

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

ssb-csd-mar18item07

# California State Board of EducationMarch 2018 AgendaItem #21

## Subject

Petition for the Establishment of a Charter School Under the Oversight of the State Board of Education: Consideration of Baypoint Preparatory Academy–San Diego, which was denied by the San Marcos Unified School District and the San Diego County Board of Education.

## Type of Action

Action, Information, Public Hearing

## Summary of the Issue(s)

On August 15, 2017, the San Marcos Unified School District (SMUSD) voted to deny the petition for Baypoint Preparatory Academy–San Diego (BPA–SD) by a vote of five to zero.

On November 8, 2017, the San Diego County Board of Education (SDCBE) took action on an appeal to establish BPA–SD. The SDCBE voted to deny the appeal by a vote of three to two.

Pursuant to California *Education Code* (*EC*) Section 47605(j), petitioners for a charter school that have been denied at the local level may petition the State Board of Education (SBE) for approval of the charter, subject to certain conditions. The BPA–SD petitioner submitted an appeal to the SBE on November 29, 2017.

## Recommendation

The California Department of Education (CDE) recommends that the SBE hold a public hearing to deny the request to establish BPA–SD, a transitional kindergarten (TK) through grade eight charter school, for a five-year term effective July 1, 2018, through June 30, 2023, under the oversight of the SBE, based on the CDE’s findings pursuant to *EC* sections47605(b)(2), 47605(b)(5), and *California Code of Regulations*, Title 5 (5 *CCR*) Section 11967.5.1. The meeting notice for the February 7, 2018, Advisory Commission on Charter Schools (ACCS) meeting is located on the SBE ACCS Web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice020718.asp>.

## Advisory Commission on Charter Schools Recommendation

The Advisory Commission on Charter Schools (ACCS) considered the BPA–SD petition for establishment at its February 7, 2018, meeting. The ACCS moved to approve the BPA–SD petition for establishment subject to verification by the CDE that the petitioner’s revised financial projections are sound. The motion passed six to one.

## Brief History of Key Issues

The CDE received a petition for establishment from BPA–SD on November 29, 2017.

The BPA–SD petitioner proposes to serve 200 pupils in TK through grade six in the 2018–19 school year. BPA–SD will then expand their services each year over a five year term to 300 pupils in TK through grade seven in 2019–20; 400 pupils in TK through grade eight in 2020–21; 500 pupils in TK through grade eight in 2021–22; and 600 pupils in TK through grade eight in 2022–23.

In considering the BPA–SD petition for establishment, the CDE reviewed the following:

* BPA–SD charter petition for establishment (Attachments 3 of Agenda Item 07 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item07a3.pdf>).
* Educational and demographic data of schools where BPA–SD pupils would otherwise be required to attend (Attachment 2 of Agenda Item 07 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item07a2.docx>).
* BPA–SD budget and financial projections (Attachment 4 of Agenda Item 07 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item07a4.pdf>).
* Description of changes to the petition necessary to reflect the SBE as the authorizing entity (Attachment 7 of Agenda Item 07 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item07a7.pdf>).
* Board agendas, minutes, and findings from the SMUSD and SDCBE regarding the denial of the BPA–SD petition, along with the petitioner’s response to the SMUSD and SDCBE findings (Attachments 5 and 6 of Agenda Item 07 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item07a5.pdf> and <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item07a6.pdf>).

### Ability to Successfully Implement the Intended Program

The CDE finds that the BPA–SD petitioner is demonstrably unlikely to implement the program set forth in the petition due to minimal fiscal reserves. The additional information submitted by the BPA–SD petitioner on February 5, 2018, regarding the educational program is sufficient to address the CDE’s concerns.

#### Budget

The CDE has reviewed the revised projected budget, as requested by the ACCS, provided by the petitioner in a letter dated February 5, 2018, the BPA–SD budget and multi-year fiscal plan. The CDE concludes that the financial plan has positive ending fund balances of $67,966, $167,415 and $395,566. However, the reserves for the first year are below 5 percent at only 3.4 percent. The reserves increase to 5.2 and 9.2 percent for fiscal year (FY) 2018–19 and FY 2020–21, respectively.

The BPA–SD multi-year projected budget includes the following:

* 200 TK/kindergarten through grade six in 2018–19
* 300 TK/K through grade seven in 2019–20
* 400 TK/K through grade eight in 2020–21
* 500 TK/K through grade eight in 2021–22
* 600 TK/K through grade eight in 2022–23

#### Educational Program

The CDE has reviewed the information provided by the petitioner in a letter dated February 5, 2018, addressing English learners (ELs), which indicates how specific targeted English Language Development (ELD) instruction will be provided to pupils. BPA–SD has provided information to ensure that appropriate educational services that ELs are required to receive under federal and state law would be provided by BPA–SD. The CDE finds that the information BPA–SD provided is sufficient to address the concerns regarding targeted ELD instruction (p. 14 of Attachment 1 of Agenda Item 07 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item07a1.docx>).

The CDE has reviewed the information provided by the petitioner in a letter dated February 5, 2018, confirming the submission of signed and dated affirmations and assurances. The CDE finds that the information BPA–SD provided is sufficient to address the concerns regarding affirmations and assurances (p. 9 of Attachment 1 of Agenda Item 07 on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item07a1.docx>).

The CDE has reviewed the information provided by the petitioner in a letter dated February 5, 2018, addressing methods for measuring pupil outcomes. The CDE finds that the information BPA–SD provided is sufficient, and that the CDE made an error in its original assessment of BPA–SD’s plan for collecting, analyzing and reporting data (p. 18 of Attachment 1 of Agenda Item 07 on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item07a1.docx>).

The CDE has reviewed the information provided by the petitioner in a letter dated February 5, 2018, addressing recent amendments to *EC* Section 47605(b)(5)(J), effective January 1, 2018, that require changes to ensure due process for pupils during suspension and expulsion procedures, and also regarding interim alternative educational placement. BPA–SD states that they are willing to provide a policy for review and approval prior to the start of the 2018–19 school year that brings the BPA–SD suspension and expulsion procedures in complete alignment with new requirements noted above. The CDE finds that the information BPA–SD provided is sufficient to address the concerns regarding suspension and expulsion procedures (pp. 34–35 of Attachment 1 of Agenda Item 07 on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item07a1.docx>).

The CDE has reviewed the information provided by the petitioner in a letter dated February 5, 2018, addressing the documentation of closure action with regard to notifications to receiving districts, financial close out, and dissolution of assets. The petitioner states that in the event of closure, BPA–SD will maintain and follow through with transference and maintenance of all records until the charter is dissolved. The CDE finds that the information BPA–SD provided is sufficient to address the concerns regarding closure procedures (p. 42 of Attachment 1 of Agenda Item 07 on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item07a1.docx>).

#### District and County Board of Education Findings

##### SMUSD Findings

On August 15, 2017, the SMUSD denied the BPA–SD petition based on the following findings (Attachment 5 of Agenda Item 07 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item07a5.pdf>):

* The petitioners are demonstrably unlikely to successfully implement the program

set forth in the petition.

* The charter school presents an unsound educational program for the pupils to be enrolled in the school.

##### SDCBE Findings

On November 8, 2017, the SDCBE denied the BPA–SD petition on appeal based on the following findings (Attachment 6 of Agenda Item 07 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item07a6.pdf>):

* The petition presents an unsound educational program.
* The petition does not contain reasonably comprehensive descriptions of each of the charter elements.

A detailed analysis of the petition review is provided in Attachment 1 of Agenda Item 07 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item07a1.docx>.

## Summary of Previous State Board of Education Discussion and Action

Currently, 30 charter schools operate under SBE authorization as follows:

* One statewide benefit charter, operating a total of six sites
* Seven districtwide charters, operating a total of 18 sites
* Twenty-two charter schools, authorized on appeal after local or county denial

The SBE delegates oversight duties of the districtwide charters to the county office of education of the county in which the districtwide charter is located. The SBE delegates oversight duties of the remaining charter schools to the CDE.

## Fiscal Analysis

If approved as an SBE-authorized charter school, the CDE would receive approximately one percent of the revenue of the charter school for the CDE’s oversight activities. However, no additional resources are allocated to the CDE for oversight.

## Attachment

* **Attachment 1:** California State Board of Education Standard Conditions on Opening and Operation (4 Pages)