

**LASSEN COUNTY BOARD OF EDUCATION
RESOLUTION NO. 10-07**

**Resolution to Adopt Findings of Fact and to Deny
the Charter Petition of Long Valley Charter School**

IT IS HEREBY RESOLVED by the Lassen County Board of Education, that:

WHEREAS, on February 1, 2010, pursuant to Education Code section 47605, subdivision (j)(i), the Board ("Board") of the Lassen County Office of Education ("LCOE") received a charter petition from Long Valley Charter School ("LVCS") following the denial by Fort Sage Unified School District ("District") of LVCS's petition for renewal of its charter; and

WHEREAS, if LVCS's charter petition is granted by the Board, the Board would be the entity charged with supervision and oversight of LVCS; and

WHEREAS, a public hearing was held on February 10, 2010, as required by law; and

WHEREAS, the Board has reviewed the petition as a matter of first impression, and has reviewed all information received with respect to the petition, including all exhibits and supporting documentation; and

WHEREAS, after analysis of the proposed petition and input from legal counsel, the staff of LCOE and the Superintendent have determined that the charter petition contains several deficiencies;

NOW, THEREFORE, the Board resolves and finds as follows:

1. The petition presents an unsound educational program for the pupils to be enrolled in LVCS, in that, although the Board recognizes that LVCS has been in existence for ten years, the petition as presented to the Board provides an inadequate description of the school's educational program sufficient for LCOE to understand what the educational program is and to adequately supervise and ensure that such program is implemented as described. Because the petition provides insufficient information regarding the proposed program, and because the Board reviews the petition as submitted and on its face, the Board concludes that it is unsound. The Board finds that the description of the educational program is insufficient in numerous ways, including, but not limited to, the following:
 - (a) The petition does not discuss the proposed curriculum in detail, beyond providing a list of textbooks, does not cite research or data to support the educational program, and does not provide a "day in the life" of either the site-based or the independent study program.
 - (b) The petition does not explain how independent-study students interface with staff, what resources are available to independent-study students (including, for instance, how the school will make technological resources available to independent study students), and how their work is assessed.
 - (c) The petition states that "multi-age settings" will be provided (page 9) but does not explain when and how this will occur as part of the educational program.
 - (d) The petition states that all students will have an "opportunity to develop a Student Goal Plan (SGP)" (page 10), but does not explain whether this is required of all students. The petition also does not sufficiently explain the purpose of Student Goal Plans and how a student's achievement of goals stated in such a plan is related to achievement at the grade level.

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2. The petition presents an unsound educational program for the pupils to be enrolled in LVCS, in that the petition is insufficiently focused on student outcomes, including, but not limited to, in the following ways:
 - (a) According to the petition, "Several of our high school students enter colleges and universities upon graduation each year." (Page 6.) "Several" college attendees is not a high standard for achievement.
 - (b) On page 11, the petition states that some of LVCS's classes have been accepted as meeting the University of California's A-G requirements. However, the petition does not set forth any plan to increase college attendance or to provide courses that are readily accepted as meeting the A-G requirements. It therefore appears that LVCS is insufficiently focused on college-readiness for its students.
 - (c) While the petition states that LVCS has met certain performance targets (page 6), the petition does not lay out information to demonstrate that LVCS's performance meets the criteria of Education Code section 47607, subdivision (b), which states that a charter petition may not be renewed unless the charter school has met at least one of several criteria regarding academic achievement.
3. The petition presents an unsound educational program for the pupils to be enrolled in LVCS, in that the petition does not explain the educational program to be provided to low-achieving students and English learners. The petition details how low-achieving students are assessed (page 11), but provides almost no information on how such students are supported. Likewise, the petition explains the assessment of English learners but does not lay out strategies to support such students in school (page 12).
4. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition, in that the petition sets forth a procedure for amending the charter petition that is unlawful. The petition states that unless the Board "vetoes" a proposed "solution" (i.e., a material amendment to the charter petition), the "solution" will become a part of the charter (page 20). This procedure does not comply with Education Code section 47607, subdivision (a)(2), which requires that material revisions to charter petitions be submitted to the chartering authority in the same manner as set forth in Education Code section 47605, and subject to the affirmative approval of the chartering authority.
5. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition, in that the petition sets forth inadequate information regarding the proposed facilities to be utilized by LVCS. The petition currently states that LVCS will continue to occupy the facility provided to LVCS by the District (page 39), but it is the Board's understanding that LVCS has not filed a request for facilities with the District for the 2010-2011 school year, which means that the District is under no obligation to provide LVCS with facilities even if the Board grants this petition. Therefore, LVCS has articulated no reasonable plan for its facilities needs next year, as required by Education Code section 47605, subdivision (g). Likewise, LVCS's budget does not contain provision for facilities costs beyond the 3% of its revenue currently being paid to the District in lieu of a facilities charge.
6. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition, in that the petition sets forth inadequate information regarding how administrative services will be provided to LVCS. The petition currently states that LVCS will receive administrative services from the District, but this appears unlikely given the

District's denial of the petition. The county office does not have the capability to provide the services that LVCS currently receives from the District. Therefore, LVCS has articulated no reasonable plan for its administrative services needs, as required by Education Code section 47605, subdivision (g).

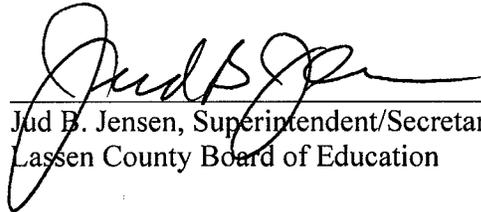
7. The petition does not contain the number of signatures required by Education Code section 47605, subdivision (a), in that the petition is not supported by any signatures. Despite the fact that this issue was identified by the District's denial of the charter petition, petitioners apparently declined to collect the necessary signatures to support their appeal to the Board.
8. The petition does not contain a reasonably comprehensive description of the health and safety policies of the school as required by Education Code section 47605, subdivision (b)(5)(F), in that the information provided in the charter petition regarding LVCS' health and safety policies is confusing and disorganized. For instance, the list set forth on page 24 states that the school has a drug, alcohol and tobacco free workplace, but then states, "I cannot find this policy as a Board policy. It is in our Employee Handbook." Similarly, the list asserts that the school has a policy relating to the administration of medication in school, but immediately thereafter states: "We have a procedure but not a Board Policy." The petition therefore provides insufficient information for the Board to determine what health and safety policies are actually in effect at LVCS.

BE IT FURTHER RESOLVED that the Board denies LVCS's petition on the basis of the findings herein adopted.

The foregoing Resolution was adopted by the Lassen County Board of Education at a meeting held on the 29th day of March, 2010, by the following vote:

AYES: Bryant, Bushong, Jason, Miscione, Swickard
NOES: None
ABSENT: Fitzer, Owens
ABSTAIN: None

I, Jud B. Jensen, Secretary to the Lassen County Board of Education, do hereby certify that the foregoing is a full, true, and correct copy of a resolution passed and adopted by said Board at a regular meeting thereof held on said date.



Jud B. Jensen, Superintendent/Secretary
Lassen County Board of Education

Long Valley Charter School Response to Lassen County Board of Education Findings of Fact for Denial of Charter Renewal Petition

On March 29, 2010, the Lassen County Board of Education (“CBE”) adopted findings of fact contained in “Resolution 10-07” in support of its denial of the Long Valley Charter School (“LVCS”) petition.

Resolution 10-07 identified the following “specific findings” against the LVCS petition:

1. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
2. The charter presents an unsound educational program for the pupils to be enrolled in the charter school.
3. The petition does not contain reasonably comprehensive descriptions of many of the required elements of a charter.

Resolution 10-07 also identified the following “factual findings,” in support of its “specific findings,” listed above. A summary of the “factual findings” and the petitioner’s responses (where provided) are provided below:

- (a) *The petition does not discuss the proposed curriculum in detail, beyond providing a list of textbooks, does not cite research or data to support the educational program, and does not provide a “day in the life” of either the site-based or the independent study program.*

LVCS Response:

Before responding to each of the findings adopted by the Lassen CBE in Resolution 10-07, LVCS believes it is important to point out that Resolution 10-07 was not substantively discussed, addressed, or considered by the Lassen CBE prior to its adoption on March 29, 2010. It was provided to LVCS only hours before the Lassen CBE meeting. In fact, there was no evidence at the Lassen CBE meeting that any member of the Board had reviewed Resolution 10-07. After the Board President called the meeting to order, Superintendent Jensen gave his report regarding the renewal appeal of LVCS. He never once addressed the resolution for denial. Instead, he articulated what appeared to be a County policy never to approve a charter school. He stated that he did not want the County to be accused (should it approve LVCS) later of expressing favoritism to LVCS, in the event it proceeded against another charter school in its jurisdiction. The Superintendent did not want the County to be seen as engaging in competition with its school districts and other charter schools by "taking away students during declining enrollment." He did state that the County was not trying to say that LVCS is not a good charter school. Rather it was his recommendation that the charter school be approved by a different authorizer. In fact, he praised LVCS's success. Finally, the Superintendent said that it didn't matter what charter or charter school was before the County, he would recommend denial.

The Lassen CBE allowed public comment. Both Mike Yancey, the LVCS Education Director, and LVCS legal counsel addressed the Superintendent's statement, pointing out that his recommendation was not based on any lawful reasons for denial. Many LVCS parents and teachers also passionately addressed the Board. Subsequently, the Board President offered his opinion that the County was not a “symbiotic fit” as the authorizer, and that the charter school would be better off authorized by a different district. After public comment closed, the Board voted 5-0 to approve the Resolution for denial without any discussion of the Resolution whatsoever.

As to the above-listed finding, nothing in the law requires that the charter include a “day in the life.” The LVCS charter is typical of older charters, which traditionally were shorter than charters submitted today. With that amount of detail, LVCS was approved and subsequently renewed. However, in preparation for this renewal, LVCS did include additional detail within the educational program section. Given the success of LVCS in comparison to the other schools of the District, LVCS maintains that the Lassen CBE should have requested any information that it believed technically necessary for it to approve the charter instead of depriving its residents of the opportunity provided by LVCS.

(b) The petition does not explain how independent study students interface with staff, what resources are available to independent-study students (including, for instance, how the school will make technological resources available to independent study students), and how their work is assessed.

LVCS Response:

Nothing in the law requires the amount of detail described above. However, as LVCS has offered its independent study program without any audit exceptions since 2001-2002, the Charter School clearly is meeting all legal requirements. Given the success of LVCS in comparison to the other schools of the District, LVCS maintains that the Lassen CBE should have requested any information that it believed technically necessary for it to approve the charter instead of depriving its residents of the opportunity provided by LVCS.

(c) The petition states that “multi-age setting” will be provided (page 9) but does not explain when and how this will occur as part of the education program.

LVCS Response:

The LVCS charter explains that a multi-age setting is utilized in the site based program. However, no further information is required in order for the charter to be deemed to be reasonably comprehensive. Given the success of LVCS in comparison to the other schools of the District, LVCS maintains that the Lassen CBE should have requested any information that it believed technically necessary for it to approve the charter instead of depriving its residents of the opportunity provided by LVCS.

- (d) *The petition states that all students will have an “opportunity to develop a Student Goal Plan (SGP)” (Page 10), but does not explain whether this is required of all students. The petition also does not explain whether this is required of all students. The petition also does not sufficiently explain the purpose of Student Goal plans and how a student’s achievement of goals stated in such a plan is related to achievement at the grade level.*

LVCS Response:

The LVCS utilizes the SGP as a means to measure student growth in state standards. It is described in the Educational Program and Methods of Measurement sections of the charter. LVCS maintains that these sections are reasonably comprehensive. Given the success of LVCS in comparison to the other schools of the District, LVCS maintains that the Lassen CBE should have requested any information that it believed technically necessary for it to approve the charter instead of depriving its residents of the opportunity provided by LVCS.

2. (a) *According to the petition, “Several of our high school students enter colleges and universities upon graduation each year.” (Page 6.) “Several” college attendees is not a high standards for achievement.*

LVCS Response:

That statement was not intended to set a standard for success; it was not provided as an outcome or even a goal; it was just a generalized statement as to the success of LVCS students to date post-graduation.

- (b) *On page 11, the petition states that some of LVCS’s classes have been accepted as meeting the University of California’s A-G requirements. However, the petition does not set forth any plan to increase college attendance or to provide courses that are readily accepted as meeting the A-G requirements. It therefore appears that LVCS is insufficiently focused on college-readiness for its students.*

LVCS Response:

LVCS continues to increase its course offerings which meet the A-G requirements, but is unaware of any legal requirement to include information in the charter about the plan to do so. Again, given the success of LVCS in comparison to the other schools of the District, LVCS maintains that the Lassen CBE should have requested any information that it believed technically necessary for it to approve the charter instead of depriving its residents of the opportunity provided by LVCS.

- (c) *While the petition states that LVCS has met certain performance targets (page 6), the petition does not lay out information to demonstrate that LVCS’s performance*

meets the criteria of Education Code section 47607, subdivision (b), which states that a charter petition may not be renewed unless the charter school has met at least one of several; criteria regarding academic achievement.

LVCS Response:

This finding is without merit because, while EC 47607(b) does set forth criteria for charter schools to meet prior to renewal, the Section does not require a charter school to describe meeting the criteria in the charter petition itself.

3. *The petition presents an unsound educational program for the pupils to be enrolled in LVCS, in that the petition does not explain the educational program to be provided to low-achieving students and English learners. The petition details how low-achieving students are assessed (page 11), but provides almost no information on how such students are supported. Likewise, the petition explains the assessment of English learners but does not lay out strategies to support such students in school (page 12).*

LVCS Response:

This finding is false; strategies for both low achieving students and English Learners are included within the charter. Given the success of LVCS in comparison to the other schools of the District, LVCS maintains that the Lassen CBE should have requested any information that it believed technically necessary for it to approve the charter instead of depriving its residents of the opportunity provided by LVCS.

4. *The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition, in that the petition sets forth a procedure for amending the charter petition that is unlawful. The petition states that unless the Board “vetoes” a proposed “solution” (i.e., a material amendment to the charter petition), the “solution” will become a part of the charter (page 20). This procedure does not comply with Education Code Section 47607, subdivision (a)(2), which requires that material revisions to charter petitions be submitted to the chartering authority in the same manner as set forth in Education Code Section 47605, and subject to the affirmative approval of the chartering authority.*

LVCS Response:

This language was not intended to replace the right of the Authorizer to approve material revisions to the charter in accordance with Education Code Section 47607. The charter does not specifically state that material revisions will be handled in the manner described by the Lassen CBE’s findings, rather the Lassen CBE has extrapolated this concern from the charter language. Additionally, the Lassen CBE’s findings ignore the remaining provisions of that paragraph within the charter that include the submission of the “solution” to the Fort Sage

Unified School District (the Authorizer) for consideration and inclusion on its agenda. LVCS would be glad clarify that paragraph in the charter to assure the Authorizer that it understands and agrees that material revisions must be approved by the Authorizer in accordance with Education Code Section 47607.

5. *The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition, in that the petition sets forth inadequate information regarding the proposed facilities to be utilized by LVCS. The petition currently states that LVCS will continue to occupy the facility provided to LVCS by the District (page 39), but it is the Board's understanding that LVCS has not filed a request for facilities with the District for the 2010-2011 school year, which means that the District is under no obligation to provide LVCS with facilities even if the Board grants this petition. Therefore, LVCS has articulated no reasonable plan for its facilities needs next year, as required by Education Code Section 47605, subdivision (g). Likewise, LVCS's budget does not contain provision for facilities costs beyond the 3% of its revenue currently being paid to the District in lieu of a facilities charge.*

LVCS Response:

As the District has provided facilities for LVCS for the term of its charter through a mutually agreed upon Memorandum of Understanding (“MOU”) and in exchange for increased oversight fees as allowed by EC Section 47613, LVCS has not had to resort to Proposition 39 for facilities. Thus, the charter and the budget documents submitted to the District reflected that long-term agreement. After denying the LVCS renewal without a legally valid basis, the District created its own charter, borrowing provisions from the LVCS charter, to be governed by the District and notified LVCS of its intent to utilize the facilities that had each and every year prior been utilized by LVCS. If this appeal is approved, LVCS will explore all legal options available to maintain its facility in its prior location. If it is not possible, LVCS will find another facility and has already begun to identify options and has been offered local financing for the purchase of a facility. LVCS will update the assumptions in its budget accordingly.

6. *The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition, in that the petition sets forth inadequate information regarding how administrative services will be provided to LVCS. The petition currently states that LVCS will receive administrative services from the District, but this appears unlikely given District's denial of the petition. The county office does not have the capability to provide the services that LVCS currently receives from the District. Therefore, LVCS has articulated no reasonable plan for its administrative services needs, as required by Education Code Section 47605, subdivision (g).*

LVCS Response:

The petition states that LVCS “will do its own accounting and be its own fiscal agent and may contract for management, educational and other services.” It further states “any services provide

by the District to the Charter School shall contracted on a fee for services basis, to be addressed in a memorandum of understanding” It is not clear how Lassen CBE reviewed these sentences and concluded that LVCS will receive administrative services from the District, and thus as the District has not renewed the charter, LVCS is therefore demonstrably unlikely to succeed. LVCS will proceed as promised in its charter to take care of its own administrative services internally and through contractors as necessary. It has no need to contract with the District for any such services.

7. *The petition does not contain the number of signatures required by Education Code Section 47605, subdivision (a), in that the petition is not supported by any signatures. Despite the fact that this issue was identified by the District’s denial of the charter petition, petitioners apparently declined to collect the necessary signatures to support their appeal to the Board.*

LVCS Response:

This finding is without merit because signatures are not required for charter renewal petitions. The Education Code contemplates signatures for establishing a charter school, not for renewing an existing charter. The State Board of Education has not traditionally required signatures on the charter renewal petitions it receives and reviews. If you think about this requirement, which mandates parent signatures or signatures from 50% of the teachers who are meaningfully interested in teaching at the charter school in its first year of operation, logically, it becomes meaningless as a gauge of teacher interest. Naturally, all teachers at the charter school would sign the petition – they would want to keep their jobs for five more years!

8. *The petition does not contain a reasonably comprehensive description of the health and safety policies of the school as required by Education Code Section 47605, subdivision (b)(5)(F), in that the information provided in the charter petition regarding LVCS’s health and safety policies is confusing and disorganized. For instance, the list set forth on page 23 states that the school has a drug, alcohol and tobacco free workplace, but then states, “I cannot find this policy as a Board policy. It is in our Employee handbook.” Similarly, the list asserts that the school has a policy relating to the administration of medication in school, but immediately thereafter states: “We have a procedure but not a Board Policy.” The petition therefore provides insufficient information for the Board to determine what health and safety policies are actually in effect at LVCS.*

LVCS Response:

LVCS maintains its health and safety policies and procedures on site. It regrets that the version of the charter submitted, unintentionally, included earlier statements by staff that are dialoguing internally to ensure that the appropriate policies and/or procedures as described in the charter are in place. Again, LVCS believes it is unfortunate that Lassen CBE did not provide LVCS the opportunity to clarify what was clearly a typographical error in the health and safety section of the charter as it easily could have done so.