



*Cypress Grove Charter High School
for Arts and Sciences*

Date: March 14, 2006

To: Monterey County Office of Education

From: Cypress Grove Charter High School for Arts and Sciences

Re: Monterey Peninsula Unified School District Resolution No. 05/06-7, Denial of
Renewal of Cypress Grove Charter High School for Arts and Sciences

This is a response by the Cypress Grove Charter High School for Arts and Sciences ('Cypress Grove' or 'School') to the Findings of Fact adopted by the Monterey Peninsula Unified School District Board of Education ('MPUSD' or 'District') on Feb. 21, 2006, in denying Cypress Grove's request for a five-year renewal of a five-year charter originally granted by MPUSD by a 7-0 vote on Feb. 5, 2001.

In adopting the denial by a 6-1 vote, the MPUSD Board stated that Cypress Grove is "demonstrably unlikely to successfully implement the program set forth in the petition," citing Education Code Section 47605 (b)(2) as the authority for its decision. (See Attached, MPUSD Resolution No. 05/06-7).

Cypress Grove disputes MPUSD's position and can substantiate that it is financially solvent and will continue to be solvent. The School is prepared to present evidence of its positive financial standing, which includes a substantial bank balance held by the School's nonprofit foundation, and ability to continue operations as demonstrated with its Multi-Year Financial Plan.

The MPUSD Board made its decision based on many generalizations and summaries of the relationship between the District and the School over the past five years. It is necessary for Cypress Grove to respond to the claims made by MPUSD and state that the "facts" purported by MPUSD are disputable and, on close examination, inaccurate:

Regarding; MPUSD Resolution No. 05/06-7

Item 1.

District Statement: "Over the past three years and including as recently as January 2006, Petitioners (Cypress Grove) have denied access to District representatives to view and audit school financial records."

Cypress Grove Response: Cypress Grove has historically cooperated with District representative's "reasonable requests" for information. Contrary to MPUSD's claims, Cypress Grove gave MPUSD Chief Business Officer Tom Woodruff unlimited access to all records on numerous occasions, including as recently as on August 17, 2005 and in January 2006.

District Statement: *“The refusal (by Cypress Grove) to allow access prevents the District from fulfilling its legal responsibility to provide fiscal oversight. This pattern of denial of access demonstrates that petitioners are unlikely to successfully implement the provisions of the program in the charter.”*

Cypress Grove Response: Cypress Grove has long made its records and other documents available to MPUSD staff upon receiving “reasonable requests” by MPUSD representatives. Cypress Grove and MPUSD have agreements in which MPUSD is paid by the School to manage and maintain comprehensive financial data on behalf of the School within the District’s accounting system. Despite numerous requests for on-line access to its financial information, MPUSD has denied the School either access to information or backup and documentation of accounting transactions made by MPUSD on behalf of the School.

In 2001 and again in 2003, Cypress Grove entered into an agreement with MPUSD for access to its records in the Monterey County Office of Education Financial Management System. It is the District that has long refused Cypress Grove timely and full access to financial records developed and maintained by the District on behalf of the Charter School. (See Attached Business Services Agreements between MPUSD and Cypress Grove dated August 2001 and August 2003)

It became difficult over the years for Cypress Grove to obtain timely and accurate financial information from MPUSD to allow Cypress Grove to manage and conduct state mandated financial audits, prepare periodic budgets and financial reports. After the completion of the 2001-02 and 2002-03 audits, which were delayed because financial information was not made available to the auditor by the District, Cypress Grove made the decision and contracted to use the same auditor as MPUSD in May 2004 with the intent that having the same audit firm conducting the audit would facilitate the completion of the School’s audit in a timely manner. The auditor’s 2003-04 fieldwork was completed at the school in August 2004. The first draft was made available January 2005 and a second draft in August 2005 (over nine months past the due date). MPUSD’S auditor found it difficult to reconcile District records of Cypress Grove revenues and costs, including journal entries that MPUSD could not explain.

In a January 23, 2006, letter to Cypress Grove (See Attached) about delays in completing the 2003-04 and 2004-05 audits, Steven E. Wescoatt, Partner and Education Manager of Perry-Smith, LLP, the MPUSD and Cypress Grove auditor, stated that because of difficulties that MPUSD had with their cash balances for charter schools, “. . . we discussed with Bruce Colby (former Business Manager) the possibility of segregating the financial and accounting transactions of the charter schools within the Charter School Fund.” In response to a question posed by Cypress Grove about whether it is an industry “best practice” to commingle the cash transactions of more than one financial entity, i.e., separate charter schools, in a single County Treasurer Cash Account, Wescoatt did not fully address the situation of commingling funds.

Though Wescoatt did not elaborate on the commingling of charter school funds by MPUSD in its deposits with Monterey County, he did note that Cypress Grove and MPUSD have both been unable to “provide information to resolve this discrepancy” in trying to reconcile 2002-03 end balances. That was the start of a slippery slope of financial record disputes between Cypress Grove and MPUSD that remain unresolved.

There is no simple answer as to the differences of opinion Cypress Grove and MPUSD have about the reconciliation and auditing of fund balances. It is a matter of fact, however, that historically MPUSD has not provided the Charter School with records of cash deposits, with segregated data relative to its own monies in the Cash in County Treasury accounts, with monthly status of all general ledger accounts, such as accounts receivable and accounts payable, and, perhaps most importantly, has never on a regular basis provided separate and distinct fund balance data for the Charter School. One explanation could be poor communication resulting from the attempted completion of the 2003-04 audit, staff turnover at MPUSD included one superintendent, four chief business officers, one business manager and several members of the finance department.

Item 2.

District Statement: “*The Charter School is currently two years in arrears in presenting an independent audit to the District.*”

Cypress Grove Response: Under this section, MPUSD makes various claims related to still uncompleted audits, in fact, making statements from documents still stamped “Draft, preliminary and tentative” and “not for distribution to a third party.” Because the audits are still stamped “preliminary, “not for third-party distribution,” it would be inappropriate to comment on these claims. And, it certainly was inappropriate for specific numbers from those as yet incomplete documents to be presented as “fact” before the MPUSD Board. In fact, the completed 2003-04 audit does not include these statements. One of the primary reasons the mentioned audits have been tardy is the fact that the core financial data, developed, maintained and managed by MPUSD has not been adequately documented, reconciled or segregated from other District financial transactions, including transactions of other charter schools sponsored by the District.

Item 3.

District Statement: *The MPUSD states as “fact” that Cypress Grove “overestimated income and underestimated expenses for the 2005-06 school year.”*

Cypress Grove Response: MPUSD totally ignored Cypress Grove’s efforts to limit costs in light of increasing enrollment by increasing class sizes and closely monitoring expenses. Cypress Grove submitted the school’s budget prior to the 2005-06 school year in July 2005. In addition, the Charter School submitted a First Interim Report in accord with timelines set in state law and duly adopted by the Governing Board. MPUSD did not provide any written review, commentary or critique of these documents. The Charter School’s 2005-06 budget did not become an issue until the recent petition renewal hearings.

All along, Cypress Grove has been attempting to resolve the 2003-04 and 2004-05 audit questions to make sure that the School was credited properly for revenues and charged properly for business services and facilities provided by MPUSD. In the due diligence related to audit discussions, Cypress Grove found it was under-credited for revenues, overcharged on rent, oversight fees and business services, beyond the contracted and state mandated levels. It is a matter of record that Cypress Grove has identified errors made by MPUSD in its financial management of the School for thousands and thousands of dollars. According to Cathi Vogel, a financial consultant for the School, not only have material errors been discovered, but MPUSD fails to pay the Charter School its In Lieu Property

Taxes by the 15th of each month, a requirement of state law. Further, MPUSD prepares and executes journal entries that substantially change the Charter School's financial profile without providing the School detailed backup and reconciliation records to substantiate the changes.

District Statement: *MPUSD states as fact that "Attachment O (Appendix O of the Charter Petition renewal) indicated donations of \$120,000 for the 2005-06 school year. This amount was undocumented and represents an extremely high estimate. In previous years the Charter school estimated \$35,000."*

Cypress Grove Response: The MPUSD also did not acknowledge the broad and substantial financial support provided to Cypress Grove over the past several years by its Parent Teacher Organization, a nonprofit foundation, and that the school had donation pledges of over \$76,000 and \$32,000 had already been received. Nor that the School had responded to the District's oral concerns and reduced its estimated donations to \$50,000 as submitted to MPUSD in the School's First Interim Report, submitted on time and in accordance with State law and again in the Appendix O. (See Attached)

District Statement: *"The Charter School presented, in Attachment O (Appendix O of the Charter petition renewal), a negative fund balance (\$43,000) to begin the 2005-06 school year. In addition, the 3% reserve is not indicated as is required by the Charter."*

Cypress Grove Response: The School included a disputed 2004-05 negative fund balance of \$43,000. While the School could have presented the budget without the disputed amount, it chose to reflect it in the budget. To the contrary, a 3% Reserve Designated for Economic Uncertainty is reflected in the First Interim Report and Appendix O.

District Statement: *"The Charter School was found to have checks written on its accounts that were written with only one authorizing signature. In addition, checks written and signed by the charter's Executive Director were made out to himself and his spouse. No backup was produced to substantiate the reimbursements. This demonstrates a lack of proper business practices and presents, at the very least, the appearance of impropriety."*

Cypress Grove Response: Yes, there were several – no more than three – checks that did not have the proper counter signatures and were drawn to reimburse expenses. Granted the original receipts were not available but notations on the checks were present. Far from "impropriety," which implies an ongoing practice, the total amount of the checks was about \$200 and the instance was rare, indicating a slight oversight of procedures. In fact the School's 2003-04 Draft, preliminary audit states "We noted no matters involving the internal control over financial reporting and its operation that we consider material weaknesses."

Attachments:

MPUSD, Resolution No. 05/06-7

Business Services Agreement(s), August 2001 & 2003

Letter, January 23, 2006, Perry Smith, LLP

Appendix O, Multi-Year Budget Summary, Section II, Page 1-2