LIVERMORE VALLEY
CHARTER SCHOOL

Livermore Board of Education's Action of Denial and Written Findings

LIVERMORE VALLEY JOINT UNIFIED SCHOOL DISTRICT
BOARD OF TRUSTEES, ALAMEDA AND CONTRA COSTA COUNTY,
STATE OF CALIFORNIA

RESOLUTION NO. 117-03/04

DENIAL OF REQUEST BY THE LIVERMORE VALLEY CHARTER SCHOOL TO APPROVE A PETITION TO BECOME A CHARTER SCHOOL OF THE LIVERMORE VALLEY JOINT UNIFIED SCHOOL DISTRICT

WHEREAS, Education Code Section 47600 et seq. provides for the enactment of the Charter Schools Act of 1992; and

WHEREAS, on March 16, 2004, the Livermore Valley Charter School ("LVCS") presented its Charter Petition to the Board of Trustees of the Livermore Valley Joint Unified School District ("District"); and

WHEREAS, Education Code Section 47605(b) provides that no later than 30 days after receiving a petition, the governing board of a school district shall hold a public hearing on the provisions of the charter petition; and

WHEREAS, on April 6, 2004, the Board of Trustees of the Livermore Valley Joint Unified School District convened a public hearing to comply with the provisions of Education Code Section 47605(b) and afforded to every interested person an opportunity to address the merits of the LVCS Charter Petition either in writing or orally; and

WHEREAS, on April 27, 2004, at the direction of the Board, the Superintendent and District staff presented its findings and conclusions related to the LVCS Charter Petition to the Board of Trustees; and

WHEREAS, on May 4, 2004, at the direction of the Board, the Petitioners of the LVCS were presented with an opportunity to respond to the issues raised in the April 27, 2004 presentation and present such information to the Board of Trustees; and

WHEREAS, on May 4, 2004, the Board received a request from Petitioners, specifically asking that the Board extend the deadline for rendering its decision on the Charter Petition to May 19, 2004 and direct the Superintendent to meet with the Petitioners of the LVCS for the purpose of addressing the issues of concern raised in the April 27, 2004 presentation; and

WHEREAS, Petitioners of the LVCS and the District Superintendent met on May 10, 2004, May 13, 2004 and May 17, 2004 and as a result of those meetings, certain agreements were reached to modify the Petition and supporting documentation to address the issues raised in the April 27, 2004 presentation; and

WHEREAS, it is the opinion of the Superintendent that the LVCS Charter Petition, as amended, does in fact contain a reasonably comprehensive description of the 16 required elements

and meets all other requirements of Education Code Section 47605, with the exception of Section 47605(b)(2) namely, Petitioners are demonstrably unlikely to successfully implement the program set forth in the LVCS Charter Petition; and

WHEREAS, Education Code Section 47605(b) provides that the governing board of a school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth the specific facts to support a finding that the Petitioners are demonstrably unlikely to successfully implement the program set forth in the LVCS Charter Petition; and

WHEREAS, it is the recommendation of the Superintendent that the LVCS Charter Petition be denied on the grounds that the Petitioners are demonstrably unlikely to successfully implement the program set forth in the LVCS Charter Petition for the reasons set forth in the Findings of Fact attached hereto as Exhibit A and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees of the Livermore Valley Joint Unified School District has determined that absent the facility and corresponding budget information, as discussed in more detail in Exhibit A attached hereto, that it must find that Petitioners have not presented a sound program that is likely to be successfully implemented; thus, the LVCS Charter Petition is denied.

BE IT FURTHER RESOLVED, that the Board of Trustees specifically adopts as its findings of fact in support of this decision and in accordance with Education Code Section 47605(b) Exhibit A attached hereto and incorporated herein by this reference.

PASSED AND ADOPTED this 19th day of May 2004, by the Board of Trustees of the Livermore Valley Joint Unified School District of the County of Alameda and Contra Costa, to wit:

AYES:	MEMBERS Orvis, Hudson, White, Morrison and McLaughlin
NOES:	MEMBERS None
ABSENT:	MEMBERS None
ABSTENTIONS:	MEMBERS None

LIVERMORE VALLEY JOINT UNIFIED
SCHOOL DISTRICT

Anne L. White

President of the Board of Trustees

Clerk of the Board of
Trustees

Jan\livermore\residential charter

EXHIBIT A
IN AND BEFORE THE BOARD OF TRUSTEES
OF THE
LIVERMORE VALLEY JOINT UNIFIED SCHOOL DISTRICT

In the Matter of the Livermore Valley Charter School Petition for Establishment of a Charter School in the Livermore Valley Joint Unified School District	))))	Decision of the Board of Trustees and Findings of Fact

I. Decision

After careful consideration of the Charter Petition and comments received at the public hearing on the Charter Petition at which the Board of Trustees afforded to every interested person an opportunity to address this issue either in writing or orally and after extensive presentations concerning the terms of the Petition by District staff and Petitioners, it is the decision of the Board of Trustees of the Livermore Valley Joint Unified School District to deny the Livermore Valley Charter School ("LVCS") Petition.

II. Findings of Fact

A. The Petitioners are demonstrably unlikely to successfully implement the program set forth in the LVCS Petition.

Comments: The Board finds that in the area of facilities, the Charter Petition and supporting documents do not adequately describe the types of facilities, the size of the facilities, costs of improvements, locations, the proposed lease terms (i.e., square footage cost, extra charges, security, janitorial, et cetera), the costs of any improvements required to occupy the property (i.e., fire, sewer, etc), the cost of tenant improvements, if any, et cetera. The Board finds that all of this information is necessary in order for the Board to determine whether the LVCS can actually house the program outlined in its Petition, including to the extent required to retain class-size reduction funding, and whether LVCS can actually pay for the facilities (both real property and portables/furnishings, if applicable), without negatively impacting their budget and cash flow, updated copies of which were previously provided by LVCS to the District on May 17, 2004.

The Board further finds that without identification of a specific facility, it is impossible to ascertain whether such facility will meet the Americans With Disabilities Act ("ADA") requirements or whether the facility selected is zoned for operation of a school and has been cleared for student occupancy by all appropriate local authorities.

B. The Board finds that in the area of donations and fundraising the budget relies too heavily on soft money, without a contingency plan if it does not materialize, thereby jeopardizing the soundness of the educational program and the likelihood that such program can be successfully implemented.

In conclusion, based upon the findings articulated above, the Board has determined that it is unable to make a finding that the Petitioners have presented a sound program that is likely to be successfully implemented. In fact, the Board finds that absent the facility and corresponding budget information that it must find that Petitioners have not presented a sound program that is likely to be successfully implemented.

Dated: May 19, 2004

Anne E. White
MRS. ANNE E. WHITE, Board President

Julia Stephens Orvis, D.V.M.
DR. JULIA STEPHENS ORVIS, D.V.M., Member

Rebecca S. Hudson
DR. REBECCA S. HUDSON, Member

MR. WILLIAM E. MORRISON, Clerk

Tom McLaughlin
MR. TOM MCLAUGHLIN, Member