

Celerity Himalia Charter School

**Appeal of a Petition to Establish a Charter
Previously denied by the Los Angeles County
Board of Education and the Los Angeles Unified
School District Board of Education**

Presentation to the State Board of Education

November 3, 2016



**Los Angeles County
Office of Education**

Serving Students • Supporting Communities
Leading Educators

Background

Operating Entity: Celerity Educational Group (CEG), 501(c)(3)

- CEG has 7 schools currently in operation in LA County
 - 2 schools (Exa and Sirius) recently closed
 - 2 schools (Dyad and Troika) denied renewal by LAUSD in October 2016

Location Stated in Charter:

- Himalia: South Los Angeles (zip code 90011)

Grades and Enrollment:

- TK-8*; 390 students (Year 1) to 565 (Year 5)

*Discrepancy in charter regarding which grades will be in place year one

Grounds for Denial

Statutory Grounds for Denial under EC 47605(b)

- (1) Presents Unsound Educational Program
- (2) Petitioners Unlikely to Successfully Implement Educational Program**
- (3) Does Not Contain Required Signatures
- (4) Does Not Contain Required Affirmations & Assurances
- (5) Does Not Contain Reasonably Comprehensive Descriptions of All Required Elements**

Findings

EC 47605(b)(2): The petitioners are demonstrably *unlikely* to successfully implement the proposed educational program based on the following indicators:

- **Past History Unsuccessful**
- **Unfamiliar with Petition or Requirements of Law**
- **Unrealistic Financial and Operational Plan**
- **Petitioner Lacks Necessary Background**

Findings

EC 47605(b)(2): (Continued)

- **Indicator 1 - Past History Unsuccessful:**

- CEG-Operated Schools

- Celerity Exa
 - Celerity Sirius



Conditions of Authorization

County Board Proposed Condition

If Charter School and Global, its affiliate, enter an agreement for goods and/or services, Charter School shall ensure that the operations of Global are and remain consistent with the provisions of the charter and this Agreement, including the obligation to respond to inquiries in accordance with *EC* § 47604.3...

SBE Proposed Condition

CEG may only continue to contract with CGD [Global] for goods and/or services if CEG and CGD agree to timely respond to all CDE inquiries into CEG's and CGD's operations including, but not limited to, management, fiscal, personnel procurement...and programmatic services, in accordance with *EC* section 47604.3,...





Dina L. Wilson
Director
Charter Schools Office
Los Angeles County Office of Education
9300 Imperial Highway
Downey, CA 90242-2890

Re: Renewal of Celerity Sirius Charter Petition

Dear Ms. Wilson:

I am responding to your letters of March 8 and 25, 2016, regarding the Celerity Sirius charter. Your letters request actions related to what you refer to as LACOE-imposed conditions to the Sirius charter. The law is very clear with regard to charter authorization and renewal. Local authorizers cannot unilaterally impose "conditions" to a charter approval. Rather, petitions are either "granted" or "denied". Please see Education Code section 47605(b). Your January 14, 2016 letter affirms this. We understand that the Los Angeles County Board of Education ("LACBOE") desired to impose "conditions of approval for the Sirius charter, and rejected LACOE staff's recommended findings for denial. Unfortunately, the law does not provide for "conditional" approval. Furthermore, the Sirius charter petition was for a renewal. Because the LACBOE did not make any factual findings whatsoever to deny the Sirius charter within the mandatory time period for consideration of renewals, the Sirius charter was automatically renewed by operation of law. Thus, beginning July 1, 2016, Sirius will operate under its renewed charter in the form proposed by Celerity's petition submitted November 9, 2015.

The authority for charter renewal begins with Education Code section 47607, which unequivocally mandates in subsection (a)(2) that renewals "are governed by the standards and criteria in Section 47605". (See, Ed. Code §47607(a)(2); 5 Cal. Code Regs. §11966.4.) Moving to Section 47605 as is mandated by Section 47607, it sets forth the requirements for establishment of a charter school. Renewal petitions "shall" be considered by the authorizer "in accordance with all the requirements set forth in [Regulation section 11966.4(a).]" The California Supreme Court has ruled that the Legislature and State Board of Education have fully occupied all aspects of charter school petitioning and renewal, such that local authorizers are prohibited from altering or unilaterally imposing additional conditions or restrictions for renewals. (See, e.g., *UTLA v. LAUSD* (2012) 54 Cal.4th 504, 521-522 (holding that "the Legislature has plotted all aspects of [charter schools'] existence", and that Ed. Code section 47605(b) "prescribes the manner by which [an authorizer] is to approve or deny a charter petition").)

The LACBOE is Sirius' authorizer by way of an appeal from a school district denial of the initial charter. Thus, in the implementation of the chartering procedure, the LACBOE is "the school district" for purposes of authorization (see, Ed. Code §§47605(b) and (j)(1)). The charter renewal regulations explicitly and unequivocally impose a 60-day timeline for the authorizer (here, the LACBOE) to act upon charter renewals. The timeline and consequence (automatic renewal by operation of law) were discussed at length by the CDE staff and State Board of Education in the rulemaking process, as is reflected in the SBE's Final Statement of Reasons for the regulations. Again, the law states that if a local

authorizer has not made a written factual finding for denial as mandated by Education Code section 47605(b) within 60 days of its receipt of a petition for renewal, "the absence of written factual findings shall be deemed an approval of the petition for renewal." (5 Cal. Code Regs. §11966.4(c) (emphasis added).)

The LACBOE did not make any written factual findings as mandated by Education Code section 47605 (a) within 60 days of receipt of our petition for renewal—nor has it ever. The petition was submitted on November 9, 2015; and the time mandated for the LACBOE to make the findings statutorily expired January 9, 2016. Celerity granted a short extension at your request. But in any event, no findings for denial were ever adopted at all, let alone within 60 days. In fact, the LACBOE considered a motion to adopt such findings the following month, but that motion failed. Therefore, the Celerity Sirius Charter Renewal Petition is approved as submitted by operation of law.

Even if you contest our renewal by operation of law, you must certainly agree that the LACBOE attempted to act to grant the charter at its February 2, 2016 meeting. But because neither the LACBOE nor LACOE staff can unilaterally impose "conditions" on the granting of a charter, those provisions have no import and are not recognized as part of the charter. At the local authorizer level under section 47605, charter petitions are either "granted" or "denied". The conditions requested by the LACBOE (and others requested later by LACOE staff) are not contained in the renewal petition, and therefore cannot be part of the charter as a matter of law.

Additionally, your recent suggestion that LACOE may unilaterally "terminate" a charter apart from the statutory revocation due process is plainly incorrect and contrary to charter law. Again, the Legislature has fully occupied the field. The Sirius charter renewal extends from July 1, 2016 through June, 2021, unless voluntarily closed by CEG, or revoked. You have not provided any indication of any basis whatsoever for a revocation proceeding. In any event, the renewal term does not even begin until July 1, 2016.

The Celerity staff and board worked very hard in an effort to accommodate every reasonable concern or issue LACOE staff raised with regard to the charter. In the end, LACOE staff recommended denial of the petition. But instead of denying the charter, LACOE attempted to rewrite it through unilaterally imposed conditions. In the days and weeks that followed, LACOE staff attempted to impose even more conditions. Celerity does not agree to LACOE's requested conditions. It is worth noting that some of the requested conditions involve a third party that Celerity cannot bind. This current situation is unfortunate. But for all the reasons stated herein, we prefer to, and shall move forward with our renewal term beginning July 1, 2016 by operation of law—the charter petition as proposed November 9, 2015. That having been said, we remain open to meeting with you to discuss whether some voluntarily revisions to the charter would be mutually acceptable; they just cannot be unilaterally imposed by LACOE.

Sincerely,

Grace Canada

Grace Canada

Unfortunately, the law does not provide for “conditional” approval.

Celerity does not agree to LACOE’s requested conditions. It is worth noting that some of the requested conditions involve a third party that Celerity cannot bind. This current situation is

Findings

EC 47605(b)(2): (Continued)

- **Indicator 1 - Past History Unsuccessful:**
 - Lack of Transparency
 - Governance & Operational Concerns



Findings

EC 47605(b)(2): (Continued)

- Indicator 1 - Past History Unsuccessful:
(Continued)

- Financial History of CEG

- Lack of Adequate Controls
- Intercompany Borrowing
- Annual Audits
 - Transfer of Assets • Lack of Disclosure
- Fiscal Solvency

Findings

EC 47605(b)(2): (Continued)

- **Indicator 2 - Unfamiliar with Petition or Requirements of Law:**
 - Suspension and Expulsion Procedures
 - Appropriate Use and Approval of Federal Title I Funds
- **Indicator 3 - Unrealistic Financial and Operational Plan:**
 - Budget Plan Deficiencies
- **Indicator 4 - Lacks Necessary Background:**
 - Finance/Business management

Findings

EC 47605(b)(5): Does not contain reasonably comprehensive descriptions of all required elements.

Not Reasonably Comprehensive	Reasonably Comprehensive with Specific Deficiencies
(1) Description of Educational Program (4) Governance Structure (5) Employee Qualifications (7) Means to Achieve a Reflective Racial and Ethnic Balance	(2) Measurable Pupil Outcomes (3) Method for Measuring Pupil Progress (6) Health and Safety Procedures (8) Admission Requirements (9) Annual Financial Audits (10) Suspension and Expulsion Procedures (14) Dispute Resolution Procedures (15) Closure Procedures
Reasonably Comprehensive	
(11) Retirement Coverage (12) Public School Attendance Alternatives (13) Post-Employment Rights of Employees	

Summary

- District and County Board findings are grounded in *EC 47605(b)*. Many reinforced in CDE Report.
- CEG has a demonstrated history of lacking transparency and cooperation with authorizing agency
- Lack of Disclosure and Fiscal Controls
- Unclear Governance Structure with Possible Conflicts of Interest