

This document was provided to the California Department of Education (CDE) from **Audeo Charter School II**. This document is posted to the CDE Web site to meet the legal requirement of *Education Code* Section 33009.5.

For more information or questions about the content of this material or to obtain alternative versions, you may contact Thomas Pacheco at tpacheco@cde.ca.gov or 916-322-1755.

EXHIBIT 3:

**DISTRICT LETTER RE: RESULTS OF JANUARY 20, 2016
DISTRICT BOARD MEETING**



6225 El Camino Real • Carlsbad, CA 92009
760-331-5000 p • 760-431-6707 f

January 25, 2016

Via: Email
randolph.ward@sdcoe.net
brwatson@sdcoe.net

Dr. Randolph Ward, Superintendent
Brent Watson, Executive Director
District Financial Services
San Diego County Office of Education
6401 Linda Vista Road
San Diego, CA 92111-7319

Re: Audeo II Charter School

Dear Superintendent Ward and Executive Director Watson:

This letter is to confirm that the Carlsbad Unified School District (“CUSD”) Board of Trustees held a public hearing on November 18, 2015 to consider the level of support for the Audeo II Charter School (“Audeo II”) charter petition.

Further, the CUSD Board of Trustees met on January 20, 2016 and adopted Board Resolution No. 29-1516 to deny the charter petition by a vote of 4-0.

Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Suzette D. Lovely". The signature is written in a cursive style.

Suzette Lovely
Superintendent
Carlsbad Unified School District

cc: Tim Tuter, Director of Instruction and Innovation, Audeo II Development Team
(ttuter@audeocharterschool.net)

EXHIBIT 4:

**DISTRICT'S WRITTEN FINDINGS FOR DENIAL OF
CHARTER PETITION**

RESOLUTION NO. 29-1516

**RESOLUTION OF THE BOARD OF TRUSTEES
TO DENY THE PETITION OF THE AUDEO CHARTER SCHOOL**

On motion of Member Rallings, seconded by Member Williams, the following resolution is adopted:

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

WHEREAS, on October 30, 2015, Audeo Charter School, a California non-profit public benefit corporation ("Petitioner" or "Audeo") submitted a petition ("Petition") and supporting documentation to the Carlsbad Unified School District ("District") for the grant of a charter to establish the "Audeo II Charter School" ("Charter School"); and

WHEREAS, on November 18, 2015, a public hearing was held by the District Board of Trustees ("Board") to determine the level of support for the Petition by teachers, other employees of the District, and parents/guardians in accordance with Education Code section 47605(b); and

WHEREAS, as permitted by Education Code section 47605(b), the District and Audeo agreed to a 30-day extension of the time period specified by law for the Board to take final action at a public meeting to approve or deny the Petition; and

WHEREAS, the Petition is now before the Board for final action at a public meeting on January 20, 2016, in accordance with Education Code section 47605(b); and

WHEREAS, in reviewing the Petition for the charter, the Board is cognizant of the intent of the Legislature that charter schools are, and should become, an integral part of the California educational system, and that establishment of charter schools should be encouraged; and

WHEREAS, the Superintendent and her designees have reviewed the Petition and supporting documentation submitted by Petitioner;

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

1. The Petition does not contain reasonably comprehensive descriptions of all of the elements prescribed by law. [Ed. Code § 47605(b)(5).]
2. The Petitioners are demonstrably unlikely to successfully implement the program set forth in the Petition. [Ed. Code § 47605(b)(2).]

Exhibit A
(Page 1 of 8)

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

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

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

[Ed. Code § 47605(b)(5)]

1. Educational Program: The description of the Charter School's educational program is not reasonably comprehensive based on several concerns including, but not limited to:

A) Curriculum and Instruction: There are significant concerns regarding the soundness of the educational program for students including the following:

- 1) The Petition does not explain what program, if any, will be used to educate Transitional Kindergarten (TK) students or how the needs of TK students will be met in an Independent Study setting.
- 2) The Petition does not address entrance requirements for TK students.
- 3) The Petition contains minimal information regarding the scope and sequence or instructional methodology that will be used to meet the needs of TK-5 students. While the petition lists general themes/topics that will be covered each month, it fails to present a clear picture how the TK-5 curriculum aligns to Common Core Standards.
- 4) The Petition indicates that "many of Audeo II's students will take online courses and engage in blended (independent study/online) learning opportunities." However, the petition fails to identify the specific online learning programs or curriculum that will be used to meet students' needs. The fact that teachers are iNACOL certified is insufficient information to ensure the online/blended courses offered at Audeo II are rigorous and/or aligned with the Common Core Standards.

B) Special Education:

- 1) The Petition does not provide a description of how the Charter School intends to provide home-to-school transportation for special education students who require transportation under their IEP.
- 2) The Petition does not address how special education students with IEP socialization goals will have these needs met in an independent study program.

Exhibit A
(Page 2 of 8)

2. Governance Structure: The description of the Charter School's governance structure is not reasonably comprehensive, and raises significant concerns regarding openness, parental involvement, Brown Act compliance, and conflict of interest.

A) Conflict of Interest: Among the concerns related to conflicts of interest are:

- 1) Audeo, Charter School of San Diego, and Laurel are all separate entities under the Altus charter network, and Altus is a private corporation. Mary Searcy Bixby is President of the Board of Altus, Audeo, Charter School of San Diego, and Laurel. Ms. Bixby is also a full time employee of the Charter School of San Diego, while also "on loan" to Altus to provide services to Audeo. Ms. Bixby is compensated \$3,000 per month for these services. Audeo's practices and relationships are analogous to a "for profit" enterprise.
- 2) Although the Petition indicates Audeo will comply with its own conflict of interest code, the California Corporations Code, and the Political Reform Act, the Petition does not reference or evidence compliance with the conflict of interest provisions of Government Code section 1090. Audeo appears to concede that the exemption from the "laws governing school districts" contained in the Charter Schools Act does not exempt Audeo or the Charter School from the provisions of the California Government Code that apply to local agencies generally, such as the Brown Act, the Public Records Act, the Fair Employment and Housing Act, and the Political Reform Act. Nonetheless, there is no commitment to comply with all of the Government Code provisions governing conflicts of interest. This concern is highlighted by the overlapping memberships and compensation existing among the entities described in other parts of this Resolution.

B) Openness and Brown Act Compliance. Among the concerns related to the Brown Act are:

- 1) Number of Board Meetings: The Petition states that the Audeo Board will meet "at least three times per year" in accordance with the Brown Act. Although the Petition states three meetings is the minimum, the history of the operation of Audeo, under the Altus umbrella, indicates that its actual public governance practices are minimal, i.e. that the number of actual meetings is, in fact, minimal. This raises substantial questions about public governance, a commitment to openness, and an ability to meet legal requirements related to, for example, budget adoption, interim budget reports, Local Control Accountability Plan (LCAP) review and adoption, etc. The public policy behind the Brown Act is sweeping: "In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be

Exhibit A
(Page 3 of 8)

conducted openly. (¶) The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.” (Govt. Code 54950.) Petitioner states it will comply with the Brown Act, but provisions of the Petition and practices of Audeo and Altus call that assurance into question.

- 2) Delegation of Authority. Adding to the concern about openness and Brown Act compliance is the provision allowing the Audeo Board to “delegate any of [the Board’s] roles and responsibilities to any committee, officer, or other person(s) to the extent permitted by law” Audeo’s and Altus’ practice has been to delegate decision-making authority to the President of its Boards, Mary Searcy Bixby. A legislative body pursuant to the Brown Act taking public action to delegate decision-making authority to one of its members, who in turn takes multiple actions pursuant to that authority in private, runs afoul of the letter and spirit of the Brown Act. One example of this concern is found in a recent public report that the Altus Board has not had a closed session meeting in the past three years, suggesting actions that would typically be taken in closed session are taken pursuant to delegated authority but are not reported publicly, even if such a report is required by the Brown Act.
- 3) Location of Board Meetings: It is unclear in the Petition where Board meetings are scheduled to take place. Inasmuch as these meetings may take place outside of District boundaries this would not only violate the Brown Act but result in a disparate impact on English Learner and low socioeconomic parents. Audeo’s principal office is not located in the District, nor are the administrative centers listed in the Petition.

C) Additional Governance Structure Issues

- 1) Audeo’s Bylaws designate a separate corporation, Altus Institute, as Audeo’s sole statutory member with, among other things, the authority dispose of all or substantially all of Audeo’s assets. If the Petition is approved the District would have no oversight authority over Altus Institute.
- 2) Under the Charter Schools Act a governing board that grants a charter for the establishment of a charter school formed and organized as a 501(c)(3) “shall be entitled to a single representative on the board of directors of the nonprofit public benefit corporation.” The Petition does not refer to this entitlement as it relates to the District. (The Audeo Bylaws refer to a potential “representative of the San Diego Unified School District,” which can be approved for non-voting membership only with the approval of Altus, a separate corporate entity.)

Exhibit A
(Page 4 of 8)

- 3) Additional concerns about a “vague and unclear” governance structure that allow for “unusual financial practices” have been identified by the San Diego Unified School District’s recent review of Audeo’s charter petition. It was noted that Audeo pays Altus Institute \$21,000 for advocacy, outreach, school reform services, and periodic reports. In addition, Audeo pays Altus a \$4,159 monthly base fee, plus \$120 per student for “various financial services, student accountability, and oversight.”
3. Employee Requirements. The description of the Charter School’s employee qualifications is not reasonably comprehensive as it does not identify which teachers are assigned to teach specific courses.
4. Racial and Ethnic Balance. The description of the School’s efforts to achieve a racial and ethnic balance reflective of the general population residing within the territorial jurisdiction of the District is not reasonably comprehensive. The entire section is a brief restatement of non-discrimination requirements found in other parts of the Petition, and a list of five brief references to meetings and pamphlets. This is not a reasonably comprehensive description and does not demonstrate a commitment to complying with this requirement of the Charter Schools Act.
5. Admission Preferences. The Petition’s enrollment preferences applicable when the school reaches its enrollment capacity are inconsistent with the law. Under the law preference “shall be extended” to pupils currently attending the Charter School and to pupils who reside in the District (except in connection with the charter school facility grant program). (Ed. Code § 47605(d)(2)(B).) However, the Petition gives first preference, prior to the preferences mandated by law, to siblings of existing students.
6. Pupil Suspension and Expulsion Procedures. Among the concerns related to the suspension and expulsion procedures are:
 - A) The Petition appears to authorize a material revision of this Element of the Petition unilaterally and without following the process for materials revisions. Specifically, it states the policy and procedures for student suspension and expulsion “may be amended from time to time without the need to amend the charter so long as the amendments comport with legal requirements.” While this could be applied to non-material revisions, it could be applied to material revisions as well.
 - B) A ground for non-discretionary suspension and expulsion contradicts grounds for discretionary suspension and expulsion, raising due process concerns. Specifically, students must be suspended and expelled for possessing, selling or furnishing “a dangerous object,” a vague and potentially over-utilized category, but may be suspended or expelled for possessing, selling or furnishing a knife.

7. Dispute Resolution Procedures. The dispute resolution procedures described in the petition would undermine the District's oversight authority and increase liability risks, for the following reasons:
- A) The scope of the process is overly-expansive, in that it encompasses not only disputes "regarding the terms of this charter" but "any other issue regarding the Audeo II and the District's relationship." The Charter Schools Act requires a dispute resolution procedure "to resolve disputes relating to provisions of the charter," which is a narrower scope than "any other issue regarding the Audeo II and the District's relationship." The Petition states that Audeo "cannot bind the District to a dispute resolution procedure to which it does not agree." However, an approved charter petition becomes a document binding and governing the relationship between the authorizing district and the charter school. The charter is binding once approved. The Petition states Audeo is "willing to consider changes" to the process in the Petition, but approval of this Petition by the Board would bind the District and Audeo to the process and scope described in the Petition.
 - B) The provisions on internal disputes is ambiguous, and also appears to undermine the District's oversight authorities and responsibilities in that it appears to require the District to refer all complaints about the Charter School by students, parents, staff or anyone else directly to the Charter School, regardless of the nature of the dispute. Although the provision allows the District to "intervene" if it "finds reasonable cause to believe" there was a violation of the charter, law or agreements with Audeo, these are not the only circumstances when an authorizing agency may or should exercise oversight and investigation. This concern is particularly important because the Education Code, for charter schools operated as a 501(c)(3), only immunizes authorizing districts from liability "for the debts or obligations of the charter school or for claims arising from the performance of acts, errors, or omissions by the charter school, if the authority has complied with *all oversight responsibilities required by law, including, but not limited to*, those required by Section 47604.32 and subdivision (m) of Section 47605."
8. Operational Budget. Among the concerns related to the operational budget are:
- A) Enrollment Projections. The five year revenue projections are based on overstated enrollment projections. Specifically:
 - 1) Students dually enrolled in the Charter School would only generate 1.0 ADA.
 - 2) The majority of District students enrolled in Audeo Charter are during the summer term only. District reinstatement of summer school courses beginning in summer 2016 will adversely impact enrollment at Audeo.
 - 3) The Petition states that the founding team is approaching the District to authorize this new charter school due to the *overwhelming* demand from

District families currently attending Audeo Charter. However, based on actual 2014-15 enrollment data provided by Audeo, the number of students served from the District is overstated by 170 students. Only 207 out of nearly 11,000 students attended the Westfield Plaza Camino Real location during the 2014-15 school year.

- 4) Audeo's 2016-17 revenue is projected based on enrollment of 510 with an ADA of 433.50. In 2014-15, total ADA generated by District students was 77.11; this would only represent 17.79% of total projected ADA – nearly all generated in the months of July and August.
 - 5) A growth rate of 20% is used in all five years of enrollment projections. The District has never experienced a 20% growth rate.
 - 6) Even at a 20% growth rate, of the \$3.2 million budget projection for 2016-17, District students would generate less than \$700,000 of LCFF funding toward the operation of the Charter School.
 - 7) Primary grades enrollment projections are overstated based on the District's previous experience. When the District's primary independent study program closed in 2011 only six families were participating.
9. Geographic Limitations: Audeo states it will comply with the “applicable jurisdictional limitations to locations of its facilities,” and references Education Code sections 47605 and 47605.1, but the Petition indicates an intention to operate in conflict with the law. Specifically, Audeo states that pursuant to this Petition as approved by the District it will be operating two “resource centers” located outside of District boundaries but within San Diego County. This conflicts with the law. Education Code section 47605 authorizes a charter school to locate a single facility outside of the authorizing district only if: 1) the school is unable to locate a facility in the authorizing district; and 2) it gives notice to the district wherein it proposes to locate. Needless to say, Audeo is able to locate within the District. Education Code section 47605.1 authorizes some charter schools to locate a single “resource center, meeting space, or other satellite facility in a county adjacent to that in which the charter is authorized,” for certain activities. This does not authorize multiple locations, or any location within the same county (even assuming the location meets the definitions and scope for authorization in adjacent county.) A San Diego Superior Court recently ruled against a school district that allowed a charter school approved by that district to operate outside the boundaries of that district but within San Diego County, thus highlighting the potential for litigation against the District arising from approval of this Petition.

**THE PETITIONERS ARE DEMONSTRABLY UNLIKELY TO SUCCESSFULLY
IMPLEMENT THE PROGRAM SET FORTH IN THE PETITION**

[Ed. Code § 47605(b)(2)]

Exhibit A
(Page 7 of 8)

10. The specific findings of fact set forth in paragraphs 1 through 9, above, are realleged and incorporated herein by reference. Said specific facts evidence that Petitioner is demonstrably unlikely to successfully implement the program set forth in the Petition.

THE PETITION PRESENTS AN UNSOUND EDUCATIONAL PROGRAM

[Ed. Code § 47605(b)(1)]

11. The specific findings of fact set forth in paragraphs 1 through 10, above, are realleged and incorporated herein by reference. Said specific facts evidence that Petitioner presents an unsound educational program.

PASSED AND ADOPTED this 20th day of January, 2016 by the Board of Trustees of the Carlsbad Unified School District by the following vote:

AYES: Jones, Williamson, Rallings, Williams

NOES: _____

ABSENT: _____

ABSTAIN: _____

NOT PRESENT AT VOTE: Pearson (Due to Recusal)

BOARD OF TRUSTEES OF THE
CARLSBAD UNIFIED SCHOOL DISTRICT

BY: Claudia Jones
President of the Board of Trustees of the
Carlsbad Unified School District

Exhibit A
(Page 8 of 8)

EXHIBIT 5:

**AUDEO II'S WRITTEN RESPONSE TO DISTRICT'S
FINDINGS FOR DENIAL**



January 20, 2016

Trustee Claudine Jones, President
Trustee Elisa Williamson, Vice President
Trustee Ray Pearson, Clerk
Trustee Veronica Williams
Trustee Kathy Rallings
Dr. Suzette Lovely, Superintendent
Carlsbad Unified School District
6225 El Camino Real
Carlsbad, California 92009

Via: Email

RE: Response to Carlsbad Unified School District Board of Trustees Resolution No. 29-1516 to Deny the Petition of the Audeo II Charter School

Dear Members of the CUSD Board of Trustees:

I am writing on behalf of the Audeo II Charter School ("Audeo II") in response to the Carlsbad Unified School District ("CUSD" or the "District") Board of Trustees Resolution No. 29-1516 ("Resolution"). Thank you for taking the time to review our charter petition. We recognize the many demands on the District staff to review the charter petition, however, we feel that the Resolution presented to the Board does not represent an accurate review of the charter petition as a whole and goes far beyond the standards of the law in evaluating Audeo II's petition. We urge you to consider the following information before deciding your vote on the Audeo II petition and respectfully request your approval of the petition.

OVERVIEW OF LAW

The decision to grant or deny a charter petition is a matter of law whereby state law requires the CUSD Board of Trustees to approve a charter petition, unless it makes written factual findings to support a denial.

The Education Code provides specific guidance to governing boards to approve the establishment of charter schools. Education Code Section 47605(b) states:

In reviewing petitions for the establishment of charter schools ... the chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged. (Emphasis added.)

Education Code Section 47605(b) also provides the legal basis for the denial of a charter petition as follows:

The governing board of the school district shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice. The governing board of the 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 specific facts to support one or more of the following findings:

- (1) The charter school 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 does not contain the number of signatures required by subdivision (a) [of Education Code Section 47605].
- (4) The petition does not contain an affirmation of each of the conditions described in subdivision (d) [of Education Code Section 47605].
- (5) The petition does not contain reasonably comprehensive descriptions of [the 16 required elements]. (Emphasis added.)

We believe it is clear that no factual basis exists to support one or more of the above legal bases for denial of the Audeo II charter petition. The charter petition exceeds all legal requirements set forth in the Education Code. By drafting this Resolution, the District has not effectuated the intent of the Legislature to encourage the establishment of charter schools. Thus, this duty now falls on the CUSD Board of Trustees to ask questions, seek answers, and address any remaining concerns with the Audeo II petitioners directly at the Board meeting on January 20, 2016. More specifically, we point out that *every single issue raised in the Resolution can be addressed through conditions on opening and operation*, which can be established by the Board at the meeting, and/or through the establishment of a separate memorandum of understanding ("MOU") with Audeo II and the CUSD staff and Board.

AUDEO II CHARTER SCHOOL RESPONSES TO THE RESOLUTION

The Resolution contains findings that do not meet the legal standard for denial of a charter petition. A majority of the findings concern minor and easily explained or resolvable matters that could have addressed in an MOU, or through imposed conditions on the school's opening and operation. Moreover, the findings are based on incorrect information, the misinterpretation or ignoring of the plain language in the Audeo II charter petition, conjecture, or standards that extend beyond the requirements set forth in the law. Given these flaws, the

findings contained in the Resolution constitute an impermissible basis for denial of the Audeo II charter.

Below, please find Audeo II's responses to the findings contained in the Resolution:

1.A. Education Program – Curriculum and Instruction

Transitional Kindergarten

The District's finding is inaccurate and not supported by sufficient facts present in the Audeo II petition to conclude that description of the educational program is not reasonably comprehensive. The Audeo II petition affirms that it will serve students in Transitional Kindergarten ("TK") and includes over 30 pages of information detailing the proposed educational program to *all* students at Audeo II in grades TK through 12. As the District knows, California law (Education Code Section 48000) defines TK as "the first year of a two-year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate." As there is no mandated state curriculum, Audeo II will modify the local kindergarten course of study to provide age and developmentally appropriate learning experiences for TK students. Because teachers at Audeo develop personalized learning plans for every student, students in Transitional Kindergarten will automatically receive this service. Because the K-5 portion of this program is a homeschool program, delivery of instruction will take place daily, in the home, by the parent in collaboration with the credentialed teacher of record.

The Audeo II charter petition already affirms it will comply with all applicable state laws, including the minimum and maximum age restrictions for public school enrollment (see Audeo II charter petition, pages 8-9). Thus, admission to Audeo II's TK program will be allowed for any students whose fifth birthday falls between September 2 and December 2, inclusive, in compliance with California law (Education Code Section 48000).

As this finding is based on incorrect facts, this finding may not be used as a legal basis for denial of the Audeo II charter petition.

How the Curriculum Aligns with the Common Core State Standards

The District's finding is based on incorrect facts and fails to accurately represent the extremely thorough and comprehensive charter petition that has been submitted to the District. The petition consist of over 30 pages of information describing the educational program of the school, as well as over 400 pages of supplementation information in the Appendix. As noted throughout the petition, Audeo II is committed to providing curriculum that is rigorous, relevant, and aligned to the California Common Core State Standards ("CCSS") and Next Generation Science Standards ("NGSS"). Standard curriculum provided for English Language Arts is Reach for Reading from Cengage Learning, in collaboration with National Geographic Learning. Standard curriculum provided for Mathematics is Math in Focus, from Houghton Mifflin/Harcourt. Both are approved by the California Department of Education and are aligned to the CCSS. Materials and curriculum provided to meet the NGSS and the new History-Social Studies Framework are specifically described in the K-5 Scope and Sequence included in Appendix A of the Audeo II charter petition, listing the science and history-social studies standards and/or framework

categories addressed. As this finding is based on incorrect facts, this finding may not be used as a legal basis for denial of the Audeo II charter petition.

Online Curriculum

Once again, the District's finding is based on incorrect facts. As indicated on pages 57, 62, 73, 162, 209, 212, 213, 214, 215 of the charter petition, Audeo II will utilize the Edgenuity online curriculum. Edgenuity has a curriculum team that uses the individual state adopted standards to create engaging courses that meet the demands of the CCSS with courses that include on-screen instruction, tools, readings, assignments, multimedia resources, and embedded scaffolds to help all students meet the challenges of these more rigorous standards.

The UC-approved online course policy requires that all "a-g" online courses from an online course publisher be assessed against the iNACOL course standards. This process entails the online course to either obtain certification from the California Learning Resource Network ("CLRN") or for the online institution to conduct a self-assessment of the course content against the iNACOL course standards.

All of Edgenuity's core courses are vetted and pre-approved by the National Collegiate Athletic Association (NCAA) as rigorous and college preparatory in nature. The California Department of Education has adopted Edgenuity California Common Core Mathematics, grades 6-8, as a recommended program as evidenced on the 2014 Mathematics Adoption list.

Audeo Charter School has a catalog of rigorous Common Core based college preparatory curriculum that has been approved by University of California, NCAA and College Board. Whether Audeo II students participate in independent study, online, or blended (independent study/online) coursework, each student will receive high quality curriculum designed to ensure that they are College and Career Ready upon graduation.

As this finding is based on incorrect facts, this finding may not be used as a legal basis for denial of the Audeo II charter petition.

1.B. Education Program – Special Education

The District's finding is based on incorrect facts and goes beyond the requirements of the law. First, contrary to the District's finding, the petition states on page 121 that transportation will be provided to students in compliance with state law, which includes but is not limited to home-to-school transportation that may be required in accordance with a student's IEP. Second, the Audeo II petition includes a seven-page description of its plan for serving students with disabilities, including but not limited to assurances that the school shall be responsible for all school implementation of a student's IEP in accordance with state and federal law (see Audeo II charter petition, pages 62-68). Each student's IEP team will have the responsibility to make decisions regarding eligibility, goals/objectives, program, services, placement and exit from special education, pursuant to the IEP process, and requirements of the SELPA and state and federal law. For example, this process necessarily includes an IEP team's determination of how a student's IEP socialization goals can be met in Audeo II's independent study program.

Accordingly, this finding may not be used as a legal basis for denial of the Audeo II charter petition.

2.A. Governance Structure – Conflict of Interest

The District does not provide evidence or factual findings that the description of the governance structure is not reasonably comprehensive, but instead appears to focus on District policy regarding charter school petitions that was not provided or expressed to Audeo II. Under current law, the Charter Schools Act does not make applicable to charter schools Government Code Section 1090 or other conflict of interest provisions that apply to other public agencies. If these provisions become specifically applicable to charter schools, then Audeo II will adopt policies to bring itself into compliance. Audeo II shall be governed by a conflict of interest code in compliance with the Political Reform Act of 1974, California Government Code Section 87100, *et seq.* and the California Corporations Code (see Audeo II charter petition, Appendix G), and the bylaws of the nonprofit public benefit corporation (see Audeo II charter petition, Appendix F), a comprehensive description of which is provided in the petition.

Furthermore, the finding does not address or explain as to how the District has come to the conclusion that the operations of Audeo are “analogous to a for-profit enterprise,” as the operations of Audeo II are those of a non-profit public benefit corporation, operating in compliance with the California Charter Schools Act, the California Nonprofit Corporations Law, the Internal Revenue Code sections applicable to a 501(c)(3) nonprofit tax-exempt organization, and abide by all reporting requirements. The District presents no facts or analysis to support their position. Additionally, Audeo II engages in appropriate and lawful recusals when interested parties may have a conflict of interest on any given transaction.

Finally, the District also fails to take into account the organizational restructuring that is scheduled to occur on January 21, 2016, whereby Ms. Bixby has resigned from her positions with Altus (a non-profit public benefit corporation, as opposed to the misleading “private corporation” language utilized by the District), whereby the “on-loan” agreement between Charter School of San Diego and Altus Institute will be terminated, and whereby the overlapping Audeo II board members have agreed to resign. To the extent that these issues may have been concerns, those concerns should be addressed in full by these changes.

As this finding goes beyond the requirements of charter petitions as set forth in the Education Code, this finding may not be used as a legal basis for denial of the Audeo II charter petition.

2.B. Governance Structure – Openness and Brown Act Compliance

Number of Board Meetings

The District’s finding is based on incorrect facts and assumptions, and goes beyond the requirements of the law. The District has provided no evidence of violations of the Brown Act, or failures in the school to address and welcome public participation. The language cited by the District is a floor, not a ceiling, and the Board of Audeo II may have many more meetings, all publicly noticed and compliant with the Brown Act than the minimum amount of three (3) meetings required to be held by the Audeo bylaws. This requirement is already in excess of the

amount of Board meetings required by the California nonprofit corporations law. Audeo charter school have held their Board meetings openly and in compliance with the Brown Act, and the District shows no evidence otherwise. Each meeting is publicly agendaized in advance in accordance with the Brown Act.

Delegation of Authority

The District further utilizes the commonplace language of bylaws, and which are included in nearly every set of bylaws of any non-profit public-benefit corporation, that actions of the Board may be delegated to the executive officers as appropriate. Of course, this delegation cannot overrule legally required Board actions or other items that are required to be brought in front of the Board versus the administration. This delegation of the operation of the charter school to an experienced administrator is the regular course of practice in charter schools, whereby that authority is held under the ultimate direction of the Board. This is also the common practice among school districts, where the publicly elected board of education does not manage or operate the schools within that District, but delegate such authority to the superintendent, who in turn delegates that authority to principals.

The District does not address or provide factual circumstances wherein there has been a violation, but instead relies on conjecture and assumption in making the assertion that simply because a closed session has not occurred in a regular fashion that something is inherently violative of law. Again, the District provides no evidence that the lack of closed sessions (which, ironically, would indicate that all business was in fact conducted in the public session – thus allowing more public participation in the decision making process) caused any violations of the Brown Act, deprived any citizen or stakeholder the opportunity to meaningfully participate in governance, or that any untoward action had occurred. There is no law that requires charter school boards to meet in closed session on a regular basis or at all. Audeo is committed to setting policy and making important decisions regarding each school in a public and transparent forum in alignment to the intent of the Brown Act as expressed in the “Declaration of Public Policy” found in Government Code Section 54950. Closed session items occur on agendas only when necessary and permitted by the Brown Act. Furthermore, the documents approved and seen by the Board outside of closed session are considered public documents, thus subjecting such meetings and actions to greater scrutiny, not less.

Location of Board Meetings

The District also fails to provide any factual evidence or reference to law whereby their assertion that meetings outside of the District's own boundaries conclusively violate the Brown Act. While such action may be violative if the District did so (and then, only violative if none of the precautions or reasons for doing so as allowed by the Brown Act apply), the jurisdiction of the Charter School is not limited to the geographical boundaries of the District.

All meetings of the Board of Directors shall be called, held and conducted in accordance with the terms and provisions of the Ralph M. Brown Act, California Government Code Sections 54950, *et seq.*, as said chapter maybe modified by subsequent legislation. The Brown Act requires the following with regard to location of meetings: “regular and special meetings of the legislative body shall be held within the boundaries of the territory over which the local agency exercises jurisdiction...” (Government Code Section 54954(b)). Neither the Brown Act, nor any other law

defines the “boundaries of the territory over which the local agency exercises jurisdiction” for a charter school as used in Government Code Section 54954(b).

In considering the purpose of the Brown Act to maximize public access, it is logical and reasonable to define the territory of a charter school for purposes of the Brown Act, to align with the area in which a charter school may enroll students. In so doing, a charter school would be holding its meetings in the areas from which students and their parents may be enrolling, thus maximizing their access to meetings.

The Charter Schools Act purposefully removes all boundaries from students seeking to enroll in charter schools (e.g. “admission to a charter school shall not be determined according to the place of residence of the pupil, or of his over her own parent or legal guardian, within this state...” (Education Code Section 47605(d)(1)). The only provision of law limiting the enrollment of students by residency is found in the Education Code provisions related to independent study. Per Education Code Section 51747.3, a nonclassroom based charter school may only claim apportionment for students who reside in the county in which the charter school is authorized and its adjacent counties. Accordingly, a reasonable interpretation of the phrase “boundaries of the territory over which the local agency exercises jurisdiction” as applied to a nonclassroom based charter school would be San Diego County and its adjacent counties.

The District does not provide any evidence or data that the location of the meetings has a disparate impact on the ability for EL or low income families to attend, but instead makes such a determination based purely on assumption. There is no requirement in the Charter Schools Act, nor in the Brown Act, that administration or head offices of charter schools must be located within their authorizer’s district, but only speaks to the geographical placement of actual “school buildings” or other instructional sites.

As this finding is based on incorrect facts and assumptions, and goes beyond the requirements of charter petitions as set forth in the Education Code, this finding may not be used as a legal basis for denial of the Audeo II charter petition.

2.C. Governance Structure – Additional Governance Structure Issues

Altus Institute

The District’s finding is based on incorrect facts and goes beyond the requirements of the law. By the time this document is received by the District, Audeo will have participated in a reorganization that would remove Altus as the sole statutory member. This change is expected to occur and be effective as of January 21, 2016.

Authorizer Representative

These changes include the clarification of an authorizer’s right to place a representative on the Board of the Charter School. There has been no intention, nor action taken, to inhibit or remove the ability of an authorizer to utilize that right. As stated under the Charter Schools Act, Education Code Section 47604(c), Audeo is well aware of and respects the right of the granting authorizer to establish a representative of the District on the Board. Furthermore, the District fails to show in any way how the lack of a District appointed Board member actually sitting on

the Board is a violation of the Charter Schools Act, especially considering that very few authorizers elect to place such a representative.

Additional Concerns

Finally, the District alleges “vague and unclear” governance structure concerns based not on their own analysis, but on a report from the San Diego Unified School District (“SDUSD”) regarding the renewal of Audeo Charter School. SDUSD’s opinions should have no bearing on the District’s analysis of the Audeo II charter petition. Here, the District is obligated by law to evaluate the Audeo II charter petition *de novo* and come to its own conclusions and form a recommendation based on the provisions of Education Code Section 47605(b) and not a report from SDUSD that is presented by the District without context and complete information from Audeo.

As noted in our response under 2.B. – Delegation of Authority, under the bylaws of Audeo Charter School, the Board may delegate the management of the corporation activities to any person(s), management company or committees, however composed, provided that the activities and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the Board. When the agreements between Audeo and Altus Institute were formed, the Board determined that they were fair and reasonable, consistent with Corporations Code Section 5234, and the MOUs were formed after arms-length negotiations. In FY 2014-2015, Audeo’s payment to Altus for services performed represented only 2.25% of the total revenues. Moreover, these agreements are planned to be terminated as of January 21, 2016 and thus the District’s “concerns” shall be moot at that time.

As this finding is based on incorrect facts and goes beyond the requirements of charter petitions as set forth in the Education Code, this finding may not be used as a legal basis for denial of the Audeo II charter petition.

3. Employee Requirements

The District’s finding is based on incorrect facts and goes beyond the requirements of the law. Education Code Section 47605(b)(5)(E) requires the charter petition to include a “reasonably comprehensive description of... the qualifications to be met by individuals to be employed by the school.” The Audeo II charter petition includes a description of its employee and teacher qualifications on pages 87-89. Contrary to the District’s finding, there is no legal requirement “to identify which teachers are assigned to teach specific courses.” Audeo II has not been approved yet; thus, the District’s expectation to have established teacher course assignments is unreasonable. As with a majority of the District’s purported “requirements” set forth in the draft Resolution, this matter is more appropriately addressed through timelines and requirements in a separate MOU with the petitioners. Accordingly, this finding may not be used as a legal basis for denial of the Audeo II charter petition.

4. Racial and Ethnic Balance

We disagree with the District’s conclusion that the Audeo II student recruitment plan as stated on page 93 of the petition is not reasonably comprehensive. The plan includes details such as the

development of promotional multilingual materials and brochures, and outreach meetings in several areas throughout CUSD. This is the same recruitment plan used by Audeo Charter School in San Diego, which has successfully operated over the last 14 years and achieved an overall student population that is reflective of the San Diego Unified School District's racial and ethnic balance as follows:

	Audeo Charter School	SDUSD
Hispanic/Latino	54%	47%
White	30%	23%
African American	11%	9%
Asian	2%	8%

Source: 2014-15 California Longitudinal Pupil Achievement Data System (CALPADS)

It is important to note that the recruitment plan is a living document that will be revised and modified as the needs of Audeo II evolve. Accordingly, this finding may not be used as a legal basis for denial of the Audeo II charter petition.

5. Admission Preferences

The District's finding incorrectly states that Audeo II's admission preferences are inconsistent with the law. This is completely false. The law requires charter schools to accept all students who apply, however, when capacity is reached, a public random drawing must be held to determine admission. Further, the law provides admission preference "shall be extended to pupils currently attending the charter school and pupils who reside in the district," and that existing pupils of the charter school are exempt from the drawing. (Section 47605(d)(2)(B).) Audeo II meets this requirement in its charter petition by exempting "existing students" and by extending an admission preference to "Residents of the District" (see Audeo II charer petition, page 95).

State law also provides that "Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law." (Section 47605(d)(2)(B).) Accordingly, a charter petition is permitted to extend admission preferences in addition to the District resident preference as long as (1) the preference is permitted by the chartering authority, and (2) is consistent with the law. Contrary to the assertion made in the Resolution, there is no requirement in the Education Code that admission preferences be given in any particular order, that District residents get first preference, or that an admission preference for "siblings of existing students of Audeo II" is contrary to law or illegal. The admission preference for siblings furthers Audeo II's purpose and mission of serving at-risk students and keeping siblings together in the same school. Therefore, Audeo II's proposed admission preferences are legally permissible and this finding may not be used as a legal basis for denial of the charter petition.

6. Pupil Suspension and Expulsion Procedures

The District does not provide evidence or factual findings that the description of the school's suspension and expulsion procedures are not reasonably comprehensive. The procedures included in the Audeo II petition on pages 97-113 were drafted in compliance with the California

Code of Regulations, Title 5, Section 11967.5.1(f)(10) and in consultation with legal counsel to ensure due process and fair procedures in compliance with applicable laws.

The District's finding regarding revision of the suspension and expulsion procedures is not grounded in current law. The Education Code does not define what changes to a charter may require a "material revision" approved by the District. If the District requires such changes to the school's suspension and expulsion procedures to go through the formal material revision process, then it should say so and make such requirements clear to the petitioners through a separate memorandum of understanding. Without such guidance from the District, however, it is reasonable for a charter school to update its policies as necessary to comply with applicable laws or legal updates, or to make changes that are in the best interest of students, staff and the school.

Moreover, we disagree with the District's finding regarding the mandatory expulsion offense for "possessing, selling or furnishing any firearm, explosive or other dangerous object..." In accordance with the Federal Gun Free Schools Act of 1994, Audeo II is required to expel students for up to one year for possession of a firearm or destructive device. The use of "other dangerous object" is included in the mandatory expulsion offenses section of the school's procedures to ensure protection if a student is bringing an item similar to a firearm or explosive but that does not necessarily meet the federal definition of "firearm" or "other destructive device." A knife is not included as a "dangerous object" in the mandatory expulsion offenses section of the policy as the "possession, selling or furnishing of any knife" is addressed under the discretionary expulsion offenses. In addition, the terminology "other dangerous object" is also used in Education Code section 48915(a). Therefore, the term it is not so vague as to deny a student's due process rights.

As these findings present an incorrect understanding of the charter petition and go beyond the requirements of the Education Code, they may not be used as a legal basis for denial of the Audeo II charter petition.

7. Dispute Resolution Procedures

The District's finding is based on an incorrect understanding of the law governing the consideration and approval of charter petitions, and goes beyond the requirements of the law. Regarding the overall dispute resolution procedures presented in the charter, the petitioners were sincere in stating on page 117 that "Audeo II recognizes that it cannot bind the District to a dispute resolution procedure to which the District does not agree. The following policy is intended as a starting point for a discussion of dispute resolution procedures. Audeo II is willing to consider changes to the process outlined below as suggested by the District."

The District incorrectly assumes that the charter petition cannot be altered or amended during the charter petition consideration and approval process. To the contrary, the law includes no barriers to the petitioners' and District's ability to meet and negotiate over provisions of the charter in order to meet certain expectations that the District might hold, which also were not expressed to Audeo II during the entire petitioning process, including the 30-day extension that was granted to the District. This is a common practice used by authorizers throughout the state, including the State Board of Education, through the adoption of "technical amendments" required of the

charter petition. The petitioners welcome input from the District in order to meet their concerns over Audeo II's proposed dispute resolutions procedures, including the District's ability to intervene in disputes. Such details could also be addressed through requirements in a separate memorandum of understanding with the petitioners. Accordingly, this finding may not be used as a legal basis for denial of the Audeo II charter petition.

8. Operational Budget

Enrollment Projections

As detailed below, the District's findings are based on incorrect assumptions, a misreading of the Audeo II financial documents, and conjecture. Thus, these findings may not be used as a legal basis for denial of the Audeo II charter petition.

- Audeo II will not have dual enrollment of students, as such practice is not permitted under state law.
- Apportionment credit for an independent study program like Audeo II is based on and in compliance with the Education Code. The student's product or academic work is assessed by a competent credentialed certificated teacher who determines the time value of the completed assignment which does not exceed one ADA per year.
- Students will choose to enroll at Audeo II because they have not been successful in the traditional school system or are looking for a personalized education environment. Since Audeo II is an independent study program, students have the option of going back to their school once they have successfully attained their credits or choose to stay. For the summer of 2015, our data indicates Audeo retained 19% of overall students that initially enrolled in summer of 2015 through CBEDS.
- Audeo's data shows, in FY 2014-2015, the total number of students served at the Carlsbad and Carlsbad Annex Resource Centers to be 584. Of the 584 students, 346 were from CUSD. The additional 31 students from CUSD were served at Audeo's other Resource Centers: Escondido, San Marcos, Kearny Mesa, and Mission Valley. Therefore, as reported in the Audeo II petition, the 377 students served by Audeo Charter School are from CUSD.

CUSD concluded that the number of students reported is overstated by 170. However, our data was collected for the period of 7/1/2014-06/30/2015 for the students served by Audeo from CUSD.

- Audeo II's ADA projection for FY 2016-17 is based on historical data and includes ADA projections from all of Audeo II's Resource Centers: Carlsbad, Carlsbad Annex, Escondido, San Marcos and Westminster.
- Audeo II's enrollment projection for FY 2016-17 is based on historical data from the last five summers, Summer 2011 through Summer 2015. The percentage of Students First Enrolled in Summer retained through CBEDS is an average overall retention rate of 28%.

Percentage of Students First Enrolled in Summer retained through P2 ADA reporting is an average overall retention rate of 24% for the past four summers, Summer 2011 through Summer 2014. This growth projection includes all student population for the following Audeo II Resource Centers: Carlsbad, Carlsbad Annex, Escondido, San Marcos and Westminster. Through Audeo's experience of operation for nearly 14 years, the actual historical data and trends, the community needs and integrated marketing plan supports Audeo II's five year enrollment projections.

- Audeo II's projected enrollment and ADA is comprised of all of Audeo II's Resource Centers: Carlsbad, Carlsbad Annex, Escondido, San Marcos and Westminster. Therefore, Audeo II's 2016-17 budget projects LCFF Revenue of \$3,147,396.
- Audeo's current data from July 1, 2015 through November 13, 2015, which is attendance principal apportionment period one (P-1), shows overall students served at the primary grades to be 39. Based on this data the Audeo II's projected enrollment of 46 for primary grades is reasonable.

9. Geographic Limitations

The District incorrectly applies the geographic restrictions governing classroom-based charter schools in Education Code sections 47605(a) and 47605.1(d) to Audeo II, which is a nonclassroom-based charter school. Audeo II's operation of resource centers within the same county as its authorizing entity is permitted under law. Thus, this finding may not be used as a legal basis for denial of the Audeo II charter petition.

Site-based Geographic Restrictions Do Not Apply to Nonclassroom-based Charter Schools

The geographic restrictions in Education Code sections 47605(a) and 47605.1(d) refer to "sites" or "schoolsites" interchangeably. A "schoolsites" is defined in Education Code section 47612.5(e)(3) as "a facility that is used principally for classroom instruction." Further, the phrase "classroom based instruction" is defined in Education Code section 47612.5(e)(1). Under this section, for a charter school to provide classroom-based instruction, *all* of the following must be satisfied: (1) students are engaged in educational activities and are under the immediate supervision and control of a credentialed teacher, (2) at least eighty percent of the instructional time is at the schoolsite, (3) the schoolsite is used principally for classroom instruction, and (4) students are required to attend the schoolsite at least eighty percent of the minimum instructional time. (Ed. Code, § 47612.5(e)(1); see also, Cal. Code Regs., tit. 5, § 11963.) Conversely, nonclassroom-based instruction is any instruction that fails to meet the above requirements. (Ed. Code, § 47612.5(e)(2).)

Audeo II does not provide classroom-based instruction as defined above, and is thus a nonclassroom-based charter school. Audeo II shall offer an independent study program, which provides each student with an individualized approach to education. Students are only required to meet with their teacher at a resource center twice a week to review assignments and the students' progress in their courses.

The geographic restrictions governing “sites” or “schoolsites” are inapplicable because Audeo II will not operate such facilities, and is not governed by the restrictions. Audeo II will operate nonclassroom-based independent study resource centers, which are explicitly governed by a different statutory geographic limit – Education Code section 47605.1(c).

The District’s reliance on *San Diego Unified School District v. Alpine Union School District* as authority with regards to the location of nonclassroom-based resource centers is misplaced. This case is not dispositive of the issue, and was based upon different facts. Furthermore, there is a Superior Court case that contradicts the decision in *San Diego Unified School District v. Alpine Union School District*, and utilizes facts much more similar to the issue at hand.

In *Anderson Union High School District v. Shasta Secondary High School*, the Shasta County Superior Court denied injunctive and declaratory relief sought by the school district to prevent the operation of a resource center within its boundaries. In its Final Statement of Decision, the court specifically found: “What is clear from [Education Code Sections 47605(a), 47605.1(c), or 47605.1(d)] is that the legislature intended to distinguish a resource center, meeting space, or other satellite facility from a site or a schoolsite.... Therefore, sections 47605(a) and 47605.1(d) ... do not apply to a resource center, meeting space, or other satellite facility....”

Further support for the fact that nonclassroom-based charter schools are not governed by the restrictions in Education Code sections 47605(a) and 47605.1(d) is found in administrative interpretations of the amendments and sections added by Assembly Bill (“AB”) 1994 in 2002.

On November 14, 2002, in a letter to all County and District Superintendents, County and District Chief Business Officials, and Charter School Administrators, and in response to the passage of AB 1994, Janet Sterling, Director of the California Department of Education (“CDE”) School Fiscal Services Division, summarized the impact of the new legislation on resource centers, as follows: “The site restrictions *do not apply to* facilities used as resource centers, meeting spaces, or satellite sites used exclusively for non-classroom-based independent study if a majority of the charter school pupils are residents of the county in which the charter is authorized.”

Moreover, in 2002 the CDE posted Frequently Asked Questions on its website, and under the question, “[w]hat are the geographic restrictions on charter school operations?” provided: “The site restrictions *do not apply to* nonclassroom-based facilities used as resource centers, meeting spaces, or satellite sites used exclusively for independent or home study if a majority of the charter school pupils are residents of the county in which the charter is authorized. However, an independent study (nonclassroom-based) charter school may only enroll pupils who live in the county or an adjacent county to where the charter is authorized.”

In the CDE’s current Frequently Asked Questions, the CDE provides under the question “[a]re there geographic restrictions on the operation of nonclassroom-based charter schools?”, as follows: “Yes. California Education Code Section 47605.1(c) allows a nonclassroom-based charter school to establish a resource center, meeting space, or other satellite facility in a county adjacent to that in which the charter school is located, provided (1) the facility is used exclusively to serve nonclassroom-based pupils and (2) the school’s primary educational services

are provided in, and a majority of the school's pupils are residents of, the county in which the school's charter is approved."

Accordingly, in the current version of the Frequently Asked Questions, when asked if there are geographic restrictions on the operation of nonclassroom-based charter schools, the CDE responded *only* by providing the restriction in Education Code section 47605.1(c) regarding adjacent county facilities. Notably, the CDE does not apply any of the "site" or "schoolsite" restrictions found in Education Code sections 47605(a) or 47605.1(d) to nonclassroom-based charter schools like the Charter Schools.

Thus, the site-based geographic restrictions do not apply to nonclassroom-based charter schools.

In-County Resource Centers are Permissible

There is no law that precludes in-county resource centers in any manner. The District's contention that Education Code section 47605.1(c) prohibits in-county resource centers is reading into the law a restriction that simply does not exist.

The only restriction in the CSA addressing the location of resource centers limits the location of resource centers *in the county adjacent* to that which the charter is authorized. (Ed. Code, § 47605.1(c).) A reasonable interpretation of this section is that the Legislature intended to restrict the location of resource centers through adjacent counties.

The District's interpretation of Education Code section 47605.1(c) reads the term "adjacent county" in isolation. But the statute and the statutory scheme governing the restriction of charter school locations must be considered as a whole. The statutory framework governing charter school locations does not push charter schools away from their authorizing entities, but allows more distant locations under certain circumstances. (Ed. Code, §§ 47605(a)(5), 47605.1(d).) This is consistent with an interpretation of Education Code section 47605.1(c) that permits *both* in-county and out-of-county resource centers.

The interpretation that resource centers can *only* locate in adjacent counties leads to absurd results by pushing resource centers further away from its authorizing entity, and limiting a charter school's ability to serve students that are located within the county in which the school is authorized. It is a common rule of construction that a statute not be interpreted in a manner that leads to an absurd result. (*United States v. Wilson* (1992) 503 U.S. 329, 334). Instead, "the court will apply common sense to the language at hand and interpret the statute to make it workable and reasonable." (*Wasatch Property Management v. Degrade* (2005) 35 Cal.4th 1111, 1122.)

Indeed, the court in *Anderson Union High School District v. Shasta Secondary Home School* specifically rejected the interpretation that the District puts forth here as inconsistent with the text of the statute, and leading to an absurd result.

Other authorities further support that Education Code section 47605.1(c) permits *both* in-county and out-of-county resource centers. For example, the California County Superintendent's Educational Services Association ("CCSEA"), Charter School Task Force, published guidance titled "Effective Practices for Collaborating With Independent Study Charter Schools". In this

document, CCSEA addressed the following question, "Where can Resource Centers, Meeting Spaces or Other Satellite Facilities be established?" The following is an excerpt from the CCSEA guidance: "An independent study charter school may establish multiple centers in the county in which the charter school is authorized in order to best serve the educational needs of its student population."

In an email to Jeff Rice, Executive Director of the Aplus Personalized Learning Association, dated October 23, 2009, the then Charter School's Division Director of the CDE affirms the opinion of the CDE as follows: "The California Department of Education has determined that multiple resource centers located within the county of the charter school's authorizing entity are permissible under current statute and regulation."

Thus, Education Code section 47605.1(c) permits both in-county and adjacent county resource centers.

10. The Petitioners are Demonstrably Unlikely to Successfully Implement the Program Set Forth in the Petition

The District's finding fails to present specific facts, specific to the particular charter petition, to support its written findings for denial as required by Education Code Section 47605(b). Thus we are left guessing as to which of the "paragraphs 1 through 9, above" support the District's proposed findings for denial of the Audeo II charter petition.

First, the definition of an "unsound educational program" is provided in the California Code of Regulations, Title 5, Section 11967.5.1(b):

"For purposes of Education Code section 47605(b)(1), a charter petition shall be 'an unsound educational program' if it is any of the following:

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

The District's finding does not demonstrate that its findings 1 through 9 meet any of the criteria listed above, as required by 5 CCR Section 11967.5.1. Indeed, the Audeo II charter petition does not include any evidence that its educational program presents the likelihood of physical, emotional, or psychological harm to students. As demonstrated throughout this response, the District's findings do not present specific facts or evidence that the Audeo II education program is unlikely to be of educational benefit to the students who attend the school, as the findings are based on incorrect facts, or go beyond the requirements of the law. Accordingly, this finding may not be used as a legal basis for denial of the Audeo II charter petition.

11. The Petition Presents an Unsound Educational Program

Once again, the District's finding does not present specific facts, specific to the particular charter petition that Audeo II is "demonstrably unlikely to successfully implement the program set forth in the petition." We point out the California Code of Regulations, Title 5, Section 11967.5.1(c) states the following shall be taken into consideration in determining whether a charter petitioner is "demonstrably unlikely to successfully implement the program set forth in the petition":

- (1) If the petitioners have a have a past history of involvement in charter schools or other education agencies (public or private), that is regarded as unsuccessful...
- (2) The petitioners are unfamiliar with the content of the petition or the requirements of law that would apply to the proposed charter school.
- (3) The petitioners have presented an unrealistic financial and operational plan for the proposed charter school in the areas of administrative services, financial administration, insurance, or facilities.
- (4) The petitioners personally lack the necessary background in the following areas critical to the charter school's success, and the petitioners do not have a plan to secure the services of individuals who have the necessary background in these areas: curriculum, instruction, and assessment; or finance and business management.

The draft Resolution does not demonstrate that its findings 1 through 10 meet any of the criteria listed above, as required by 5 CCR Section 11967.5.1. Indeed, the Audeo II petitioners have an established track record of success operating charter schools; they have demonstrated familiarity and expertise in the content of the Audeo II charter petition and the legal requirements of charter schools in general; and have presented a realistic and prudent financial and operational plan for Audeo II. As demonstrated herein, the District's findings do not present specific facts or evidence that the Audeo II petitioners are demonstrably unlikely to successfully implement the program, as the findings are based on incorrect facts, or go beyond the requirements of the law. Accordingly, this finding may not be used as a legal basis for denial of the Audeo II charter petition.

* * *

I appreciate your time and consideration of Audeo II's charter petition and I look forward to a successful authorization by the CUSD Board of Trustees. Should you wish to discuss our responses to any of the above recommendations or require additional information, please feel free to contact me by phone (858-678-2042) or email (ttuter@audeocharterschool.net) at your earliest convenience.

Sincerely,



Tim Tuter
Director of Instruction and Innovation
Audeo II Development Team

EXHIBIT 1:

**COUNTY FINDINGS AND RESOLUTION FOR DENIAL
OF THE AUDEO II PETITION**

**SAN DIEGO COUNTY BOARD OF EDUCATION
RESOLUTION #_____**

**DENYING THE CHARTER SCHOOL PETITION
TO ESTABLISH AUDEO II CHARTER SCHOOL**

WHEREAS, the Charter Schools Act of 1992, set forth at Education Code section ("Section") 47600 et seq., (the "Act") provides for the establishment and operation of publicly-funded charter schools in the State of California; and

WHEREAS, pursuant to Section 47605 of the Act, a school district governing board may approve a petition for the operation of a charter school that will operate at one or more sites within the geographical boundaries of the school district; and

WHEREAS, pursuant to Section 47605(j) of the Act, if a charter petition is denied by a school district governing board, the petition may be submitted on appeal to the county board of education, which board shall review the petition pursuant to the criteria and standards set forth in Section 47605(b) and take action to either grant or deny a petition; and

WHEREAS, on or about October 30, 2015, lead petitioner ("Petitioner") for the proposed Audeo II Charter School ("Charter School") submitted a charter petition ("Petition") to the Carlsbad Unified School District ("District") for the establishment of a new charter school; and

WHEREAS, pursuant to Education Code section 47605(b), the District governing board denied the Petition on January 20, 2016, and made findings of fact in support of that denial; and

WHEREAS, on or about January 28, 2016, the Petitioner submitted the Petition to the San Diego County Board of Education ("Board") on appeal from the District's denial; and

WHEREAS, administrative staff of the San Diego County Office of Education ("SDCOE") reviewed and analyzed the Petition and supporting documentation to determine, with the assistance of legal counsel, whether the Charter Petition satisfies the legal criteria and standards set forth in Section 47605(b); and

WHEREAS, the Board held a duly noticed public hearing on February 10, 2016, at which time the Board considered the level of support for the petition, and received information from the Petitioners and the Carlsbad Unified School District; and

WHEREAS, the Board held a public meeting on March 9, 2016, to receive comments and analysis from San Diego County Office of Education staff, and to further consider the Petition and to grant or deny the Petition;

EXHIBIT "A"

TO RESOLUTION NO. _____

OF THE SAN DIEGO COUNTY BOARD OF EDUCATION DENYING THE CHARTER SCHOOL
PETITION TO ESTABLISH AUDEO II CHARTER SCHOOL

STAFF RECOMMENDATION REGARDING THE PETITION TO ESTABLISH AUDEO II
CHARTER SCHOOL, ON APPEAL FROM CARLSBAD UNIFIED SCHOOL DISTRICT

March 9, 2016

Staff recommends that the Governing Board:

- I. Deny the petition to establish the Audeo II Charter School.
- II. Adopt findings in support of its decision, as detailed in the following documentation, that:
 - A. The charter school presents an unsound educational program for the pupils to be enrolled in the school, and
 - B. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition, and
 - C. The petition does not contain reasonably comprehensive descriptions of all the 16 required elements of the petition.

FINDINGS

IN SUPPORT OF THE STAFF RECOMMENDATION TO DENY THE PETITION TO ESTABLISH AUDEO II CHARTER SCHOOL [Education Code Section 47605(b) & (j)]

A. The charter school, as described in the Petition, presents an unsound educational program for the pupils to be enrolled in the charter school, in that:

- The petition fails to articulate information regarding the scope and sequence/instructional methodology that will be used to meet the needs of English Learners in TK-5. (Transitional Kindergarten)
- The petition fails to adequately address how the needs of English Learners would be met in an independent study setting.
- The petition lacks clarity on the specific, appropriate, and research/evidence based curriculum and instructional design for students at the varying grade levels from TK-5. Most examples appear to be middle and high school related.
- The alignment of the program to the stated program objectives of “increase learning opportunities for all students with special emphasis on expanded learning experiences for students who are identified as academically low achieving” and to “encourage the use of different and innovative teaching methods” is not evident in the petition. (Petition, p. 40.)
- The plan for students achieving below grade level states that “universal design for learning, embedded literacy instruction across curricula area...differentiation, scaffolding” are intended, but where and how they will be used is unclear. (Petition, p. 61.)
- The petition lacks a clear description of instructional approaches and strategies to be used, other than to indicate that students will be assessed (or self-assessed) for learning style preference (which is not a research-based approach), content knowledge, academic skills and English proficiency. Evidence of differentiation or personalized learning is not evident in the course description or scope/sequence/assignment sections.

- The petition fails to affirm that the curriculum is aligned to California Content Standards. The stated educational objectives for students are not aligned to California English Language Arts (ELA)/ Literacy Standards, nor explicitly to 21st Century Competencies. Attribution of the stated objectives is not provided. The petition fails to demonstrate if all student goals are indeed aligned to the standards when it says that “set of instructional goals will be developed” based on student assessment data; if each student has a different set of goals, assurance that they are aligned to the standards is ambiguous. (Petition, pp. 45, 51.) Furthermore, objectives in the Scope, Sequence and Assignments in English 8, for example, are not aligned to California ELA standards; there is not enough information in the assignments section to evaluate alignment as they primarily say “read X and complete all activities in the lesson guide”. (Petition, pp. 206-211.)
- The TK-5 scope and sequence does not affirm that courses will address the California History-Social Science standards.
- There is no description of the content, student learning outcomes or scope and sequence for the required 200 minutes of physical education that students must receive every 10 school days at the elementary school level, or the required 400 minutes of physical education that students must receive every 10 school days at the middle and high school levels. (Petition, pp. 73, 235-240.)
- Physical education course descriptions are not included in the petition so it could not be determined whether students are receiving the eight required curricular areas that are mandated in Education Code.
- Physical education is not listed as a graduation requirement as required by the State. (Petition, p. 73.)
- The petition does not address when/how the Physical Fitness Test (FITNESSGRAM) will be administered in grades 5, 7 and 9. (Petition, p. 81.)
- Based on the information provided, the mathematics courses offered by Audeo II do not appear to meet the expectations of the California State Standards for mathematics. The petition failed to present any evidence of instructional strategies that would support the intent of these standards or that would support the development of “solid conceptual understanding through a focus on problem solving” or that “students will be provided a rigorous mathematical educational experience

incorporating the mathematical shifts demanded by the Common Core..." (Petition, p. 52.)

- There is no evidence that supports Audeo II's mission statement as it relates to mathematics education, "Audeo II will implement personalized educational programs to facilitate student achievement. These educational programs will demonstrate that standards-based educational reform can provide a prototype for changing the way teachers teach and students learn." (Petition, p. 39.)
- The overview of the Integrated Mathematics II course presented does not match the sample concepts/topics provided for the course, nor the description provided in the course catalog.
- The course overview provided for Mathematics 8 does not align with the expectations of the Common Core, nor does it align with the concepts/topics cited in the petition. Under Common Core the 8th grade course is not an optional, "skill building course;" it is a necessary course of study in the sequence to higher mathematics. (Petition, p. 212.)
- The limited information provided for K - 5 reflects no shift to Common Core, so there was not sufficient evidence that state requirements would be met.
- The petition fails to meet the required standards under Education Code Section 47641 for Special Education. The petition refers frequently to the Special Education Local Plan Area (SELPA) policies; however, no copies of these policies are provided, and the SELPA referenced, El Dorado Charter SELPA is not a local SELPA and SDCOE is unfamiliar with their policies. (Petition, p. 66.)
- The Charter offers GED as an option for students; however, students who are eligible for special education services continue to be eligible for services thru their 21st birthday. The Charter does not address how special education transition services for students who do not achieve/earn a diploma will be handled.
- The charter petition indicates special education and related services will be provided, but the petition fails to demonstrate how this will be accomplished in an independent study model.
- There is no clear alignment of curriculum to standards. The "K-5 Curriculum Scope and Sequence" lists topics over the course of the year,

but does not demonstrate alignment or learning aligned to California Content Standards. (Petition, pp. 235-240.) Only brief, unclear references to Next Generation Science Standards (NGSS) are made throughout the petition.

B. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition, in that:

- Governance Structure. The petition describes a governance structure that is not reflective of petitioners' current and/or planned organizational structure. (Petition, p. 84.) The petition states the charter school will be operated by a California nonprofit public benefit corporation called Audeo Charter School, which is currently structured to have, as its sole statutory member, another California nonprofit public benefit corporation called Altus Institute. As sole statutory member, Altus Institute would have significant control over Audeo Charter School, including the selection of a Board of Directors, the filling of vacancies, disposition of assets, and corporate changes, all of which require the vote and/or approval of Altus Institute. (Petition, pp. 77, 294, 300-314.) The Articles of Incorporation and Bylaws submitted with the petition reflect this organization. However, upon inquiry, petitioners informed SDCOE that Altus has been, or shortly will be, dissolved as a corporation. Therefore, petitioners are demonstrably unlikely to successfully implement the program set forth in the petition, when the governance structure has fundamentally changed, and the information in the petition and exhibits is no longer accurate or relevant in this area.
- Geographic Limitations. The petition describes a type of facilities plan that is not expressly authorized by law and that has been the subject of recent legal disputes. It is also contrary to the Legislature's emphasis on local control and oversight of charter schools. (Ed. Code § 47605(a); 47605.1.)
 - The petition identifies two resource centers (Escondido and San Marcos) that would be located outside the boundaries of the Carlsbad Unified School District, but within San Diego County. (Petition, pp. 127-128.) This is not expressly authorized by law. Education Code Section 47605.1(c) permits "a resource center, meeting space, or other satellite facility located in a county adjacent to that in which the charter school is authorized" to serve independent study students in certain circumstances. As

such, the Westminster resource center would appear to be authorized. However, there is no express authority, in statute or controlling case law, for locating resource centers or other satellite facilities outside the boundaries of the school district that received the petition, but within the county. Because the petition was originally submitted to Carlsbad Unified School District, if the charter school were approved by the County Board on appeal, it would be subject to the same geographic restrictions that would have applied if the petition were granted by Carlsbad Unified School District. (Ed. Code § 47605(j)(1).)

- Petitioners believe the proposed network of resource centers throughout San Diego County is legally permitted, and some charter schools have been allowed to operate this way without challenge. A case is currently before a court of appeal on this issue. (*Anderson Union High School District v. Shasta Secondary Home School.*) The superior court ruled in favor of the charter school, and the school district appealed. The California School Boards Association (CSBA) Education Legal Alliance has filed an *Amicus Curie* brief in support of the school district's position that resource centers outside the authorizing district, but within the county, are not permitted. A ruling is expected later this year.
- Education Code Section 47605(g) requires petitioners to provide information about the "potential effects of the charter school" including the "potential civil liability effects, if any, upon the school and upon the school district." Although this is addressed in the petition, there is no mention of the potential civil liability effects that could result from the approval and operation of multiple resource centers within San Diego County but outside the boundaries of Carlsbad Unified School District. (Petition, p. 129,)

C. The petition does not contain reasonably comprehensive descriptions of all 16 required elements of the petition, in that:

- Educational Program. The petition fails to adequately describe the educational program of the charter school.
 - The petition fails to provide adequate descriptions of the students the charter will attempt to educate. The petition notes that "Audeo II is seeking to provide an education option to students... who are disengaged and are seeking an academic intervention"

and that “many students...will be initially identified from referrals by District’s middle and high school counselors.” (Petition, p. 45.) The intent, design, and appropriateness of the program for students at the earliest grades (TK - 3) is not stated and is questionable.

- The petition does not provide a reasonably comprehensive description of many aspects of its educational program. For example, the petition does not adequately address Transitional Kindergarten, Common Core, Physical Education, and how the curriculum is aligned with California Content Standards. The petition fails to adequately address how the needs of English Learners would be met in an independent study setting. The petition also fails to adequately describe how the charter school would provide special education and related services in an independent study model. The specific findings listed under Finding A above (unsound educational program) are incorporated here by this reference to support this finding.
- Measurable Student Outcomes. The petition fails to adequately describe measurable student outcomes, and how the charter school will measure student progress in meeting those outcomes.
 - The specific measures to be used to report outcomes for TK-5 students is not clear; especially for students not taking the California Assessment of Student Performance and Progress (CAASPP) summative assessments (TK-2). (Petition, pp. 72-80.)
 - Northwest Education Association (NWEA) Measures of Academic Progress (MAPs) are mentioned, but it is unclear for which grade levels the assessment will be used and for what purpose. In the summary data tables, NWEA growth targets were provided; however, the number and percentage of students who actually reached grade level proficiency over time was not provided. (Petition, pp. 45, 74, 75, 81.)
 - Academic achievement outcomes have measurement tools that are geared for secondary and an on-line format, but the petition fails to demonstrate how the tools best support outcomes for TK-5.
 - Chosen assessment for TK-2 grades not assessed through CAASPP is not evident in the charter petition. There is no evidence that the *Physical Education Model Content Standards for California*

Public Schools or the *Physical Education Framework for California Public Schools* is being used to influence student outcomes.

- The rigor of outcomes and the inclusion of non-academic skills for TK-5 are absent even in the scope and sequence. Furthermore, scope and sequence of specific information for TK (goals, standards, assessment, etc.) could not be located in the petition.
- D. The petition contains a number of other deficiencies not specifically listed in the findings above. These findings are not intended to be exhaustive, and should not be interpreted to suggest or imply approval of any aspect of the petition not specifically addressed.

EXHIBIT 2:

**AUDEO II RESPONSE TO COUNTY FINDINGS FOR
DENIAL**



March 9, 2016

Via: Email

brwatson@sdcoe.net
lorad@sdcoe.net
gregg.robinson@sdcoe.net
guadalupe.gonzalez@sdcoe.net
alicia.munoz@sdcoe.net
mark.anderson@sdcoe.net
rick.shea@sdcoe.net
randolph.ward@sdcoe.net

Gregg Robinson, Board President
Board Members Gonzalez, Muñoz, Anderson, and Shea
San Diego County Board of Education
Dr. Randolph Ward, Superintendent
San Diego County Office of Education
6401 Linda Vista Road
San Diego, CA 92111-7319

Re: Audeo II Charter School Response to SDCOE Findings for Denial of Charter Petition Appeal

Dear Members of the SDCOE Board of Education and Superintendent Ward:

I am writing on behalf of the Audeo II Charter School ("Audeo II") in response to the SDCOE's proposed "Findings in Support of the Staff Recommendation to Deny the Petition to Establish Audeo II Charter School" ("Findings"). Thank you for taking the time to review our charter petition. We recognize the many demands on the SDCOE staff, however, we feel that the Findings presented to the Board do not present an accurate review of the charter petition as a whole and go far beyond the requirements of law in evaluating Audeo II's petition. We urge you to consider the following information in evaluating the Findings before casting your vote on our charter petition.

Overview of Law

The decision to grant or deny a charter petition is a matter of law whereby state law requires the SDCOE Board of Education to approve a charter petition, unless it makes written factual findings to support a denial.

The Education Code provides specific guidance to governing boards to approve the establishment of charter schools. Education Code Section 47605(b) states:

In reviewing petitions for the establishment of charter schools ... ***the chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged.*** (Emphasis added.)

Education Code Section 47605(b) also provides the legal basis for the denial of a charter petition as follows:

The governing board of the [county] shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice. The governing board of the [county] 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 specific facts to support one or more of the following findings:

- (1) The charter school 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 does not contain the number of signatures required by subdivision (a) [of Education Code Section 47605].
- (4) The petition does not contain an affirmation of each of the conditions described in subdivision (d) [of Education Code Section 47605].
- (5) The petition does not contain reasonably comprehensive descriptions of [the 16 required elements]. (Emphasis added.)

We believe it is clear that no factual basis exists to support one or more of the above legal basis for denial of the Audeo II charter petition. The charter petition exceeds all legal requirements set forth in the Education Code. By drafting the Findings, SDCOE has not effectuated the intent of the Legislature to encourage the establishment of charter schools. In fact, we fail to understand why the SDCOE staff did not ask ***one single question*** of our petitioning team during our joint meeting at the SDCOE offices on February 24, 2016. At that meeting, SDCOE staff had ample opportunity to ask questions, seek clarifications, and request additional information from us to avoid Findings based on misinformation and minor issues that fall beyond the scope of the Education Code's legal reasons for denial of a charter petition.

Thus, this duty now falls on the SDCOE Board of Education to ask questions, seek answers, and address any remaining concerns with the Audeo II petitioners directly at the Board meeting on March 9, 2016. More specifically, we point out that ***every single issue raised***

in the Findings can be addressed through conditions on opening and operation, which can be determined by Board action on Wednesday, and/or the establishment of a separate memorandum of understanding ("MOU") with Audeo II and the SDCOE.

Audeo II Charter School Responses to the Findings

The Findings do not meet the legal standard for denial of a charter petition. A majority of the findings concern minor and easily explained or resolvable matters that could have been addressed in an MOU, or through imposed conditions on Audeo II's opening and operation. Moreover, the findings are based on incorrect information, the misinterpretation or ignoring of the plain language in the Audeo II charter petition, conjecture, or standards that extend beyond the requirements set forth in the law. Given these flaws, the Findings constitute an impermissible basis for denial of the Audeo II charter.

Below, please find Audeo II's responses to the Findings:

A. The charter school, as described in the Petition, presents an unsound educational program for the pupils to be enrolled in the charter school, in that:

Audeo II Response: We point out the California Code of Regulations, Title 5, Section 11967.5.1(c) states the following shall be taken into consideration in determining whether a charter petitioner is "demonstrably unlikely to successfully implement the program set forth in the petition":

- (1) If the petitioners have a past history of involvement in charter schools or other education agencies (public or private), that are regarded as unsuccessful...
- (2) The petitioners are unfamiliar with the content of the petition or the requirements of law that would apply to the proposed charter school.
- (3) The petitioners have presented an unrealistic financial and operational plan for the proposed charter school in the areas of administrative services, financial administration, insurance, or facilities.
- (4) The petitioners personally lack the necessary background in the following areas critical to the charter school's success, and the petitioners do not have a plan to secure the services of individuals who have the necessary background in these areas: curriculum, instruction, and assessment; or finance and business management.

The SDCOE does not demonstrate that its findings meet any of the criteria listed above, as required by 5 CCR Section 11967.5.1. Indeed, the Audeo II petitioners have an established track record of success operating charter schools. Audeo Charter School and its sister school, The Charter School of San Diego (CSSD), share instructional and operational best practices in order to deliver the highest quality of education to their students. CSSD is a 2015 Malcolm Baldrige National Quality Award recipient and the California Awards for Performance Excellence (CAPE) Eureka Award for Performance Excellence Gold Level Award recipient. The Malcolm Baldrige National Quality Award is the nation's highest Presidential honor for performance excellence through innovation, improvement and visionary leadership. The CAPE Eureka Award for

Performance Excellence is the state-level recognition of excellence based on the Baldrige framework. These awards establish CSSD as a national role model for education and marks the first time that the Baldrige award has been presented to a single K-12 school in Baldrige's 28-year history.

This honor is a tribute to quality and performance excellence across many sectors. Organizations are judged on their Leadership/ Governance, Strategic Planning, Customer Focus, Knowledge Management, Workforce Focus, Operations, and Results. Previous winners include Motorola, Inc., Westinghouse Electric Corporation Commercial Nuclear Fuel Division, Xerox Corporation, Business Products & Systems, FedEx, IBM, The Ritz-Carlton (now part of Marriott International), AT&T, Texas Instruments, Inc., Eastman Chemical Company, AT&T, Verizon, Armstrong Building Products Operations, Merrill Lynch, Boeing, Solar Turbines Inc., University of Wisconsin-Stout, Sharp HealthCare, Honeywell Federal Manufacturing & Technologies, LLC, Nestlé Purina Pet Care Co., Lockheed Martin Missiles and Fire Control and PricewaterhouseCoopers Public Sector.

The Baldrige Program is managed by the National Institute of Standards and Technology, an agency of the U.S. Department of Commerce. It is funded by product and service fees and by a gift to the Department of Commerce from the Foundation for the Malcolm Baldrige National Quality Award.

In addition to the proven track record of success, the developers have demonstrated familiarity and expertise in the content of the Audeo II charter petition and the legal requirements of charter schools in general; and have presented a realistic and prudent financial and operational plan for Audeo II. As demonstrated herein, the findings do not present specific facts or evidence that the Audeo II petitioners are demonstrably unlikely to successfully implement the program, as the findings are based on incorrect facts, or go beyond the requirements of the law. Accordingly, this finding may not be used as a legal basis for denial of the Audeo II charter petition.

1. The petition fails to articulate information regarding the scope and sequence/instructional methodology that will be used to meet the needs of English Learners in TK-5. (Transitional Kindergarten)

Audeo II Response: This finding is false. First, the Audeo II petition includes a scope and sequence for grades TK-5 in Appendix A. Second, on February 23, 2016, Audeo II provided thorough documentation (ELA/ELD Standards Maps on pages 15-206 of the 319 page document detailing all subject area scope and sequence) attesting to the scope and sequence/instructional methodology that will be used to meet the needs of ELs in response to SDCOE's question #2. (See **Enclosure A**, attached here). The *Reach for Reading* ELA/ELD curriculum is among the most recently adopted curriculum by the state of California. In his announcement of this adoption, State Superintendent of Public Schools Tom Torlakson stated: "*This is a big step because these instructional materials can help teachers develop the language*

skills of English learners throughout the school day." (See: <http://www.cde.ca.gov/nr/ne/yr15/yr15rel82.asp>.)

2. The petition fails to adequately address how the needs of English Learners would be met in an independent study setting.

Audeo II Response: This finding is false. Audeo II attested in the petition (Petition, p. 56 of 123) that Audeo II will meet all applicable legal requirements for English Learners (ELs) including identification, assessment, reclassification, instruction, and intervention. Audeo II recognizes that both designated and integrated English Language Development (ELD) are essential program elements to ensure each and every EL meets grade level goals. The petition addresses how Audeo II will meet the needs of EL students in an independent study setting as outlined in *Element A: Educational Program, Plan for English Learners* (Petition, pp. 56-58 of 123). Specifically, the petition details plans for comprehensive Integrated ELD and Designated ELD that integrates the principles and practices outlined in the *English Language Arts/English Language Development (ELA/ELD) Framework for California Public Schools* to ensure a research-based approach to ELD. Additionally, Audeo II TK-5 will utilize the State Board of Education (SBE)-adopted ELA/ELD instructional materials for transitional kindergarten through grade five.

3. The petition lacks clarity on the specific, appropriate, and research/evidence based curriculum and instructional design for students at the varying grade levels from TK-5. Most examples appear to be middle and high school related.

Audeo II Response: This finding is false. First, the Audeo II petition includes multiple references to instructional design for students as applied to all grade levels and learner types, as appropriate. For example, each student will have an individualized, personalized educational plan (Petition, p. 34 of 123), will have access to technology based learning (Petition, p. 35 of 123), parent and student participation in setting instructional goals (Petition, p. 38 of 123), and student access to a variety of learning opportunities, including blended learning (Petition, p. 41 of 123), to name a few. In addition, Audeo II provided a TK-5 scope and sequence in the petition (See Petition, Appendix A).

Second, as addressed in our response to finding #A.1 above, on February 23, 2016, Audeo II provided thorough documentation (a 319 page scope and sequence for TK-5) including all curriculum and instructional objectives. The question of TK curriculum was also addressed. This finding demonstrates that SDCOE staff have ignored the plain reading of the Audeo II petition and supplemental information that was provided by Audeo II to SDCOE staff upon request.

4. The alignment of the program to the stated program objectives of "increase learning opportunities for all students with special emphasis on expanded learning experiences for students who are identified as academically low achieving" and to "encourage the use of different and innovative teaching methods" is not evident in the petition. (Petition, p. 40.)

Audeo II Response: Once again, this finding is false. The Audeo II petition states (Petition, p. 41 of 123): "Teachers will utilize a variety of instructional modes of delivery to target student engagement and increase achievement. Independent study, online, home school, and blended learning options will provide a range of student learning opportunities based on learning styles and pathways. In addition, each student's personalized education plan will be enhanced with one-on-one tutoring, field trips, volunteer opportunities, cultural events, guest speakers, career days, a wide variety of elective course options, and work experience customized to student interest and pathway choice."

Further, Audeo Charter School (San Diego), the model for Audeo II, has a demonstrated track record of serving academically low achieving students. (Petition, p. 15 of 123)

- In 2013, Audeo was one of the most successful schools qualifying under the Alternative Schools Accountability Model (ASAM) in the state of California. Out of the approximately 846 ASAM schools in the state, Audeo had the 16th highest API score (top 2%).
- Despite having students enter Audeo on an average of 2 grade levels behind in reading and 3 grade levels behind in math, an overall increased number of Audeo students over the past 4 years have been meeting their NWEA growth targets which require at least one year of academic gain.
- In the last five years, over 800 Audeo students, the majority of whom were not on track to graduate, have completed their high school requirements by receiving a diploma (691), passing the GED (65) or passing the CHSPE (45).
- From 2010-2014, Audeo decreased its overall dropout rate from 5.3% to 2.6%. This is an outstanding achievement given that the majority of Audeo's students enroll behind in credits, not on track to graduate within 4 years, 2 grade levels behind in English, and 3 grade levels behind in math. This includes low dropout rates for subgroups in 2013-2014 i.e: Hispanic (2.6%), African American (1.4%), and White (2.8%).
- From 2010-2014, despite Audeo's students entering on an average of 2 grade levels behind in reading and 3 grade levels behind in math, approximately 80% of Audeo's 10th grade students have passed both the ELA and Math portions of the California High School Exit Exam.

5. The plan for students achieving below grade level states that "universal design for learning, embedded literacy instruction across curricula area...differentiation, scaffolding" are intended, but where and how they will be used is unclear. (Petition, p. 61.)

Audeo II Response: This finding is false. The Audeo II petition references Universal Design for Learning (UDL), embedded literacy instruction across curricular area, blended (independent study/online) learning, differentiation, scaffolding, and formative assessments as research-based instructional strategies in which Audeo II teachers **will be trained** in order to provide accessible core instruction to each and every student. Core Instruction is the foundational tier of the Multi-tiered System of Support (MTSS) (Petition, p. 54 of 123). Teachers that are trained in these proven techniques will be able to apply their skills to effectively engage students who are achieving below grade level in the Audeo II educational program that is customized for every student according to his/her Pathways Personalized Education Plan (PPEP).

6. The petition lacks a clear description of instructional approaches and strategies to be used, other than to indicate that students will be assessed (or self-assessed) for learning style preference (which is not a research-based approach), content knowledge, academic skills and English proficiency. Evidence of differentiation or personalized learning is not evident in the course description or scope/sequence/assignment sections.

Audeo II Response: Once again, this finding is false. The Audeo II petition explicitly states a clear description of instructional approaches and strategies that will be implemented to engage each and every student in a Pathways Personalized Education Plan (PPEP) (Petition, p. 41 of 123). Upon enrollment, students will be assessed and immediately engaged with a rigorous, technology-enhanced curriculum that is customized to meet their specific academic needs. Students in grades 6-12 will take one to two courses at a time, allowing them to focus on mastering the standards of one course before moving on to the next. Students in grades TK-5 will be enrolled in a full course of study including all core subject areas. Teachers will utilize a variety of instructional modes of delivery to target student engagement and increase achievement. Independent study, online, home school, and blended learning options will provide a range of student learning opportunities based on learning styles and pathways. In addition, each student's PPEP will be enhanced with one-on-one tutoring, field trips, volunteer opportunities, cultural events, guest speakers, career days, a wide variety of elective course options, and work experience customized to student interest and pathway choice. Each teacher will have one Resource Center Associate who supports the delivery of curriculum.

Evidence of differentiation and personalized learning is indeed evident throughout the petition in the description of the Educational Program and educational plans for various students groups (Petition, pp. 36-54 of 123), including the keystone process implemented by Audeo II, the PPEP process. Evidence of differentiation and personalized learning are not required to be included in course descriptions or scope/sequence/assignment sections.

7. The petition fails to affirm that the curriculum is aligned to California Content Standards. The stated educational objectives for students are not aligned to California English Language Arts (ELA)/Literacy Standards, nor explicitly to 21st Century Competencies. Attribution of the stated objectives is not provided. The petition fails to demonstrate if

all student goals are indeed aligned to the standards when it says that "set of instructional goals will be developed" based on student assessment data; if each student has a different set of goals, assurance that they are aligned to the standards is ambiguous. (Petition, pp. 45, 51.) Furthermore, objectives in the Scope, Sequence and Assignments in English 8, for example, are not aligned to California ELA standards; there is not enough information in the assignments section to evaluate alignment as they primarily say "read X and complete all activities in the lesson guide". (Petition, pp. 206-211.)

Audeo II Response: This finding is false. The Audeo II petition clearly states in numerous places (Petition, pp. 18, 34-35, 41 of 123, etc.) that the Audeo II instructional program will be founded on and aligned to the California Common Core Standards (CCSS). The course samples provided for grades 6-12 (Petition, Appendix A, pp. 130-231 of 527) clearly reference CCSS and are representative of all 6-12 coursework (see example for English 8 below). In the TK-5 program, both Math in Focus (2014) and Reach for Reading (2015) were adopted by CDE and meet the CCSS. All TK-5 materials used in science and in history/social science also meet the California Content Standards and NGSS, as shown in the 319-page scope and sequence document provided on February 23, 2016 in response to SDCOE's question #2 regarding alignment to standards (See **Enclosure A**, attached here).

According to SDCOE findings, "objectives for English 8, for example, are not aligned to California ELA standards." However, the English 8 course is indeed aligned to the CCSS as referenced by the standards addressed under each unit of study. For example in Module 2: "The Diary of Anne Frank" is a required reading. According to the Lexile Framework for Reading, grade 8 students should receive texts that are cognitively demanding at a range of 1010L to 1185L. The Diary of Anne Frank is listed at 1080 on the Lexile range. 1 of 15 CCSS covered in this unit: RI.8.4 "Determine the meaning of words and phrases as they are used in a text, including figurative, connotative, and technical meanings; analyze the impact of specific word choices on meaning and tone, including analogies or allusions to other texts." The students are asked to work on vocabulary in context prior to reading the text closely to assist in understanding the word choices used in the text.

Examples:

- Lesson 14: Literature Books pp. 725-745 - READ the "Previewing" section before each story carefully. "The Diary of Anne Frank, Act I": Read the selection and complete all activities assigned in the Lesson Guide.
- Lesson 15: Literature Books pp. 748-768 - READ the "Previewing" section before each story carefully. "The Diary of Anne Frank, Act II": Read the selection and complete all activities assigned in the Lesson Guide.
[CCSS: RI.8.4, L.8.1, L.8.3, SL.8.4, W.8.1a, W.8.1b, W.8.1c, W.8.1d, W.8.1e, W.8.4, W.8.5, W.8.6, W.8.8, W.8.9b]

8. The TK-5 scope and sequence does not affirm that courses will address the California History-Social Science standards.

Audeo II Response: This finding is false and once again demonstrates that SDCOE staff have ignored the plain reading of the Audeo II petition and supplemental information that was provided by Audeo II to SDCOE staff upon request. The TK-5 course of studies for California History/Social Sciences is based upon California Content Standards as addressed on pages 210-247 of the TK-5 Scope and Sequence provided to SDCOE on February 23, 2016 in response to SDCOE question #2. (See **Enclosure A**, attached here).

9. There is no description of the content, student learning outcomes or scope and sequence for the required 200 minutes of physical education that students must receive every 10 school days at the elementary school level, or the required 400 minutes of physical education that students must receive every 10 school days at the middle and high school levels. (Petition, pp. 73, 235-240.)

Audeo II Response: This finding goes beyond the legal requirements of charter schools regarding physical education. The SDCOE finding cites to requirements that apply to school districts and *not charter schools*. (See Education Code Section 47610). In the absence of any legal requirements for charter schools regarding physical education minute requirements, charter schools are bound by their charter petition. The Audeo II petition does not include physical education minute requirements, but does, however, describe its physical education courses available to students and skills, to which Audeo II is bound (Petition, p. 66 of 123). This position is supported by the California Department of Education, *Physical Education FAQs* (See <http://www.cde.ca.gov/pd/ca/pe/physeducfaqs.asp#Charter>, last reviewed October 15, 2015):

Charter Schools and Physical Education

1. Do charter schools have to offer physical education (PE)?

Charter schools are required to provide PE consistent with their individual charters. If the charter school does have PE included in its charter, then it is required to provide PE consistent with the charter, even if that exceeds the EC requirements for non-charter schools.

2. Does a charter school have to administer the physical fitness test (PFT)?

Yes. All charter schools, whether they have physical education included in the charter or not, must administer the PFT to all students in grades five, seven, and nine as required by EC Section 60800 and 5 CCR Section 1040.

10. Physical education course descriptions are not included in the petition so it could not be determined whether students are receiving the eight required curricular areas that are mandated in Education Code.

Audeo II Response: This finding goes beyond the legal requirements of charter schools regarding physical education. Moreover, courses are described in the Petition (See Petition, p. 66 of 123). See our response #A.9, above.

11. Physical education is not listed as a graduation requirement as required by the State. (Petition, p. 73.)

Audeo II Response: This finding goes beyond the legal requirements of charter schools regarding physical education. See our response #A.9, above.

12. The petition does not address when/how the Physical Fitness Test (FITNESSGRAM) will be administered in grades 5, 7 and 9. (Petition, p. 81.)

Audeo II Response: This finding is false. The Audeo II petition affirms that the school will administer the Physical Fitness Test (PFT), as is required of charter schools in California (See Petition, pp. 4 and 74 of 123). Methods and scheduling for the PFT assessment will occur as required, as will assessment for CAASPP, CST, CMA, CAPA and CELDT, which are listed in the same "State-Mandated Tests" section of the petition (See Petition, p. 74 of 123).

13. Based on the information provided, the mathematics courses offered by Audeo II do not appear to meet the expectations of the California State Standards for mathematics. The petition failed to present any evidence of instructional strategies that would support the intent of these standards or that would support the development of "solid conceptual understanding through a focus on problem solving" or that "students will be provided a rigorous mathematical educational experience incorporating the mathematical shifts demanded by the Common Core..." (Petition, p. 52.)

Audeo II Response: This finding is false. The Sample Scope and Sequence provided with the petition identifies Common Core State Standards and objectives addressed in representative mathematics courses. (See Petition, Appendix A, pp. 138-153 and 205-211 of 527, and TK-5 Scope and Sequence addendum pp. 266-302 of 527.)

As stated in the California Common Core State Standards for Mathematics, the standards for higher mathematics are organized into both model courses and conceptual categories. The higher mathematics courses adopted by the State Board of Education in January 2013 are based on the guidance provided in Appendix A published by the Common Core State Standards Initiative. The model courses for higher mathematics are organized into two pathways: traditional and integrated. The traditional pathway consists of the higher mathematics standards organized along more traditional lines into Algebra I, Geometry, and Algebra II courses. The integrated pathway consists of the courses Mathematics I, II, and III. The integrated pathway presents higher mathematics as a connected subject, in that each course contains standards from all six of the conceptual categories. In addition, two advanced higher

mathematics courses were retained from the 1997 mathematics standards: Advanced Placement Probability, and Statistics and Calculus (California Math Framework).

The standards for higher mathematics are also organized into conceptual categories that are clearly addressed in the Audeo II Petition:

- Number and Quantity (See Petition, Appendix A, p. 142 of 527)
- Algebra (See Petition, Appendix A, p. 142 of 527)
- Functions (See Petition, Appendix A, p. 142 of 527)
- Modeling (See Petition, Appendix A, pp. 146-157 of 527)
- Geometry (See Petition, Appendix A, pp. 143-144, and 145-146 of 527)
- Statistics and Probability (See Petition, Appendix A, pp. 144-145 of 527)

14. There is no evidence that supports Audeo II's mission statement as it relates to mathematics education, "Audeo II will implement personalized educational programs to facilitate student achievement. These educational programs will demonstrate that standards-based educational reform can provide a prototype for changing the way teachers teach and students learn." (Petition, p. 39.)

Audeo II Response: Once again, this finding is false. Audeo II's mission is to provide a personalized educational program to facilitate student achievement. The Audeo II petition clearly communicates the process as it relates to all content areas, including math.

The petition states that "At the time of enrollment, professionals will review student reading, writing, math skills, and school records. Each student will receive a personal education plan that can include one-on-one tutoring, online course options, field trips, supervised study, and assistance accessing community and government agency services." (Petition, p. 34 of 123). At intake, upon completion of assessments in math, staff will "review these academic assessment results along with academic history and records to assess student overall achievement levels and inform the creation of the Pathways Personalized Education Plan (PPEP)."

Audeo II's mission statement that the "program can provide a prototype for changing the way teachers teach and learners learn" refers to successful outcomes from the use of personalized education planning (PPEP) and the resulting individualized program and instruction for each student based upon their instructional level, interests, and Pathway."

According to data presented in the Audeo II petition there is clear evidence that supports Audeo II's mission as it relates to math including California High School Exit Exam (CAHSEE) Mathematics results (See Petition, Figure 7, p. 17 of 123). Audeo's CAHSEE results demonstrate capacity to support at-risk students in mathematics with high passing rates (2010-2014).

15. The overview of the Integrated Mathematics II course presented does not match the sample concepts/topics provided for the course, nor the description provided in the course catalog.

Audeo II Response: This finding is false. These documents are 100% aligned but are included in the documentation for the petition for different purposes. The overview given for the Integrated Mathematics II course is a lengthy and expanded unit-by-unit description required by the University of California in order to review and ultimately approve the course for inclusion on the college preparatory course approved list (UC a-g). The course description included in the course catalog is a synopsis that highlights the major elements and is limited in its entirety due to space.

16. The course overview provided for Mathematics 8 does not align with the expectations of the Common Core, nor does it align with the concepts/topics cited in the petition. Under Common Core the 8th grade course is not an optional, "skill building course;" it is a necessary course of study in the sequence to higher mathematics. (Petition, p. 212.)

Audeo II Response: This finding is clearly false. The Mathematics 8 course fulfills all requirements of California Standards and is aligned to the expectations of Common Core. The course overview for Mathematics 8 (See Petition, Appendix A, p. 209 of 527) clearly states that this course is designed for grade 8 students establishing and building the fundamental skills *necessary for success in the high school college preparatory Algebra 1 or Integrated Math courses* (See Petition, Appendix A, p. 209 of 527). The overview lists all California State Standards addressed through the course. The overview states that the course reinforces the skills and concepts needed to meet the standards on which these students will be assessed.

17. The limited information provided for K - 5 reflects no shift to Common Core, so there was not sufficient evidence that state requirements would be met.

Audeo II Response: This finding is false and once again demonstrates that SDCOE staff have ignored the plain reading of the Audeo II petition and supplemental information that was provided by Audeo II to SDCOE staff upon request. As previously explained in this Response, Audeo II provided extensive documentation to SDCOE staff regarding TK-5 curriculum that aligns to the Common Core State Standards (CCSS). (See **Enclosure A**, attached here). Every page of the Reach for Reading scope and sequence provided to SDCOE on February 23, 2016 in response to question #2 details the CCSS. The Math in Focus scope and sequence lists all CCSS addressed per grade level (See pp. 266-309 of **Enclosure A**, addendum TK-5 Scope and Sequence). Both are adopted by CDE as meeting CCSS.

In fact, we have gone above and beyond by incorporating an ELA program that also assists us in meeting History/Social Studies Standards and the Next Generation Science Standards (see pages referenced above).

18. The petition fails to meet the required standards under Education Code Section 47641 for Special Education. The petition refers frequently to the Special Education Local Plan Area (SELPA) policies; however, no copies of these policies are provided, and the SELPA referenced, El Dorado Charter SELPA is not a local SELPA and SDCOE is unfamiliar with their policies. (Petition, p. 66.)

Audeo II Response: This finding goes far beyond the required elements of a charter petition pursuant to Education Code Section 47605. A charter petition is not required to include SELPA policies with the charter petition. We have doubts that SDCOE staff are unaware of the El Dorado County Charter Special Education Local Planning Area (EDCOE SELPA) and its esteemed reputation in California. The EDCOE SELPA is the first statewide charter-only SELPA and partners with charter schools throughout the state of California. The EDCOE SELPA will provide support to Audeo II through governance services, program support, parent and community support, business office support, legal support, and professional development.

As stated in the Audeo II charter petition, Audeo Charter School was one of the founding partners of the EDCOE SELPA. Since 2008 Audeo Charter School has at all times been a member in good standing and has demonstrated the commitment and capacity to function as an LEA for special education services. In addition to meeting all of the regulatory requirements of IDEIA, the leadership of Audeo Charter School is actively engaged in the SELPA leadership and governance structure. Pursuant of the SELPA local plan, the SELPA prioritizes the admission of new schools operated by a current member of the SELPA. Accordingly, based on the aforementioned good standing, Audeo II has met the approval criteria for expansion within the EDCOE SELPA. The EDCOE SELPA intent for acceptance letter is found in the Audeo II Petition as well (See Petition, pp. 58-59 of 123, and petition Appendix D). For the SDCOE's reference, attached here as **Enclosure B** is the EDCOE SELPA Procedural Guide.

19. The Charter offers GED as an option for students; however, students who are eligible for special education services continue to be eligible for services thru their 21st birthday. The Charter does not address how special education transition services for students who do not achieve/earn a diploma will be handled.

Audeo II Response: This finding is false. In California, students are considered to be "successful completers" if they pass the GED as an alternative to dropping out of high school programs. Audeo II will allow adult students to prepare for the GED through traditional core curriculum. Audeo II does not offer specific GED preparation courses and does not administer GED assessments. Audeo II's petition acknowledges that Audeo II's obligation to offer FAPE under the IDEIA does not end until the student earns a high school diploma or turns 22 years of age. Students at Audeo II who pass the GED will be encouraged to continue enrollment at Audeo II and receive transition supports and services as detailed in their IEP in order for them to meet their IEP goals. (See Petition, pp. 58-64 of 123).

20. The charter petition indicates special education and related services will be provided, but the petition fails to demonstrate how this will be accomplished in an independent study model.

Audeo II Response: This finding is false and demonstrates the SDCOE's own failure to understand the independent study model of education. As detailed in Audeo II's response to the SDCOE inquiry (submitted February 23, 2016; See **Enclosure A**, attached here), and throughout the Audeo II petition (See Petition, pages 58-64), Audeo II embraces an inclusion model in the delivery of special education and related services. Traditionally, inclusion is the practice of educating students with disabilities in the same classrooms as students without disabilities. In the absence of traditional classrooms, students who receive Special Education services are fully included in the instructional programs that Audeo II offers. Audeo II shall accommodate students with a wide range of academic skills, emotional developments, and learning styles through a collaborative model. General education teachers and Education Specialists partner to ensure compliant implementation of the IEP services and supports while collaborating in their efforts to assist students in meeting their IEP goals. They work together weekly to customize curriculum, decide on appropriate mode of delivery, and analyze formative assessments.

Audeo II is committed to providing each and every student with disabilities a Free and Appropriate Public Education (FAPE) in the student's Least Restrictive Environment (LRE). Audeo II shall act as its own Local Education Agency (LEA) as a member of the El Dorado Charter Special Education Local Planning Area (EDCOE SELPA) and therefore provide the full range of services, supports, and setting that each student needs as determined by their IEP. Audeo II shall employ credentialed Education Specialists that provide Specialized Academic Instruction (SAI) to support student goal achievement. Audeo II shall employ a credentialed, licensed, School Psychologist that conducts assessments and provides Psychological Services to students with social-emotional goals. Audeo II shall contract with a California Department of Education (CDE) approved Non-Public Agency (NPA) to provide related services including and not limited to: Speech and Language Services, Audiological Services, Occupational Therapy, Physical Therapy, Assistive Technology Services, and Educationally-Related Mental Health Services (ERMHS). Audeo II shall contract with CDE approved Non-Public Schools (NPS) to provide higher level of care in a more restrictive setting in cases where IEP teams determine other settings are most appropriate for students.

21. There is no clear alignment of curriculum to standards. The "K-5 Curriculum Scope and Sequence" lists topics over the course of the year, but does not demonstrate alignment or learning aligned to California Content Standards. (Petition, pp. 235-240.) Only brief, unclear references to Next Generation Science Standards (NGSS) are made throughout the petition.

Audeo II Response: In addition to the curriculum scope and sequence included in Appendix A of the Audeo II petition, which lays out topics studied over the course of the year, Audeo II's

response on February 23, 2016 to questions from SDCOE staff provided a 319-page scope and sequence for TK-5 that clearly delineates alignment to California Common Core Content Standards, California Content Standards and Next Generation Science Standards. (See **Enclosure A**, attached here). This finding once again demonstrates that SDCOE staff have ignored the plain reading of the Audeo II petition and supplemental information that was provided by Audeo II to SDCOE staff upon request.

B. The Petitioners are demonstrably unlikely to successfully implement the program set forth in the petition, in that:

Audeo II Response: We point out that the definition of an “unsound educational program” is provided in the California Code of Regulations, Title 5, Section 11967.5.1(b):

“For purposes of Education Code section 47605(b)(1), a charter petition shall be ‘an unsound educational program’ if it is any of the following:

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

The finding does not demonstrate or present evidence that meets any of the criteria listed above, as required by 5 CCR Section 11967.5.1. Indeed, the Audeo II charter petition does not include any evidence that its educational program presents the likelihood of physical, emotional, or psychological harm to students. As demonstrated throughout this response, the findings do not present specific facts or evidence that the Audeo II education program is unlikely to be of educational benefit to the students who attend the school, as the findings are based on incorrect facts, or go beyond the requirements of the law. Accordingly, this finding may not be used as a legal basis for denial of the Audeo II charter petition.

1. **Governance Structure.** The petition describes a governance structure that is not reflective of petitioners’ current and/or planned organizational structure. (Petition, p. 84.) The petition states the charter school will be operated by a California nonprofit public benefit corporation called Audeo Charter School, which is currently structured to have, as its sole statutory member, another California nonprofit public benefit corporation called Altus Institute. As sole statutory member, Altus Institute would have significant control over Audeo Charter School, including the selection of a Board of Directors, the filling of vacancies, disposition of assets, and corporate changes, all of which require the vote and/or approval of Altus Institute. (Petition, pp. 77, 294, 300-314.) The Articles of Incorporation and Bylaws submitted with the petition reflect this organization. However, upon inquiry, petitioners informed SDCOE that Altus has been, or shortly will be, dissolved as a corporation. Therefore, petitioners are demonstrably unlikely to successfully implement the program set forth in the petition, when the

governance structure has fundamentally changed, and the information in the petition and exhibits is no longer accurate or relevant in this area.

Audeo II Response: This finding is completely false and based on a misunderstanding of the Audeo II charter petition appeal packet and information presented to SDCOE at the February 24, 2016 meeting with SDCOE staff.

As included in Audeo II's response to the Carlsbad Unified School District (CUSD) findings for denial (see Audeo II appeal packet, p. 549 of 562), SDCOE was made aware that effective January 21, 2016, the Audeo nonprofit corporation acted to remove Altus Institute, Inc. as the sole statutory member. Further, at the February 24, 2016 meeting with SDCOE staff, our legal counsel explained that removal of the sole statutory membership structure resulted in *minor, technical amendments* to the Audeo II petition impacting two or three lines in the Audeo II petition, along with conforming edits to the Audeo nonprofit bylaws. As explained, the action to remove Altus Institute, Inc. as the sole statutory member of the Audeo Charter School nonprofit corporation **was required by the San Diego Unified School District (SDUSD) as a condition of approval of the renewal of Audeo Charter School (San Diego)**; a decision that was made by SDUSD on December 1, 2015, months *after* the Audeo II petition had been submitted to the CUSD.

Once again, we emphasize that these changes were a direct result of SDUSD's renewal of Audeo Charter School (San Diego), and the Audeo nonprofit had no choice but to alter its governance structure while in the midst of Audeo II petition process. We believe that the SDCOE Board has full authority under the law to adopt these changes as *technical amendments* to the Audeo II petition as part of its approval. Indeed, because the SDCOE Board has the authority in the Education Code to approve material amendments to a charter petition, a recent California Superior Court judge ruled that a county board of education had authority to approve the amended charter as part of its approval process. As noted in applicable regulations, "[i]n considering charter petitions that have been previously denied, the county board of education or SBE are not limited to 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)." (5 CCR § 11967(f).) Further, the State Board of Education (SBE) routinely approves charter petitions with required "technical amendments" that can include minor changes (e.g., additional notification regarding tuberculosis clearance for staff and SBE-specific dispute resolution procedures), and more substantive changes (e.g., revisions to English Learner classification procedures, addition of charter school goals and measurable outcomes, changes in the order of admission preferences, and revisions to the governance structure and bylaws to eliminate a perceived conflict regarding a charter school staff member who proposed to serve on the charter school's board of directors).¹

¹ See SBE agenda, January 14, 2016, Item 18: *Petition for Establishment of a Charter School Under the Oversight of the State Board of Education: Consideration of Ross Valley Charter which was denied by the Ross Valley School District and the Marin County Board of Education*, at: <http://www.cde.ca.gov/be/ag/ag/vr16/documents/jan16item18.doc>.

2. **Geographic Limitations.** The petition describes a type of facilities plan that is not expressly authorized by law and that has been the subject of recent legal disputes. It is also contrary to the Legislature's emphasis on local control and oversight of charter schools. (Ed. Code § 47605(a); 47605.1.)

- a. The petition identifies two resource centers (Escondido and San Marcos) that would be located outside the boundaries of the Carlsbad Unified School District, but within San Diego County. (Petition, pp. 127-128.) This is not expressly authorized by law. Education Code Section 47605.1(c) permits "a resource center, meeting space, or other satellite facility located in a county adjacent to that in which the charter school is authorized" to serve independent study students in certain circumstances. As such, the Westminster resource center would appear to be authorized. However, there is no express authority, in statute or controlling case law, for locating resource centers or other satellite facilities outside the boundaries of the school district that received the petition, but within the county. Because the petition was originally submitted to Carlsbad Unified School District, if the charter school were approved by the County Board on appeal, it would be subject to the same geographic restrictions that would have applied if the petition were granted by Carlsbad Unified School District. (Ed. Code § 47605(j)(1).)

Audeo II Response: First, this issue is moot. This finding once again demonstrates that SDCOE staff have ignored the supplemental information that was provided by Audeo II to SDCOE staff. On March 4, 2016, SDCOE was informed through its legal counsel of Audeo II's offer to **delete the San Marcos and Escondido locations** from its charter petition, thus removing this matter as an issue for debate. As noted above in our response to finding #B.1, the SDCOE Board has full authority under the law to adopt these changes as **technical amendments** to the Audeo II petition as part of its approval.

Second, SDCOE staff incorrectly applies the geographic restrictions governing classroom-based charter schools in Education Code sections 47605(a) and 47605.1(d) to Audeo II, which is a nonclassroom-based charter school.² Audeo II's operation of resource centers within the same county as its authorizing entity is permitted under law. Thus, this finding may not be used as a legal basis for denial of the Audeo II charter petition.

Site-based Geographic Restrictions Do Not Apply to Nonclassroom-based Charter Schools

The geographic restrictions in Education Code sections 47605(a) and 47605.1(d) refer to "sites" or "schoolsites" interchangeably. A "schoolsites" is defined in Education Code section 47612.5(e)(3) as "a facility that is used principally for classroom instruction." Further, the phrase "classroom based instruction" is defined in Education Code section 47612.5(e)(1). Under this section, for a charter school to provide classroom-based instruction, *all* of the following must be satisfied: (1) students are engaged in educational activities and are under the

² This legal opinion was also included in Audeo II's response to the Carlsbad Unified School District findings for denial (See Audeo II appeal packet, pp. 554-557 of 562.)

immediate supervision and control of a credentialed teacher, (2) at least eighty percent of the instructional time is at the schoolsite, (3) the schoolsite is used principally for classroom instruction, and (4) students are required to attend the schoolsite at least eighty percent of the minimum instructional time. (Ed. Code, § 47612.5(e)(1); see also, Cal. Code Regs., tit. 5, § 11963.) Conversely, nonclassroom-based instruction is any instruction that fails to meet the above requirements. (Ed. Code, § 47612.5(e)(2).)

Audeo II does not provide classroom-based instruction as defined above, and is thus a nonclassroom-based charter school. Audeo II shall offer an independent study program, which provides each student with an individualized approach to education. Students are only required to meet with their teacher at a resource center twice a week to review assignments and the students' progress in their courses.

The geographic restrictions governing "sites" or "schoolsites" are inapplicable because Audeo II will not operate such facilities, and is not governed by the restrictions. Audeo II will operate nonclassroom-based independent study resource centers, which are explicitly governed by a different statutory geographic limit – Education Code section 47605.1(c).

Reliance on *San Diego Unified School District v. Alpine Union School District* as authority with regards to the location of nonclassroom-based resource centers is misplaced. This case is not dispositive of the issue, and was based upon different facts. Furthermore, there is a Superior Court case that contradicts the decision in *San Diego Unified School District v. Alpine Union School District*, and utilizes facts much more similar to the issue at hand.

In *Anderson Union High School District v. Shasta Secondary High School*, the Shasta County Superior Court denied injunctive and declaratory relief sought by the school district to prevent the operation of a resource center within its boundaries. In its Final Statement of Decision, the court specifically found: "What is clear from [Education Code Sections 47605(a), 47605.1(c), or 47605.1(d)] is that the legislature intended to distinguish a resource center, meeting space, or other satellite facility from a site or a schoolsite.... Therefore, sections 47605(a) and 47605.1(d) ... do not apply to a resource center, meeting space, or other satellite facility...."

Further support for the fact that nonclassroom-based charter schools are not governed by the restrictions in Education Code sections 47605(a) and 47605.1(d) is found in administrative interpretations of the amendments and sections added by Assembly Bill ("AB") 1994 in 2002.

On November 14, 2002, in a letter to all County and District Superintendents, County and District Chief Business Officials, and Charter School Administrators, and in response to the passage of AB 1994, Janet Sterling, Director of the California Department of Education ("CDE") School Fiscal Services Division, summarized the impact of the new legislation on resource centers, as follows: "The site restrictions *do not apply to facilities used as resource centers, meeting spaces, or satellite sites used exclusively for non-classroom-based independent study if a majority of the charter school pupils are residents of the county in which the charter is authorized.*"

Moreover, in 2002 the CDE posted Frequently Asked Questions on its website, and under the question, “[w]hat are the geographic restrictions on charter school operations?” provided: “The site restrictions *do not apply* to nonclassroom-based facilities used as resource centers, meeting spaces, or satellite sites used exclusively for independent or home study if a majority of the charter school pupils are residents of the county in which the charter is authorized. However, an independent study (nonclassroom-based) charter school may only enroll pupils who live in the county or an adjacent county to where the charter is authorized.”

In the CDE’s current Frequently Asked Questions, the CDE provides under the question “[a]re there geographic restrictions on the operation of nonclassroom-based charter schools?”, as follows: “Yes. California Education Code Section 47605.1(c) allows a nonclassroom-based charter school to establish a resource center, meeting space, or other satellite facility in a county adjacent to that in which the charter school is located, provided (1) the facility is used exclusively to serve nonclassroom-based pupils and (2) the school’s primary educational services are provided in, and a majority of the school’s pupils are residents of, the county in which the school’s charter is approved.”

Accordingly, in the current version of the Frequently Asked Questions, when asked if there are geographic restrictions on the operation of nonclassroom-based charter schools, the CDE responded *only* by providing the restriction in Education Code section 47605.1(c) regarding adjacent county facilities. Notably, the CDE does not apply any of the “site” or “schoolsite” restrictions found in Education Code sections 47605(a) or 47605.1(d) to nonclassroom-based charter schools like the proposed Audeo Charter School II.

Thus, the site-based geographic restrictions do not apply to nonclassroom-based charter schools.

In-County Resource Centers are Permissible

There is no law that precludes in-county resource centers in any manner. The SDCOE’s contention that Education Code section 47605.1(c) prohibits in-county resource centers is reading into the law a restriction that simply does not exist.

The only restriction in the CSA addressing the location of resource centers limits the location of resource centers *in the county adjacent* to that which the charter is authorized. (Ed. Code, § 47605.1(c).) A reasonable interpretation of this section is that the Legislature intended to restrict the location of resource centers through adjacent counties.

The SDCOE’s interpretation of Education Code section 47605.1(c) reads the term “adjacent county” in isolation. But the statute and the statutory scheme governing the restriction of charter school locations must be considered as a whole. The statutory framework governing charter school locations does not push charter schools away from their authorizing entities, but allows more distant locations under certain circumstances. (Ed. Code, §§ 47605(a)(5),

47605.1(d).) This is consistent with an interpretation of Education Code section 47605.1(c) that permits *both* in-county and out-of-county resource centers.

The interpretation that resource centers can *only* locate in adjacent counties leads to absurd results by pushing resource centers further away from its authorizing entity, and limiting a charter school's ability to serve students that are located within the county in which the school is authorized. It is a common rule of construction that a statute not be interpreted in a manner that leads to an absurd result. (*United States v. Wilson* (1992) 503 U.S. 329, 334). Instead, "the court will apply common sense to the language at hand and interpret the statute to make it workable and reasonable." (*Wasatch Property Management v. Degrate* (2005) 35 Cal.4th 1111, 1122.)

Indeed, the court in *Anderson Union High School District v. Shasta Secondary Home School* specifically rejected the interpretation that the SDCOE puts forth here as inconsistent with the text of the statute, and leading to an absurd result.

Other authorities further support that Education Code section 47605.1(c) permits *both* in-county and out-of-county resource centers. For example, the California County Superintendent's Educational Services Association ("CCSEA"), Charter School Task Force, published guidance titled "Effective Practices for Collaborating With Independent Study Charter Schools". In this document, CCSEA addressed the following question, "Where can Resource Centers, Meeting Spaces or Other Satellite Facilities be established?" The following is an excerpt from the CCSEA guidance: "An independent study charter school may establish multiple centers in the county in which the charter school is authorized in order to best serve the educational needs of its student population."

In an email to Jeff Rice, Executive Director of the Aplus Personalized Learning Association, dated October 23, 2009, the then Charter School's Division Director of the CDE affirms the opinion of the CDE as follows: "The California Department of Education has determined that multiple resource centers located within the county of the charter school's authorizing entity are permissible under current statute and regulation."

Thus, Education Code section 47605.1(c) permits both in-county and adjacent county resource centers.

b. Petitioners believe the proposed network of resource centers throughout San Diego County is legally permitted, and some charter schools have been allowed to operate this way without challenge. A case is currently before a court of appeal on this issue. (*Anderson Union High School District v. Shasta Secondary Home School*.) The superior court ruled in favor of the charter school, and the school district appealed. The California School Boards Association (CSBA) Education Legal Alliance has filed an *Amicus Curie* brief in support of the school district's position that resource centers outside the authorizing district, but within the county, are not permitted. A ruling is expected later this year.

Audeo II Response: Here, SDCOE staff present an opinion but no finding for denial, thus the above statement must be disregarded. However, we disagree with SDCOE's conclusions as set forth in our counsel's legal opinion on this matter. (See Audeo II appeal packet, pp. 554-557 of 562.)

c. Education Code Section 47605(g) requires petitioners to provide information about the "potential effects of the charter school" including the "potential civil liability effects, if any, upon the school and upon the school district." Although this is addressed in the petition, there is no mention of the potential civil liability effects that could result from the approval and operation of multiple resource centers within San Diego County but outside the boundaries of Carlsbad Unified School District. (Petition, p. 129.)

Audeo II Response: This finding goes beyond the legal requirements of charter schools regarding the required content of a charter petition. As noted in the finding above, the Audeo petition includes a description of the proposed civil liability effects of the charter (See Petition, p. 122 of 123), which includes sufficient protection for SDCOE from matters that result from Audeo II's operations as required by Education Code Section 47604(c):

An authority that grants a charter to a charter school to be operated by, or as, a nonprofit public benefit corporation is not liable for the debts or obligations of the charter school, or for claims arising from the performance of acts, errors, or omissions by the charter school, if the authority has complied with all oversight responsibilities required by law, including, but not limited to, those required by Section 47604.32 and subdivision (m) of Section 47605.

C. The petition does not contain reasonably comprehensive descriptions of all 16 required elements of the petition, in that:

1. **Educational Program.** The petition fails to adequately describe the educational program of the charter school.

a. The petition fails to provide adequate descriptions of the students the charter will attempt to educate. The petition notes that "Audeo II is seeking to provide an education option to students... who are disengaged and are seeking an academic intervention" and that "many students...will be initially identified from referrals by District's middle and high school counselors." (Petition, p. 45.) The intent, design, and appropriateness of the program for students at the earliest grades (TK - 3) is not stated and is questionable.

Audeo II Response: This finding goes beyond the legal requirements of charter schools regarding the required content of a charter petition. Audeo II is a public school choice option for students and parents who wish to seek additional educational options. As stated in the petition (Petition, p. 38 of 123), "Audeo II is seeking to provide an educational option to students and parents in the community who are disengaged and are seeking an academic intervention." This language is inclusive of grades TK-3.

The Audeo II petition acknowledges that the school will employ significant outreach efforts to ensure that the student body of Audeo II reflects the diverse characteristics of the territorial jurisdiction of the CUSD. Audeo II's outreach efforts are further described in Element G of the charter petition (See Petition, p. 89 of 123).

b. The petition does not provide a reasonably comprehensive description of many aspects of its educational program. For example, the petition does not adequately address Transitional Kindergarten, Common Core, Physical Education, and how the curriculum is aligned with California Content Standards. The petition fails to adequately address how the needs of English Learners would be met in an independent study setting. The petition also fails to adequately describe how the charter school would provide special education and related services in an independent study model. The specific findings listed under Finding A above (unsound educational program) are incorporated here by this reference to support this finding.

Audeo II Response: This finding is false and goes beyond the legal requirements of charter schools regarding the required content of a charter petition. See our responses as addressed in Section A, above.

2. **Measurable Student Outcomes.** The petition fails to adequately describe measurable student outcomes, and how the charter school will measure student progress in meeting those outcomes.

a. The specific measures to be used to report outcomes for TK-5 students is not clear; especially for students not taking the California Assessment of Student Performance and Progress (CAASPP) summative assessments (TK-2). (Petition, pp. 72-80.)

Audeo II Response: This finding is false. The Audeo II petition indicates that all students groups will participate in Northwest Education Association (NWEA) Measures of Academic Progress (MAPs) assessment. This is inclusive of TK-2. (See Petition, pp. 68-69 of 123.)

b. Northwest Education Association (NWEA) Measures of Academic Progress (MAPs) are mentioned, but it is unclear for which grade levels the assessment will be used and for what purpose. In the summary data tables, NWEA growth targets were provided; however, the number and percentage of students who actually reached grade level proficiency over time was not provided. (Petition, pp. 45, 74, 75, 81.)

Audeo II Response: Once again, this finding is false. The Audeo II petition indicates that all students groups will participate in Northwest Education Association (NWEA) Measures of Academic Progress (MAPs) assessment. The purpose is stated as establishing a baseline for percent of students meeting NWEA MAP growth targets. This is inclusive of TK-2. (See Petition, pp. 68-69 of 123.)

c. Academic achievement outcomes have measurement tools that are geared for secondary and an on-line format, but the petition fails to demonstrate how the tools best support outcomes for TK-5.

Audeo II Response: This finding is false. The Audeo II petition indicates that all students groups will participate in Northwest Education Association (NWEA) Measures of Academic Progress (MAPs) assessment. The purpose is stated as establishing a baseline for percent of students meeting NWEA MAP growth targets. This is inclusive of TK-5. (See Petition, pp. 68-69 of 123.)

d. Chosen assessment for TK-2 grades not assessed through CAASPP is not evident in the charter petition. There is no evidence that the *Physical Education Model Content Standards for California Public Schools* or the *Physical Education Framework for California Public Schools* is being used to influence student outcomes.

Audeo II Response: Once again, this finding is false. The Audeo II petition indicates that all students groups will participate in Northwest Education Association (NWEA) Measures of Academic Progress (MAPs) assessment. The purpose is stated as establishing a baseline for percent of students meeting NWEA MAP growth targets. This is inclusive of TK-2. (See Petition, pp. 68-69 of 123.)

Further, regarding physical education, see our responses to findings #A.9 through #A.11, above.

e. The rigor of outcomes and the inclusion of non-academic skills for TK-5 are absent even in the scope and sequence. Furthermore, scope and sequence of specific information for TK (goals, standards, assessment, etc.) could not be located in the petition.

Audeo II Response: The SDCOE's request for outcomes and inclusion of "non-academic skills" goes beyond the legal requirements for a charter petition.

On February 23, 2016, the Petitioner provided a 319 page document in which specific information for goals and standards aligned to thee Common Core State Standards were addressed in detail. Also stated in this document is the rationale for TK curriculum:

"California law (EC 48000) defines TK as "the first year of a two-year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate."

As there is no mandated state curriculum, Audeo II will modify the local kindergarten course of study, which is aligned to Common Core Standards and NGSS, to provide age and developmentally appropriate learning experiences for Transitional Kindergarten. Because teachers at Audeo Charter School develop personalized learning plans for every student, students in TK will automatically receive this service. Because the TK-5 portion of this program is a homeschool program, delivery of instruction will take place daily, in the home, by the parent in collaboration with the credentialed teacher of record." (See **Enclosure A**, attached here).

D. The petition contains a number of other deficiencies not specifically listed in the findings above. These findings are not intended to be exhaustive, and should not be interpreted to suggest or imply approval of any aspect of the petition not specifically addressed.

Audeo II Response: This finding is impermissible under Education Code Section 47605(b), which requires that findings for denial "set forth specific facts" that are "specific to the particular petition." As the Charter Schools Act prohibits SDCOE from issuing an open-ended finding for denial that leaves the petitioners guessing as to the alleged deficiency, this findings must be disregarded.

* * *

I appreciate your time and consideration of Audeo II's charter petition and I look forward to a successful authorization by the SDCOE Board of Education. Should you wish to discuss our responses to any of the above recommendations or require additional information, please feel free to contact me by phone (858-678-2042) or email (ttuter@audecharterschool.net) at your earliest convenience.

Sincerely,



Tim Tuter
Executive Director
Audeo II Development Team

Enclosures

- A: Answers to SDCOE Questions for Audeo II Petition, with supporting documents:
- 2-Year College Credit Audit
 - 4-Year University Credit Audit
 - Audeo Course Offerings

- BrainPop ESL Curriculum
- Edgenuity Course Offerings 2015-16
- Edgenuity English Learner Brief
- English Foundational Module
- GATE Reference Guide
- Sample Professional Development Agenda
- TK-5 Scope and Sequence

B: EDCOE SELPA Procedural Guide

Enclosure A:

Audeo II Response to SDCOE Questions and Supporting Documents

Question 1: In the petition they state they will do fire drills as required by the Education Code – how will they do required fired drills since the programs is online and independent study?

Answer: Audeo II will operate resource centers where students will meet with their teacher for weekly appointments to review their work, receive tutoring, and take required assessments. When students are in the resource centers it is important that they know what to do in the event of an emergency such as a fire or earthquake. Safety training of staff will be a regular part of the professional development and operations of the school. Audeo II will have an Executive Safety Committee and each resource center will have a designated Safety Ambassador to lead all resource center staff in facilitating all safety requirements applicable.

Question 2: Could they provide a sample agenda for one of their instruction Professional Development days? Also, I was not finding any scope and sequence or units of study for the TK-5 grades, I would appreciate that being provided.

Answer: Yes, we have provided a sample agenda for instructional Professional Development days and a scope and sequence for TK-5 grades. Please see attachments titled, "Sample Professional Development Agenda" and "TK-5 Scope and Sequence."

Question 3: Audeo is described as approved by CDE to participate in Alternative School Accountability Model because of 70% or more high risk students - as defined/described on page 13. All seem most applicable to secondary level - and none would apply to TK/K (or even primary grades). How will this be possible? How will they operate as an Independent Study school for primary grades? (Again - accomplishments they list on page 15 are all at the secondary level...)

Answer: Audeo II is modeled after the successful work of Audeo Charter School. When Audeo Charter School was established in 2001 it was originally developed to serve students in grades 6-12. As community demand of Audeo's services increased, along with parent requests to serve additional grade levels, Audeo Charter School was unanimously approved in September 2014 by the San Diego Unified School District Board of Trustees, to begin serving students in grades K-5 during the 2015-2016 school year in a homeschool setting. Due to the fact that Audeo Charter School just recently began serving students in grades K-5 most of the past accomplishments are from the secondary level. Audeo's mission is to serve students not succeeding in a traditional school setting or those students and parents seeking a different mode of instructional delivery. Audeo II anticipates still serving the majority of its students in the middle and high school grade, while also providing younger students the opportunity to learn in a homeschool environment.

Question 4: Could we see sample personalized learning plans for a range of students: - below and above grade-level, English learners, native speakers, students with disabilities, and for students on varying pathways (4 year university, 2 year college, military).

Answer: The Pathways Personalized Education Plan (PPEP) is the process by which students are engaged in their education through an individualized plan that is based on data, focuses on customization of course plans, and promotes the utilization of instructional strategies and supports to ensure each and every student advances academically.

The process of personalizing a student's individualized academic plan starts with collecting and analyzing information that helps guide specific student requirements and needs. This type of information includes transcript review, English and math skill level as determined by the NWEA MAP intake assessment, student participation in special programs including and not limited to English learners, Special Education, and GATE. Students take the Naviance Game Plan survey which assists the student in establishing a post-high school Pathway. Naviance is a comprehensive college and career readiness solution for middle and high schools that help align students' strengths and interests to post-secondary goals. The teacher and counselor consider each student's academic needs, skills, interests, and post-secondary goals and develop a personalized plan. The personalized plan includes the student course plan, adjusted curriculum, instructional delivery, and supports necessary to ensure school success.

*Course Plan - Audeo offers specific credit audits for each Pathway. These credit audits outline the specific course requirements for each Pathway. For example, a student who has identified themselves as wanting to pursue the 4 –year University Pathway will be encouraged to take UC A-G approved elective courses, honors courses, and Advanced Placement courses. There are specific course options for students based on their needs and interests. English learners benefit from taking Literacy and Comprehension elective courses to provide the foundation to access core curriculum in the English courses. Students who are interested in pursuing a Military Pathway benefit from taking the Cadet Corps elective courses and the Military Science courses. Please see example attachments titled: **"4-Year University Credit Audit"**, **"2-Year College Credit Audit"**, **"Audeo Course Offerings"**, and **"Edgenuity Course Offerings."***

*Adjusted Curriculum - Each teacher has the ability to adjust curriculum to engage students based on their skills and interests. Students who participate in Special Education have curriculum that is adjusted based on the accommodations and modifications specified in their IEP. Struggling readers, English Learners, and students with academic skill gaps benefit from the inclusion of foundational skills lessons in their courses. Students who are identified as GATE, or advanced learners can benefit from extension lessons built into their courses. Please see example attachments titled: **"GATE Reference Guide"** and **"English Foundational Module."***

Instructional Delivery - The mode of instructional delivery is based on each student's skills and learning style. The options for instructional delivery include: online, blended, independent study, and tutoring sessions.

Supports and Services- *Audeo offers a variety of curriculum and instructional supports to promote success for each and every student. Curriculum and instructional supports include: BrainPop, BrainPOP ESL, curriculum embedded Translation text features, close reading, multiple representations of material including videos, and glossary tools. Please see example attachments titled: “Edgenuity English Learner Brief and “BrainPop ESL Curriculum.”*

Question 5: They indicate they are an inclusive model yet they are an independent study charter... how do they do both? What does that look like? At the various age levels.

Answer: Traditionally, inclusion is the practice of educating students with disabilities in the same classrooms as students without disabilities. In the absence of traditional classrooms at Audeo Charter School, students who receive Special Education services are fully included in the instructional programs that Audeo offers. Audeo accommodates students with a wide range of academic skills, emotional developments, and learning styles through a collaborative model. General education teachers and Education Specialists partner to ensure compliant implementation of the IEP services and supports while collaborating in their efforts to assist students in meeting their IEP goals. They work together weekly to customize curriculum, decide on appropriate mode of delivery, and analyze formative assessments. Audeo is committed to providing each and every student with disabilities a Free and Appropriate Public Education (FAPE) in the student's Least Restrictive Environment (LRE). Audeo acts as its own Local Education Agency (LEA) as a member of the El Dorado Charter Special Education Local Planning Area (SELPA) and therefore provides the full range of services, supports, and setting that each student needs as determined by their IEP. Audeo employs credentialed Education Specialists that provide Specialized Academic Instruction (SAI) to support student goal achievement. Audeo employs a credentialed, licensed, School Psychologist that conducts assessments and provides Psychological Services to students with social-emotional goals. Audeo contracts with a California Department of Education (CDE) approved Non-Public Agency (NPA) to provide related services including and not limited to: Speech and Language Services, Audiological Services, Occupational Therapy, Physical Therapy, Assistive Technology Services, and Educationally-Related Mental Health Services (ERMHS). Audeo contracts with CDE approved Non-Public Schools (NPS) to provide higher level of care in a more restrictive setting in cases where IEP teams determine other settings are most appropriate for students.

Questions 6 & 7: How many teachers are you planning to hire and how many are special education teachers? Based on their projections of 510 students for 16-17 and one place they mention 14% special ed another place they mention calculation of staff is based on 17% special ed with 28 per case load... I calculate that at 3 special ed teachers... what is the plan if student's require more than 51% of academic instruction?

Answer: All Audeo teachers, General and Special Education, are supported by a 25 hour per week Resource Center Associate.

TK-6 homeschool teachers will have a roster of 25 students and teachers who serve grades 7-12 will have a roster of 40 students. With the enrollment projection with grade level breakdown provided on page 42, or page 38 of 123 of the charter petition, Audeo II will initially hire a total of 14 General Education Teachers. We are conservative when we develop the budget, for instance, we plan to hire 14 General Education Teachers for FY 2016-2017, but we budgeted for a total of 17.

We estimated the student with disabilities population at 17% of the total projected enrollment (510). Audeo II will hire Education Specialists and not Resource Specialist as there are not any mandated caseload requirements. This will give Audeo II flexibility in serving kids with disabilities and at the same time be compliant. In addition, each Education Specialists supervises a Resource Center Associate that works 25 hours per week. The Resource Center Associate supports the delivery of SAI (Specialized Academic Instruction) and works in tandem with the Education Specialists to ensure that every student receive the SAI as specified in their IEP. For FY 2016-2017, Audeo II plans to hire 3.00 FTE Special Education Specialist, but, we budgeted for 4.25 FTE

Question 8: If a special education aide is required per the IEP team- how will that service be provided... do they have any examples in the current open school?

Answer: Audeo is committed to ensuring that each and every student receives educational benefit from the supports and services detailed in their IEP. In cases where a student requires a special education aide to support student attainment of IEP goals, Audeo will provide an aide in accordance with the service time and frequency specified in the IEP. Audeo employs Special Education Resource Center Associates that support the delivery of SAI at the Resource Center. If a student requires one-on-one support, per their IEP, they are provided with the service by an aide that is supervised by a credentialed Education Specialist.

Question 9: In the section on Expulsion they indicate a readmission plan would be developed but once completed they student may need to reapply- what is the criteria that would indicate the student would need to reapply?

Answer: Upon completion of the readmission process the Audeo II governing board shall readmit the student, unless the student has not met all conditions of the rehabilitation plan or the governing board determines the pupil will be disruptive to the school environment or poses a threat to others.

Question 10: If there's any clarification they can provide about the types of non-certificated positions they anticipate needing, and what those requirements might be, that would be helpful.

Answer: For non-certificated positons, Audeo II will need Resource Teacher Associates for FY 2016-2017. In FY 2017-2018, it will need a School Clerk.

Resource Center Association Job Requirements:

The successful candidate must

- be a graduate of or have completed 2 semesters at an accredited college or university as a full time student.*
- possess excellent organization, time, and record keeping skills.*
- preferably have experience working with secondary and special student populations.*
- Passing score on math and language arts assessment aligned to California Common Core State Standards.*

Resource Center Association Job Description:

Under the direct supervision of the teacher, the successful candidate will assist in the academic program of TK-12th grade students, and assist in the operations of the resource center. Resource Center Associates are a key part of the team of education professionals. They are role models for our students, and are expected to look, act, and speak, as a representative of our school at all times. Duties may include tutoring, clerical support, telephone calling, and assisting instructors with home visits.

School Clerk Job Requirements:

Education/Experience: High school graduate with post-high school/college level course work in business or office management; two years related increasingly responsible experience including advanced computer operations; or equivalent combination of education and experience.

Complete online application. Resume will not be accepted in lieu of application. Selected applicants will be interviewed by a panel of supervisors. Key components of the process include; paper screening, work-styles/behavior survey, office assessment, extensive background check and reference check. Candidates who successfully complete this phase of process will be interviewed by the School Coordinator.

School Clerk Job Description:

As a key member of Audeo II the School Clerk will provide administrative clerical support to the operations of the school. Duties will require independent judgment and in-depth knowledge of the function or program. Perform clerical duties to assure smooth and efficient office/school operations.

Organize office/school activities and input student data to database in order to run reports on student population. Have a desire to assist students, parents, teachers, and administrators.

Have the ability to work independently and within a team. Possess strong organizational, computer, and customer service skills.

REPRESENTATIVE DUTIES:

Initiate and receive phone calls; screen and route calls including emergency calls; explain office programs, policies and procedures; provide technical information and interpretation concerning policies and procedures of assigned program or office according to established guidelines; resolve issues as appropriate.

Input a wide variety of information into computerized database and generate a variety of reports and lists; assure the timely distribution and receipt of a variety of records, logs and report; request or provide information as necessary to assure completeness and accuracy.

Compile, prepare, and maintain a wide variety of data and reports according to established procedures and time lines; process a variety of forms and applications pertinent to the assignment.

KNOWLEDGE AND ABILITIES:

- Database and spreadsheet applications, documents, and statistical information*
- Modern office practices, procedures, and use of equipment.*
- Strong telephone techniques and etiquette*
- Correct English usage, grammar, spelling, and vocabulary*
- Interpersonal skills, patience, and courtesy*
- Read, apply, and explain rules, regulations, policies and procedures of school*

EXHIBIT 3:

COUNTY BOARD MEETING MINUTES

SAN DIEGO COUNTY BOARD OF EDUCATION
Regular Board Meeting, March 09, 2016, 6:00 PM
Ernest J. Dronenburg, Jr. Board Room

(Joe Rindone Regional Technology Center)

6401 Linda Vista Road, San Diego, CA 92111

Attendance Taken at 6:07 PM:

Present:

Mark Anderson
Brenda Gomez
Guadalupe Gonzalez
Alicia Munoz
Gregg Robinson
Rick Shea
Dr. Randolph Ward

1. OPENING PROVISIONS

a. Call to Order and Roll Call

b. Pledge of Allegiance to the Flag

c. Introduction of Student Representative on County Board of Education

Minutes:

President Robinson introduced the Juvenile Court and Community Schools student representative for the March meeting, Monica Hernandez, from North County Technology and Science Academy (NCTSA).

d. Public Comment - Agenda and Non-Agenda Items

Minutes:

There were no non-agenda item public comments.

e. Approval of Agenda

Motion Passed: Passed with a motion by Mark Anderson and a second by Guadalupe Gonzalez.

Yes Mark Anderson
Yes Guadalupe Gonzalez
Yes Alicia Munoz
Yes Gregg Robinson
Yes Rick Shea

2. APPROVAL OF CONSENT ITEMS

Motion Passed: Member Shea asked to pull item 2c. for separate consideration. Passed with a motion by Mark Anderson and a second by Rick Shea.

Yes Mark Anderson
Yes Guadalupe Gonzalez
Yes Alicia Munoz
Yes Gregg Robinson
Yes Rick Shea

Minutes:

The Board considered item 2c. Member Shea inquired that with declining enrollment and this being such a large space, was this facility going to be a consolidation of other students. Dr. Ward reported that it was a new school and since the build out, the declining enrollment had leveled off and this was a good opportunity that would be proven fruitful for all the students. President Robinson added that it looked like it was a futurist savings and students needed good facilities to succeed.

a. Approval: Minutes of Regular Meeting, February 10, 2016.

b. Approval: Minutes of Special Meeting, Board Budget Study Session, February 26, 2016.

c. Approval: Real Property Lease Agreements

Motion Passed: Approve the lease agreement listed on Schedule "A." Passed with a motion by Guadalupe Gonzalez and a second by Mark Anderson.

Yes Mark Anderson
Yes Guadalupe Gonzalez
Yes Alicia Munoz
Yes Gregg Robinson
Yes Rick Shea

d. Approval: Budget Adjustments

e. Approval: 2016-2017 School Calendars for Davila Day School, Early Education Programs and Services/Hope Infant Family Support, Friendship School, North Coastal Consortium, and North County Academy.

f. Approval: Accept a Donation to the Student Support Services Unit

3. CONVENE A MEETING OF THE COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION

a. Transmittal of Resolution by the Governing Board of the Grossmont Union High School District to Adopt Trustee Areas

Minutes:

A resolution by the Governing Board of the Grossmont Union High School District to adopt trustee areas was transmitted to the County Board of Education, acting as the County Committee on School District Organization.

Education Code sections 5019 and 5030 authorizes the County Board of Education, acting as the County Committee on School District Organization, to establish trustee areas and alternative methods of electing governing board members in the districts under its jurisdiction. On February 10, 2016, a resolution of the Grossmont Union High School District Governing Board to implement by-trustee-area elections was transmitted to the County Committee. To implement the proposed change, on February 25, 2016, the Grossmont Union High School District Governing Board approved Resolution No. (2016-33), "A Resolution by the Governing Board to Adopt Trustee Areas for Submission to the San Diego County Committee on School District Organization." That resolution was transmitted to the County Committee. A copy of the resolution, which includes demographic information and a trustee area map, is attached. A working timeline for the activities required in connection with the above mentioned resolutions is provided.

This was a transmittal only; the County Committee was not being asked to approve or disapprove the trustee areas at this time.

4. RECONVENE REGULAR BOARD MEETING - ACTION ITEMS

a. Adoption of Resolution Taking Action on Appeal of District Denial of Petition to Establish Audeo Charter School II is Presented to the County Board of Education for Consideration

Subsidiary Motion Passed: Amendment:

It is recommended that the County Board of Education accept the committee's recommendation to deny the appeal and adopt the "Resolution of the San Diego County Board of Education Denying the Charter School Petition to Establish Audeo Charter School II, and adoption of the findings of fact. Passed with a motion by Gregg Robinson and a second by Mark Anderson.

Yes Mark Anderson
Yes Guadalupe Gonzalez
Yes Alicia Munoz
Yes Gregg Robinson
Yes Rick Shea

Motion Passed: It is recommended that the County Board of Education accept the committee's recommendation to deny the appeal and adopt the "Resolution of the San Diego County Board of Education Denying the Charter School Petition to Establish Audeo Charter School II." Passed with a motion by Gregg Robinson and a second by Mark Anderson.

Yes Mark Anderson
Yes Guadalupe Gonzalez

Yes Alicia Munoz
Yes Gregg Robinson
Yes Rick Shea

Minutes:

San Diego County Office of Education's Assistant Superintendent of Business Services, Lora Duzyk, provided background and opening remarks.

An appeal of the denial of a charter school petition to establish Audeo Charter School II was presented to the County Board of Education for consideration. The Audeo Charter School II petition was filed on appeal to the County Board of Education by Mary Searcy Bixby, lead petitioner, after it was denied by the Carlsbad Unified School District Governing Board. The charter petition, with supporting documents, was determined to be complete on January 28, 2016. The County Board of Education held a public hearing to consider the level of support for the petition at a regular Board meeting on February 10, 2016. Section 11967, California Code of Regulations, Title 5, establishes a 60-day time period during which a county board may act to approve or deny a petition previously denied by a school district. If the county board does not grant or deny the petition within that time frame, the charter school may submit the petition to the State Board of Education. Education Code section 47605(j) provides that if the county board acts to deny the petition, the petitioner may elect to file the petition with the State Board of Education. The Education Code requires a county board of education to grant a charter school on appeal if it is satisfied that granting the charter is consistent with sound educational practice. The county board shall not deny a petition for the establishment of a charter school unless it makes written findings, specific to the particular petition, setting forth specific facts to support one or more of the findings in Education Code section 47605(b).

A committee was formed to review the Audeo Charter School II charter petition in accordance with Board Policy 0310, and Administrative Regulations 0310 and 0310.1. The San Diego County Office of Education staff who served on the committee were: Brent Watson, District Financial Services; Sonya Menyon and Rena Seifts, Business Advisory Services; Peg Marks, Legal Services; Michele Fort-Merrill, Human Resources; Jean Madden-Cazares, Melinda Shacklett, Karla Groth, Antonio Mora, Jennifer Currie, and Teresa Walter, Learning and Leadership Services; Bill Dos Santos, Educational Facilities Solutions Group; Carolyn Nunes, Special Education Services; Diane Crosier, Risk Management; and Donald Buchheit, Student Services. Dina Harris, Best Best & Krieger LLP, provided legal counsel.

The review committee recommends that the County Board deny the petition to establish Audeo Charter School II based on the following findings:

The Audeo Charter School II petition 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 reasonably comprehensive descriptions of all the 16 required elements of the petition.

A resolution denying the charter school petition was provided for the Board's consideration. Findings in support of the committee's recommendation were included as Exhibit "A" of the resolution.

Public comment was received from the following supporters of Audeo Charter School II: Gail Levine, Jay Garrity, Lynne Alipio, Michelle Lopez, Wade Aschbrenner and Tim Tuter). Claudine Jones, Kym Szalkiewicz, Amanda Fanning and Suzette Lovely spoke in support of Carlsbad Unified School District's decision to deny the petition.

b. Public Hearing - Appeal of Denied Petition for Establishment of College Preparatory Middle School

Minutes:

President Robinson opened a public hearing on the establishment by the San Diego County Board of Education, as the authorizing agency, of College Preparatory Middle School within the boundaries of La Mesa- Spring Valley School District.

President Robinson read the rules and regulations on public speakers. Lora Duzyk, Assistant Superintendent for Business Services provided background on the item.

A petition to establish College Preparatory Middle School was denied by the La Mesa-Spring Valley School District on January 12, 2016. Pursuant to Education Code section 47605, if a governing board of a school district denies a petition, the petitioner may elect to submit the petition to the county board of education.

The petition was filed in this office by Christina M. Callaway, lead petitioner, and was determined to be complete on February 17, 2016. Copies of the charter petition as denied and the additional documents required for the appeal are attached. The petition is being reviewed in accordance with Board Policy 0310 and Administrative Regulations 0310 and 0310.1.

The public hearing will be conducted in accordance with the attached guidelines. Notice of the public hearing and a copy of these guidelines were provided to the petitioner and to the school district.

Title 5, California Code of Regulations, section 11967, requires the County Board of Education to grant or deny the charter petition not later than 60 days after receiving a complete petition package and following review of the petition. The Board will take official action on the petition at the regular meeting on April 13, 2016.

Spokespersons for College Preparatory Middle School and the La Mesa-Spring Valley School District spoke on the items.

There were 41 speaker cards and the public was given 30 seconds for their comments.

The public hearing was closed.

c. Public Hearing - Petition for Renewal of the Charter for Literacy First Charter School

Minutes:

President Robinson opened a public hearing on the five-year renewal of the charter for Literacy First Charter School by the County Board of Education, as the authorizing agency. The public hearing was conducted in accordance with the attached guidelines. President Robinson read the rules and regulations on public speakers.

Lora Duzyk, Assistant Superintendent for Business Services provided background on the item.

A petition for the renewal of the charter for Literacy First Charter School was filed in this office by Debbie Beyer, lead petitioner, and was determined to be complete on February 4, 2016. A copy of the petition is attached. The County Board of Education is the authorizing agency for Literacy First Charter School, having originally approved its charter in June 2001, and subsequently renewing its charter in April 2006 and May 2011. The current renewal, if granted, would be for the term beginning July 1, 2016 through June 30, 2021. The petition for renewal is being reviewed in accordance with Board Policy 0310 and Administrative Regulations 0310 and 0310.1. Education Code section 47605 requires that the County Board of Education hold a public hearing to consider the level of support for the petition by teachers, employees, and parents. Following review of the petition and the public hearing, the Board must either grant or deny the petition. The Board will take official action on the petition at its regular meeting in April.

Spokespersons for Literacy First Charter School spoke on the item.

There were a total of 13 speakers.

The public hearing was closed.

d. Public Hearing - Approval of Deferred Maintenance Five-Year Plan

Motion Passed: Approve the Deferred Maintenance Five-Year Plan for the County Office of Education. Passed with a motion by Mark Anderson and a second by Guadalupe Gonzalez.

Yes Mark Anderson

Yes Guadalupe Gonzalez

Yes Alicia Munoz

Yes Gregg Robinson

Yes Rick Shea

e. Contracted Services/Fee Schedule

Minutes:

President Robinson opened a public hearing. The Board of Education was required to adopt an annual Fee Schedule to be used in contracting with school districts and agencies.

Each year the Board of Education authorizes the Superintendent to enter into the necessary agreements to fulfill the responsibilities of this office. Authorization is needed at this time so preparation and agreements with school districts can be considered and completed for inclusion in 2016-17 school district budgets. The attached recommended Fee Schedule includes those services provided by this office for which fees are charged. These fees are periodically reviewed to compare them to the cost of providing these services. Fees are generally set for cost recovery, but in many cases services are supplemented by our general operating revenue.

The 2016-17 Fee Schedule includes a 1.02% cost-of-living adjustment for all services. The 1.02% increase corresponds to the adjustment to the target calculations within the Local Control Funding Formula during the 2015-16 fiscal year. Some minor adjustments have been made to the following program: Miscellaneous/building facility rates. Charter school fees have been separately identified on pages 9-12.

The fees for contracted services would help the County Office recover some of the cost of providing these services.

It was recommended to adopt the 2016-17 Fee Schedule for services provided by the County Office of Education.

The public hearing was closed.

f. Interim Financial Report and Certification

Motion Passed: That the Board accepts the County Superintendent's positive certification that the County Office will be able to meet its financial obligations for the remainder of the current fiscal year and the two subsequent years. Passed with a motion by Guadalupe Gonzalez and a second by Alicia Munoz.

Yes Mark Anderson
Yes Guadalupe Gonzalez
Yes Alicia Munoz
Yes Gregg Robinson
Yes Rick Shea

Minutes:

Lora Duzyk, Assistant Superintendent reported that The San Diego County Office of Education will be able to meet its financial obligations for the remainder of the current fiscal year and the two subsequent years. Education Code Section 1240

requires county superintendents to submit certain interim financial reports so that governing boards, the State Controller, and the State Superintendent of Public Instruction are notified of county offices which may not meet their financial obligations for the remainder of the current fiscal year and the two subsequent years. These reports are for the periods ending October 31 and January 31 and are required to be reviewed by the Board and approved by the County Superintendent no later than 45 days after the close of the period. As part of the report, the County Superintendent is required to certify in writing whether or not the County Office is able to meet its financial obligations for the remainder of the current fiscal year and the two subsequent years.

Attached are the reports for review by the Board and certification by the County Superintendent. They include:

A Certification Form

Criteria and Standards - Summary Review

A Projected Monthly Cash Flow Worksheet

Multi Year Projection

Interim Report - Attendance Detail

Interim Report - Revenue, Expenditures, Fund Balance

There would be no financial impact

I was recommended that the Board accepts the County Superintendent's positive certification that the County Office will be able to meet its financial obligations for the remainder of the current fiscal year and the two subsequent years.

Actions Taken

Motion Passed: That the Board accepts the County Superintendent's positive certification that the County Office will be able to meet its financial obligations for the remainder of the current fiscal year and the two subsequent years. Passed with a motion by Guadalupe Gonzalez and a second by Alicia Munoz

g. Acceptance of Recommendation of the Superintendent's Policy Committee in Regard to Specified Board Policies.

Minutes:

Lora Duzyk, Assistant Superintendent asked the County Board of Education to consider the recommendations of the Superintendent's Policy Committee in regard to specified Board Policies.

The Superintendent's Policy Committee submits for the Board's review and discussion the Board policies listed in Attachment 1.

The Board is asked to consider and accept for first reading new and revised Board Policies 2121, 2122, 3571, 3572, 5131.1, 5140, and 5141.2 and the repeal of Board Policy 3220. If accepted, the policies will be posted online for ten working days for staff comments and/or recommendations and will be resubmitted at a future Board meeting for second reading and adoption.

The Superintendent's Policy Committee recommends acceptance of technical revisions of Board Policies 0300, 3101, 3260, and 3516, and recommends no revisions of Board Policies 2123, 2124, 3102, 3103, and 3250.

There would be no financial impact

It was recommended to accept the recommendations of the Superintendent's Policy Committee in regard to the specified Board Policies.

5. RECOGNITIONS AND PRESENTATIONS

a. Presentation: Overview of the Progress on Board Goal 4

Minutes:

Music Watson, Chief Communications Officer reported on the progress of Board Goal 4: "Increase parent, business, and community participation in schools and build public confidence and trust in public education."

b. Local Control Accountability Plan (LCAP) Progress Report for San Diego County Office of Education

Minutes:

Dr. Wendell Callahan, Senior Director, reported for SDCOE on Local Control Accountability Plan (LCAP) Goal 3: Students have better access to, are enrolled in and are successful at Common Core StateStandards, core subjects, college prep courses and career/technical education courses. The progress report will include an update on the impact on student learning of specific actions and services related to Goal 3. Metrics for Goal 3 include participation in University of California-approved courses, Career Technical Education (CTE) courses, teacher credentialing within subject area taught, student access to

technology and instructional materials, and college readiness indicators.

For each goal in the prior year Local Control Accountability Plan (LCAP), Local Educational Agencies (LEAs), including county office of education review the progress toward the expected annual outcome(s) based on, at a minimum, the required metrics pursuant to Education Code sections 52060 and 52066. The review also

includes an assessment of the effectiveness of the specific actions. Describe any changes to the actions or goals the LEA will take as a result of the review and assessment. In addition, review the applicability of each goal in the LCAP.

6. INFORMATION ITEMS - NO ACTION

a. Legislative Update

Minutes:

Dr. ward reported on the legislative update that is uploaded to the San Diego county Office of education website.

7. ASSOCIATIONS COMMENTARY

8. BOARD REPORTS

a. Communications from Board Members

Minutes:

Each Board Member reported on events that they attended since the last board meeting.

9. FUTURE AGENDA ITEMS

a. Request for discussion regarding further legal advice

Minutes:

It was requested to hold a Special Meeting with in the next month to include further legal advice and a discussion regarding a new evaluation form for the Superintendent.

b. Request for discussion regarding a new evaluation form for the Superintendent

c. Request to place SB277 on Board meeting agenda

Minutes:

It was the consensus of the board to not include the SB277 item on any future agenda.

10. DATE OF NEXT MEETING

a. Regular Board Meeting, Wednesday, April 13, 2013 at 6:00 p.m., Joe Rindone Regional Technology Center

11. ADJOURNMENT

Motion Passed: Passed with a motion by Guadalupe Gonzalez and a second by Mark Anderson.

Yes Mark Anderson

Yes Guadalupe Gonzalez

Yes Alicia Munoz
Yes Gregg Robinson
Yes Rick Shea

Minutes:

The meeting was adjourned at 10:35pm.