or neighbors, family members, or co-workers. Two named Gary Wilkins.

The final question asked if the signers were given an opportunity to view the charter petition. Five said “yes,” six said “no,” and two could not recall.

The survey revealed some disturbing findings. About 39 percent were **not** “meaningfully interested” in having their children attend the school. Some of these respondents were concerned about transportation issues and others just wanted more information to compare schools. Some signatures were collected more than a year ago. Not necessarily a disqualifier, signatures from a prior year coupled that with the fact that a third or more were not presented the opportunity to view the charter petition and that 39 percent stated they were not meaningfully interested to begin with leads to a reasonable conclusion that a large percentage of signatures were not valid. The failure to submit signatures that comply with Education Code Section 47605 (a)(3) constitutes grounds to deny the charter petition.

Committee Finding

Southern California Charter Schools **does not** provide a sufficient number of signatures of parents/legal guardians of pupils meaningfully interested in having their children attend the charter school.

4. AFFIRMATIONS

Education Code Section 47605(b)(4) “The petition does not contain an affirmation of each of the conditions described in subdivision (d).”

Education Code Section 47605(d) (1) “In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil, on the basis of ethnicity, national origin, gender, or disability. Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state, except that any existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.”

Education Code Section 47605(d) (2) (A) “A charter school shall admit all pupils who wish to attend the school.

(B) However, if the number of pupils who wish to attend the charter school exceeds the school’s capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the district except as provided for in Section 47614.5. Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law.

(C) In the event of a drawing, the chartering authority shall make reasonable efforts to accommodate the growth of the charter school and, in no event, shall take any action to impede the charter school from expanding enrollment to meet pupil demand.”

Committee Comments

The affirmation statement and signatures appear on page 505. The lottery process is described on pages 46-47 in the section entitled “Student Admission, Attendance, Disciplinary Policy, and Suspension/Expulsion Procedures.” The petitioner appears to meet the minimum requirements of this section.

Committee Finding

Southern California Charter Schools **does** provide reasonable assurances to the areas outlined in Education Code Section 47605(d).

5. REQUIRED ELEMENTS A-P

Education Code Section 47605(b)(5) “The petition does not contain reasonably comprehensive descriptions of all of the following: (A-P).”

Southern California Charter Schools

Committee Comments

Of the 16, the committee found that Elements A(i), B, C, D, E, F, G, J, K, L, and N either failed to have reasonably comprehensive descriptions or had serious flaws. The committee was particularly concerned with support for the school's education program, services to special education students, the governance structure, and dispute resolution.

Committee Finding

Southern California Charter Schools **does not** provide a reasonably comprehensive description for each of the Required Elements A-P.

OTHER COMMITTEE COMMENTS

The site acquisition and construction funding outlined in the petition is extremely confusing and lacks the information necessary to accurately evaluate the chances for success. The SCCS states it will have 50,000 square feet of buildings constructed at \$6.1 million on 10 acres of property valued at \$2.4 million; however, the petitioners fail to identify their source(s) for their estimated construction and land acquisition costs. It is also unclear as to whether the petitioners view the \$6.1 million as total construction cost or SCCS's 50 percent share of the State-funded program. It would be a significant challenge to construct and furnish 30 classrooms, six laboratories, a gymnasium with pool, cafeteria, shower/locker room, and offices for \$6.1 million or \$122 per square foot. More importantly, construction of a facility is a multi-year process and the petitioners fail to adequately address student housing during that timeframe.

The petition does not adequately address the facilities funding source. The petitioner verbally acknowledged interest in the "Charter Fund referred through the California Charter Schools Association." Although the petition includes an unsigned letter dated April 7, 2009 (page 500) from The Charter School Fund, a web-search produced no information on The Charter School Fund, LLC. The Charter School Fund, LLC appears to be in partnership with the Providence Financial Company (see letter on page 499). It is not possible to adequately evaluate the petitioners' ability to finance site acquisition and construction due to the lack of information provided on loan amount, interest and finance charges, and term length. It is also unclear if the petitioner is financing 100 percent of the site acquisition and construction costs or if this represents a matching share for State funding.

Although the petitioner stated "The Charter Fund" was referred by the California Charter Schools Association, a search of their website lists the California Charter Building Fund. The California Charter Building Fund is a California Charter Schools Association and NCB Capital Impact partnership providing loans to charter schools seeking to build or renovate facilities. The California Charter Schools Association website states that "The California Charter Building Fund can help finance difficult projects including those that involve state bond money, Proposition 39 sites and/or leased property." Additionally, the website lists eligibility requirements as "Must be a non-profit charter school entering at least its third year in operation; Demonstrated record of both academic success and fiscal responsibility; Must serve a population with a majority that qualify for Free and Reduced Lunch or be located in an area of failing district schools." If the petitioners utilize this, or any building fund as a source of matching funds for State financing, several requirements must then be addressed.

Although it is unknown if the petitioners envision using State funds, it is important to understand the process that would be initiated should they apply for any State funding. One such source of State funding is State Charter School Facility Program (CSFP). The CSFP provides State funding for qualified, financially sound charter school applicants. Education Code Section 17078.52(c)(4) defines financially

Southern California Charter Schools

sound as a “charter school that has demonstrated, over a period of time determined by the authority, but not less than 24 months immediately preceding the submission of the application, that it has operated as a financially capable concern in California, as measured by criteria established by the authority.” Therefore, the petitioners may not be eligible for CSFP funding until demonstrating 24 months of financial soundness. The Education Code Section further outlines steps an applicant may take to demonstrate financial soundness if they do not meet the 24 month requirement; however, this petition makes no mention of any alternative criteria that would exempt the petitioners from the 24-month requirement.

Charter schools accepting CSFP funds are required to follow similar site acquisition and construction requirements as districts participating in the State School Facilities Program. Among the requirements, school districts and charter schools accepting State construction funds are required to establish a Restricted Maintenance Account (RMA) in their budget for 20 years following the last apportionment. SCCS does not identify a RMA in their proposed budget; however, current budget flexibility may negate this requirement.

Per Education Code Section 17078.54, should the Petitioners apply for CSFP funding, SCCS would also be required to abide by California Department of Education (CDE), Division of the State Architect (DSA), and Division of Toxic Substance Control (DTSC) requirements. CDE site approval would be required for State-funded construction. Proposed sites that are within two (2) nautical miles of an active runway require CDE and Department of Transportation (DOT) review and approval; title to the property cannot be acquired until DOT completes their review. If the DOT report does not favor property acquisition, the governing board cannot obtain title to the property and no State or local funds may be expended for purchase of the property or construction of the school. The SCCS petition acknowledges this requirement and includes letters from DOT and CDE which express substantial concern with the proposed site but also state the site will not be opposed by either department. It should be noted that, in accordance with Education Code Section 17078.57(a)(3)(A), if State funds are used, title must reside with the school district in which the charter is physically located and not with the charter school.

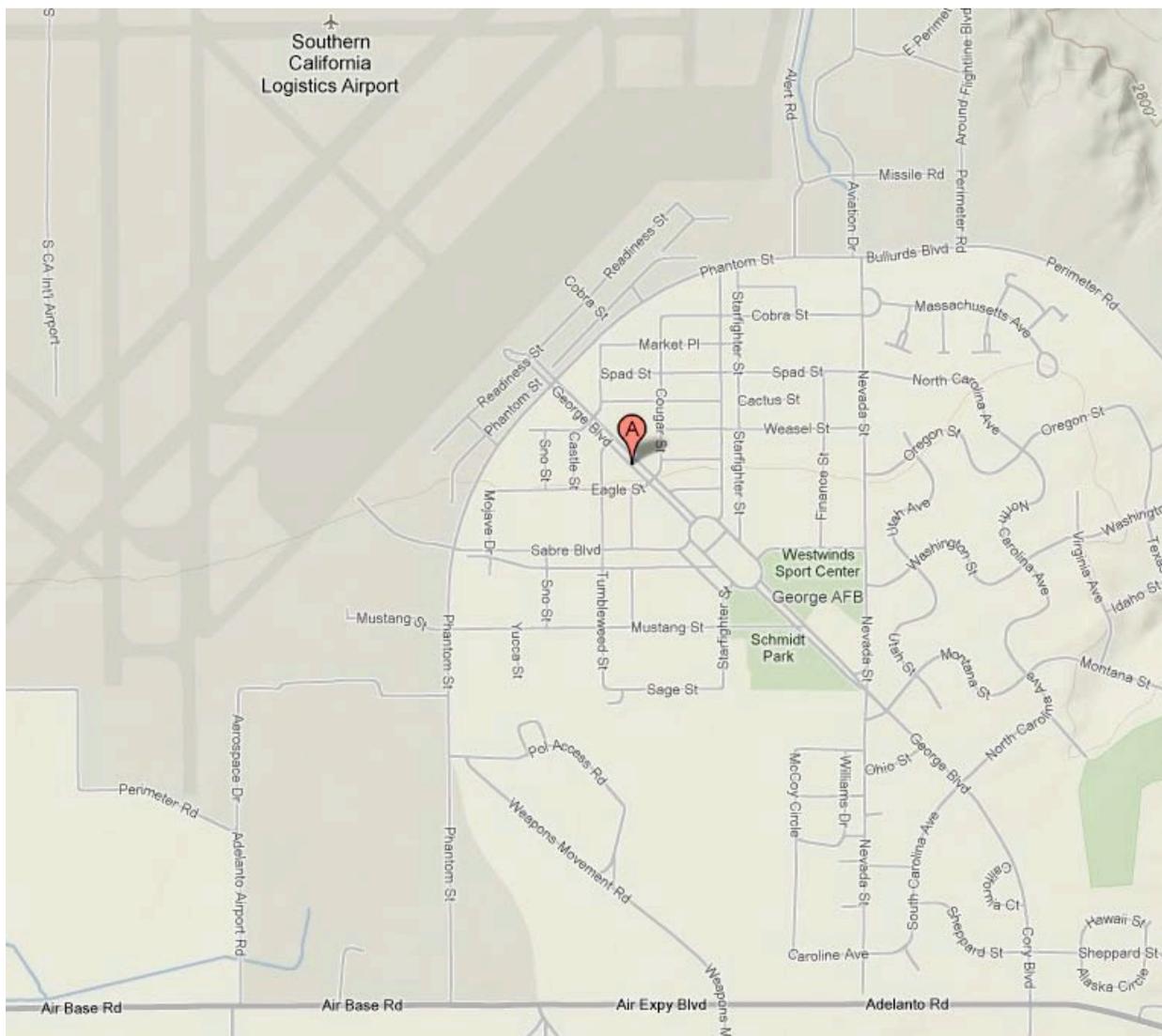
The DTSC is responsible for ensuring all school sites purchased with State funding are evaluated for hazardous conditions and, if necessary, oversee a cleanup plan to mitigate any hazards that are found. The former George Air Force Base, now Southern California Logistics Airport and identified as the proposed SCCS site, remains on the Environmental Protection Agency’s Superfund National Priorities List. It is highly likely that hazardous materials would be found on this site. DTSC would require full mitigation of these hazards prior to site approval which would potentially be a very costly and time consuming process. Site approval would not be obtained until completion of this process. After mitigating any hazardous materials, the Petitioners could still be required to obtain a DTSC variance if any significant hazards remained stored within 2000 feet of the proposed site.

Finally, it should be noted the filing period for the CSFP is July 1, 2009 through September 28, 2009. No applications can be submitted after September 28th until the State Allocation Board establishes a new filing period which is wholly dependent upon the availability of State funding.

If the Petitioners elect to not participate in the CSFP, a more in-depth and detailed source of funding will need to be identified. By its own estimate, SCCS needs a minimum of \$8.5 million for site acquisition and construction. The petition contains no information as to if this money is available and, if not, how this money will be obtained and under what terms and conditions.

It is evident that the petitioners’ proposal to construct 50,000 square feet of buildings is not thoroughly planned. Based upon the immense hurdles that SCCS could face building this school on a former military installation, it is unreasonable to think this could be accomplished within the next few years and may ultimately prove unfeasible. As such, it would necessitate that SCCS lease facilities adequate for their projected enrollment.

The petition identifies a proposed 36,000 square foot lease site at 13644 George Boulevard. However, the petition states “After the charter is approved land will be purchased for construction of the permanent campuses.” Without the understanding of a complete financing plan it is difficult to determine how quickly the site could be purchased. The petitioners would not have access to State funding until they were deemed financially sound and the DTSC and DSA processes were complete. Under that scenario, it is apparent that the additional student growth forecast in the subsequent years would require housing in leased facilities. The petition fails to address this additional housing requirement and it is unlikely a 36,000 square foot facility could adequately house additional students, staff, and office space.



Airport noise is another issue for consideration with the proposed school site. In a letter by from the Department of Transportation dated March 17, 2009, Aviation Safety Officer Jeff R. Brown notes on page two (page 425 in the petition), “Due to the proximity of the site to Runway 3/21 and the fact the site location is within the typical traffic patter for both airport runways, aircraft noise will probably be audible at the site and may occasionally be disruptive to outdoor activities. As long as doors and window at the proposed school can remain closed, aircraft noise should not be a significant issue inside classrooms.”



The petitioners do not adequately address the SCCS facility acquisition plan and are, therefore, demonstrably unlikely to successfully implement the program.

COMMITTEE RECOMMENDATION

After a comprehensive review of the charter petition and as a result of its findings, the committee recommends that the County Board **deny** the Southern California Charter Schools petition at its regular meeting on October 5, 2009 on the following grounds:

- 1) The petition presents an unsound educational program for the pupils to be enrolled in the charter school
- 2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition
- 3) The petition fails to meet signature requirements that comply with the requirements of Education Code Section 47605 (a)(3)
- 4) The petition fails to provide a reasonably comprehensive description of all 16 required elements

Southern California Charter Schools

Appendix B: County Board Policies on Charter Petitions

POLICIES OF THE BOARD OF EDUCATION

600 CHARTER SCHOOL PETITIONS

601 Policy Construction

It is the objective of the Board of Education that teachers, parents, pupils and community members may petition the Board to approve a charter school, and that the Board shall review such petitions in accordance with the letter and spirit of the law. These rules are to be liberally construed in order to accomplish the purpose of providing a fair and impartial decision to the petitioner(s).

602 PURPOSE

The following provisions of policy shall pertain to petitions submitted directly to the San Bernardino County Board of Education for charter schools proposing to serve students for whom the county office of education would otherwise be responsible for providing direct education and related services. The following provisions of policy shall also pertain, as applicable, to petitions denied by the governing board of a school district and subsequently submitted to the San Bernardino County Board of Education for review.

If the governing board of a school district denies a petition to establish a charter school, the petitioner(s) may submit a petition to the County Board of Education, hereinafter referred to as Board. The petition must be submitted to the Board not later than 180 days after the denial by the district governing board. {E.C. 47605(j)(1)}

Accordingly, in order to implement state law fully and fairly, and to provide petitioners with a thorough description of how the county office of education will meet its obligations under law, the Board adopts the following.

603 Pre-Hearing Procedures

It is the responsibility of the petitioner(s) to provide at least eight (8) copies of the following documents and any other information as requested by the Board. The cost of such documents shall be borne by the petitioner(s).

1. Petition

A petition to the Board of Education to approve a charter school shall include the following information:

- a. The name, address and phone number of each applicant, together with a statement signed by each of them, formally applying to the Board for approval of the charter school. If the proposed charter school includes one or more grade levels not served by the district to which the charter

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- was initially submitted, it must also propose to include all of the grade levels which are served by the district.
- b. 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.
 - c. The By-laws, articles of incorporation and other management documents, as applicable, governing, or proposed to govern, the charter school. The information in this section should specify that the charter school will be subject to the Brown Act, the Public Records Act, as well as the Conflict of Interest provisions which also apply to members of a Charter Board of Education. The County Board of Education will give preference to proposals which specify that the charter school will be operated as, or be operated by, a nonprofit public benefit corporation.
 - d. A list of consultants whom the charter school has engaged, or proposes to engage, for the purpose of developing, operating and evaluating the charter school, together with a thorough description of the qualifications of such consultants.
 - e. The names, addresses and telephone numbers of those persons endorsing the proposal with original signatures of such petitioners and in the form provided in Education Code Section 47605. The petition form must also indicate that a copy of the charter school proposal was attached so that petitioners were able to review it prior to signing. Parents/guardians signing a petition must have one or more children who are age appropriate for the proposed charter school. Teachers signing a petition must be properly credentialed to teach one or more core academic classes in the proposed charter school.
 - f. A Charter School Proposal including reasonably comprehensive descriptions of those elements of school philosophy, curriculum and practice as called for in Section 47605(b)(5)(A) through 47605(b)(5)(P) inclusive of the Education Code.
 - g. A description of the proposed assessment program related to the school's measurable pupil outcomes. This description should include a discussion of how the charter school shall meet all statewide standards and conduct the pupil assessments required pursuant to Education Code Section 60605 and any other statewide standards authorized in statute or pupil assessments applicable to pupils in noncharter public schools.
 - h. A signed statement affirming that the school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any person on the basis of ethnicity, national origin, gender, or disability as set forth in Section 47605(d)(1) of the Education Code.
 - i. The address and a description of the charter school facility or facilities, located within the geographic boundaries of the county, or the district in the case of a petition initially denied by the governing board of a school district, together with such documentation sufficient to provide reasonable evidence that the charter school facility is safe, habitable, well-suited for its educational purpose, and that applicant has secured or has reasonable assurance of securing the facility for use by the charter school.

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- j. A description of the proposed charter school's building maintenance, replacement, and expansion policies, including related financial projections. Current financial statements for the charter school, including a detailed balance sheet and statements of income and expense shall be included in cases of renewal applications.
- k. A detailed, complete, and fully annotated operational budget with estimates of charter school revenues and expenditures, cash-flows, and reserve positions, for the first three years of operation, including startup costs and the precise salary and benefits paid and to be paid to the persons or positions identified in paragraphs 1 (a), 1 (b), 1 (d), and 1 (m) of this policy.
- l. An attorney's opinion or a narrative from the charter school applicant providing a thorough description of the potential civil liability, if any, of the charter school and the county office of education.
- m. A summary of the administrative structure and organization of the school. The summary should specifically include school district liaison, special education and other basic elements of school operation. This section should also detail the proposed academic calendar including: Days of instruction, hours of operation, expectations for pupil attendance and annual instructional minutes for each grade level to be served.
- n. The manner, format and content by which the charter school proposes to regularly report to the San Bernardino County Superintendent of Schools (SBCSS), or the district, concerning implementation of the approved charter, measurable student progress, as well as the current and projected financial viability of the school.
- o. The augmented plans to insure the health and safety of students and staff beyond those listed under Required Element F of Code Section 47605(b)(5)(F). These plans are to address any plans for additional tuberculosis screening, student supervision, safety training for staff, as well as requirements regarding immunization screening.
- p. Education Code Section 47605(b)(5)(P) calls for a description of the procedures to be used if the charter school closes. The Board of Education expresses a preference for procedures which include a provision whereby residual assets of the charter school will accrue to the benefit of the programs operated by the San Bernardino County Superintendent of Schools.
- q. An explanation of how the charter will meet compliance with all provisions of federal law and implementing regulations (20 U.S.C. Chapter 33, The Individuals with Disabilities Education Act) and eligibility for federal and state special education funds.
- r. Other documents as requested by the Board.
- s. Any other conditions set by the Board.

The County Board of Education may also approve a petition for the operation of a charter school that operates at one or more sites within the geographic boundaries of the county and that provides instructional services that are not generally provided by the County Superintendent of Schools. The County Board may only approve a countywide charter if it finds, in addition to the other requirements of law, that the educational services to be provided by the charter school will offer services to a pupil population that will benefit from those services and that cannot be served as well by a charter school that operates in

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only one school district in the county. Prior to making this finding, the County Board may conduct a public hearing to receive oral and written comments regarding the educational services to be provided and pupil population to be served by the charter. The County Board shall not approve the charter if the County Board finds that the proposed charter could be served as well as a charter school that operates in only one school district in the county.

Any one or more persons seeking to establish the charter school may circulate throughout the county a petition for the establishment of a countywide charter school pursuant to Education Code 47605.6. The petition may be submitted to the County Board of Education for review after receiving the required number of signatures and meeting the 30 days notice requirement in each affected school district pursuant to Education Code Section 47605.6(a)(1) inclusive.

604 Timelines

1. Upon receipt of a petition or preliminary application, a designated employee of the SBCSS shall date stamp the cover page of the submitted materials. A complete charter school petition shall include all of the information referenced in the Charter Schools Act by which the Board of Education may evaluate the application. While a charter school petition may be submitted at any time during the year, petitioners are encouraged not to submit a petition during a period when a regular Board of Education meeting is not scheduled within the next 30 days. In addition, petitioners seeking approval to commence charter school operation at the start of the next school year are encouraged to initiate the process not later than the prior January 15th. In the case of petitions received after that date, the Board of Education reserves the right to consider approval on the basis of a one year delay in the commencement of charter school operation.
2. Not later than 30 days after receiving the complete charter school petition, or 60 days in the case of a countywide charter, the Board shall hold a public hearing on the provisions of the charter, at which time the level of support for the petition by teachers of the SBCSS, other employees of the SBCSS and parents, shall be considered. Charter applicants shall appear and provide testimony to the Board of Education. Notice of the hearing will be provided to each bargaining unit representing the employees of the SBCSS.
3. Within 60 days of receipt of the petition, or 90 days based upon agreement between the applicant and the SBCSS, the Board shall either grant or deny the petition. In the case of a countywide charter, the Board shall either grant or deny the petition within 90 days of receipt of the petition unless extended an additional 30 days if both parties agree. The Board may also approve the petition while noting certain conditions that the Board deems reasonable and rationally related to increasing the likelihood of success for the charter school and/or compliance with law. In that case, the Charter Schools Section of the State Department of Education, and other agencies as required by law, will be notified that the charter has been approved. The conditions cited by the Board of Education will be addressed in the Memorandum of Understanding or Operating Agreement to be developed between the charter school applicant and the Superintendent or designee. In the event that an agreement cannot be developed and signed prior to

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receipt by the State Board of Education and the Superintendent of Public Instruction, the Superintendent, or designee, will so inform the State Department of Education. Further, the Superintendent and the Board of Education will consider whether failure to reach agreement with the charter school applicant regarding the conditions noted by the Board of Education constitutes cause for charter revocation.

If the Board fails to act on a petition within 120 days of receipt, the decision of the governing board of the school district, if applicable, to deny the petition shall be subject to judicial review. {E.C. 47605(j)(3)}

605 Board Constituency

The Board shall be the hearing body.

606 Location of Public Hearing

The public hearing will be held at a time and place established by the Board.

607 Review Process

1. In making its decision, the Board shall:
 - a. Review the local governing board's action to deny the charter, if applicable.
 - b. Review the charter proposal for completeness and quality.
 - c. Consider legislative intent that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged. {E.C. 47605(b)}
2. The Board may use professional consultants and/or establish committees as recommended by the County Superintendent of Schools.
3. The Board may take testimony from the petitioner(s), a representative or representatives of the school district governing board that denied the petition, if applicable, and other experts as deemed necessary by the Board.
4. The Board shall give preference to petitions that demonstrate the capability to provide a comprehensive learning experience to pupils identified by the petitioner(s) as academically low achieving pursuant to the standards established by the California Department of Education under Education Code Section 54032. {E.C. 47605(h)}
5. The Board may use other information it determines beneficial to reach its decision.

608 Decision of the Board

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The Board shall grant a charter if it is satisfied that granting the charter is consistent with sound educational practices. {E.C. 47605(b)}

The Board shall not deny a petition unless it makes written factual findings setting forth specific facts to support one, or more, of the following findings: {E.C. 47605(b)}

1. The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.
2. The petitioner(s) are demonstrably unlikely to successfully implement the program as set forth in the petition.
3. The petition does not contain the number of signatures required or otherwise fails to meet the requirements of Education Code Section 47605(a)(1) through 47605(a)(6).
4. The petition does not contain an affirmation of each of the conditions described in Policy 603(1)(h) and Education Code Section 47605(d).
5. The petition does not contain reasonably comprehensive descriptions of the required elements set forth in Education Code Section 47605(b)(5)(A) through 47605(b)(5)(P).
6. The petition or proposed program is inconsistent with state law.

The final decision of the Board shall be in writing and copies thereof shall be transmitted to the petitioner(s) and to the school district in which the charter school will be located, if applicable.

If the charter is approved, the petitioner(s) shall provide written notice of the approval, including a copy of the petition, to the State Board of Education. {E.C. 47605(i)}

If the charter is denied, the petitioner(s) may file a petition for establishment of a charter school with the State Board of Education. {E.C. 47605(j)(1)}

609 Charter Conditions if Approved by County Board of Education

The Board, and the school district within which the charter school will be located, shall not require any employee to be employed in the charter school {E.C. 47605(e)}.

No pupil shall be required to attend the charter school. {E.C. 47605(f)}

The charter must specify that the charter school shall hold harmless and indemnify the Board and its officers, and the County Superintendent of Schools and his/her officers and employees from any claim or demand of whatever nature, including those based upon the negligence of the Board and its officers, and the County Superintendent of Schools and his/her officers and employees brought by any person, institution, or organization.

The charter school at its own cost, expense, and risk shall defend any legal proceedings that may be brought against the Board and its officers, and the County Superintendent of Schools and his/her officers and employees, by any person, including any institution or organization, on any claim or demand of whatever nature arising out of the Board

Southern California Charter Schools

granting a charter and shall satisfy any judgment that may be rendered against any of them. The Board and the County Superintendent of Schools shall notify the charter of the receipt of any such claims or demands.

The charter school shall obtain, and continue to maintain throughout the life of the charter, insurance with limits of at least \$5,000,000.00, for the purpose of satisfying the obligations of satisfying judgments or of defending and/or indemnifying itself, the Board and/or the County Superintendent of Schools for any and all claims or demands of whatever nature. Such insurance shall be obtained from a carrier that has been approved by the Board and/or County Superintendent of Schools. The Board, the County Superintendent of Schools and its officers, and its employees shall be named as additional insureds on such policy. The charter school shall make arrangements so that copies of certificates and notices shall be sent by the insurance carrier directly to the Board and County Superintendent of Schools.

The Board may charge for the actual costs of supervisorial oversight of the charter school not to exceed one percent (1%) of the revenue of the charter school. {E.C. 47613}

The Board may charge for the actual costs of supervisorial oversight of the charter school not to exceed three percent (3%) of the revenue of the charter school if the charter school is able to obtain substantially rent free facilities from the Board. {E.C. 47613}

An initial approval of a charter petition by the Board shall be for a period normally not to exceed three (3) years. A charter granted by the Board may be granted one or more subsequent renewals by the Board. Each renewal shall be for a period not to exceed five years.

Renewing or materially modifying a charter are each subject to the approval of the Board. Applications to renew or materially modify the charter shall include all the same information, be processed in the same way, be subject to approval or denial on the same basis, as proposals for new charter schools, except that any renewal approval shall be for a period of five years from the expiration date of the charter, and a material modification when approved shall not affect the expiration date of the charter as originally approved. Applications to materially modify the charter may be submitted at any time during the life of the approved charter. Applications to renew the charter shall be submitted no earlier than nine months prior to the date of charter expiration.

A material modification of an approved charter is any change in the representations made to the County Board of Education under sections 603(1)(f) through 603(1)(s) inclusive, of this policy.

610 Monitoring and Supervision

SBCSS oversight of the charter school shall be limited to that required or authorized by law. SBCSS supervisorial assistance provided to the charter school shall be limited to that required by law. However, additional services may be provided by the SBCSS subject to mutual agreement.

1. The relationship between the charter school and the SBCSS, as well as any services to be provided by the SBCSS, will be described in a Memorandum of

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Understanding or Operating Agreement. The provisions of this written agreement will be discussed concurrently with consideration of charter approval.

2. The Superintendent or designee shall inspect, not less often than annually, documents on file at the charter school which shall verify that all teachers at the school hold a certificate, permit or other document equivalent to that which teachers in other public schools would be required to hold, and that those teachers at the school instructing students in college preparatory subject areas such as mathematics, science, social science and language arts meet the same requirements imposed under state law on teachers in other public schools instructing such college preparatory subjects.
3. The Superintendent or designee shall examine, not less than annually, the audit report of the charter school, and shall, not less than annually, examine the general operation of the charter school. The Superintendent will promptly report to the Board any instance in which the charter school has committed any of the violations listed in the Education Code section 47607(b) below:

A charter may be revoked by the authority that granted the charter under this chapter if the authority finds that the charter school did any of the following:

- (1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter petition.
 - (2) Failed to meet or pursue any of the pupil outcomes identified in the charter petition.
 - (3) Failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement.
 - (4) Violated any provision of law.
4. Upon written finding by the Board that the charter school committed any of the violations at paragraph 47607(b)(1) through (4) of the Code inclusive, the Board shall notify the charter school accordingly, providing notice that the Board may revoke the charter, and give the school reasonable opportunity to cure the violation (unless the Board determines that the violation constitutes a severe and imminent threat to the health or safety of pupils) After a reasonable period, if satisfactory evidence is not presented to the Board that the violation has been cured, the Board may revoke the charter effective at such date as the Board determines appropriate. Upon evidence satisfactory to the Board that the violation has been cured, the Board shall rescind the notice of intent to revoke.
 5. The SBCSS shall charge, and the charter school shall pay, for the actual costs of monitoring and supervision not to exceed 1% of the revenue of the charter school except as otherwise provided by law.
 6. Should a charter school elect to operate as, or be operated by, a nonprofit public benefit corporation, the Board of Education may appoint a representative to serve on the board of directors of the corporation, and the corporation shall confer upon the board's appointee all rights and responsibilities exercised by any other director of the corporation.

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7. A charter school shall promptly respond to all reasonable inquiries from the San Bernardino County Superintendent of Schools.
8. The County Superintendent is charged with developing such administrative policies and regulations as may be necessary or prudent to implement this policy.

611 COUNTY BOARD OF EDUCATION PREFERENCES OF CHARTER SCHOOL PETITIONERS

The Board recognizes that a charter school petition can be a complex document that requires thoughtful planning on the part of the petitioner and careful review on the part of the County Superintendent of Schools. The Board, therefore, expresses the following preferences of charter school petitioners:

1. Petitioners are encouraged to discuss ideas with office administrators designated by the County Superintendent of Schools before submitting a petition. The petitioner should identify the lead representative who can negotiate and amend the charter proposal.
2. For startup charters submitted under nonprofit public benefit corporate status, the petition is not deemed to be complete if the intended nonprofit corporation does not yet exist.
3. Definitions:
 - Parent—A parent eligible to sign petitions is one who has one or more age-appropriate children
 - Teacher—A teacher eligible to sign petitions is one who is properly credentialed in the state of California to teach courses he or she is meaningfully interested in teaching
 - Revenue—Revenue of a charter school for the purposes of determining the 1% or 3% of costs of supervision shall include all funding sources, public and private.

Adopted 5/3/93
Amended 11/7/94
Amended 5/3/99
Amended 9/7/99
Amended 9/5/00
Amended 9/2/03
Reviewed 11/1/04
Amended 6/9/08

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gacdb-csd-may10item07
Attachment 5
Page 48 of 68
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September 30, 2009

***VIA EMAIL dennis_mobley@sbcss.k12.ca.us
& FIRST CLASS MAIL***

San Bernardino County Board of Education
Roy C Hill Education Center
601 North E Street
San Bernardino, CA 92410-3093

Re: Southern California Charter Schools

Dear Members of the Board of Education:

Pursuant to the request of Superintendent Gary Thomas, our office has reviewed and analyzed the Charter Petition ("Charter") submitted by Southern California Charter Schools ("SCCS" or "School") for the establishment of Southern California Charter Schools and Career Academies for Science, Technology, Engineering and Mathematics.

Factual Background

The Charter was submitted to the San Bernardino County Board of Education ("SBCBE") on or about August 20, 2009, after being denied by the Board of Trustees of Adelanto Unified School District ("Adelanto") in April 2009. As noted at the public hearing on September 8, 2009, this Charter has been submitted to and rejected by a number of other nearby districts as well. The Petitioners made the decision to appeal the Adelanto denial as Adelanto was the first District to take action to deny the Charter.

The San Bernardino County Board of Education ("County Board") held a public hearing on this matter on September 8, 2009. Dr. Gary Wilkins, who identified himself as the executive director of the School, made a presentation to the County Board and responded to questions posed by County Board members. No other persons spoke on behalf of or against the Charter. The County Board is expected to take action to approve or deny the appeal at its meeting on October 5, 2009. If the County Board denies the Charter, SCCS has the option to appeal the County Board's denial to the State Board of Education ("SBE").

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In short, the SBCBE charter review team has reviewed this Charter, and, after careful consideration, has recommended that SCCS's Charter be denied. The purpose of this letter is to outline our reasons for the recommendation, and to identify the reasons for denial that we identified during our legal review of the Charter. Based on the deficiencies found in the Charter which are set forth in greater detail below, it is our recommendation that the SCCS charter be denied.

Based on our analysis and the committee's findings, we conclude that the proposed Charter may be denied on one or all of the following grounds: (1) the charter school presents an unsound educational program for the pupils to be enrolled in the charter school (Ed. Code, § 47605(b)(1)); (2) the Petitioners are demonstrably unlikely to successfully implement the program set forth in the Charter (Ed. Code, § 47605(b)(2)); (3) The Charter does not contain the number of signatures required. [Education Code Section 47605(b)(3)] and, (4) the Charter does not contain reasonably comprehensive descriptions of the elements prescribed by law (Ed. Code, § 47605(b)(5)).

It should be noted that, should the County Board deny the Charter, SCCS may legally appeal the denial to the SBE. (Ed. Code, § 47605(j)(1).) Should the SBE approve SCCS's petition on appeal, Education Code section 47605(k)(1) specifies that the SBE:

“...may, by mutual agreement, designate its supervisory and oversight responsibilities for a charter school approved by the state board to any local educational agency in the county in which the charter school is located or to the governing board of the school district that first denied the petition.”

Accordingly, the SBE may delegate its oversight responsibilities either to Adelanto or to SBCBE. We are not aware of the factors that the SBE considers in determining whether its charter school oversight obligations should be delegated to a county office of education, as opposed to a school district.

Legal Analysis

(a) California Law

As noted above, Adelanto denied SCCS's Charter in April 2009. Education Code section 47605(j)(1) states the following:

“If the governing board of a school district denied a petition, the petitioner may elect to submit the petition for the establishment of a charter school to the county board of education. The county board of education shall review the petition pursuant to subdivision (b).”

Education Code section 47605(b) states that the governing board of a school district shall not deny a charter until it has conducted its own independent review of the charter and unless the board makes certain specified findings. Specifically, Education Code section 47605(b)(1)-(5)

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sets forth the grounds upon which a school board may deny a charter petition. These grounds are as follows:

- The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.
- The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
- The petition does not contain the requisite number of signatures.
- The petition does not the requisite affirmations set forth in 47605(d).
- The petition does not contain a reasonably comprehensive description of all of the elements set forth in Education Code section 47605(b)(5)(A)-(P).

Charter petitions must contain a “reasonably comprehensive description” of sixteen (16) elements. (Ed. Code, § 47605(b)(5)(A)-(P).) “Reasonably comprehensive” is a subjective term, and different school boards may have different opinions as to what is and what is not a comprehensive description of a required element. Thus, the fact that a charter petition has been approved by one or more different school districts or county offices of education does not necessarily mean that a charter petition has met all the requirements set forth in the Education Code and that it presents a sound educational program for its students. It is our opinion that a governing board may consider and determine whether the substance of a charter element is in conflict with, inconsistent with, or preempted by any law, regulation, or pertinent District or county office policy or practices. (*See* Ed. Code, § 35160.)

Additionally, the review of an appeal is governed by the provisions of Title 5 and applicable provisions of the County Policies. Title 5, California Code of Regulations (“5 CCR”), section 11967, “Appeals on Charter Petitions that have been Denied” provides in relevant part:

“(a) A charter school petition that has been previously denied by the governing board of a school district must be received by the county board of education not later than one hundred eighty calendar days after the denial . . .

...

(c) The county board of education or State Board of Education shall deny a petition for the establishment of a charter school only if that board makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the grounds for denial set forth in Education Code section 47605(b)(1)-(5).

...

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(f) In considering charter petitions that have been previously denied, the county board of education or State Board of Education are not limited to a review based solely on the reasons for denial stated by the school district, but must review the charter school petition pursuant to Education Code section 47605(b)."

San Bernardino County Board of Education Policy 603 sets forth requirements for charter school petitions that track the Education Code and Title 5 requirements for approval of charter schools.

In addition to the sixteen (16) elements, the Education Code also specifies several other legal standards and obligations with which a charter school petition is to comply. These elements include, but are not limited to, the elements set forth in Education Code section 47605(g), which states, in pertinent part, the following:

"The description of the facilities to be used by the charter school shall specify where the school intends to locate. The petitioner or petitioners shall also be required to provide financial statements that include a proposed first year operational budget, including startup costs, and cash flow and financial projections for the first three years of operation."

We comment below on the deficiencies appearing on the face of the Charter and/or pertinent supporting materials with respect to certain elements of the Charter.

Analysis

For the purposes of the following analysis, we comment primarily upon the issues which you have requested, namely Element D - Governance Structure, Element N - Dispute Resolution, and Element P - Closure of School. We also comment on the issues of student discipline and the signature requirements. The committee that you have convened reviewed and analyzed the remainder of the Charter and the supporting documents.

(a) Governance Structure/Conflict of Interest Concerns

In reviewing this provision of the Charter, our office is concerned with the sufficiency of the conflict of interest policies contained in the Charter and Bylaws of SCCS, as well as the very likely probability that the petitioners do not have a comprehensive understanding of the Brown Act and its applicability to the School.

The Governance Structure proposed in the Charter envisions that the non-profit corporation, Southern California Charter School Incorporated, will govern and oversee the operations of the School. The corporation was incorporated in April 2009, and the Articles of Incorporation and the Bylaws of the corporation are included as part of the appeal documents. Generally, the rights, duties and obligations of the board of directors of the non-profit corporation are defined and set forth in the Bylaws. Indeed, the Charter provides that the School Board will operate in accordance with the Bylaws.

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A review of the Bylaws of SCCS evidences a complete lack of any information or agreement to abide by the conflict of interest provisions applicable to public agencies, including charter schools.

At the public hearing, Dr. Gary Wilkins made a presentation to the County Board and also responded to questioning by the Board. One response that he provided in particular with respect to the governance of the School is troubling. Dr. Wilkins represented that he was the executive director of the proposed School and as such would presumably have the most familiarity with the Charter and the proposed operations of the School as he conducted the presentation at the public hearing. When asked about the composition of the School's governing board, he stated that the School Board had yet to be selected or hold a meeting. He further indicated that the persons who were identified by himself as "directors," meaning employees of the School, would be responsible for selecting the School Board. Yet, on page 392 of the appeal documents, it is clearly evident that Dr. Wilkins and the other four persons who are slated to be directors of the School are also directors of SCCS. Specifically, Mr. Terry Wayne Colvin, Ms. Nelda Marie Colvin, Mr. David Donovan, and Ms. Georgette Phillips, along with Dr. Wilkins are all current members of the Board of Directors of SCCS.

Dr. Wilkins indicated that the directors of the School envision appointing several members of the community who have provided support, both financial and otherwise, to the School to the SCCS governing board. Yet, the SCCS Bylaws only provide for five persons to be on the board. If all of the members of the board have already been selected, it will not be possible for others to be appointed until the current members step down. Moreover, there is no requirement in the Bylaws or in the Charter that the make-up of the board be any different than it is currently so there is every reason to believe that the current board would continue to be the board of the School, particularly as each of these persons has contributed monies and/or services for a share in the corporation.

Neither the Charter nor the Bylaws envision that the non-profit corporation that will oversee the School will be operated in accordance with provisions of Government Code sections 1090 or 87100. The proposed governance structure of the School also presents conflict interest issues that may violate applicable law, including but not limited to Government Code 1090, *et seq.* as well as good practices to protect the public interest. The only reference to abiding by a conflict of interest in the Charter is the following paragraph set forth on page 35 which provides as follows:

"In compliance with nonprofit corporation laws SCCS board members will reveal all conflicts of interest as they arise in the conduct of school business. The school board members will not participate in a vote where such conflict exists. SCCS board members will be required to submit annual disclosure statements."

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The Bylaws provide in Section 7.4 (page 390) - Interested Directors:

“No contract or transaction between the Corporation and one or more of its directors or between the corporation and any other corporation, firm or association in which one or more of its directors are directors, or have a financial interest, shall be void or voidable solely for this reason, or solely because such director or directors are present at the meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies the contract or transaction, or solely because his or her or their votes are counted for such proposes, if: (1) the material facts as to his or her relationship or interest and as to the contract or transaction are fully disclosed or are known to the shareholders and such contract or transaction is approved by the shareholders in good faith with the shares owned by the interested director or directors not being entitled to vote thereon; (2) the material fact as to his or her relationship or interest and as to the contract or transaction are fully disclosed or are known to the Board or the committee, and the board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the interested director or directors and the contract or transaction is just and reasonable as to the corporation at the time it was authorized, approved or ratified; or (3) the contract or transactions fair as to the corporation as of the time it is authorized, approved or ratified, by the Board, a committee thereof or the shareholders. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board or of a committee with authorizes the contract or transaction.”

The Bylaws also authorize in Section 2.9 for compensation of directors for services in any capacity.

While such arrangements may be permissible pursuant to the rules governing nonprofit public benefit corporations, charter schools are public entities and part of the public school system. As there has been no statute or regulation excusing charter schools from compliance to date, as such, they are controlled by more stringent conflict of interest laws, including Government Code section 1090 *et seq.*, the Political Reform Act of 1974, and common law rules against conflicts, and should also comply with public policy and good practices aimed at preventing public officials from having any potential conflict of interests in their conduct of their official duties. The proposed structure allowing SACS Board members also to serve as employees of the School runs afoul of these laws and rules as does the provision in the Bylaws that allows directors to enter into contracts with the corporation in which they may have a financial interest. As discussed above, all five of the current directors of the corporation are expected to be employed by the School. Having such a large number of persons financially interested in the operations of the School is extremely troubling and clearly runs afoul of the conflict of interest provisions applicable to public agencies.

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Moreover, given the fact that the corporation has already selected its board, it is difficult to know precisely how the County office and/or parents will have the ability to meaningfully participate in the governance of the School. Although the Charter provides that the County will be allowed to have a representative on the School Board, the terms of the Bylaws provide that the current board will select the successors and thus it is entirely unclear how the County Board will be able to make its selection of a board member. Similarly, parents are only allowed to have a say in the governance of the School if the current members of the School Board make an election to appoint a parent to the board. If the current members choose not to appoint a parent as an SCCS board member, parents will effectively be precluded from having any say in the governance of the School.

(b) Brown Act Concerns:

There is only a passing reference in the Charter that the School will comply with the provisions of the Brown Act. The Bylaws of the corporation however, contain extensive discussions of actions that violate laws applicable to the Charter's governing board, specifically including the Brown Act and conflict of interest laws. Repeatedly the Bylaws include lengthy discussions of actions that clearly run afoul of the Brown Act, including such matters as taking actions without meeting, telephonic meetings and conducting meetings out of state. It is clear from a review of the Bylaws that the petitioners lack a fundamental understanding of the applicability of the Brown Act to the School Board.

Moreover, the Charter and the Bylaws do not specify how SBCBE, parents, or other members of the community will be provided the ability to meaningfully participate in SCCS Board meetings. If SBCBE is unable to participate meaningfully in SCCS board meetings, its ability to oversee SCCS will be severely impeded. As discussed above, the Bylaws provide for action to be taken by the SCCS board without meetings, outside of the state and even without meeting. Moreover, there is no regular schedule of meetings and as such parents and the SBCBE would have no ability to determine if the School Board is acting in a manner that best serves the interests of the students that the School intends to serve.

(c) Dispute Resolution

The dispute resolution provision included in the proposed Charter is not reasonably comprehensive.

The Charter petition requires the petitioners to set forth the manner in which disputes arising between the County and the Charter will be resolved. The dispute resolution process set forth in the Charter places unnecessary and cumbersome obligations upon the County, which are not required by the provisions of the Education Code.

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Under the provisions of the Education Code, a chartering authority has the authority to revoke a charter under certain conditions. More specifically, Education Code § 47607(c) and (d) provides:

“(c) A charter may be revoked by the authority that granted the charter under this chapter if the authority finds that the charter school did any of the following:

- (1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter.
- (2) Failed to meet or pursue any of the pupil outcomes identified in the charter.
- (3) Failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement.
- (4) Violated any provision of law.

(d) Prior to revocation, the authority that granted the charter shall notify the charter public school of any violation of this section and give the school a reasonable opportunity to cure the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils.”

Of particular importance is a chartering agency’s ability to revoke a charter rapidly, if it determines that the violation by the charter school constitutes a severe and imminent threat to the health and safety of students. The dispute resolution provision, as drafted in the proposed Charter, requires that all disputes be subject to the dispute resolution policy. Such restrictions, including steps which may take several months to complete, place the safety and health of students needlessly at risk and impede the County’s ability to effectively oversee the Charter.

Additionally, the process that has been set forth is incomplete and therefore, is not reasonably comprehensive. The process contemplates that meetings between board members, the superintendent and executive director will take place and all disputes will be resolved. Yet, there is no provision as to what will occur in the event that a resolution is not reached between the parties. Clearly, there are instances when disputes cannot be resolved between the parties, and, thus, a process must be included in the Petition to address these instances. The last step is nonbinding mediation. The nonbinding mediation does not force resolution of the dispute. Given the significance of opening and operating a charter school and the County’s oversight obligations as well as the issues and problems that have arisen in the operation of some charter schools in California in the past, having a clear and workable dispute resolution process is fundamental to any charter proposal.

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(d) Closure of School

The process set forth in the Charter for the closure of the School contains some process and procedures, but should be revised to some extent if there is any consideration to granting the Charter. While no one likes to consider the possibility of a school closing, it is a very real possibility and thus, it is important that this provision be very detailed and set forth all of the steps necessary regarding the closure of the School. This clause as drafted is incomplete because it does not provide specific time frames for the completion of the many tasks that must be completed when a School closes.

(e) Student Discipline

At the public hearing, Dr. Wilkins, when asked by a member of the County Board about the appeal process available to the parents of students who had been expelled/suspended from the School, stated that he believed that in fact an appeal process was provided to the students. Yet, the Charter provides at page 51 that the decision of the executive director, presumably Dr. Wilkins, to expel a student is final and binding with no appeal rights. The manner in which the language is drafted does not even allow the SCCS Board to review the decision, let alone the SBCBE. This provision is in direction contradiction of the representation made by Dr. Wilkins to the County board at the public hearing.

Additionally, the student discipline provision is vague and ambiguous and fails to provide due process to students as the provision, as set forth on page 50, allows a student to be suspended/expelled if the student "disrupted class work, disrupted a school activity, created disorder, violated the rights of others or willingly defied the valid authority of SCCS staff". Each of these terms for which a student can be expelled is vague and ambiguous and gives scant information to students or parents as to the standards that will be used by the executive director in making a determination to expel a student. Given the unfettered authority provided to the executive director to make the final decision to expel and/or suspend a student, this provision should be much more clear and specific.

(f) The Petitioners have failed to submit signatures that are in compliance with the Education Code.

In support of the Charter, the Petitioners submitted "reservations" and "reservation forms" from parents/guardians. These signature pages do not, however, meet the prerequisites for submission of a charter petition pursuant to Education Code section 47605.

Education Code section 47605(a)(1) provides in pertinent part:

"[A] petition for the establishment of a charter school within any school district ... may be submitted to the governing board of the school district for review after either of the following conditions are met:

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(A) The petition has been signed by a number of parents or guardians of pupils that is equivalent to at least one-half of the number of pupils that the charter school estimates will enroll in the school for its first year of operation.

(B) The petition has been signed by a number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the school during its first year of operation.”

Further, the Charter must “include a prominent statement that a signature in the petition means that the parent or legal guardian is meaningfully interested in having his or her child attend the charter school.” Neither the “reservation form” nor the “reservations” include such a student. Moreover, there is nothing on the pages to suggest that the Charter was available for review at the time the signatures were gathered. As a result, the signatures fail to meet the minimum prerequisites for submission of a charter. Further, as discussed in the committee’s report, many of those who signed the reservation form indicated in response to questioning by the committee members that they were not meaningfully interested in enrolling their student at the School. Accordingly, these signatures should not be accepted by the County Board.

Conclusion

In light of the foregoing and the findings made by the SBCBE committee, we do not recommend that the appeal of SCCS be granted.

Thank you for providing our office with the opportunity to assist with the review of the appeal. I will be at the board meeting on October 5, 2009, and available to respond to any questions of the County Board and/or petitioners with respect to any of the issues addressed in this correspondence.

Very truly yours,

ATKINSON, ANDELSON, LOYA, RUUD & ROMO



Sukhi K. Sandhu

SKS:cms

Southern California Charter Schools

Response to the Report of Findings and Recommendations

October 5th, 2009

Presented by: Dr. Gary Wilkins, EdD

Southern California Charter Schools

Response to the Report of Findings and Recommendations

Introduction:

The following report is the response to the Southern California Charter Schools Advisory Committee Report of Findings and Recommendations. All committee concerns are addressed in this written response. The time limited presentation to the board of education will respond to the priorities identified by the committee.

Element A: Educational Program

The petition identifies Pearson digital science and Paxton-Patterson engineering technical education curriculum. The petition identifies that Apple laptop computers will be used to implement digital curriculum. The petition identifies that California adopted curriculum will receive preferential consideration when available.

Additional curriculum will be evaluated and adopted during the planning and implementation phase, the one-year time period prior to the Fall 2010 opening. The approval of the county board will be documented in a memorandum of understanding.

The development of digital curriculum is a recent development, Pearson having released their digital science curriculum in June 2009, and it is anticipated that mathematics, English language arts, and other digital curriculum will be released in subsequent months. Committing to existing technology at this time is not necessary.

The petition identifies that distance learning will be evaluated by an instructor to determine the hours of work that each assignment requires, that an instructor will evaluate the work that the student performs to assure that they have completed each

assignment, and that documentation will be completed in compliance with funding requirements. The school administrators are experienced with the distance learning process and reporting requirements.

The educational program utilizes digital textbooks as advocated by California Governor Arnold Schwarzenegger. The educational program supports the longer school year advocated by United States President Barrack Obama.

Mrs. Nelda Colvin, who will be an Executive Director of the School, is a credentialed and experienced expert in serving students with disabilities. The petition identifies that the school can join an existing SELPA. It is not possible for the school to enter into a membership agreement with a SELPA prior to the approval of the charter.

Element D: Governance Structure

The school elects to be operated by (not as) a nonprofit public benefit corporation, which is permissible according to the policies of the board of education (610.6). The school will have a corporate board that operates the corporation, a school board that operates the school, and possibly other boards for other purposes. The five petitioners are members of the corporate board. They will not be members of the school board. The use of separate boards for separate purposes was advised by Mr. Larry Rosenstock, founder of the High Tech High Schools in San Diego.

It is our intention that the five petitioners will become the administrators for the school. If the county board feels that a conflict of interest would exist then we will agree to remove the petitioners as members of the corporate board prior to their employment as administrators.

The petition requires that the Board of Directors will be chosen to represent parents and the community. The petition requires that at least one board member will be a parent of a current student. The petition requires that an advisory committee will be

created to nominate new board members. According to the petition, parent and community involvement in the governance of the school is advocated through participation in the Board of Directors and advisory committees. The petition identifies that the Board of Directors meetings will take place monthly, and will be held at the school.

Element N: Dispute Resolution

The petition identifies that the school will attempt to resolve disputes with the county without resorting to formal proceedings. The petition indicates that in the event a dispute cannot be resolved informally, the issues will be summarized in dispute statements addressed by the Executive Directors of the school and by the Superintendent of the county. The petition indicates that the Executive Directors will meet to attempt to resolve the dispute, and if necessary, a second meeting including board members from the school and county will occur. If the dispute is still not resolved the Executive Directors and the Superintendent will agree upon a neutral third party mediator who will conduct mediation to resolve the dispute.

This process allows for resolution of dispute appropriate to the nature of the disputed matter, ranging from a prompt resolution by informal proceedings, through a carefully considered resolution involving multiple interested parties obtained by meetings and mediation.

Fiscal Management:

The school is likely to experience the total projected growth in the petition's budget. In the High Desert area of San Bernardino County the Academy for Academic Excellence is a charter school with a waiting list of several thousand students, and Encore High School is a charter school that opened in 2008 with an enrollment of 800. Our charter school has more than 700 students on its reservation lists and due to public awareness reservations are expected to increase after the school is opened.

The petition identifies that that Silverado High School is overcrowded and has experienced a drop-out rate of 42%. The petition identifies that the population of Silverado High School is projected to increase by 20% during the five year period 2009-2014. During the first year of that projection according to CDE data the population of Silverado High School increased by 5%.

The school intends to meet or exceed 97% attendance. The school will be led by administrators who are experienced at implementing procedures that attain high attendance rates. High achieving charter schools often attain high attendance.

The petition identifies budget figures based upon general purpose funding rates for 2009-2010 provided by School Services of California as follows:

Grades 9-12 - \$6,119; 7-8 - \$5,273; 4-6 - \$5,125; and K-3 - \$5,048

The school and the committee both created budgets based upon the School Services of California data. Different assumptions in the budgets resulted in different balances. Giving equal weight to the budgets, the average is a balance surplus of \$1,413,635. While we respect the opinion of the committee, their budget represents their assumptions, not facts, and we respectfully disagree with their opinion.

The petition identifies that CDE has indicated that the charter is tentatively eligible for a PCSGP award of \$450,000. The letter from the CDE addressed to Mr. Dennis Mobley of the Business Services Division of the county is included in the petition.

The petition identifies Providence Financial and The Charter Fund as the source of 8.5 million dollars capital, and the petition provides contact information for Mr. Jason Lane of Providence Financial and for Mr. Ryan Van Alfen of The Charter Fund. The Charter Fund is specifically designed for new charter schools and does

not require eligible schools to have prior years of operation. The petition does not identify the Charter School Facility Program as a source of funding.

The petition provides contact information for Ms. Anita Tuckerman of Stirling International, who will lease the temporary facility. The petition provides contact information for Mr. Cameron Baker of Lee and Associates, who will broker the land acquisition. The petition provides contact information for Mr. Steven Richard of Richard Design Architecture, who will design the campus. These individuals all agree that the project can be completed in the timeframe identified by the petition. The identified costs for the project are based upon the expertise of these individuals.

We do not believe that it is prudent to speculate about possible higher construction costs or to discuss the availability of additional capital in a public document when the final negotiation of purchases will not occur until after approval of the charter.

Required Signatures:

The petition includes the following statement: “A signature on the petition means that the parent or guardian is meaningfully interested in having his or her child or ward attend the charter school.” The proposed charter is attached to the petition.

Parents were asked by telephone if at the time of signing the reservation form they were meaningfully interested in having (their child) attend the charter school. The majority said yes. Among those who said no, the reasons given were drive was too far, looked into several schools, and school provided no transportation. All of these reasons indicate that meaningful interest exists while some concerns are unresolved.

All of the respondents confirmed that they had signed the reservation forms. All parents were provided with an opportunity to view the charter, and most parents signed their reservation forms at Open House meetings in which they viewed the information in the charter in the form of a 90 minute presentation and discussion.

Element B: Measurable Student Outcomes

The petition identifies that students will become life-long learners, will be prepared for success in STEM careers, and will score proficient or above in the California State Content Standards. The petition identifies methods, such as API, CAHSEE, and others, that are valid and reliable measures of proficient knowledge of the content standards. The petition identifies methods, such as records of graduates for five years after graduation, exhibitions to mentors, and others that are recognized by the effective schools movement as indicators that students will become life-long learners, prepared for success in careers.

Element C: Methods to Assess Pupil Progress

The petition identifies that the school will use six-week benchmarks and rubrics to measure achievement. In addition to API and CAHSEE, the petition identifies the use of CST-STAR, final exams and periodic class assessments, transcripts showing completion of courses with C grade or above, school-wide writing assessments, records of graduates for five years after graduation, MAP, CLEDT, SAT I & II, completion of A to G college entrance requirements by all students, portfolios, surveys of students, parents, teachers, and community members, and exhibitions to STEM mentors.

Element E: Employee Qualifications

The petition identifies that the school can use certificated teachers paired with non-certificated teachers qualified by expertise for the subjects of art, career technical education, foreign language, and physical education. The petition identifies that the school will provide four years of art instruction. The pairing of credentialed and non-credentialed teachers would provide two of the four years of art instruction by a credentialed instructor, exceeding the one year NCLB requirement.

The petition identifies that all teachers will be CLAD trained. Non-credentialed teachers will receive CLAD training. The petition does not require non-credentialed teachers to attain certification.

The executive directors and directors will also have teaching duties. The petitioners who are intended to become the administrators all have teaching credentials. The administrators will be required to fulfill the qualifications for executive directors or directors and also for teachers as identified in the petition.

Element F: Health and Safety

A Health and Safety policy and risk management policies will be developed during the planning and implementation phase. These policies will be adopted by the school board prior to the Fall 2010 opening. The approval of the county board of these policies will be documented in a memorandum of understanding.

Element G: Racial and Ethnic Balance

The petition identifies that the school will strive through recruiting efforts to achieve a racial and ethnic balance of students that reflects the general population within the territorial jurisdiction of the district. The methods identified in the petition include presentations made in Victorville and Adelanto, recruitment materials provided in English and Spanish, and ongoing outreach efforts.

At Open House meetings attended by more than 600 parents the school has collected information confirming that the racial and ethnic balance of the students on the reservation lists matches the student populations for Silverado High School (2006) as follows: 60% Socioeconomically Disadvantaged, 55% Hispanic, 25% White, and 20% African American.

Element J: Student Suspensions and Expulsions

The petition provides for due process as follows: Suspension or expulsion will be preceded by a conference unless an emergency condition exists, in which case the conference will be held at a later time. The Executive Director or the Director will make the determination to suspend or expel a student. Students who are expelled will be given a rehabilitation plan that may include periodic review as well as an assessment at the time of review for readmission. The school will notify the county of the expulsion of any student and will provide within 30 days the student's last known address and a cumulative record including the student's grades at the time of his or her expulsion, report cards, and health information.

The petition does not prohibit the San Bernardino County Board of Education from hearing appeals of student expulsion from the school. If the county board feels that an explicit authorization for the county to hear appeals is desirable then we will agree to provide that authorization.

Element K: Retirement System

The school intends to contract for services to provide for custodial, maintenance, security, and other services during the initial years of operation. The school does not intend to hire part-time employees for these services and so the petition does not provide for a retirement plan for part-time employees.

During the planning and implementation phase the school will enter into a memorandum of understanding with the county determining the fees structures, procedures, and protocols to meet STRS and CalPERS reporting requirements.

Element L: Attendance Alternatives

The petition identifies that no student will be required to attend the school. The petition identifies that students of any school or district may attend the school designated by their attendance area, transfer intra-district, or transfer inter-district according to that district's policies. The petition identifies that parents and guardians of each student at the time of enrollment in the school will be informed that they have no special rights to enrollment in another school or SELPA as a consequence of enrollment in the school.

In Summary:

The petition presents a sound educational program for the pupils to be enrolled in the charter school. The petitioners are demonstrably likely to successfully implement the program set forth in the petition. The petition meets the signature requirements that comply with the requirements of Education Code Section 47605 (a)(3). The petition affirms that the school will be nonsectarian, will not charge tuition, and will not discriminate. The petition provides a reasonably comprehensive description of all 16 elements.

The opportunity for careers in Science, Technology, Engineering, and Mathematics at Southern California Logistics Airport is once-in-a-lifetime chance for students who might otherwise be unlikely to attend university. The successful administrative experience and high level of education of the petitioners ensures that the school will be successful. The parents of more than 700 children have indicated that this school is the choice that they want for their children. We respectfully request that the county board approve the petition.



CALIFORNIA
DEPARTMENT OF
EDUCATION

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JACK O'CONNELL
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

July 2, 2009

Dennis W. Mobley, APR
Business Services Division
San Bernardino County Office of Education
601 North E. Street
San Bernardino, CA 92410

Dear Mr. Mobley:

The Charter Schools Division has been asked to give a preliminary reading of the charter of the Southern California Charter Schools to assess the possibility of it being funded for a Public Charter Schools Grant Program (PSCGP) award.

After a preliminary screening, the charter—if approved by the San Bernardino County Office of Education and not substantially modified—is tentatively eligible for a PCSGP award in the amount of \$450,000, based on a projected enrollment of 540.

If you have any questions regarding this subject, please contact me at 916-445-6761 or by e-mail at hgarcia@cde.ca.gov.

Sincerely,

A handwritten signature in cursive script that reads "Hilda Garcia".

Hilda Garcia, Staff Services Analyst
Charter Schools Division

cc: Gary Wilkins, Director, Southern California Charter Schools