

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

ssb-csd-mar18item10

# California State Board of EducationMarch 2018 AgendaItem #22

## Subject

Petition for the Establishment of a Charter School Under the Oversight of the State Board of Education: Consideration of College Preparatory Middle School-La Mesa Spring Valley, which was denied by the La Mesa Spring Valley School District and the San Diego County Board of Education.

## Type of Action

Action, Information, Public Hearing

## Summary of the Issue(s)

On June 30, 2017, the La Mesa Spring Valley School District (LMSVSD) voted to deny the petition for College Preparatory Middle School-La Mesa Spring Valley (CPMS-LMSV) by a unanimous vote of four to zero.

On October 11, 2017, the San Diego County Board of Education (SDCBE) voted to deny the petition for CPMS-LMSV by a vote of three to two.

The California Department of Education (CDE) notes that on August 1, 2016, the CDE received an appeal for CPMS-LMSV, however, the State Board of Education (SBE) took no action on the appeal. At the time, College Preparatory Middle School (CPMS) was authorized by Mountain Empire Unified School District (MEUSD). CPMS voluntarily closed effective June 30, 2017.

The CDE notes that the CPMS-LMSV petitioner was approved to operate a charter, College Prep Middle School-East County (CPMS-EC) by MEUSD in 2017. CPMS-EC opened in August 2017 at the former CPMS facility within LMSVSD, but plans to move to 799 Forest Gate Road, Campo, CA within MEUSD for the 2018–19 school year (Attachment 7 of Agenda Item 10 on the Advisory Commission on Charter Schools [ACCS] February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item10a7.pdf>). 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.

## Recommendation

The CDE recommends that the SBE hold a public hearing to approve the request to establish CPMS-LMSV, a grade five through grade eight charter school, for a five-year term, of July 1, 2018 through June 30, 2023, under the oversight of the SBE, based on the CDE’s findings pursuant to *EC* sections 47605(b)(1), 47605(b)(2), 47605(b)(5), and *California Code of Regulations*, Title 5 Section 11967.5. The meeting notice for the February 7, 2018, 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 ACCS considered the CPMS-LMSV petition for establishment at its February 7, 2018 meeting. The ACCS moved to recommend approval of the CPMS-LMSV petition on appeal. Four commissioners voted in favor of the petition, three voted against. Five votes are required to move an ACCS recommendation forward to the SBE; therefore, no recommendation moved.

## Brief History of Key Issues

The CDE received a petition for establishment from CPMS-LMSV on November 22, 2017.

CPMS-LMSV plans to serve pupils in grade five through grade eight, from the LMSVSD and surrounding communities in East San Diego County. The petition states that CPMS-LMSV will be a small, community-centered school with a strong college preparatory focus, and with the goal to matriculate pupils to high school and to be college and career ready, but with the academic skills necessary for college admission. The mission of CPMS-LMSV is to provide a safe, nurturing educational community for the middle school learner, based on mutual respect, and high expectations for academics and behavior, with the appropriate supports in place to ensure all learner success (Attachment 3 of Agenda Item 10 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-feb18item10a3.pdf>).

## CDE Staff Review

In considering the CPMS-LMSV petition for establishment, CDE staff reviewed the following:

* CPMS-LMSV charter petition for establishment (Attachment 3 of Agenda Item 10 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-feb18item10a3.pdf>).
* Educational and demographic data of schools where pupils would otherwise be required to attend (Attachment 2 of Agenda Item 10 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-feb18item10a2.docx>).
* CPMS-LMSV budget and financial projections (Attachment 4 of Agenda Item 10 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-feb18item10a4.pdf>).
* CPMS-LMSV Appeal of Charter Petition Denial Cover Letter Dated November 21, 2017 (Attachment 5 of Agenda Item 10 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-feb18item10a5.pdf>).
* Letter Dated November 21, 2017, Describing Changes to CPMS-LMSV Charter Petition Necessary to Reflect the SBE as the Chartering Entity (Attachment 6 of Agenda Item 10 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-feb18item10a6.pdf>).
* LMSVSD Findings for Denial and Petitioner’s Response (Attachment 7 of Agenda Item 10 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-feb18item10a7.pdf>).
* SDCBE Findings for Denial and Petitioner’s Response (Attachment 8 of Agenda Item 10 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-feb18item10a8.pdf>).
* Letter Dated September 23, 2016, Regarding CPMS-LMSV Appeal to the SBE (Attachment 9 of Agenda Item 10 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-feb18item10a9.pdf>).
* CPMS-LMSV Student/Parent Policies and Procedures (Draft) (Attachment 10 of Agenda Item 10 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-feb18item10a10.pdf>).
* CPMS-LMSV Bell Schedule (Attachment 11 of Agenda Item 10 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-feb18item10a11.pdf>).
* CPMS-LMSV Articles on Incorporation (Attachment 12 of Agenda Item 10 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-feb18item10a12.pdf>).
* CPMS-LMSV Conflict of Interest Code (Draft) (Attachment 13 of Agenda Item 10 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-feb18item10a13.pdf>).
* CPMS-LMSV Health, Safety, and Risk Management Procedures (Draft) (Attachment 14 of Agenda Item 10 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-feb18item10a14.pdf>).

### Ability to Successfully Implement the Intended Program

The CDE finds that the CPMS-LMSV petitioner is demonstrably likely to successfully implement the intended program. On February 14, 2018, the CDE requested that CPMS-LMSV provide a consolidated financial statement for CPMS (charter number 1177, which is now closed) and CPMS-EC (charter number 1899, which opened in August 2017) and second interim budget with the fiscal year (FY) 2018–19 projected budget for CPMS-EC. The CDE has reviewed the information CPMS-LMSV provided on February 20, 2018, and concludes that the CPMS-LMSV has sufficiently addressed the CDE’s concerns regarding the financial and operational plan and the CDE’s finding pursuant to *EC* 47605(b)(2).

#### Budget

The CPMS-LMSV multi-year projected budget includes the following projected pupil enrollment (Attachment 4 of Agenda Item 10 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-feb18item10a4.pdf>):

* 240 grade five through grade eight pupils in 2018–19
* 400 grade five through grade eight pupils in 2019–20
* 500 grade five through grade eight pupils in 2020–21
* 500 grade five through grade eight pupils in 2021–22 and 2022–23

The CDE has reviewed the additional information received from the petitioner on February 2, 2018, and in a letter dated February 5, 2018, to address concerns regarding the expenditure estimates for the Spring Valley site. The petitioner provided a description and explanation of the potential facility. Additionally, the petitioner notes that CPMS-LMSV will finance all of the project costs through lease payments and will have the option to purchase the facility beginning FY 2020–21.

The CDE notes the CPMS-LMSV petition states that beginning in the 2018–19 school year, CPMS-LMVS will be located at 10269 Madrid Way, Spring Valley, CA 91977 (Attachment 3, p. 9 of Agenda Item 10 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-feb18item10a3.pdf>). Additionally, in the November 21, 2017, letter to the CDE, the petitioner states that CPMS-LMSV will begin in August 2018 at 5150 Jackson Drive, La Mesa, CA 91924 and then, due to the Spring Valley campus construction timeline, will move to the Spring Valley campus in the second half of the 2018–19 school year (Attachment 6, p. 2 of Agenda Item 10 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-feb18item10a6.pdf>). The projected cost of the rental expenditure in object code 5600 of $42,500 per month appears to be reasonable.

The CDE finds the additional information provided is sufficient to address the concerns regarding expenditure estimates for the Spring Valley site.

#### Revenue

The CDE has reviewed the additional information received from the petitioner on February 2, 2018, and in a letter dated February 5, 2018, to address concerns regarding CPMS-LMSV’s beginning fund balance of $1.2 million. The petitioner provided CPMS Board Meeting Minutes which showed approval of Resolution No. 2017-08-31, authorizing the transfer of remaining unrestricted assets, a part of the financial closeout of CPMS (charter number 1177), to a home office bank account and other action related thereto.

The CDE notes the CPMS-LMSV multi-year financial plan includes a beginning fund balance of $1.2 million as a transfer from CPMS (Attachment 4 of Agenda Item 10 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-feb18item10a4.pdf>). The CDE notes that in the original appeal submission, the petitioner failed to provide support for this fund balance; therefore, the CDE did not include this amount in its original budget analysis and noted that if CPMS-LMSV did not receive this transfer, CPMS-LMSV may need to borrow to make up for the deficit. On February 14, 2018, the CDE requested that CPMS-LMSV provide a consolidated financial statement for CPMS (charter number 1177, which is now closed) and CPMS-EC (charter number 1899, which opened in August 2017) and second interim budget with FY 18–19 projected budget for CPMS-EC. The CDE has reviewed the information CPMS-LMSV provided on February 20, 2018, and concludes that the CPMS-LMSV has sufficiently addressed the CDE’s concerns regarding the financial and operational plan and the CDE’s finding pursuant to *EC* 47605(b)(2).

The CDE finds the additional information provided is sufficient to address the concerns regarding CPMS-LMSV’s beginning fund balance of $1.2 million.

The CPMS-LMSV multi-year projected budget includes lottery funds in the first year of operation, 2018–19; however, lottery funds are based on prior year Second Principal Apportionment enrollment. CPMS-LMSV will not begin receiving lottery funds until the second year of operation, 2019–20. Therefore, the CDE excluded the lottery funds of $41,904 from the CPMS-LMSV projected revenue in 2018–19. In addition, the lottery funds are understated by $20,486 and $18,081 in 2019–20 and 2020–21, respectively.

The CDE used the October 30, 2017, Fiscal Crisis and Management Assistance Team calculator to recalculate the CPMS-LMSV Local Control Funding Formula (LCFF) revenue. The CDE found that CPMS-LMSV had overstated the LCFF revenue by $44,206; $51,772; and $48 for FY 2018–19 through 2020–21, respectively.

The CDE recalculated the Senate Bill 740 Charter School Facility Grants and found that the SB 740 funding is understated by $70,585 for FY 2018–19, and overstated by $55,717 and $69,646 for FY 2019–20 and 2020–21, respectively.

The CPMS-LMSV multi-year financial plan also includes revenue of $25,000; $25,500; and $26,010 in fundraising for FY 2018–19 through 2020–21, respectively (Attachment 4 of Agenda Item 10 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-feb18item10a4.pdf>). On February 14, 2018, the CDE requested that CPMS-LMSV provide a consolidated financial statement for CPMS (charter number 1177, which is now closed) and CPMS-EC (charter number 1899, which opened in August 2017) and second interim budget with FY 2018–19 projected budget for CPMS-EC. The CDE has reviewed the information CPMS-LMSV provided on February 20, 2018, and concludes that the CPMS-LMSV has sufficiently addressed the CDE’s concerns regarding the financial and operational plan and the CDE’s finding pursuant to *EC* 47605(b)(2).

#### Expenditures

CPMS-LMSV projected the expenditure of books and supplies of $107,000 in the budget narrative in 2018–19, which is inconsistent with the amount of $86,600 in the multi-year projected budget. The CDE included the understated expenditure of $20,400 in the budget analysis.

The CPMS-LMSV multi-year projected budget includes the expenditure of building repairs and maintenance of $5,000 in 2018–19, which is understated by $46,042. The CPMS-LMSV multi-year budget and budget narrative stated that the expenditure of building repairs and maintenance would be 10 percent of the rent. The CDE calculated 10 percent of the total rent in the amount of $510,422, which is $51,042; therefore, these expenditures are understated by $46,042.

The CPMS-LMSV multi-year financial plan is fiscally viable due to a positive ending fund balance of $1,062,734, $1,266,075, and $1,669,545 with reserves of 47.4, 36, and 37.7 percent for FY 2018–19 through 2020–21, respectively. The CDE finds this level of reserve to be adequate.

#### District and County Office Findings

On June 30, 2017, the LMSVSD denied the CPMS-LMSV petition based on the following findings (Attachment 7 of Agenda Item 10 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-feb18item10a7.pdf>):

* The petitioners are demonstrably unlikely to implement the program presented in the petition.
* The petition does not contain the number of required signatures.
* The petition does not provide a reasonably comprehensive description of all required elements of a charter petition, including the following:

On October 11, 2017, the SDCBE denied the CPMS-LMSV petition based on the following findings (Attachment 8 of Agenda Item 10 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-feb18item10a8.pdf>:

* The petition does not contain the number of required signatures.
* The petition presents an unsound educational program, which includes failure to describe a comprehensive program in English language development, English language arts, mathematics, physical and health education, visual and performing arts, and science.
* The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
* The petition does not contain reasonably comprehensive descriptions of each of the required charter elements.
* The petition does not contain a declaration of whether or not CPMS-LMSV shall be deemed the exclusive public employer of the employees of CPMS-LMSV.

The detailed CDE analysis of the petition review is provided in Attachment 1 of Agenda Item 10 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-feb18item10a1.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 (as appropriate)

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(s)

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