

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

ssb-csd-mar18item06

# California State Board of Education March 2018 Agenda Item #23

## Subject

Petition for the Establishment of a Charter School Under the Oversight of the State Board of Education: Consideration of Phoenix Charter Academy, which was denied by the Shasta Union High School District and the Shasta County Board of Education.

## Type of Action

Action, Information, Public Hearing

## Summary of the Issue(s)

On May 9, 2017, the Shasta Union High School District (SUHSD) voted to deny the petition for Phoenix Charter Academy (PCA) by a unanimous vote of five to zero. The current facility for PCA is located within the boundaries of the SUHSD.

On June 13, 2017, the Whitmore Union Elementary School District (WUESD) voted to approve the petition for PCA by a vote of three to two. PCA opened in August 2017 and currently operates an independent study (IS) program within Shasta County but outside the geographical boundaries of WUESD. During the meeting of the Advisory Commission on Charter Schools (ACCS), the attorney for PCA testified that the school is able to operate within the SUHSD boundaries pursuant to the exemption in California *Education Code (EC)* Section 47605.1.

On August 9, 2017, the Shasta County Board of Education (SCBOE) voted to deny the petition of PCA by a unanimous vote of seven to zero.

Pursuant to *EC* Section 47605(j), petitioners for a charter school that have been denied at the local level may petition the State Board of Education (SBE) for approval of the charter, subject to certain conditions. The PCA petitioner submitted an appeal to the SBE on December 1, 2017.

The California Department of Education (CDE) confirms that the address for PCA, operating under WUESD, and the proposed charter before the SBE are the same address with no additional resource centers noted.

## Recommendation

The CDE proposes to recommend that the SBE hold a public hearing to deny the request to establish PCA. The meeting notice for the February 7, 2018, ACCS meeting is located on the SBE ACCS Web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice020718.asp>.

### Advisory Commission on Charter Schools Recommendation

The ACCS considered the PCA petition for establishment at its February 7, 2018, meeting. The ACCS moved CDE staff recommendation to deny the PCA petition. Four commissioners voted in favor of the motion; three voted against it. Five votes are required to move an ACCS motion forward to the SBE; therefore, no recommendation moved.

## Brief History of Key Issues

The CDE received a petition for establishment from PCA on December 1, 2017.

PCA plans to operate a kindergarten (K) through grade twelve IS charter school. The mission of PCA is to provide a variety of innovative teaching methods and opportunities for teachers, parents/guardians, pupils, and community members to improve pupil learning through the personalized learning approach, which is distinguished from other learning models through its emphasis on uniquely tailored, personalized learning programs aligned to the individual needs of each pupil.

The PCA petitioner proposes to serve 331 pupils in K through grade twelve in the 2018−19 school year through the 2022−23 school year.

## CDE Staff Review

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

* PCA charter petition for establishment (Attachment 3 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a3.pdf>).
* Educational and demographic data of schools where PCA pupils would otherwise be required to attend (Attachment 2 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a2.docx>).
* PCA budget and financial projections (Attachment 4 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a4.pdf>).
* Board agendas, minutes, and findings from the SUHSD regarding the denial of the PCA petition, along with the petitioner’s response to the SUHSD findings (Attachment 5 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a5.pdf>).
* Board agendas, minutes, and findings from the SCBOE regarding the denial of the PCA petition, along with the petitioner’s response to the SCBOE findings (Attachment 6 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a6.pdf>).
* Description of changes to the petition necessary to reflect the SBE as the authorizing entity (Attachment 7 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a7.pdf>).
* PCA Articles of Incorporation (Attachment 8 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a8.pdf>).
* PCA Bylaws (Attachment 9 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a9.pdf>).
* WUESD approval of the PCA petition to establish (Attachment 10 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a10.pdf>).
* PCA letter to SBE dated December 1, 2018 (Attachment 11 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a11.pdf>).
* PCA enrollment application (Attachment 12 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a12.pdf>).
* PCA IS policy (Attachment 13 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a13.pdf>).
* PCA master agreement for IS (Attachment 14 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a14.pdf>).
* PCA student and parent handbook (Attachment 15 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a15.pdf>).

### Ability to Successfully Implement the Intended Program

The CDE finds that the petitioner is unlikely to successfully implement the intended program and is unfamiliar with the requirement of law with regard to the following:

#### Budget

The CDE has reviewed a revised PCA budget plan submitted on February 5, 2018. The CDE concludes that the PCA multi-year financial plan is marginally fiscally viable with a positive ending fund balance of $655 and without the required reserve of 5 percent for Fiscal Year (FY) 2018–19. PCA does have a positive ending fund balance of $177,341 with 5.5 percent, and $245,234 with 7.3 percent of reserve for FY 2019–20 and 2020–21. However, for the reasons stated below, the CDE finds the information provided by PCA on February 5, 2018, is not sufficient to address the CDE’s budget concerns.

The PCA multi-year projected budget includes the following:

* 331 K to grade twelve pupils in 2018–19
* 331 K to grade twelve pupils in 2019–20
* 331 K to grade twelve pupils in 2020–21
* 331 K to grade twelve pupils in 2021–22 and 2022–23

#### Revenue

The CDE has reviewed a revised PCA budget plan submitted on February 5, 2018. The CDE used the January 31, 2018 Fiscal Crisis and Management Assistance Team (FCMAT) calculator, to recalculate the PCA LCFF revenue. The CDE found that PCA had understated the Local Control Funding Formula (LCFF) revenue by $37,096, $55,481 and $1,944 for FY 2017–18 through 2019–20, respectively. Also, the CDE recalculated the Mandate Block Grant and found that PCA had overstated the funding by $4,455 for both FY 2018–19 and 2019–20.

The PCA multi-year projected budget includes lottery funds in the first year of operation, 2018–19, however, lottery funds are based on prior year Second Principal Apportionment enrollment. PCA will not begin receiving lottery funds until the second year of operation, 2019–20. The lottery funds are overstated by $7,811 and $3,905 in 2019–20 and 2020–21.

#### Expenditures

The PCA multi-year projected budget understates the expenditures in California State Teachers’ Retirement System for all certificated positions in the amounts of $19,353, $19,933, and $20,983, respectively, for FY 2018–19 through 2020–21. CDE included these increased expenditures in its budget analysis.

The petition states that non-certificated employees will be covered by the California Public Employees’ Retirement System (CalPERS); however, no CalPERS cost was budgeted. The CDE found that PCA had understated the related expense by $21,562, $34,567, and $41,126, respectively, for FY 2018–19 through 2020–21. CDE included these increased expenditures in its budget analysis.

The PCA does not include the expenditure in substitute teachers’ salaries that the CDE projected the cost to be $1,000 per full-time equivalent of teacher. Therefore, the expenditure in substitute teachers’ salaries was understated by $15,990, $16,390, and $16,799, respectively, for FY 2018–19 through 2020–21. CDE included these increased expenditures in its budget analysis.

The PCA multi-year projected budget includes the expenditure of Instructional Consultants of $345,000, $348,450, and $351,935, respectively, for FY 2018–19 through 2020–21. However, the PCA does not include budget assumptions or narrative. Therefore, the CDE is unable to determine if the budgeted cost is adequate.

The PCA multi-year projected budget includes the depreciation cost of $38,500, $35,500, and $32,500, respectively, for FY 2018–19 through 2020–21. However, the PCA does not identify the acquisition of the assets which are depreciated or whether the net assets are transferred from Academy of Personalized Learning.

Additionally, the petitioner provides no description of the type of facility to be used as needed to operate the size and scope of education program in the proposed charter; the petition and supplemental materials submitted with the appeal merely provide a facility address, which CDE finds to be insufficient. In addition, the PCA does not include budget assumptions or narrative so that the CDE is unable to determine if the budgeted cost is reasonable (pp. 6−8 of Attachment 1 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a1.docx>).

#### Unsuccessful History

The CDE has reviewed the information provided by the petitioner in a letter dated February 5, 2018, to address the concerns regarding the history of PCA.

The CDE notes that the PCA petitioner previously operated the APL charter school which was located at 2195 Larkspur, Suite 100, Redding, CA 96002, authorized by Gateway Unified School District (GUSD), under charter number 1113. APL opened on August 18, 2009, and closed on June 30, 2017, as noted on the CDE Web page at <https://www.cde.ca.gov/SchoolDirectory/details?cdscode=45752670120170>.

On October 15, 2015, APL filed a petition for Chapter 11 bankruptcy protection, with a declaration by Executive Director Dougherty. On May 4, 2016, the bankruptcy court issued a tentative ruling on a bankruptcy stay for APL (p. 8 of Attachment 5 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a5.pdf>).

On June 29, 2016, APL filed a dismissal motion with the bankruptcy court, claiming its objectives were out of reach, and stating that APL had built up funds that would enable APL to pay undisputed creditors. Over $330,000 of administrative claims, which are primarily legal fees, with $88,500 owed to Delta Managed Solutions, are identified in the dismissal motion (p. 43 of Attachment 5 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a5.pdf>).

On November 9, 2016, the GUSD Board approved the issuance of a Notice of Violation (NOV) to APL. The violations identified in the NOV include violating the law as APL was not operating within the geographical boundaries of GUSD and was failing to demonstrate increases in pupil achievement for all groups of pupils served by APL.

On February 22, 2017, the GUSD Board provided APL with Notice of Intent to Revoke and a Notice of Facts in Support of Revocation. However, the GUSD Board took no action, as APL offered to voluntarily close its operations as of June 30, 2017 (p. 5 of Attachment 5 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a5.pdf>).

On May 9, 2017, the PCA petition was denied by the SUHSD. PCA presented the petition for establishment to the WUESD on May 23, 2017.

On June 13, 2017, PCA was authorized by WUESD pursuant to WUESD Board Resolution Number 16−17:15, noting that the WUESD Board received and reviewed letters and documentation regarding PCA’s efforts to locate a single site or facility to house their entire program within the WUESD (p. 1 of Attachment 10 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a10.pdf>). PCA began operation on August 14, 2017, under charter number 1900 located at 2195 Larkspur, Suite 100, Redding, CA 96002, as noted on the CDE Web page at <https://www.cde.ca.gov/SchoolDirectory/details?cdscode=45701690136440>.

Having been denied by the SUHSD, and approved by WUESD, the PCA petitioner appealed to the SCBOE on June 19, 2017. The petition was denied by the SCBOE on August 9, 2017.

PCA presented their charter petition for establishment to the SBE on December 1, 2017. The petitioner did not provide information in the appeal package to address the future of the PCA charter currently operating under the authorization of WUESD if the PCA charter were approved by the SBE to operate in SUHSD. The CDE confirms that the address for PCA, operating under WUESD, and the proposed charter before the SBE are the same address with no additional resource centers noted.

The CDE notes that PCA administration and staff will remain substantially the same as the administration and staff of APL. Patricia Dougherty was the Executive Director of APL and will serve as Executive Director of PCA. Christopher Hunt, the APL Board President, will serve as a member of the PCA Board. Past members of the APL Board will serve as members of the PCA Advisory Council (AC), which reports to the PCA Board through the AC President. Three members of the PCA AC were employed by APL and will be employed by PCA (p. 6 of Attachment 5 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a5.pdf>).

The CDE finds that while the petitioner provided information that reiterates the history of PCA as noted by CDE, PCA has not addressed the CDE’s concerns regarding the future status of PCA’s charter as authorized under WUESD.

#### Educational Program

##### Special Education

The CDE has reviewed the information provided by the petitioner in a letter dated February 5, 2018, to address the concerns regarding descriptions of employees requiring special education credentials. The PCA petitioner refers to the PCA petition, which states that all special education services or agencies at PCA will be delivered by individuals or agencies qualified to provide special education services as required by the *EC* and the Individuals with Disabilities Education Act (IDEA) (p. 24 of Attachment 3 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a3.pdf>).

The CDE notes that the PCA petition does not include a description of requirements for any employee to hold a special education credential or certification to teach pupils with disabilities or supervise Individualized Education Programs (IEPs), and does not include a description of requirements to teach or supervise pupils with disabilities or programs in any job requirements or duties (p. 17 of Attachment 1 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a1.docx>).

The CDE finds the information provided by PCA on February 5, 2018, is not sufficient to address the concerns regarding descriptions of employees requiring special education credentials.

##### English Learners

The CDE has reviewed information provided by the petitioner in a letter dated February 5, 2018, to address concerns regarding PCA’s English Learner (EL) program. The petitioner states that PCA currently has no EL pupils, but is prepared to serve ELs as detailed in the PCA petition (pp. 20−22 of Attachment 3 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a3.pdf>). Additionally, the petitioner states that PCA families and pupils will be provided with mainstreaming in general education courses with additional supports and tutoring as needed.

The CDE notes that the PCA petition does not address how PCA will train and support limited English or non-English speaking parents to provide instruction to IS EL pupils to access the core curriculum or maintain and increase language proficiency once reclassified (p. 16 of Attachment 1 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a1.docx>).

The CDE finds the information provided by PCA on February 5, 2018, is not sufficient to address the concerns regarding the EL program.

##### Measurable Pupil Outcomes

The CDE has reviewed information provided by the petitioner in a letter dated February 5, 2018, to address concerns regarding measurable pupil outcomes (MPOs). The petitioner states that the table provided in the PCA petition addresses goals for all pupil groups and subgroups (pp. 29−36 of Attachment 3 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a3.pdf>).

The CDE notes that the PCA petition does not include MPOs that can be measured objectively, used readily to evaluate the effectiveness of the PCA educational program, and be used to modify instruction for individual pupils, all pupils, and significant pupil subgroups. Additionally, the PCA petition does not include specific annual goals and actions for all numerically significant pupil subgroups as per requirements of *EC* Section 52060(d) and provides only general references to overall improvement (p. 19 of Attachment 1 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a1.docx>).

The petitioner states that PCA is willing to clarify its MPOs further to meet CDE’s expectations, including, but not limited to, specification of pupil subgroup goals as a technical amendment to the charter.

The CDE finds the information provided by PCA on February 5, 2018, is not sufficient to address the concerns regarding measurable MPOs.

##### School Governance

The CDE has reviewed information provided by the petitioner in a letter dated February 5, 2018, to address concerns regarding governance structure relating to the composition and election process of a school site council (SSC). The petitioner notes that the PCA petition states that PCA parents may participate in the AC, which will be comprised of parents, staff members, and pupils. The AC will meet regularly and the AC President will report to the Board of Directors at each meeting. The PCA petition includes a list of founding members of the AC (pp. 42−43 of Attachment 3 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a3.pdf>).

The CDE notes that the PCA petition does not meet the Federal requirements for receiving Title I funding, including a duly constituted SSC or existing schoolwide advisory groups or school support groups utilized as a SSC, if those groups conform to the composition and selection process as required by *EC* Section 52852. The PCA petition does not include information regarding how AC members will be selected to serve after PCA opens, and does not define the AC’s specific duties in regards to advising the Board on academic and operational matters (p. 22 of Attachment 1 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a1.docx>).

The petitioner states that PCA is willing to clarify the composition and selection process for its AC as a technical amendment to the charter.

The CDE finds the PCA proposed amendment to address concerns regarding the composition and selection process of the AC to be sufficient.

##### Employee Qualifications

The CDE has reviewed information provided by the petitioner in a letter dated February 5, 2018, to address concerns regarding employee qualifications relating to special education instructors and counselors. The petitioner notes that the PCA petition states that all special education services at PCA will be delivered by individuals or agencies qualified to provide special education services as required by the *EC* and the IDEA (p. 24 of Attachment 3 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a3.pdf>). Further, the petitioner states that PCA counselor qualifications are the same as other staff and teachers as listed in the PCA petition (pp. 44−47 of Attachment 3 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a3.pdf>). Additionally, the petitioner states that all PCA teachers are trained as academic counselors for high school students.

The CDE notes that the PCA petition does not identify all positions that PCA regards as key in each category and does not specify the additional qualifications expected of individuals assigned to those positions. The CDE finds that the PCA proposed budget includes expenditures for a part-time special education teacher, a full-time speech and language pathologist, and a part-time special education director (p. 6 of Attachment 4 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a4.pdf>).

However, CDE finds that the PCA petition does not list these positions, does not describe the qualifications required for these positions, and does not meet the requirements of *EC* Section 56070(a)(1), which states that schools will be consistent with a state-approved or state-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or designated instruction and services, and related services including a description of requirements for any employee to hold a special education credential or certification to teach pupils with disabilities or manage IEPs. The PCA petition does not include a description of requirements to teach or supervise pupils with disabilities or programs in any job requirements or duties. The PCA budget also includes expenditures for a part-time counselor (p. 6 of Attachment 4 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a4.pdf>), however, the PCA petition does not include a description of qualifications required for this position (pp. 24−25 of Attachment 1 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a1.docx>).

The CDE finds the information provided by PCA on February 5, 2018, is not sufficient to address the concerns regarding employee qualifications.

##### Enrollment Process

The CDE has reviewed information provided by the petitioner in a letter dated February 5, 2018, to address concerns regarding admission requirements related to the incongruence between the pre-enrollment process as stated in the PCA petition and what is stated in the enrollment form on the PCA website located at <http://www.ourpca.org/enrollment/>. The petitioner states that the pre-enrollment process as documented in the PCA petition (p. 53 of Attachment 3 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a3.pdf>), is the official PCA enrollment process, and that the process has already been clarified on the PCA Web site.

The CDE notes that the PCA petition has enrollment application requirements, which include a pre-enrollment process that is not identified in the PCA petition but is available on the PCA Web site located at: <http://www.ourpca.org/enrollment/>. The CDE finds this pre-enrollment process is incongruent with the PCA admissions requirements. The PCA pre-enrollment process states that in order to complete enrollment, pupils must (p. 2 of Attachment 12 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a12.pdf>):

* Provide high school transcripts
* Provide an attendance report from current or prior school so PCA can review for excessive excused and unexcused absences
* Provide special education documentation (IEP or 504), if applicable
* Provide a copy of their birth certificate, passport, social security card, hospital certificate, or affidavit of home birth
* Provide an Oral health assessment form

The CDE finds that the PCA pre-enrollment requirements present a potentially selective enrollment (and subsequent admissions) process (p. 29 of Attachment 1 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a1.docx>). Additionally, CDE notes that the PCA enrollment form has been removed from the PCA Web site, and therefore the CDE cannot verify if the PCA enrollment form has been corrected to reflect the language in the PCA petition.

The CDE finds the information provided by PCA on February 5, 2018, is not sufficient to address the concerns regarding admission requirements.

##### Suspension and Expulsion Procedures

The CDE has reviewed information provided by the petitioner in a letter dated February 5, 2018, to address concerns regarding suspension and expulsion procedures. The petitioner states that the PCA petition was drafted in spring 2017, prior to the passage of Assembly Bill 1360. The petitioner agrees to add updates in the laws for suspension and expulsion procedures as a technical amendment to the PCA charter if approved by SBE.

The CDE notes that the PCA petition does not adequately address recent amendments to *EC* Section 47605(b)(5)(J) with regard to a due process hearing adjudicated by a neutral officer within a reasonable number of days. For suspensions of less than 10 days, the petition does not provide for an opportunity for the pupil to present his or her side if the pupil denies the charges pursuant to *EC* Section 47605(b)(5)(J)(i). For suspensions of more than 10 days, pupils are entitled to a hearing before a neutral officer pursuant to *EC* Section 47605(b)(5)(J)(ii). The petition also does not include a clear statement that no pupil shall be involuntarily removed by the charter school for any reason unless the parent or guardian of the pupil has been provided written notice of the intent to remove the pupil no less than five school days before the effective date of the action, as required by *EC* Section 47605(b)(5)(J)(iii) (p. 33 of Attachment 1 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a1.docx>).

The CDE finds the PCA proposed amendment to address concerns regarding suspension and expulsion procedures to be sufficient.

##### Dispute Resolution Procedures

The CDE has reviewed information provided by the petitioner in a letter dated February 5, 2018, to address concerns regarding dispute resolution procedures. The petitioner states that the PCA petition included a letter dated November 13, 2017, describing changes to the PCA charter petition necessary to reflect the SBE as the authorizing entity (pp. 1−2 of Attachment 7 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a7.pdf>). The petitioner states that the letter includes language specifically required by SBE regulations, including that PCA agrees to provisions relating to dispute resolution that the SBE determines necessary and appropriate in recognition of the fact that the SBE is not a local educational agency (LEA). However, CDE notes that this language is not in the November 13, 2017, letter provided by PCA.

The CDE notes that the PCA petition does not include provisions relating to dispute resolution that the SBE determines necessary and appropriate in recognition of the fact that the SBE is not an LEA (p. 38 of Attachment 1 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a1.docx>).

The petitioner states that PCA will provide an amendment to the petition that specifically states that SBE will not be contractually bound to pay mediation and arbitration costs relating to any dispute resolution.

The CDE finds the PCA proposed amendment to address concerns regarding dispute resolution procedures to be sufficient.

#### District and County Office Findings

##### SUHSD Findings

On May 9, 2017, the SUHSD denied the PCA petition based on the following findings (Attachment 5 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a5.pdf>):

* The PCA petition presents an unsound educational program for the pupils to be enrolled in PCA.
* The PCA petitioner is unfamiliar with legal requirements pertaining to the educational program of a charter school.
* The PCA petition presents an unrealistic financial and operational plan.

##### SCBOE Findings

On August 9, 2017, the SCBOE denied the PCA petition on appeal based on the following findings (Attachment 6 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a6.pdf>):

* The PCA petitioners are demonstrably unlikely to successfully implement the program.
* The PCA petition does not contain reasonably comprehensive descriptions of the elements required of a charter petition.
  + The PCA petition does not identify those whom PCA is attempting to educate and how learning best occurs
  + The PCA petition provides insufficient documentation of special education services and programs. There is no identification of how pupils are served, the process for parents to request special education testing, or transportation of pupils with disabilities if it is required as a related service.
  + The PCA petition does not provide sufficient evidence of meeting state and federal laws to provide individuals with exceptional needs that require special education and related service in excess of the regular academic year.
  + The PCA petition does not satisfactorily describe the MPOs identified for use by PCA.
* The PCA petition does not include school-wide pupil performance goals pupils will achieve over a given period of time, including projected attendance levels, dropout percentage, and graduation rate goals.

A detailed analysis of the review of the entire petition is provided in Attachment 1 of Agenda Item 06 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item06a1.docx>.

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

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

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

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

## Fiscal Analysis

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

## Attachment

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