

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

ssb-csd-sep18item06

# California State Board of EducationSeptember 2018 AgendaItem #17

## Subject

Petition for the Establishment of a Charter School Under the Oversight of the State Board of Education: Consideration of Rocketship San Pablo Elementary, which was denied by the West Contra Costa Unified School District and the Contra Costa County Board of Education.

## Type of Action

Action, Information, Public Hearing

## Summary of the Issue(s)

Rocketship San Pablo Elementary (RSPE) is seeking authorization from the State Board of Education (SBE) to open a new transitional kindergarten (TK)/kindergarten (K) through grade five charter school serving 386 students (with plans to serve an eventual 600 pupils in five years) in West Contra Costa during the 2019–2020 school year.

On October 18, 2017, the petitioners submitted the RSPE petition to the West Contra Costa Unified School District (WCCUSD). On November 15, 2017, WCCUSD voted to deny the RSPE petition by a vote of three to two.

On February 13, 2018, the petitioners submitted the RSPE petition to the Contra Costa County Office of Education (CCCOE). On May 25, 2018, the Contra Costa County Board of Education (CCCBOE) voted to deny the RSPE petition by a vote of three to two.

On May 29, 2018, the petitioners submitted the RSPE petition to the SBE.

## Recommendation

The California Department of Education (CDE) proposes to recommend that the SBE hold a public hearing to deny the request to establish RSPE, a TK/K through grade five charter school, under the oversight of the SBE, based on the CDE’s findings pursuant to *Education Code* (*EC*)sections47605(b)(2) and 47605(b)(5), and *California Code of Regulations*, Title 5 (5 *CCR*) Section 11967.5.1.

The RSPE petitioners are unable to successfully implement the intended program as the petitioner has presented an unrealistic financial and operational plan for the proposed charter school.

Additionally, the CDE finds that the RSPE petition does not provide a reasonably comprehensive description of the educational program, measurable pupil outcomes (MPOs), employee qualifications, health and safety procedures, and suspension and expulsion procedures.

If approved by the SBE, as a condition for approval, the RSPE petitioner will be required to revise the petition in order to reflect the SBE as authorizer and include the necessary language for the required charter elements.

The meeting notice for the August 14, 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/accsnotice081218.asp>.

### Educational Program

The petition states that RSPE projects to enroll 386 pupils in TK/K through grade four in its first year of operation in 2019–2020 and increase to 600 pupils in TK/K through grade five in 2023–24 (Attachment 3, p. 17). The petition states that RSPE’s mission is to eliminate the achievement gap by graduating all pupils at or above grade level and presents the following goals found at the ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug18item06a3.pdf>:

* RSPE pupils will graduate from RSPE at or above grade level.
* RSPE pupils will become self-motivated, competent, and lifelong learners.
* RSPE pupils will develop a deep love of learning.
* RSPE will provide parents with a path for their children to take in order to have the best chance to attend a four-year college.
* RSPE will encourage alumni both to become leaders in their community and help others achieve their goals.

## Advisory Commission on Charter Schools Recommendation

The ACCS considered the RSPE petition for establishment at its August 14, 2018, meeting. The ACCS moved for recommendation to SBE to approve the petition on appeal. The motion passed by a vote of seven to two.

### Inability to Implement

The RSPE petitioners are unable to successfully implement the intended program as the petitioner has presented an unrealistic financial and operational plan for the proposed charter school with heavy reliance on intra-company loans.The CDE finds that the RSPE multi-year financial plan is not fiscally viable due to the negative ending fund balances of $283,187 and $47,149 with no reserve for fiscal years (FYs) 2019–2020 and 2020–21, respectively.

#### Cash Flow/Start-up loans

RSPE relies heavily on a Charter School Revolving Loan Fund of $250,000 and an intra-company loan of $750,000 to cover its cash deficits that will threaten the fiscal viability of RSPE. The CDE’s determination regarding fiscal viability and sustainability does not include loans or pending federal start up grants.

CDE received a revised budget from RSPE dated August 13, 2018, and a Grant Award Notification from the United States Department of Education on August 15, 2018. CDE notes that when calculating the start-up loans, including the federal grant award, RSPE will be fiscally viable in its first three years of operation. However, CDE staff remains concerned about the start-up loans the petitioner is relying on to open the school.

#### Budget

The RSPE multi-year projected budget includes the following projected pupil enrollment numbers:

* A planning year in 2018–19
* 386 TK/K through grade four pupils in 2019–2020
* 488 TK/K through grade five pupils in 2020–21
* 539 TK/K through grade five pupils in 2021–22
* 567 TK/K through grade five pupils in 2022–23
* 600 TK/K through grade five pupils in 2023–24

## Past History–SBE Authorized Rocketship Schools

Rocketship San Francisco (RSF) was approved on January 11, 2012, to open during the 2013–14 school year. On June 6, 2013, RSF submitted a material revision to the SBE requesting to delay the opening of the charter school until the fall of 2015. The material revision was withdrawn from RSF. CDE was notified that RSF was unable to open by September 30, 2013. On July 30, 2013, the CDE sent a letter confirming that the RSF charter petition approval had been terminated.

Rocketship Futuro Academy (RFA), #1805, is currently authorized by the SBE. RFA was approved by the SBE on March 10, 2016, for a five year term from July 1, 2016, through June 30, 2021. Since RFA’s authorization, the charter school has undergone a material revision to reduce enrollment numbers and has been issued six letters of concern, as outlined below, by the CDE during the 2017–18 school year. Two letters were for fiscal issues; two letters were for English Language Development (ELD) instruction and teacher credentialing; one letter was for designated and integrated ELD instruction and an English Learner Advisory committee (ELAC); and an additional letter was again for teacher credentialing. Additionally, the most recent letter of concern dated June 13, 2018, highlighted negative ending fund balances and declining enrollment. In response, RFA again is using intra-company loans and deferral of management fees to balance the RFA budget and continuing issues with cash flow.

In the August 2018 Fiscal Memorandum to the SBE, RFA is considered to be in poor financial condition. Charter schools in poor financial condition are in danger of jeopardizing their fiscal operations going forward; have negative fund balances with no reserves; and do not have adequate cash levels, but have high debt levels. RFA’s second interim report indicates that RFA is projecting a negative ending fund balance of $916,509 with a zero percent reserve for FY 2017–18, which is below the recommended five percent in reserves outlined in the Memorandum of Understanding between RFA and the SBE.

### Letters of Concern Issued

On October 4, 2017, RFA was issued a letter of concern regarding a negative ending fund balance and no reserves as well as declining enrollment.

* The CDE did not receive a response to the October 4, 2017, letter of concern asking RFA to submit a Fiscal Corrective Action Plan (FCAP) with narrative to ensure pupil enrollment growth.
* The CDE staff had a phone conversation on August 13, 2018, with RFA representatives to review the content of the letter and both RFA and CDE responses. It was determined that there was some miscommunication and RFA provided a letter dated October 27, 2017, that was submitted to CDE to address this concern.

On November 1, 2017, RFA was issued a letter of concern, following a site visit on March 8, 2017, of RFA’s English Learner (EL) program, regarding ELD instruction and appropriately credentialed teachers.

* The CDE did not receive a response to the November 1, 2017, letter of concern.
* The CDE staff had a phone conversation on August 13, 2018, with RFA representatives to review the content of the letter and both RFA and CDE responses. The November 1, 2017, letter came eight months after the site visit was conducted on March 8, 2017. RFA and the assigned CDE consultant were in communication to resolve this concern.

On February 13, 2018, RFA was issued a follow-up letter of concern regarding ELD instruction and appropriately credentialed teachers.

* On March 5, 2018, RFA provided the CDE with a letter and documentation that included: (1) a master schedule of ELD protected time within the instructional day; (2) annual EL placement letters to parents; and (3) EL reclassification letters to parents of EL students. RFA indicates the current curriculum is meeting the 2012 ELD standards.
* The CDE has determined that the RFA response was insufficient. At this time, two teachers do not possess the proper teacher credentials.

On May 21, 2018, RFA was issued a letter of concern, following a site visit on March 15, 2018, regarding the lack of integrated ELD instruction, designated ELD instruction, Guided Language Acquisition Design and Specifically Designed Academic Instruction, and an ELAC.

* On June 5, 2018, RFA provided the CDE with a letter and documentation confirming that the corrective actions from the April 25–26, 2018, annual site visit and ELD concerns in the May 21, 2018, letter had been addressed.
* The CDE has determined that the RFA response was sufficient.

On June 5, 2018, RFA was issued a letter of concern regarding the annual site visit conducted on April 25–26, 2018, addressing teacher credentialing.

* On June 21, 2018, RFA provided the CDE with a letter and documentation admitting gaps in the credentialing processes and implementing a compliance plan that includes hiring a credential analyst to support staff needs, a tracking system (Salesforce), better communication, supports, and resources.
* The CDE has determined that the RFA response was sufficient.

On June 13, 2018, RFA was issued a letter of concern regarding a negative ending fund balance and no reserves as well as not meeting projected enrollment.

* On July 3, 2018, RFA provided the CDE with a letter confirming:
	+ RFA is experiencing an annual loss during a period of enrollment growth.
	+ The current accounting methodology of providing a full accrual report format shows a negative ending net asset balance and RFA will be switching to a modified accrual report format to show a positive net asset balance in the future.
	+ RFA will be providing a supplementary schedule in the FY 2018 audited consolidated annual report as part of the action plan to address fiscal concerns.
	+ The projections for the 2019–2020 school year are anticipated to show a positive balance, but that relies upon philanthropy not yet received, and may include deferral of management fees, fundraising, and intra-company loans.

The CDE has determined that RFA has addressed most of the concerns as noted above. However, even with the change of the accounting method from full accrual to modified accrual, the projected fund balance is negative $6,000 for FY 2017–18. RFA does not expect a positive fund balance until FY 2019–2020.

### Charter Elements

The CDE finds that the RSPE petition does not provide a reasonably comprehensive description of the following required charter elements:

#### Educational Program

##### Plan for English Learners

The RSPE petition does not overall present a reasonably comprehensive description of the educational program. The petition does not include the process by which ELs who are reclassified as fluent English proficient (RFEP) will be monitored for a minimum of four years.

##### Measurable Pupil Outcomes

The RSPE petition does not present a reasonably comprehensive description of MPOs. The petition does not include a description of the MPOs for each subgroup of pupils. The RSPE petition includes a table that outlines the goals, actions, MPOs, methods of assessment, and person(s) responsible for each of the eight state priorities.

### Brief History of Key Issues

The RSPE petition was denied by WCCUSD on November 15, 2017, and by CCCBOE on May 25, 2018.

On May 29, 2018, the petitioners submitted the RSPE petition to the SBE.

## CDE Staff Review

In considering the RSPE petition, CDE staff reviewed the following:

* RSPE Petition (Attachment 3 of Agenda Item 05 on the August 14, 2018, Meeting Notice on the SBE ACCS web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug18item06a3.pdf>).
* RSPE Budget and Financial Projections (Attachment 4 of Agenda Item 05 on the August 14, 2018, Meeting Notice on the SBE ACCS web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug18item06a4.pdf>).
* Letter Dated May 25, 2018, RSPE Appeal to the SBE CCCBOE Non-Approval of Petition (Attachment 5 of Agenda Item 05 on the August 14, 2018, Meeting Notice on the SBE ACCS web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug18item06a5.pdf>).
* Letter Dated May 25, 2018, Description of Changes to RSPE Petition on Appeal to the SBE (Attachment 6 of Agenda Item 05 on the August 14, 2018, Meeting Notice on the SBE ACCS web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug18item06a6.pdf>).
* WCCUSD Board Meeting Minutes, Findings of Fact Regarding RSPE, and Petitioner’s Response (Attachment 7 of Agenda Item 05 on the August 14, 2018, Meeting Notice on the SBE ACCS web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug18item06a7.pdf>).
* CCCBOE Resolution No. 18-17/18-B, Staff Report and Proposed Findings of Fact Regarding RSPE, and Petitioner’s Response (Attachment 8 of Agenda Item 05 on the August 14, 2018, Meeting Notice on the SBE ACCS web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug18item06a8.pdf>).
* Third Amended and Restated Bylaws of Rocketship Education (RSED) (Attachment 9 of Agenda Item 05 on the August 14, 2018, Meeting Notice on the SBE ACCS web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug18item06a9.pdf>).
* Revised Conflict of Interest Code for RSED (Attachment 10 of Agenda Item 05 on the August 14, 2018, Meeting Notice on the SBE ACCS web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug18item06a10.pdf>).
* RSED Advisory Board Policy (Attachment 11 of Agenda Item 05 on the August 14, 2018, Meeting Notice on the SBE ACCS web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug18item06a11.pdf>).
* Additional Governance Materials (Attachment 12 of Agenda Item 05 on the August 14, 2018, Meeting Notice on the SBE ACCS web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug18item06a12.pdf>).
* Rocketship Response to Intervention Playbook 2015–16 (Attachment 13 of Agenda Item 05 on the August 14, 2018, Meeting Notice on the SBE ACCS web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug18item06a13.pdf>).
* Integrated Special Education Materials (Attachment 14 of Agenda Item 05 on the August 14, 2018, Meeting Notice on the SBE ACCS web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug18item06a14.pdf>).
* Health and Safety Policies (Attachment 15 of Agenda Item 05 on the August 14, 2018, Meeting Notice on the SBE ACCS web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug18item06a15.pdf>).
* Suspension and Expulsion Policy (Attachment 16 of Agenda Item 05 on the August 14, 2018, Meeting Notice on the SBE ACCS web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug18item06a16.pdf>).

### District and County Office of Education Findings

#### November 15, 2017, WCCUSD Findings

On November 15, 2017, the WCCUSD denied the RSPE petition based on the following findings:

* The petitioner is demonstrably unlikely to successfully implement the program set forth in the petition.
* The petition does not contain reasonably comprehensive descriptions of certain required elements set forth in *EC* Section 47605.

#### February 13, 2018, CCCOE Findings

On February 13, 2018, the CCCBOE denied the RSPE petition on appeal based on the following findings:

* The petitioner is demonstrably unlikely to successfully implement the program set forth in the petition.
* The petition does not contain reasonably comprehensive descriptions of certain required elements set forth in *EC* Section 47605.

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

Currently, 40 charter schools operate under SBE authorization as follows:

* One statewide benefit charter, operating a total of seven sites
* Seven districtwide charters, operating a total of 18 sites
* 32 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.

## Attachments

* **Attachment 1:** Charter School Petition Review Form: Rocketship San Pablo Elementary (40 Pages)
* **Attachment 2:** Rocketship San Pablo Elementary Data Tables 2016–17 Demographic Data for Surrounding Schools (7 Pages)
* **Attachment 3:** California State Board of Education Standard Conditions on Opening and Operation (4 Pages)