

San Francisco Unified School District Findings for Denial
and Petitioner's Response

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Leah J. Won
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San Francisco Unified School District • 555 Franklin Street, Third Floor • San Francisco, California 94102

August 10, 2011

By Email to ekohn@rsed.org

Evan Kohn
Manager of Regional Policy
Rocketship Education
420 Florence St., Suite 300
Palo Alto, CA 94301

Re: Denial of Rocketship San Francisco Charter School Petition

Dear Mr. Kohn:

This letter will confirm that, at its August 9, 2011 meeting, the Board of Education of the San Francisco Unified School District, by a 6-0 vote, denied the petition to form the Rocketship San Francisco charter school and approved the attached report as its written findings in compliance with Education Code section 47605, subdivision (b).

Sincerely,

Leah J. Won

Enclosure

cc: Maribel S. Medina, General Counsel

RECOMMENDED FACTUAL FINDINGS REGARDING THE ROCKETSHIP SAN FRANCISCO CHARTER PETITION

Board of Education Meeting Date: August 9, 2011

A. Introduction

The California Charter Schools Act of 1992 (“Charter Schools Act”) governs the creation of charter schools in the State of California. (Ed. Code § 47600 *et seq.*) Charter schools “are part of the public school system,” but “operate independently from the existing school district structure.” (Ed. Code §§ 47615(a)(1); 47601.) Charter schools are established through submission of a petition by proponents of the charter school to the governing board of a public educational agency, usually a school district.

The Charter Schools Act provides that a school district governing board considering whether to grant a charter petition “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.” (Ed. Code § 47605(b).) With this legislative intent in mind, a school district’s governing board must grant a charter “if it is satisfied that granting the charter is consistent with sound educational practice.” (Ed. Code § 47605, subd. (b).) The governing board may not deny a charter petition unless it makes written factual findings, specific to the particular petition, in support of its decision to deny the charter. (*Ibid.*)

B. Procedural Status of Rocketship San Francisco Charter Petition

The San Francisco Unified School District (“District”) received a charter petition on June 10, 2011 (“Petition”) proposing the creation of an independent charter school called Rocketship San Francisco (“Charter School”). The Petition proposes a charter term of five (5) years, beginning July 1, 2011 through June 30, 2016. The Charter School proposes to serve students in grades kindergarten through third grade in the 2013-2014 school year, expanding to serve grades kindergarten through fifth by the 2015-2016 school year, and possibly adding a sixth grade thereafter, depending on demand.

In consideration of the Petition, District staff has reviewed the Petition and its appendices. Based on its review, District staff sets forth the following written factual findings regarding the Charter School Petition. Due to District staff’s concerns with the Petition and based on the grounds set forth below, District staff recommends that the Charter School Petition be denied.

It should be noted that, while not a grounds for denial, the Charter School declined several requests from the District to extend the deadline for Board action on the proposed Petition. Specifically, because petitioners submitted the Petition in the middle of the District's summer recess, the District requested that the Charter School extend the 60-day deadline for final action on to 90 days, as authorized under Education Code section 47605, subdivision (b). *The District informed the Charter School* petitioners that the Regular Board meetings for the month of July 2011 had been cancelled, as well as Committee meetings. Indeed, the District Board Policy Appendix F regarding charter schools provides that "petitioners are encouraged not to submit a petition during a period when a regular Board of Education meeting is not scheduled within the next 30 days," which was precisely the case here. Nevertheless, the Charter School declined to extend the deadline, thereby preventing the District from implementing a complete review process.

C. Standard for Review of Charter Petitions

As referenced above, the governing board may not deny a charter petition unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one, or more, of the following findings, as set forth in Education Code section 47605, subdivision (b):

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 Education Code section 47605, subdivision (a). Specifically, subdivision (a)(1)(A) requires that the petition be signed by a number of parents or guardians of pupils equal to at least one-half the number of pupils that the charter school estimates will enroll in the charter school for its first year of operation. Alternatively, subdivision (a)(1)(B) requires that the petition be signed by a number of teachers that is equal to at least one-half of the number of teachers that the charter school estimates will be employed at the school during its first year of operation.
4. The petition does not contain an affirmation of each of the conditions described in Education Code section 47605, subdivision (d), including that the charter school: (a) will be

nonsectarian in its programs, admissions policies, employment practices, and all other operations, (b) will not charge tuition, and (c) will not discriminate against any pupil on the basis of the characteristics set forth in Education Code section 220.

5. The petition does not contain reasonably comprehensive descriptions of the following elements set forth in Education Code section 47605, subdivision (b)(5)(A-P), which constitute sixteen (16) separate elements that must be addressed in every charter petition.
 - a. A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an “educated person” in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.
 - b. The measurable pupil outcomes identified for use by the charter school. “Pupil outcomes” means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school’s educational program.
 - c. The method by which pupil progress in meeting those pupil outcomes is to be measured.
 - d. The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.
 - e. The qualifications to be met by individuals to be employed by the school.
 - f. The procedures that the school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the school furnish the school with a criminal record summary as described in Education Code Section 44237.

- g. The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.
- h. Admission requirements, if applicable.
- i. The manner in which annual, independent financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority.
- j. The procedures by which pupils can be suspended or expelled.
- k. The manner by which staff members of the charter school will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.
- l. The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.
- m. A description of the rights of any employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school.
- n. The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.
- o. A declaration whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act ("EERA" or "Rodda Act").
- p. A description of the procedures to be used if the charter school closes. The procedures shall ensure a final audit of the school to determine the disposition of

all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of pupil records.

Charter school petitions are also required to include discussion of the impact on the chartering district, including the facilities to be utilized by the school, the manner in which administrative services will be provided, potential civil liability for the school district, and a three-year projected operational budget. (Ed. Code § 47605, subd. (g).)

D. Proposed Factual Findings Regarding Charter Petition

Based on the District's review of the Charter School Petition, District staff recommends that the Board of Education deny the Charter School Petition under grounds (1), (2), and (5) above, as described in the following findings of fact. The following proposed findings of fact have been grouped for convenience under the aforementioned grounds for denial of a charter petition, however, certain findings of fact may support more than one ground of denial.

Ground (1): The Charter School presents an unsound educational program for the pupils to be enrolled in the Charter School.

a. Educational Program. The Petition's discussion of the proposed educational program demonstrates an unsound kindergarten through third grade educational program.

i. *English/Language Arts and Social Science*. The Petition indicates that the Charter School will implement publisher's programs, as a basis for the English/language arts and social science curriculum (i.e. Open Court, Scholastic Leveled Reading, the Six Traits Writing Program, Lucy Calkins Units of Study, and Step Up to Writing, and Grant Wiggins Understanding by Design.) However, these publisher's programs do not constitute instructional programs, and in fact, the Petition fails to provide a clear and comprehensive description of the proposed English/language arts and social science core curriculum.

ii. *Mathematics and Science*. The Petition identifies the Harcourt mathematics program, supplemented with materials from John Van de Valle, Marilyn Burns and Cathy Fosnot, however, the Petition's discussion of instruction and assessment emphasizes computational fluency without describing how conceptual understanding will be taught or assessed. The Petition's emphasis is on skill-based fluency that sounds like "drill and kill" with specific mention of "getting to the correct answer." This emphasis does not align philosophically with the District's mathematics vision, which is based on national and international research, and the District's SERP partnership (in fact, SERP work is about not rushing to the correct answer). In addition, page 35 of the Petition states: "In order to focus on deeper comprehension of mathematical concepts, we will

strike a balance between building computational fluency and using discussion to help students explain why they reached an answer.” This represents a major misconception as to what mathematics conceptual understanding is: you cannot have a rich discussion about why a student got an answer when teaching computation; concepts need to be taught and discussed regularly. The Petition provides no clear plan as to how the two types of instruction will be integrated. The goal of integrating Harcourt and the supplemental materials based on the resources contained in the Petition does not seem feasible. Finally, the Petition fails to mention the California State Board of Education adopted instructional materials, and contains no reference as to how specific inquiry-based tasks are developed or from where they will be selected. Again, the Petition provides clear plan as to how the “hands-on, project-based” instruction will be developed and delivered.

iii. *Response to Intervention.* The Response to Intervention (“RTI”) model that is presented in the Petition seems to be missing a step. The Petition states that Tiers 1 and 2 include small group and individualized instruction in the classroom and individualized learning plans with intervention via tutors in a Learning Lab. Tier 3 jumps to “student not demonstrating adequate response to learning lab intervention receives Special Education Referral.” According to the California Department of Education’s RTI Technical Assistance Document (2009) the Three-Tiered Model includes: (1) a Tier I Benchmark (Core with differentiated instruction), (2) Tier II Strategic (Core plus supplemental) and (3) Tier III Intensive (Intervention programs used with fidelity). Tier III Intervention is intended to be temporary, however, the Petition does not contemplate the temporary nature of Tier III: “Tier III instruction is not another step in the special education referral process but an opportunity for students to receive the intensive intervention necessary to accelerate them to the core at the strategic level and, over time to close the skill gaps enough to be able to return to the benchmark group” (Silvia DeRuvo, 2010).

b. Measureable Student Outcomes. The Petition’s discussion of measureable student outcomes is significantly lacking for the following reasons.

i. *Student Outcome Goals.* The Petition is vague with regard to how the Charter School will measure pupil exit outcomes. The Petition contains a broad statement about how teachers will strive for “significant gains” for their students (defined as 1.5 years of academic progress for every school year) as measured by “internal measures” and state exams. The Petition also provides a broad statement that pupil outcomes will address state content and performance standards in core academics but does not explain how this will be measured in each of the core subjects. The Petition does not address exit outcomes/academic skills area of social studies related content and skills. The Petition contains no clear mention that benchmark skills and specific classroom-level skills will be developed.

ii. *Student Assessment Tools.* The Petition fails to provide for the minimum required performance level necessary to attain each academic standard and is not indicated for the different core subject areas or for the listed academic and life skills. The Petition does not include a list of assessments that will be used by the Charter School in all subject areas and for the different grade levels.

c. English Language Learners. The Petition provides for a model of English Language Learner services that is of significant concern to District staff. Specifically, District staff is concerned with the proposed English-only instructional model, the lack of clarity with regard to English Language Development, and the lack of clarity with regard to reclassification procedures.

i. *English-Only Model.* Page 31 of the Petition provides that “once a child reaches the intermediate stages of fluency, he or she begins to accelerate his or her progress on all of his or her academic work. In order to help our EL students to master listening, speaking, reading and writing in English by second grade, Rocketship San Francisco students will be immersed in English.” However, most research shows that EL students reach the intermediate stage rather quickly and it is after reaching that stage of fluency that EL students tend to get stuck, often eventually becoming Long-Term English Learners. EL students who are immersed in English until second grade may have higher levels of English literacy at second grade, but as they move forward in the grades, this is not the instructional model that leads to the highest levels of academic proficiency. In fact, models that provide instruction and instructional support in the primary language have been shown to lead to the highest levels of academic proficiency in the long term. Also, the maintenance and development of the primary language, with the goal of bilingualism and biliteracy is a commitment of the District.

ii. *English Language Development.* Page 32 of the Petition provides that “[o]ur explicit ELD will focus on developing oral language, grammatical constructs and academic vocabulary in English. This period will take place during the Literacy block in Guided Reading, when EL students will be leveled by English fluency and provided with explicit ELD instruction.” However, District staff is concerned that ELD is proposed to take place during Guided Reading, a time when ELs also need to participate in the guided reading instruction. ELD must be a clearly delineated specific time of the day focused on English Language Development.

iii. *Reclassification Procedures.* Pages 51-52 of the Petition address EL reclassification procedures, however, the procedures are quite vague, and do not give any specific

reclassification criteria. This is a concern, as students who are reclassified before they are truly proficient in English will no longer receive the services they need.

d. Special Education. The Petition states that the Charter School would operate “as a Local Educational Agency under the El Dorado County Special Education Local Plan Area Charter Consortium pursuant to Education Code section 47641(a).” (p. 52) However, Education Code section 47641(a) requires that a charter school intending to be deemed an LEA for special education services must “include [] in its petition for establishment or renewal, or... otherwise provide [], verifiable, written assurances that the charter school will participate as a local educational agency in a special education plan approved by the State Board of Education.”

The Petition lacks the required “written verifiable assurances.” Instead, the Petition includes a letter from the El Dorado County SELPA Director that indicates that El Dorado County SELPA would look forward to reviewing an application from Rocketship San Francisco (Appendix AH, p. 352.) However, this letter fails to address the conditions to El Dorado County SELPA membership, as described below.

The El Dorado SELPA includes in its “Charter SELPA Value Statement,” that it is designed to serve State-wide charters (approved by SBE) or charters that have been unable to develop a ‘workable’ relationship with their authorizing district and/or local SELPA, and have sought relief from the Charter SELPA. These criteria or protocol do not fit Rocketship, a currently non-existent charter that is applying/petitioning to be a district charter, not a state charter. In addition, there has been no attempt to develop a ‘workable’ relationship with the San Francisco Unified School District or its SELPA.

In fact, the “Charter SELPA Value Statement” contained on the El Dorado SELPA’s website contains several conditions that a potential charter school member must meet prior to becoming an approved member of the El Dorado County SELPA. The Petition does not contain the requisite showing that the Charter School has met these necessary conditions for becoming an LEA for special education purposes in the El Dorado SELPA, including a demonstration that it has attempted to develop a “workable” relationship with the local authorizer for the provision of special education.

Ground (2): The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.

a. Facilities. The Petition fails to identify a specific facility. (See, Ed. Code § 47605(g)) (“[t]he governing board of a school district shall require that the petitioner or petitioners provide information regarding the proposed operation and potential effects of the school,

including, but not limited to, the facilities to be utilized by the school...”).) The Petition only contains a general description of the specification of a proposed facility (Petition, pp. 96-97.)

b. Budget. The Petition’s proposed budget is a source of primary concern. The following provide several of the most significant concerns with the Charter School’s proposed budget.

i. *Planning Assumptions*. The Charter School is projecting over 100 students per grade level from year 1, with 70% of the students qualifying for free or reduced price lunch (“FRPL”). It is important to note that the page 49 of the Petition erroneously states that the District’s FRPL rate is 91%; when in fact it is 61%. The overall projection as well as the FRPL projection will be difficult to obtain and somewhat dependent upon the location of the Charter School. Throughout the Petition, there are at least three different mentions of class size for kindergarten through third grade classrooms. (*See, i.e.* p. 21, 20:1; p. 57, 23:1; p. 361, 24:1)

The tables on page 362 of the Petition show “weighted average Teacher Compensation costs” are around \$58,438 for total with the teacher salary cost at approximately \$53,125 at full roll out. That would leave just \$5,313 for health and welfare benefits, retirement, unemployment insurance and other salary-driven benefits. This is significantly below market rates for these costs. This doesn’t align to the information in the tables on page 363 of the Petition, which shows a \$5,878 for STRS only by year 3. No full time equivalencies (“FTEs”) are provided to establish the breakdown of benefits by individual.

Finally, the Petition’s proposed budgeted food service costs are below market rates.

ii. *Revenue Sources*. Letters of support from granting agencies are to “Rocketship Education.” It is unclear what, if any, of these funds are available to Rocketship San Francisco, specifically, and under what circumstances.

iii. *Program Elements Not Budgeted*. There are many program elements that do not seem to be accounted for within the budget including but not limited to, four weeks of professional development before school starts, learning lab support and equipment, funding to support the teacher dashboard and assessments. Bonuses are included in the budget, but not mentioned in the Petition; it is unclear to whom and based on what criteria these bonuses would be distributed. Finally, the Petition fails to identify the SELPA payment within the proposed budget.

c. Administrative Services. According to the Petition, 15 percent of the Charter School’s revenue would be paid as a fee to Rocketship Education Management Services. The Petition lacks a reasonably comprehensive description of what exact “management services” that Rocketship Education Management Services would provide in exchange for this fee, and why it has

not investigated alternative and potentially less expensive options. Furthermore, founding member John Danner. Is listed also as the CEO of Rocketship Education, the entity with which the school contracts for services. This creates an inappropriate and potentially illegal financial nexus between his role as founding member and CEO of Rocketship Education, one that is not explained in the Petition. Most of the duties listed in the sample services agreement (Appendix AE, p. 346) are traditionally performed by school staff.

d. Governance Structure. District staff has concerns with the following aspects of the Petition's proposed governance structure.

i. *Conflicts of Interest*. The Petition states that the Charter School "will adopt a conflicts code which complies with the Political Reform Act, Government Code Section 87100, and applicable conflict restrictions required by the Corporations Code" (p. 53). However, the charter school should comply with the more rigorous conflict on interest provisions applicable to public officials, including Government Code 1090. The Petition fails to make this commitment. The Petition also makes a reference to Board Bylaws (Petition, p. 73), though no Bylaws were found in the Appendices. (Appendix W.)

ii. *Parent Involvement*. The Petition describes a Parent/Teacher Council that would foster parental involvement, but fails to contain a reasonably comprehensive description of any measure that would be taken to promote communication between the school and the community, especially with respect to native language speakers. (pp.78-79.)

Ground (5): The Petition does not contain reasonably comprehensive descriptions of certain specific aspects of its program and operations.

a. Health and Safety Procedures. The Petition fails to contain reasonably comprehensive descriptions of the following proposed health and safety procedures.

i. *Administration of Medication*. The Petition's Administration of Medications policy is insufficiently detailed to be in compliance with applicable law. (Appendix Q.) The policy purports to allow "designated school personnel" to assist a student in the administration of medication without providing any further requirements regarding the scope and process for such designation. (See, e.g., 5 C.C.R. § 604) The policy's failure to define what steps a designated staff member may take to assist a student in the administration of medication also subjects employees to potential violations of Business & Professions Code section 2725. The policy also fails to address the administration of medication in cases of medical emergency.

ii. *Mandated Child Abuse Reporting.* The Petition contains a brief statement that all staff “will be mandated child abuse reporters and will follow all applicable reporting laws, the same policies and procedures used by the District.” (p. 88.). However, the Petition fails to contain any further detail, including how the charter school would meet its legal obligations to train staff on their legal duties. (See Pen. Code, § 11165.7.)

b. Student Discipline. Charter schools are not required to follow the Education Code when disciplining students, but they are required to provide due process to students assured under the federal and state constitutions. (Goss v. Lopez (1975) 419 U.S. 565; Wood v Strickland (1975) 421 U.S. 921.) The Petition addresses the process for expulsions, and allows for an Administrative Panel that might include the Principal and/or a teacher who does not currently instruct the student being considered for expulsion as its members. Accordingly, under the Petition, the proposed charter school’s principal can make recommendations for expulsion, and preside over a hearing regarding the charges against the student. (Petition, Appendix at p. 262.) Further, such a procedure can occur even after the Principal engages in a conference prior to the hearing. (Petition, Appendix at p. 261.) To the extent the Principal makes the recommendation for expulsion after a parent conference, then presides over a hearing, there is an absence of an impartial arbiter determining the credibility of the charges against the student. Also, to underscore the lack of due process, the Petition states that there is no process at all for any appeal of an expulsion and its Board’s decision to expel shall be final (Petition, Appendix at p. 266.) The lack of sufficient due process safeguards evinces a larger concern that the proposed student discipline procedure does not sufficiently contain procedures to maintain the educational context of a proposed disciplinary action, and to ensure that the Constitutional rights of the student are protected.

c. Dispute Resolution. The Petition’s proposed dispute resolution process meets minimal legal requirements. However, the provision that both parties “shall refrain from public commentary regarding any disputes until the matter has progressed through the dispute resolution process unless otherwise required by law” is unduly restrictive. (Petition, p. 90.)

d. School Closure Procedures. The Petition’s proposed school closure procedures meets minimum legal requirements, except that the Petition references notification to San Mateo County Office of Education upon closure. (p. 98.) It is unclear why school closure notification would be required to San Mateo County Office of Education.

E. Recommendation of Denial of Charter Petition

Based on the foregoing, the District staff makes the following recommendations:

1. That the Petition be denied for reasons including, but not limited to, the failure of the petitioners to present a sound educational program, including a failure to describe the content and implementation of the curriculum, a failure to provide assessments aligned with the proposed curriculum, and a failure to describe implementation of programs for ELL and special education students. Therefore, the proposed Petition presents an unsound educational program for students to be enrolled at the Charter School.
2. That the Petition be denied for reasons including, but not limited to, the petitioners are demonstrably unlikely to successfully implement the program set forth in the Petition, including the failure of the petitioners to adequately describe the facilities in which to implement the proposed program, the failure of the petitioners to develop a comprehensive and viable budget, and the failure of the petitioners to establish a viable governance structure. Therefore, it is demonstrably unlikely that the Petitioners will successfully implement the program set forth in the Petition.
3. That the Petition be denied for reasons including, but not limited to, the Petition's failure to contain reasonably comprehensive descriptions of the items required by Education Code section 47605, subdivision (b)(5), including the areas of health and safety procedures, student discipline, dispute resolution, and school closure.

In order to deny the Petition on the grounds set forth above, Education Code section 47605, subdivision (b), requires the Board of Education to make written factual findings, specific to the particular petition, setting forth specific facts to support one or more grounds for denial of the Petition. District staff recommends that the Board of Education adopt these written factual findings as their own.

F. Conclusion

Based on the District's review of the Charter School Petition and its appendices, District staff recommends that the Board of Education deny the Charter School Petition under the grounds set forth herein. In support of the proposed denial, District staff recommends that the Board of Education adopt these written factual findings as their own.



OCTOBER 14, 2011

Celina Torres, Education Programs Consultant
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1430 N Street
Sacramento, CA 95814

VIA: E-MAIL
ctorres@cde.ca.gov

**Re: Rocketship San Francisco Charter School Charter Petition Appeal to the
State Board of Education – Response to District Findings**

Dear Ms. Torres:

As you know, the Board of Education of the San Francisco Unified School District (“District Board”) denied approval of the Rocketship San Francisco (“Rocketship” or “Charter School”) charter petition and adopted written findings regarding the Rocketship charter, upon which the District Board based its decision to deny the charter. This letter responds to those findings, highlighting factual inaccuracies, and provides clarifying information about Rocketship.

At the outset, we wish to point out the legal basis for denial of a charter petition. Education Code Section 47605(b) states:

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.

Bonnie Galloway, Administrator

Re: *Rocketship San Francisco Charter School Charter Petition Appeal to the State Board of Education – Response to District Findings*

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- (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.)

Accordingly, the law is written such that the default position for a school district governing board is to approve a charter petition, unless it makes written factual findings to support a denial. The District Board's findings were either based on incorrect fact or go beyond the requirements set forth in law, and therefore the findings constitute an impermissible basis for denial of the Rocketship charter.

Below please find the District Board's factual findings, in the order in which they were presented in the District staff report, immediately followed by the Rocketship response. We point out that the District states in its staff report that, "while not a grounds for denial, the Charter School declined several requests from the District to extend the deadline for Board action on the proposed Petition..." and detailed the scheduling inconveniences posed to the District due to Rocketship's submission of its charter petition to the District "in the middle of the District's summer recess..." (see District staff report, page 2). We note that Rocketship did not intend to inconvenience the District, nor did it expect that the District Board would fail to meet for an entire month. Instead, Rocketship acted in the best interests of the future Rocketeers of San Francisco and respectfully requested to the District to follow the requirements of Education Code Section 47605(b) and schedule a hearing to consider and act on its charter petition within the 60-day timeline provided in statute. At Rocketship, we see the achievement gap as an urgent issue. We're losing lives, and we cannot wait.

Ground (1): The Charter School presents an unsound educational program for the pupils to be enrolled in the Charter School.

Finding #1: English/Language Arts and Social Science. The Petition indicates that the Charter School will implement publisher's programs, as a basis for the English/language arts and social science curriculum (i.e. Open Court, Scholastic Leveled Reading, the Six Traits Writing Program, Lucy Calkins Units of Study, and Step Up to Writing, and Grant Wiggins Understanding by Design.) However, these publisher's programs do not constitute instructional programs, and in fact, the Petition fails to provide a clear and comprehensive description of the proposed English/language arts and social science core curriculum.

Rocketship Response: The District is misguided in its interpretation of the legal standard that defines an "unsound educational program." The California Code of Regulations, Title 5,

Bonnie Galloway, Administrator

Re: *Rocketship San Francisco Charter School Charter Petition Appeal to the State Board of Education – Response to District Findings*

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Section 11967.5.1(b) state that for the “purposes of Education Code section 47605(b)(1), a charter petition shall be an “unsound educational program” if it is either of the following: (1) A program that involves activities that the State Board of Education determines would present the likelihood of physical, educational, or psychological harm to the affected pupils;” or “(2) A program that the State Board of Education determines not likely to be of educational benefit to the pupils who attend.”

The District’s finding regarding Rocketship’s educational program does not provide facts to demonstrate either basis of an “unsound educational program” per the regulatory language and therefore is an impermissible basis for denial of the Rocketship charter petition.

Rocketship’s success in closing the achievement gap among the school’s targeted student population is exceptional. As demonstrated below, academic performance at Rocketship schools has been exceptional, especially in comparison to overall school district performance, and to neighboring and regional schools. For the 2009 - 2010 school year:

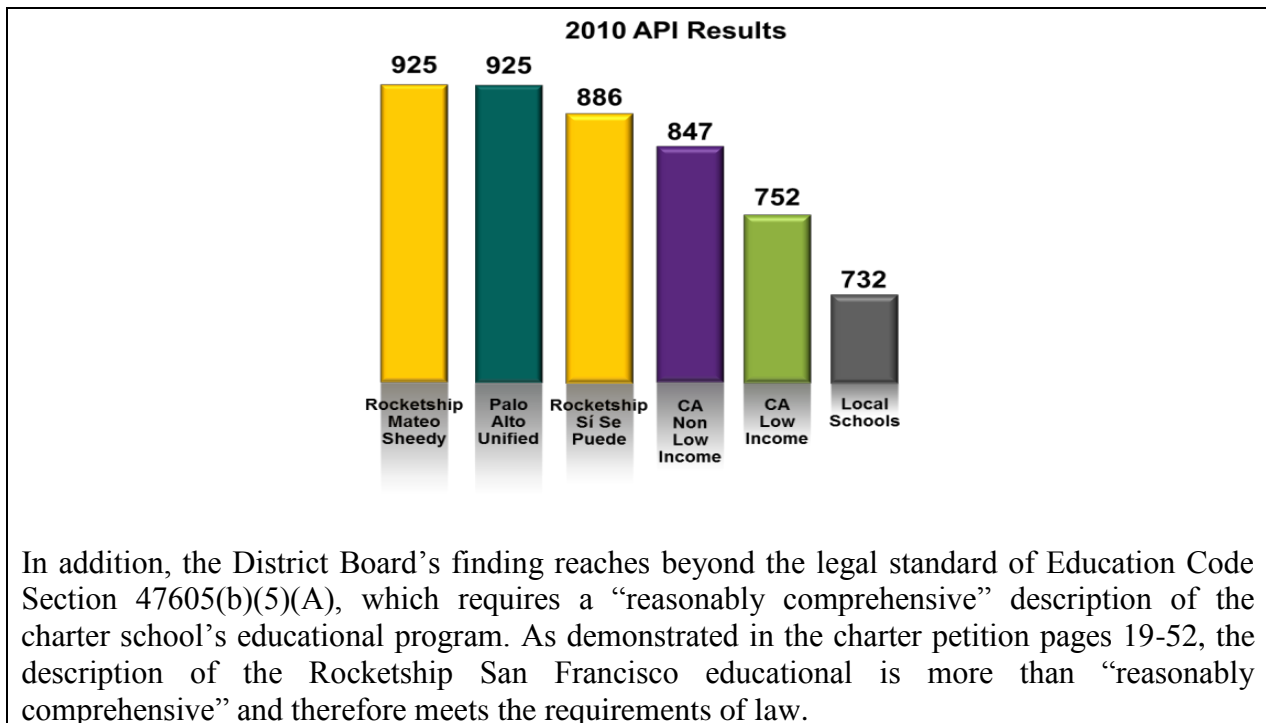
- Rocketship Mateo Sheedy Elementary (RMS) earned an API score of 925 for the second consecutive year, the same score earned by the far more affluent Palo Alto School District.
- Rocketship Sí Se Puede Academy (RSSP) earned an API score of 886 in its first year of operation.
- Both Rocketship schools placed in the #5 and #15 positions, respectively, for all California schools with similar low-income populations of students (e.g., >70% qualify for free/reduced meals).
- Sí Se Puede Academy (RSSP) was the top school in this category, for all new elementary schools which opened in the fall of 2009.

Bonnie Galloway, Administrator

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Finding #2: Mathematics and Science. The Petition identifies the Harcourt mathematics program, supplemented with materials from John Van de Valle, Marilyn Burns and Cathy Fosnot, however, the Petition’s discussion of instruction and assessment emphasizes computational fluency without describing how conceptual understanding will be taught or assessed. The Petition’s emphasis is on skill-based fluency that sounds like “drill and kill” with specific mention of “getting to the correct answer.” This emphasis does not align philosophically with the District’s mathematics vision, which is based on national and international research, and the District’s SERP partnership (in fact, SERP work is about not rushing to the correct answer). In addition, page 35 of the Petition states: “In order to focus on deeper comprehension of mathematical concepts, we will strike a balance between building computational fluency and using discussion to help students explain why they reached an answer.” This represents a major misconception as to what mathematics conceptual understanding is: you cannot have a rich discussion about why a student got an answer when teaching computation; concepts need to be taught and discussed regularly. The Petition provides no clear plan as to how the two types of instruction will be integrated. The goal of integrating Harcourt and the supplemental materials based on the resources contained in the Petition does not seem feasible. Finally, the Petition fails to mention the California State Board of Education adopted instructional materials, and contains no reference as to how specific inquiry-based tasks are developed or from where they will be selected. Again, the Petition provides clear plan as to how the “hands-on, project-based” instruction will be developed and delivered.

Rocketship Response: As with Finding #1, the District’s interpretation of the legal standard

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that defines an “unsound educational program” is misguided and does not demonstrate that Rocketship’s educational program either presents the likelihood of physical, educational, or psychological harm to the affected pupil, or that that educational program is not likely to be of educational benefit to the pupils who attend. The District’s finding therefore is an impermissible basis for denial of the Rocketship charter petition. Please also see pages 19-52 of the charter petition for a reasonably comprehensive description of the educational program, including mathematics, which meets the legal standard set forth in Education Code Section 47605(b)(5)(A).

In addition, the Rocketship educational model is a proven success as demonstrated by impressive student academic achievement results in all content areas, including mathematics. In 2010-11, over 80 percent of Rocketship students were proficient or advanced in math.

Finding #3: Response to Intervention. The Response to Intervention (“RTI”) model that is presented in the Petition seems to be missing a step. The Petition states that Tiers 1 and 2 include small group and individualized instruction in the classroom and individualized learning plans with intervention via tutors in a Learning Lab. Tier 3 jumps to “student not demonstrating adequate response to learning lab intervention receives Special Education Referral.” According to the California Department of Education’s RTI Technical Assistance Document (2009) the Three-Tiered Model includes: (1) a Tier I Benchmark (Core with differentiated instruction), (2) Tier II Strategic (Core plus supplemental) and (3) Tier III Intensive (Intervention programs used with fidelity). Tier III Intervention is intended to be temporary, however, the Petition does not contemplate the temporary nature of Tier III: “Tier III instruction is not another step in the special education referral process but an opportunity for students to receive the intensive intervention necessary to accelerate them to the core at the strategic level and, over time to close the skill gaps enough to be able to return to the benchmark group” (Silvia DeRuvo, 2010).

Rocketship Response: Once again, the District has not adopted findings that demonstrate the Rocketship educational program is unsound according to the criteria set forth in the California Code of Regulations, Title 5, Section 11967.5.1(b). This finding is therefore an impermissible basis for denial of the charter petition. Beginning on page 27, the Rocketship charter petition contains a well-detailed description of the RTI program, which exceeds the reasonably comprehensive standard of Education Code Section 47605(b)(5)(A).

Finding #4: Student Outcome Goals. The Petition is vague with regard to how the Charter School will measure pupil exit outcomes. The Petition contains a broad statement about how teachers will strive for “significant gains” for their students (defined as 1.5 years of academic progress for every school year) as measured by “internal measures” and state exams. The Petition also provides a broad statement that pupil outcomes will address state content and performance standards in core academics but does not explain how this will be measured in each of the core subjects. The Petition does not address exit outcomes/academic skills area of

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social studies related content and skills. The Petition contains no clear mention that benchmark skills and specific classroom-level skills will be developed.

Rocketship Response: The District has not made findings that demonstrate Rocketship's measurable pupil outcomes presents the likelihood of physical, educational, or psychological harm to students, or that that educational program is not likely to be of educational benefit to the students who attend Rocketship schools. The District's finding is therefore an impermissible basis for denial of the Rocketship charter petition. The Rocketship petition contains a reasonably comprehensive description of the measurable pupil outcomes to which the Charter School has committed, by providing objective outcomes that are capable of frequent measurement and thus meeting the reasonably comprehensive standard of Education Code Section 47605(b)(5)(b) and Section 11967.5.1(f)(2) of Title 5 of the California Code of Regulations (See Element 3, beginning on page 69 of the charter petition). At Rocketship, we take pride in the schoolwide and student outcomes set forth in our charters, which, as demonstrated by Rocketship's success in closing the achievement gap, lead to high expectations for students and overall increased student achievement. We endeavor to bring this success to the future Rocketeers of San Francisco.

In addition, please find below Rocketship's grade-level S.M.A.R.T. (specific, measurable ambitious, realistic, time-bound) goals:

Kindergarten Goals:

ELA:

- 100% of students will be at a DRA Level 4 or higher by the end of the school year, and 90% will move at least 1.5 years in reading as measured by the DRA2 (50% in ELA according to NWEA)
- 80% of students will score 100% on the Alphabet section of the Core Phonics Inventory by March, 100% by June
- 90% of students will know all 100 Sight Words by June
- 70% of students will score a 3 or higher on the end of year writing assessment

Math:

- 100% of students will score 90% or higher on the Kindergarten benchmark
- 40% make 1.5 years of progress in math according to NWEA
- 75% of students will score 50% or higher on the First Grade benchmark by June

First Grade Goals:

ELA:

- 100% of students will read the first 30 lists of Rocketship Sight Words
- 100% of students will reach at least a DRA level 16, and 90% will grow 1.5 years of more (50% in ELA according to NWEA)
- 80% of students will move at least one level on the grade level writing rubric

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- 90% of students will score 85% or higher on the end of unit assessments
- 40% make 1.5 years of progress in math according to NWEA
- 90% of students will score 85% or higher on the First Grade Benchmark

Second Grade Goals:

ELA:

- 100% of students will reach at least a DRA level 28, and 90% will move at least 1.5 years in reading as measured by the DRA2 (50% in ELA according to NWEA)
- 100% of students will read all K-2nd sight words by June
- 80% of students will move at least one level on the grade level writing rubric
- 80% of students will score proficient or advanced on the ELA section of the CST

Math:

- 90% of students will score 85% or higher on the end of unit assessments
- 90% of students will score 90% or higher on the 2nd Grade benchmark assessment
- 40% make 1.5 years of progress in math according to NWEA
- 90% of students will score proficient or advanced on the Math section of the CST

Third Grade Goals:

ELA:

- 90% of students will reach at least a DRA level 38 and 90% of students will grow at least 1.5 years in reading (50% in ELA according to NWEA)
- 80% of students will move at least one level on the grade level writing rubric
- 80% of students will score proficient or advanced on the ELA section of the CST

Math:

- 90% of students will score 85% or higher on the end of unit assessments
- 90% of students will score 90% or higher on the 3rd Grade benchmark assessment
- 40% make 1.5 years of progress in math according to NWEA
- 90% of students will score proficient or advanced on the Math section of the CST

Finding #5: Student Assessment Tools. The Petition fails to provide for the minimum required performance level necessary to attain each academic standard and is not indicated for the different core subject areas or for the listed academic and life skills. The Petition does not include a list of assessments that will be used by the Charter School in all subject areas and for the different grade levels.

Rocketship Response: Please see our Response to Finding #6 regarding our measurable pupil outcomes. Further, as described on pages 70-72 of the charter petition, Rocketship commits to using NWEA MAP assessments three times per year to track student progress and determine areas of needed improvement, as well as conducting bi-monthly assessments in Reading, Writing, and Math. The NWEA MAP and bi-monthly Reading, Writing, and Math assessments provide our teachers with frequent checks on the progress of each of our students towards the

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state standards. As with the balance of our charter petition, the description of the Rocketship measurable pupil outcomes and use of assessments contained in the petition exceeds the reasonably comprehensive standard set forth in Education Code Sections 47605(b)(5)(B)-(C) and Section 11967.5.1(f)(2)-(3). The District has not provided a legally permissible basis for denial of the Rocketship charter petition.

Finding #6: English-Only Model. Page 31 of the Petition provides that “once a child reaches the intermediate stages of fluency, he or she begins to accelerate his or her progress on all of his or her academic work. In order to help our EL students to master listening, speaking, reading and writing in English by second grade, Rocketship San Francisco students will be immersed in English.” However, most research shows that EL students reach the intermediate stage rather quickly and it is after reaching that stage of fluency that EL students tend to get stuck, often eventually becoming Long-Term English Learners. ...Also, the maintenance and development of the primary language, with the goal of bilingualism and biliteracy is a commitment of the District.

Rocketship Response: A charter school’s commitment to bilingualism is an impermissible reason to deny a charter and does not meet the definition of an “unsound educational program” as defined in regulation and therefore does not provide facts to support a basis for denial of the charter. Rocketship is deeply committed to serving the needs of all Rocketeers, including English learners, as evidenced by our English learner students’ API scores of 839, 887, and 854 in 2010-2011. Rocketship’s Learning Lab offers students a chance to focus on basic English language acquisition skills through adaptive online programs and tutoring, so teachers can focus on higher order skills, which prevent students from “getting stuck.” Please also see pages 49-52 and Appendix J of the Rocketship petition for more information about our English learner program.

Finding #7: English Language Development. ...District staff is concerned that ELD is proposed to take place during Guided Reading, a time when ELs also need to participate in the guided reading instruction. ELD must be a clearly delineated specific time of the day focused on English Language Development.

RSF Response: The District here has presented a “concern,” which ignores the results described above with regard to English Learners and thus fails to present facts that demonstrate that the Rocketship EL program meets the criteria of an “unsound educational program” as set forth in regulation. Therefore this is an impermissible basis for denial of the Rocketship charter petition. We point out that Rocketship teachers receive professional development around Project GLAD strategies, and incorporate these throughout the day, including Science and Social Studies. Please see the EL program description in the charter petition, beginning on page 49, as well as Appendixes C and J, for a reasonably comprehensive description of our program that meets the requirements of Education Code Section 47605(b)(5)(A).

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Finding #8: Reclassification Procedures. Pages 51-52 of the Petition address EL reclassification procedures, however, the procedures are quite vague, and do not give any specific reclassification criteria. This is a concern, as students who are reclassified before they are truly proficient in English will no longer receive the services they need.

Rocketship Response: As with Finding #7, the District has failed to demonstrate that the Rocketship EL program meets the criteria of an “unsound educational program” as set forth in regulation, and therefore this is an impermissible basis for denial of the Rocketship charter petition. Rocketship follows the *Guidelines for Reclassification of English Learners* as approved by the State Board of Education. Please also see pages 51-52 of our petition and Appendix J, pages 213-214, for more information about our English learner reclassification criteria and procedures.

Finding #9: Special Education. The Petition states that the Charter School would operate “as a Local Educational Agency under the El Dorado County Special Education Local Plan Area Charter Consortium pursuant to Education Code section 47641(a).” (p. 52) However, Education Code section 47641(a) requires that a charter school intending to be deemed an LEA for special education services must “include in its petition for establishment or renewal, or... otherwise provide [], verifiable, written assurances that the charter school will participate as a local educational agency in a special education plan approved by the State Board of Education.” The Petition lacks the required “written verifiable assurances.” Instead, the Petition includes a letter from the El Dorado County SELPA Director that indicates that El Dorado County SELPA would look forward to reviewing an application from Rocketship San Francisco (Appendix AH, p. 352.)...In fact, the “Charter SELPA Value Statement” contained on the El Dorado SELPA’s website contains several conditions that a potential charter school member must meet prior to becoming an approved member of the El Dorado County SELPA. The Petition does not contain the requisite showing that the Charter School has met these necessary conditions for becoming an LEA for special education purposes in the El Dorado SELPA, including a demonstration that it has attempted to develop a “workable” relationship with the local authorizer for the provision of special education.

Rocketship Response: The District’s finding is factually inaccurate and is not a permissible basis for denial of a charter petition. Nor does the District’s finding demonstrate that the Rocketship is an “unsound educational program” pursuant to the criteria set forth in regulation. The Rocketship charter petition, beginning on page 52, contains a detailed description of the operational plans and processes, as well as a reasonably comprehensive description of the educational program, that shall Rocketship shall use to serve students with disabilities, including providing the necessary verifiable written assurances required by Education Code Section 47641(a) for becoming a local educational agency. Appendix AH includes a letter from the El Dorado County Charter SELPA, which demonstrates that Rocketship has begun the

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necessary steps to plan for membership in that SELPA. As noted in that letter, Rocketship is proud of its ongoing relationship with the El Dorado County Charter SELPA and looks forward to providing quality special education services to its San Francisco students through this SELPA. As a standard condition of operation, Rocketship shall submit all required SELPA membership verifications to the California Department of Education and the State Board of Education according to the processes and timelines outlined in the “State Board of Education Conditions on Opening and Operation.”

Ground (2): The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.

Finding #10: Facilities. The Petition fails to identify a specific facility. ...The Petition only contains a general description of the specification of a proposed facility (Petition, pp. 96-97.)

Rocketship Response: As required by Education Code Section 47605(g), pages 96-97 of the charter petition provide information regarding the facilities to be utilized by Rocketship San Francisco and in accordance with the provisions of Section 11967.5.1(c)(3)(D), and thus no facts support a finding that the petitioners are demonstrably unlikely to successfully implement the program set forth in the petition. The Charter School affirms on page 89 that its facilities will meet facilities safety requirements pursuant to Education Code Section 47610. Indeed, Rocketship does not yet know where it will operate, so it cannot give an exact address; nor does Education Code Section 47605(g) require an address be provided in the charter petition. Further, there is nothing in the law that requires that facilities be in place prior to approval of a charter; and more traditionally, such a requirement is a condition to operation. It is not uncommon for charter schools to be approved without specific facilities in place, given, as here, the Charter School will have months of lead time to secure legally compliant facilities before the school begins operation.

In addition, as a standard condition of operation, Rocketship shall submit all required facilities agreements and zoning and occupancy verifications to the California Department of Education and the State Board of Education according to the processes and timelines outlined in the “State Board of Education Conditions on Opening and Operation.”

Finding #11: Planning Assumptions. The Charter School is projecting over 100 students per grade level from year 1, with 70% of the students qualifying for free or reduced price lunch (“FRPL”). It is important to note that the page 49 of the Petition erroneously states that the District’s FRPL rate is 91%; when in fact it is 61%. The overall projection as well as the FRPL projection will be difficult to obtain and somewhat dependent upon the location of the Charter School. Throughout the Petition, there are at least three different mentions of class size for kindergarten through third grade classrooms.

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The tables on page 362 of the Petition show “weighted average Teacher Compensation costs” are around \$58,438 for total with the teacher salary cost at approximately \$53,125 at full roll out. That would leave just \$5,313 for health and welfare benefits, retirement, unemployment insurance and other salary-driven benefits. This is significantly below market rates for these costs. This doesn’t align to the information in the tables on page 363 of the Petition, which shows a \$5,878 for STRS only by year 3. No full time equivalencies (“FTEs”) are provided to establish the breakdown of benefits by individual.

Finally, the Petition’s proposed budgeted food service costs are below market rates.

Rocketship Response: Page 362 of the charter petition includes the weighted average teacher salary and bonus rather than salary, benefits, and bonus. On average, teacher salary, benefits and bonus amount to \$77,171 in year 1, \$75,210 in year 2, and \$75,626 in year 3. Budgeted food service expenses are in line with historical figures at Rocketship. Accordingly, the District has not provided facts to support a basis a finding that the petitioners are unlikely to successfully implement the program.

As indicated on pp.19-20 of the petition, based on an analysis of the 2009-2010 demographics of the PI elementary schools located in the southeast corridor of San Francisco Unified School District shown in the table below, our target population is 26% English Learner (“EL”) and 69% Free and Reduced Lunch (“FRL”). Students in greatest need of options attend El Dorado, Bret Harte, Flynn, Starr King, and Webster.

Elementary School in southeast corridor of San Francisco	PI Year	% ELL	% Free-Reduced Meals	% Proficient or Advanced Reading	API 2010
El Dorado	2	21	68	36	715
Bret Harte	2	25	85	20	627
Flynn	5	31	63	32	706
Starr King	1	18	51	40	724
Webster	5	33	76	36	702
Average	3	26	69	33	695

As indicated on p. 21 of the charter petition, Rocketship San Francisco will provide all classroom instruction in a 20:1 ratio for grades K-3, despite having a school-wide student-teacher ratio higher than 20:1. This is because students have five hours of classroom instruction per day, while teachers typically teach between six and eight hours per day. Learning Lab is provided as an Intervention program and Learning Lab minutes do not factor into annual instructional minutes calculations.

Teacher Level	Number of Teachers
Academic Dean	1

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	Literacy / History Teachers	11	
	Math / Science Teachers	5	

Finding #12: Revenue Sources. Letters of support from granting agencies are to “Rocketship Education.” It is unclear what, if any, of these funds are available to Rocketship San Francisco, specifically, and under what circumstances.

Rocketship Response: While these will not contribute directly to Rocketship San Francisco, they serve as an example of the financial support Rocketship has built. The proposed Rocketship SF budget does not rely on these sources of funds.

Finding #13: Program Elements Not Budgeted. There are many program elements that do not seem to be accounted for within the budget, including but not limited to, four weeks of professional development before school starts, learning lab support and equipment, funding to support the teacher dashboard and assessments. Bonuses are included in the budget, but not mentioned in the Petition; it is unclear to whom and based on what criteria these bonuses would be distributed. Finally, the Petition fails to identify the SELPA payment within the proposed budget.

Rocketship Response: Provided below is weblink to a Rocketship School Financial Model that includes detailed financial projections (income statement, balance sheet, cash flow statement) for the first ten years of operational history for a “typical” Rocketship school. as well as monthly cash flow projections for the planning year and three following years of operation:

<https://rsed.box.net/shared/3filkgrdeqbyscoz7k2j/>

The major assumptions that form the basis for these projections have been vetted against the historical financial performance of Rocketship’s schools and include numerous conservative assumptions to ensure the fiscal solvency of each school.

Funding for our professional development program is included as part of the management fees for Rocketship Education, and included in teacher salaries for them to attend. Learning Lab equipment is part of the budget and the Individualized Learning Specialists are part of the budgeted staffing. Finally, funding for the teacher dashboard is part of management fees and assessments are an explicit line-item.

Accordingly, here the District has not provided facts to support a finding that the petitioners are unlikely to successfully implement the petition.

Finding #14: Administrative Services. According to the Petition, 15 percent of the Charter School’s revenue would be paid as a fee to Rocketship Education Management Services. The

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Petition lacks a reasonably comprehensive description of what exact “management services” that Rocketship Education Management Services would provide in exchange for this fee, and why it has not investigated alternative and potentially less expensive options. Furthermore, founding member John Danner. Is listed also as the CEO of Rocketship Education, the entity with which the school contracts for services. This creates an inappropriate and potentially illegal financial nexus between his role as founding member and CEO of Rocketship Education, one that is not explained in the Petition. Most of the duties listed in the sample services agreement (Appendix AE, p. 346) are traditionally performed by school staff.

Rocketship Response: Please see Appendix AE for a sample management services contract. As indicated in the charter petition, each school has a board of directors which provides financial oversight and approves the management contract. Further, Education Code Section 47605(g) does not require a “reasonably comprehensive” description of a charter school’s financial statements, including budgeted line item expenditures and projections. Accordingly, there are no facts provided here to support a basis for denial. Rocketship would be happy to provide clarifying information regarding its management services contract.

Finding #15: Conflicts of Interest. The Petition states that the Charter School “will adopt a conflicts code which complies with the Political Reform Act, Government Code Section 87100, and applicable conflict restrictions required by the Corporations Code” (p. 53). However, the charter school should comply with the more rigorous conflict on interest provisions applicable to public officials, including Government Code 1090. The Petition fails to make this commitment. The Petition also makes a reference to Board Bylaws (Petition, p. 73), though no Bylaws were found in the Appendices. (Appendix W.)

Rocketship Response:

Bylaws

Rocketship attached sample Articles of Incorporation and a sample Political Reform Act-compliant Conflict of Interest Code to illustrate the governance documents used for other Rocketship nonprofit entities, and to evidence familiarity with the content and form of these documents. Rocketship has successfully incorporated several nonprofit public benefit corporations to operate its charter schools, and will replicate the same for Rocketship San Francisco upon approval of the charter petition.

Rocketship believes that individually incorporating each charter school allows for a governing Board that reflects local leadership and a close connection with the community where the charter school is located.

Please find Rocketship Education’s Articles of Incorporation here:

<https://rsed.box.net/shared/tof2r1dz617l3vhp61vs>

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Please find Rocketship Education's Bylaws here:

<https://rsed.box.net/shared/coz85lrjzc>

Government Code Section 1090

It is the legal opinion of our counsel that Government Code Section 1090 does not apply to charter schools. We believe the District has reached this conclusion based upon an erroneous interpretation of the relevant law.

Pursuant to Education Code Section 47610, charter schools are exempt from “the laws governing school districts,” with only a few minor exceptions, not applicable here. This Section is known as the “mega-waiver.” School districts themselves are not directly governed by Government Code Section 1090. Absent Education Code Section 35233, which directs school district governing boards to comply with Government Code Section 1090, the provisions of Section 1090 would not apply to school districts.

As it is only through Education Code Section 35233 that Government Code Section 1090 applies to school districts, charter schools are necessarily exempt from Section 1090 by virtue of the “mega-waiver” described above. Since Education Code Section 35233, by its terms, does not apply to charter schools, and no other California statute states that Section 1090 applies to charter schools, there is no statute that applies Government Code Section 1090 to charter schools. The Legislature is presumed to have been aware of Education Code Section 35233 when it enacted the Charter Schools Act. It made no exception in the “mega-waiver” for Section 1090 when it adopted Education Code Section 47610, although it expressly made a number of other exceptions. Thus, Section 1090 is not applicable to charter schools.

Further, the Legislature attempted to make the substantive requirements of Section 1090 applicable to charter schools by voting to approve Assembly Bill (“AB”) 572 in the most recent legislative session. However, on September 23, 2010, Gov. Arnold Schwarzenegger vetoed AB 572, which would have made the Ralph M. Brown Act (or, in some instances, the Bagley-Keene Open Meeting Act), California Public Records Act (“CPRA”), the Political Reform Act of 1974, and California Government Code section 1090 expressly applicable to charter schools. The Governor noted in his veto message, “Repeatedly, charter schools with high proportions of disadvantaged students are among the highest performing public schools in California. Any attempt to regulate charter schools with incoherent and inconsistent cross-references to other statutes is simply misguided. ... Legislation expressing findings and intent to provide ‘greater autonomy to charter schools’ may be well intended at first glance. A careful reading of the bill reveals that the proposed changes apply new and contradictory requirements, which would put hundreds of schools immediately out of compliance, making it obvious that it is simply another veiled attempt to discourage competition and stifle efforts to aid the expansion of charter schools.”

Had it been the case that Government Code Section 1090 clearly applied to charter schools, then the Legislature would not have drafted or passed AB 572. We believe it is even clearer

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now, after the veto of AB 572, that Section 1090 does not apply to charter schools.

Accordingly, this finding is not a legal basis for denial of the charter petition.

Finding #16: Parent Involvement. The Petition describes a Parent/Teacher Council that would foster parental involvement, but fails to contain a reasonably comprehensive description of any measure that would be taken to promote communication between the school and the community, especially with respect to native language speakers.

Rocketship Response: The District’s finding is factually inaccurate and fails to provide any grounds to support a legal basis for denial. Please see page 61 of our petition for more information about Rocketship’s considerations for English learners, including verbal and written translations of materials, and page 94 regarding the Rocketship student outreach plan.

At Rocketship, we employ Office Managers who are bilingual, along with many bilingual staff members and school leaders. All correspondence that is sent home includes translations. Rocketship staff members also conduct home visits to all students every year, with translation provided when needed. Further, Rocketship conducts regular community meetings in local neighborhood centers or at the school, along with parent leadership trainings, exhibition nights, and numerous other community events that are translated and which promote a community environment for all families.

Ground (5): The Petition does not contain reasonably comprehensive descriptions of certain specific aspects of its program and operations.

Finding #17: Administration of Medication. The Petition’s Administration of Medications policy is insufficiently detailed to be in compliance with applicable law. (Appendix Q.) The policy purports to allow “designated school personnel” to assist a student in the administration of medication without providing any further requirements regarding the scope and process for such designation. (See, e.g., 5 C.C.R. § 604) The policy’s failure to define what steps a designated staff member may take to assist a student in the administration of medication also subjects employees to potential violations of Business & Professions Code section 2725. The policy also fails to address the administration of medication in cases of medical emergency.

Rocketship Response: Page 89 of the Rocketship San Francisco charter petition contains an assurance that the Charter School shall adhere to Education Code Section 49423 regarding administration of medications in school. Further, Appendix Q of the charter petition contains Rocketship’s detailed Health and Safety Policies, which are designed to ensure the protection of safety of all students and staff. The assurances, procedures, and policies described in the Rocketship charter petition are designed and implemented to ensure the health and safety of students and, together, meets the “reasonably comprehensive” standard as required by Education Code Section 47605(b)(5)(F) and California Code of Regulations, Title 5, Section

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11967.5.1(g) and therefore, there is no factual basis for denial.

At Rocketship, the “designated school personnel” for the administration of medication to students as identified in our Health and Safety Policies is typically the Office Manager. Rocketship will officially designate this staff person following approval of the charter petition. In a medical emergency, the Charter School shall follow the Emergency Plans Policy, which is also included in Appendix Q of the charter petition.

Finding #18: Mandated Child Abuse Reporting. The Petition contains a brief statement that all staff “will be mandated child abuse reporters and will follow all applicable reporting laws, the same policies and procedures used by the District.” (p. 88.). However, the Petition fails to contain any further detail, including how the charter school would meet its legal obligations to train staff on their legal duties. (See Pen. Code, § 11165.7.)

Rocketship Response: As stated on page 88 of the charter petition, “all non-certificated and certificated staff will be mandated child abuse reporters and will follow all applicable reporting laws...” If authorized by the SBE, Rocketship shall create own policies and procedures regarding child abuse reporting obligations and staff training. As such, this section of the charter petition meets the “reasonably comprehensive” standard as required by Education Code Section 47605(b)(5)(F) and California Code of Regulations, Title 5, Section 11967.5.1(g).

Finding #19: Student Expulsion Procedures. The Petition addresses the process for expulsions, and allows for an Administrative Panel that might include the Principal and/or a teacher who does not currently instruct the student being considered for expulsion as its members. Accordingly, under the Petition, the proposed charter school’s principal can make recommendations for expulsion, and preside over a hearing regarding the charges against the student. (Petition, Appendix at p. 262.) Further, such a procedure can occur even after the Principal engages in a conference prior to the hearing. (Petition, Appendix at p. 261.) To the extent the Principal makes the recommendation for expulsion after a parent conference, then presides over a hearing, there is an absence of an impartial arbiter determining the credibility of the charges against the student. Also, to underscore the lack of due process, the Petition states that there is no process at all for any appeal of an expulsion and its Board’s decision to expel shall be final (Petition, Appendix at p. 266.)

The lack of sufficient due process safeguards evinces a larger concern that the proposed student discipline procedure does not sufficiently contain procedures to maintain the educational context of a proposed disciplinary action, and to ensure that the Constitutional rights of the student are protected.

Rocketship Response: One of the last areas of flexibility for a charter school is the ability of

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the charter school to create its own suspension and expulsion policy as long as it accords appropriate due process for students. Per Education Code Section 47610, a charter school is not bound by the laws that apply to school districts, including the suspension and expulsion provisions found in Education Code Section 48900 et seq. In accordance with that flexibility, Rocketship has created a policy that provides adequate due process and ensures the health and safety of students.

The expulsion process portion of the suspension and expulsion policy is intended to provide due process to a student. In accordance with the policy included in the charter petition, Appendix R, the Principal or designee determines whether a student has committed an expellable offense, and the matter is referred to an Administrative Panel. The Administrative Panel is appointed by the School Board, and is charged with presiding over the expulsion hearing and making a recommendation to the School Board for expulsion. The School Board is then charged with making the final decision regarding the expulsion. Thus, contrary to the District's findings, the Principal does not preside over the hearing nor make the ultimate decision regarding student expulsion.

Regarding expulsion appeal rights, most counties will not take jurisdiction over an appeal of an expulsion of a charter school student because Education Code Section 48900 et seq. does not apply to charter schools. In fact, there is no San Francisco County Office of Education available to preside over an expulsion appeal hearing, and the State Board of Education is also not a designated appeal entity as it is not a local educational agency. As written, however, the suspension and expulsion policy provides adequate due process to students in accordance with legal requirements applicable to charter schools, and the lack of a secondary appeal after a full hearing before the Administrative Panel and decision by the Charter School Board does not provide a fact to support a basis for denial of a charter under Education Code Section 47605(b).

Finding #20: Dispute Resolution. The Petition's proposed dispute resolution process meets minimal legal requirements. However, the provision that both parties "shall refrain from public commentary regarding any disputes until the matter has progressed through the dispute resolution process unless otherwise required by law" is unduly restrictive.

Rocketship Response: As stated in the District's findings, the dispute resolution process provided in the Rocketship charter petition meets the "reasonably comprehensive" standard as required by Education Code Section 47605(b)(5)(N). To meet the requirements of California Code of Regulations, Title 5, Section 11967.5.1(f)(14), Rocketship has notified the CDE that it shall also include the following dispute resolution language necessary to reflect the State Board of Education as the authorizing entity:

"The Charter School recognizes that, because the State Board of Education is not a local educational agency, the State Board of Education may choose to resolve a

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dispute directly instead of pursuing the dispute resolution process specified in the charter, it must first hold a public hearing to consider arguments for and against the direct resolution of the dispute instead of pursuing the dispute resolution process specified in the charter.”

Finding #21: School Closure Procedures. The Petition’s proposed school closure procedures meet minimum legal requirements, except that the Petition references notification to San Mateo County Office of Education upon closure. (p. 98.) It is unclear why school closure notification would be required to San Mateo County Office of Education.

Rocketship Response: As stated in the District’s findings, the school closure process provided in the Rocketship charter petition meets the “reasonably comprehensive” standard as required by Education Code Section 47605(b)(5)(P) and the California Code of Regulations, Title 5, Section 11962. The inclusion of the San Mateo County Office of Education was a typographical error. Should Rocketship invoke closure procedures, in accordance with the requirements of the California Code of Regulations, Title 5, Section 11962, Rocketship shall notify the San Francisco Unified School District in lieu of an applicable county office of education.

* * *

Rocketship looks forward to working with you throughout the charter petition review process. Should the California Department of Education or State Board of Education wish to discuss our responses to any of the above findings, please do not hesitate to contact me.

Sincerely,



Preston Smith
Co-Founder and Chief Achievement Officer
Rocketship Education

Enclosure