

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

oab-csd-jul20item09

# California State Board of Education July 2020 Agenda Item #20

## Subject

Petition for the Renewal of a Charter School Under the Oversight of the State Board of Education: Consideration of John Henry High, which was denied by the West Contra Costa Unified School District and not acted on by the Contra Costa County Office of Education.

## Type of Action

Action, Information, Public Hearing

## Summary of the Issue

John Henry High (JHH) is seeking a renewal of its charter from the State Board of Education (SBE).

On December 18, 2019, the West Contra Costa Unified School District (WCCUSD) denied the JHH petition by a vote of four to one. On January 17, 2020, the petitioner submitted the JHH petition on appeal to the Contra Costa County Office of Education (CCCOE). On March 11, 2020, the Contra Costa County Board of Education (CCCBOE) did not take action on the JHH petition.

The petitioner submitted the JHH petition on appeal to the SBE on March 25, 2020.

## California Department of Education Recommendation

The California Department of Education (CDE) recommends that the SBE hold a public hearing to deny the request to renew JHH, a grade nine through grade twelve charter school, based on the CDE’s findings pursuant to *Education Code* (*EC*)Section 47605 and *California Code of Regulations*, Title 5 Section 11967.5.

While the CDE finds that the JHH petition is consistent with sound educational practice and meets the academic criteria, the CDE has concerns regarding the significant decline in the academic progress of English learner (EL) pupils in English language arts (ELA) and mathematics (math). Furthermore, the CDE is concerned that the current JHH admission requirements set up an enrollment process that prohibits JHH from reaching demographics reflective of WCCUSD.

Additionally, the CDE finds that the JHH petition does not contain a reasonably comprehensive description of all of the required elements including Element 4–Governance Structure, Element 5–Employee Qualifications, Element 7–Racial and Ethnic Balance, Element 8–Admission Requirements, Element 10–Suspension and Expulsion Procedures, Element 11–Retirement Coverage, and Element 14–Dispute Resolution Procedures.

**Advisory Commission on Charter Schools Recommendation**

The Advisory Commission on Charter Schools (ACCS) considered the JHH petition for renewal at its June 9, 2020, meeting. The ACCS moved to approve the JHH renewal petition by a vote of seven to two.

The notice for the June 9, 2020, ACCS meeting is located on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>.

## Brief History of Key Issues

JHH intends to serve 350 pupils in grade nine through grade twelve in 2020–21 and grow to serve 440 pupils in 2024–25. The JHH petition states that JHH’s mission is to provide a rigorous college-preparatory education and character development program that will prepare pupils from underserved communities to succeed in college and beyond. JHH’s vision is that every child deserves a quality education regardless of the circumstances they have faced, and that all children are capable of growing their ability and learning when provided with the right conditions. JHH’s pupil population comes primarily from Richmond and San Pablo, and consists of predominantly low-income and immigrant students from communities that have been traditionally underserved by local public schools. The JHH petition states that individual citizens in the twenty-first century need to be industrious, analytical, practical, and lifelong learners.

JHH is operated by Amethod Public Schools (AMPS), a California non-profit public benefit corporation with 501(c)(3) status. AMPS currently operates six schools in California: three schools in Alameda County and three schools in Contra Costa County.

**Academic Criteria**

*EC* Section 47607 requires the chartering authority to consider the following when reviewing a charter renewal petition:

1. The authority that granted the charter shall consider increases in pupil academic achievement for all groups of pupils served by the charter school as the most important factor in determining whether to grant a charter renewal.
2. The entity that granted the charter determines that the academic performance of the charter school is at least equal to the academic performance of the public schools that the charter school pupils would otherwise have been required to attend as well as the academic performance of the schools in the school district in which the charter school is located, taking into account the composition of the pupil population that is served at the charter school.

The CDE has determined that JHH does perform, overall, at least equal to its comparable district schools where the majority of JHH pupils would otherwise attend.

**CDE’s Review of Academic Criteria Under *EC* Section 47607**

The CDE has reviewed the information presented by WCCUSD and CCCOE. WCCUSD concluded that the findings and issues raised in the staff report and the cumulative effect of those concerns outweigh any academic increases made by JHH, and, overall, result in the recommendation of non-renewal of the JHH petition (Attachment 6 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>). The CCCOE did not take action on the JHH petition (Attachment 7 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>).

The CDE has determined that JHH has met the applicable academic criteria pursuant to *EC* Section 47607(b). However, the CDE has concerns regarding the significant decline in the academic progress of EL pupils in ELA and math, which is reflected on the 2019 California School Dashboard. The CDE also has concerns regarding an enrollment process that prohibits JHH from reaching demographics reflective of WCCUSD. The CDE selected five schools, serving pupils in grade nine through grade twelve, where pupils would otherwise attend and that are comparable in that they have similar enrollment for similar significant subgroups.

The following table shows the percentage of pupils that met/exceeded standards on the 2016–17, 2017–18, and 2018–19 California Assessment of Student Performance and Progress (CAASPP) for ELA and math for JHH and the CDE-chosen comparable WCCUSD schools that pupils would otherwise attend. The 2016–17 through 2018–19 CAASPP data show that JHH does perform, overall, at least equal to comparable WCCUSD schools.

**CAASPP Results for CDE-Chosen Comparable Schools and WCCUSD (Percent Meets/Exceeds Standards)**

| School | 2016–17  ELA | 2016–17  Math | 2017–18  ELA | 2017–18  Math | 2018–19  ELA | 2018–19  Math |
| --- | --- | --- | --- | --- | --- | --- |
| JHH | 52 | 41 | 62 | 41 | 68 | 21 |
| De Anza High | 35 | 11 | 46 | 14 | 45 | 12 |
| El Cerrito High | 42 | 26 | 41 | 29 | 49 | 31 |
| Kennedy High | 14 | 3 | 20 | 1 | 14 | 2 |
| Pinole Valley High | 51 | 24 | 42 | 18 | 50 | 21 |
| Richmond High | 30 | 9 | 34 | 10 | 40 | 16 |
| WCCUSD | 34 | 24 | 34 | 23 | 35 | 24 |

The following tables show the percentage of pupils that met/exceeded standards on the 2016–17 through 2018–19 CAASPP for ELA and math for JHH, the CDE-chosen comparable WCCUSD schools that pupils would otherwise attend, and WCCUSD. The significant subgroup population served by JHH are as follows: 95 percent Hispanic/Latino and 91 percent socioeconomically disadvantaged (SED). The 2016–17 through 2018–19 CAASPP data for the significant subgroups served by JHH shows that JHH does perform, overall, at least equal to comparable WCCUSD schools.

**CAASPP Results by Pupil Subgroups for African-American Pupils (Percent Meets/Exceeds Standards)**

N/A: Not Applicable. An asterisk (\*) indicates that less than 10 pupils were assessed. The data have been suppressed in order to protect pupils’ privacy.

| School | 2016–17  ELA | 2016–17  Math | 2017–18  ELA | 2017–18  Math | 2018–19  ELA | 2018–19  Math |
| --- | --- | --- | --- | --- | --- | --- |
| JHH | N/A | N/A | N/A | N/A | \* | \* |
| De Anza High | 21 | 0 | 31 | 6 | 40 | 7 |
| El Cerrito High | 15 | 5 | 9 | 5 | 16 | 8 |
| Kennedy High | 15 | 0 | 22 | 0 | 12 | 4 |
| Pinole Valley High | 47 | 10 | 16 | 2 | 38 | 9 |
| Richmond High | 33 | 6 | 27 | 7 | 18 | 7 |
| WCCUSD | 21 | 12 | 20 | 11 | 21 | 10 |

**CAASPP Results by Pupil Subgroups for Latino/Hispanic Pupils (Percent Meets/Exceeds Standards)**

| School | 2016–17  ELA | 2016–17  Math | 2017–18  ELA | 2017–18  Math | 2018–19  ELA | 2018–19  Math |
| --- | --- | --- | --- | --- | --- | --- |
| JHH | 52 | 41 | 61 | 39 | 68 | 22 |
| De Anza High | 28 | 4 | 40 | 11 | 44 | 9 |
| El Cerrito High | 30 | 15 | 28 | 13 | 34 | 16 |
| Kennedy High | 15 | 3 | 16 | 1 | 12 | 2 |
| Pinole Valley High | 44 | 13 | 39 | 8 | 46 | 15 |
| Richmond High | 28 | 8 | 34 | 10 | 40 | 16 |
| WCCUSD | 25 | 15 | 25 | 14 | 27 | 15 |

**CAASPP Results by Pupil Subgroups for Special Education Pupils (Percent Meets/Exceeds Standards)**

| School | 2016–17  ELA | 2016–17  Math | 2017–18  ELA | 2017–18  Math | 2018–19  ELA | 2018–19  Math |
| --- | --- | --- | --- | --- | --- | --- |
| JHH | \* | \* | \* | \* | \* | \* |
| De Anza High | 3 | 0 | 11 | 0 | 13 | 0 |
| El Cerrito High | 8 | 5 | 19 | 8 | 27 | 11 |
| Kennedy High | 7 | 4 | 6 | 0 | 0 | 0 |
| Pinole Valley High | 10 | 0 | 6 | 13 | 19 | 7 |
| Richmond High | 7 | 4 | 5 | 5 | 12 | 3 |
| WCCUSD | 7 | 5 | 8 | 7 | 9 | 7 |

**CAASPP Results by Pupil Subgroups for English Learner Pupils (Percent Meets/Exceeds Standards)**

| School | 2016–17  ELA | 2016–17  Math | 2017–18  ELA | 2017–18  Math | 2018–19  ELA | 2018–19  Math |
| --- | --- | --- | --- | --- | --- | --- |
| JHH | \* | \* | \* | \* | \* | \* |
| De Anza High | 7 | 5 | 11 | 5 | 4 | 0 |
| El Cerrito High | 5 | 7 | 3 | 6 | 0 | 0 |
| Kennedy High | 0 | 0 | 0 | 0 | 0 | 0 |
| Pinole Valley High | 7 | 0 | 5 | 3 | 19 | 3 |
| Richmond High | 2 | 1 | 3 | 1 | 4 | 1 |
| WCCUSD | 4 | 4 | 3 | 4 | 5 | 5 |

**CAASPP Results by Pupil Subgroups for Socioeconomically Disadvantaged Pupils (Percent Meets/Exceeds Standards)**

| School | 2016–17  ELA | 2016–17  Math | 2017–18  ELA | 2017–18  Math | 2018–19  ELA | 2018–19  Math |
| --- | --- | --- | --- | --- | --- | --- |
| JHH | 48 | 41 | 60 | 37 | 68 | 19 |
| De Anza High | 34 | 8 | 42 | 9 | 42 | 7 |
| El Cerrito High | 27 | 10 | 31 | 19 | 29 | 13 |
| Kennedy High | 14 | 4 | 20 | 1 | 15 | 2 |
| Pinole Valley High | 48 | 20 | 39 | 15 | 46 | 17 |
| Richmond High | 30 | 9 | 34 | 9 | 41 | 16 |
| WCCUSD | 25 | 15 | 26 | 15 | 25 | 15 |

**JHH’s Review of Academic Criteria Under *EC* Section 47607**

The petitioner completed CAASPP data comparison analyses for JHH and WCCUSD comparable schools for pupils schoolwide.

The following table shows the percentage of pupils that met/exceeded standards on the 2016–17, 2017–18, and 2018–19 CAASPP assessment for ELA and math for all pupils schoolwide at JHH (Attachment 3 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>).

**CAASPP Results for JHH (Percent Meets/Exceeds Standards)**

| 2016–17  ELA | 2016–17  Math | 2017–18 ELA | 2017–18 Math | 2018–19  ELA | 2018–19  Math |
| --- | --- | --- | --- | --- | --- |
| 52 | 41 | 62 | 41 | 68 | 21 |

The following table shows the percentage of pupils that met/exceeded standards on the 2016–17, 2017–18, and 2018–19 CAASPP assessment for ELA and math for JHH, WCCUSD, and California (Attachment 3 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>).

**CAASPP Results for JHH, WCCUSD, and California (Percent Meets/Exceeds Standards)**

| Entity | 2018–19 ELA | 2018–19 Math |
| --- | --- | --- |
| JHH | 68 | 21 |
| WCCUSD | 35 | 24 |
| California | 51 | 40 |

The following table shows the percentage of pupils that met/exceeded standards on the 2018–19 CAASPP assessment for ELA and math for JHH and for comparable schools that pupils would otherwise attend (Attachment 3 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>).

**CAASPP Results for JHH-Chosen Comparable Schools (Percent Meets/Exceeds Standards)**

| School | 2016–17  ELA | 2016–17  Math | 2017–18 ELA | 2017–18 Math | 2018–19  ELA | 2018–19  Math |
| --- | --- | --- | --- | --- | --- | --- |
| JHH | 52 | 41 | 62 | 41 | 68 | 21 |
| De Anza High | 35 | 11 | 46 | 14 | 45 | 12 |
| Kennedy High | 14 | 3 | 20 | 1 | 14 | 2 |
| Richmond High | 30 | 9 | 34 | 10 | 40 | 16 |

**WCCUSD’s Review of Academic Criteria Under *EC* Section 47607**

WCCUSD reviewed the 2016–17 through 2018–19 CAASPP data for JHH for all pupils schoolwide, which show a decline in math from 41.38 to 20.90 percent (Attachment 6 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>).

**CAASPP Results for JHH (Percent Meets/Exceeds Standards)**

| 2016–17  ELA | 2016–17  Math | 2017–18 ELA | 2017–18 Math | 2018–19  ELA | 2018–19  Math |
| --- | --- | --- | --- | --- | --- |
| 51.72 | 41.38 | 62.02 | 40.50 | 68.12 | 20.90 |

**CCCOE’s Review of Academic Criteria Under *EC* Section 47607**

CCCOE did not take action on the JHH petition on appeal (Attachment 7 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>).

**WCCUSD’s Review of Academic Criteria Under *EC* Section 52052–Alternative Measures**

Academic Performance Index (API) has not been calculated as of the 2013–14 school year (SY). In such a case, *EC* Section 52052(f) provides for the following in determining whether a charter school has met the requirements for the renewal of its charter:

* Alternative measures that show increases in pupil academic achievement for all groups of pupils schoolwide and among significant subgroups shall be used.

WCCUSD reviewed the 2019 California School Dashboard for JHH for ELA, math, and College and Career Readiness that show increases for the Hispanic/Latino subgroup, but no data for multiple subgroups. Additionally, data for ELs show a decline of 25.3 percent in ELA and a decline of 123.7 percent in math. The WCCUSD findings show that for College and Career Readiness, 35.4 percent of all pupils are prepared, which indicates a decline of 16.4 percent from the previous SY. Additionally, for EL pupils, 12.8 are prepared, which indicates a decline of 5.4 percent from the previous SY (Attachment 6 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>).

The CDE reviewed what was considered by WCCUSD, which was verifiable 2019 California School Dashboard data for JHH for ELA, math, and College and Career Readiness. The CDE has concerns regarding the significant decline in the academic progress of EL pupils in ELA and math that is reflected on the 2019 California School Dashboard.

**CDE’s Review of Academic Criteria Under *EC* Section 52052–Alternative Measures**

The CDE also considered *EC* Section 52052(f) in its review of the JHH petition. As referenced above, API has not been calculated as of the 2013–14 SY. In such a case, *EC* Section 52052(f) provides for the following in determining whether a charter school has met the requirements for the renewal of its charter:

* Alternative measures that show increases in pupil academic achievement for all groups of pupils schoolwide and among significant subgroups shall be used.

The CDE reviewed the following alternative measures that the petitioner included as the criteria for charter renewal (Attachment 3 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>):

* 2015–16 through 2019–20 advanced placement (AP) courses offered at JHH increased from no offerings in the 2015–16 school year to five offerings by the 2018–19 academic year.

The petitioner states that JHH did not offer any AP courses in 2015–16 and 2016–17; however, AP offerings increased by five offerings by the 2018–19 academic year.

**California School Dashboard**

The California School Dashboard measures performance for state indicators through a combination of current performance (Status) and improvement over time (Change), which both provide equal weight. A performance level (color) is assigned based on the Status and Change performance. Performance level (color) ranges from Red, Orange, Yellow, Green, and Blue, with Blue representing the highest performance and Red representing the lowest performance.

The 2019 California School Dashboard reflects JHH’s performance under California’s Accountability System as follows: ELA (Yellow); math (Orange); and 3.3 percent suspension rate (Green).

The 2018 California School Dashboard reflects the following for JHH: 5.2 percent suspension rate (Green).

The 2017 California School Dashboard reflects the following for JHH: 97 percent EL progress rate (Blue) and 8.5 percent suspension rate (Red).

The first year that JHH enrolled grade eleven pupils was 2017–18, only then making JHH eligible to take the CAASPP assessment for ELA and math. Given this, JHH does not have academic data on the California School Dashboard for 2017 and 2018.

## Inability to Successfully Implement the Intended Program

**California State Budget Impact**

The COVID-19 pandemic has had a tremendous impact on the state budget and the funding that will be provided to local educational agencies (LEAs) in the 2020–21 school year and future school years. The pandemic has led to a large variation between the Governor’s proposed January budget and the proposed May revision, which was discussed at the ACCS meeting on June 9, 2020. On June 23, the Governor; Senate President pro tempore, Toni Atkins; and Speaker of the Assembly, Anthony Rendon announced an agreement on the budget. This agreement has not yet been finalized at the time of the posting of the July SBE meeting agenda, but it is anticipated it will be finalized by the July SBE meeting.

The proposed agreement includes $11 billion of LCFF apportionment deferrals in 2020–21, which will allow LCFF to remain at the 2019–20 level and does not include the 10 percent cut to LCFF proposed at May revision. With deferrals, charter schools and other LEAs will have the burden of fronting cash, maintaining cash flow in the months where monthly apportionments will be deferred, and potential borrowing costs. Deferrals could be especially problematic for new charter schools or existing charter schools that do not have the ability to draw down reserves to access cash.

**Fiscal Analysis**

The JHH multi-year projected budget includes the following projected pupil enrollment (Attachment 4 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>):

* 350 Grade nine through twelve in 2020–21
* 390 Grade nine through twelve in 2021–22
* 415 Grade nine through twelve in 2022–23
* 440 Grade nine through twelve in 2023–24
* 440 Grade nine through twelve in 2024–25

The CDE reviewed audited financial data from the 2018–19 audit report that reflected an unqualified status and unqualified audit opinion with no significant audit findings noted. An unqualified opinion means that the auditor has opined that the charter school’s financial statements are fairly presented, are free of material misstatements, and have been prepared in accordance with generally accepted accounting principles.

**Revenue**

The JHH multi-year projected budget includes lottery funds for FY 2020–21 through 2022–23. The lottery funds are based on prior year Second Principal Apportionment enrollment, which is overstated by $5,105 and $1,513 for FY 2020–21 and 2021–22, respectively, and understated by $2,981 for FY 2022–23. Accordingly, the CDE adjusted the lottery funds for FY 2020–21 through 2022–23 in the budget analysis.

The JHH multi-year projected budget includes a mandated block grant for FY 2020–21 through 2022–23. The mandated block grant is based on prior year Second Principal Apportionment enrollment, which is overstated by $587, $928, and $1,621 for FY 2020–21 through 2022–23, respectively. Accordingly, the CDE adjusted the mandated block grant for FY 2020–21 through 2022–23 in the budget analysis.

The JHH multi-year projected budget includes other local revenues of $104,489 each year for FY 2020–21 through 2022–23. The JHH petition does not provide a detailed budget narrative or assumption that the CDE excludes from the budget analysis.

**Expenditures**

The JHH multi-year projected budget appears to understate the expenditures in Old-Age, Survivors, and Disability Insurance Program Medicare in the amounts of $8,901 and $12,028 for FY 2021–22 and 2022–23, respectively. The CDE included these increased expenditures in its budget analysis.

The CDE concludes that the JHH projected budget is fiscally viable with the projected enrollment of 350, 390, and 415 and positive ending fund balances of $317,488; $600,062; and $1,125,325 with reserves of 6.3, 11, and 19.6 percent for FY 2020–21 through 2022–23, respectively.

**Past History Under WCCUSD Authorization**

The CDE notes that JHH is currently authorized by WCCUSD, which submitted additional supporting documentation as evidence to the WCCUSD Board-adopted findings. The CDE reviewed the documents and found that JHH has been issued one letter of concern (LOC) in 2017, one notice of violation (NOV) in 2018, and one follow-up letter after a site visit conducted on April 19, 2018. These letters are referenced below (Attachment 10 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>):

* December 1, 2017: WCCUSD sent an LOC regarding a written complaint WCCUSD received from a former AMPS employee, alleging violations of law and policy, and the charter at JHH.
* February 28, 2018: The WCCUSD Board issued an NOV to JHH and the governing board of AMPS.

On March 30, 2018, AMPS submitted its formal response to the NOV.

On May 2, 2018, the WCCUSD Board approved a Tolling and Monitoring Agreement providing AMPS additional time to address remaining concerns regarding the operation of JHH.

* May 8, 2018: WCCUSD sent a letter to AMPS regarding concerns that WCCUSD staff observed during an April 19, 2018, site visit that included the following: (1) lack of sufficient textbooks, (2) lack of adequate curriculum, (3) lack of laboratory supplies, (4) lack of a block schedule, and (5) issues related to JHH’s English language development instruction.

The WCCUSD oversight staff report of JHH stated that based on the issues within the NOV and reflected in the AMPS responses per the Tolling and Monitoring Agreement, WCCUSD staff recommended to the WCCUSD Board to not proceed with revocation and that WCCUSD staff would continue to monitor as part of oversight (Attachment 10 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>).

**Charter Elements**

The CDE finds that the JHH petition does not provide a reasonably comprehensive description of the following required charter elements (Attachment 1 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>):

**Element 4–Governance Structure**

The JHH petition does not present a reasonably comprehensive description of the school’s governance structure. The JHH petition states that regular meetings will be within the boundaries of the state of California; however, given that AMPS manages two or more charter schools that are not located in the same county, the governing board shall meet within the physical boundaries of the county in which the greatest number of pupils are enrolled, pursuant to *EC* Section 47604.1(c)(4) (effective January 1, 2020). AMPS serves 959 pupils from three schools in CCCOE and 999 pupils from three schools in the Alameda County Office of Education (ACOE); therefore, the governing board meetings should take place within the physical boundaries of ACOE given that the greatest number of pupils are enrolled within ACOE. The 2019–20 AMPS Board Meeting Schedule, which is posted on the JHH website, shows that regular board meetings have taken place within both counties, which violates *EC* Section 47604.1(c)(4).

**Element 5–Employee Qualifications**

The JHH petition does not present a reasonably comprehensive description of employee qualifications. The JHH petition describes the selection process for leaders and teachers; however, it does not specifically identify which positions JHH regards as key in each category. Additionally, the JHH petition states that the Site Director is supported by two Instructional Deans and a Regional Superintendent; however, the JHH petition does not identify the general qualifications for these positions nor the general qualifications for non-certificated staff members. The CDE notes that the job descriptions for site leaders, deans, and teachers are in the supporting documents the petitioner submitted (Attachment 9 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>); however, these descriptions are not included in the JHH petition.

**Element 7–Racial and Ethnic Balance**

The JHH petition does not present a reasonably comprehensive description of means for achieving racial and ethnic balance. The following table shows the 2019–20 demographic data for JHH and WCCUSD. The data show that the racial and ethnic balance served by JHH is not reflective of WCCUSD.

**2019–20 Demographic Data for JHH and WCCUSD (Percent of Pupils Enrolled)**

| Entity | English Learners | Special Education | SED | African American | Hispanic/ Latino | White |
| --- | --- | --- | --- | --- | --- | --- |
| JHH | 13 | 7 | 91 | 3 | 95 | 0.3 |
| WCCUSD | 32 | 12 | 71 | 16 | 52 | 11 |

The JHH petition includes a list of recruitment strategies that JHH will implement and which focus on achieving and maintaining a racial and ethnic balance among pupils that is reflective of the general population residing within the territorial jurisdiction of WCCUSD (Attachment 3 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>); however, the CDE is concerned that the racial and ethnic balance has not been achieved in the five years that JHH has been in operation and that the preferences that are currently written in Element 8–Admission Requirements of the JHH petition will not yield a racial and ethnic balance reflective of WCCUSD.

**Element 8–Admission Requirements**

The JHH petition does not present a reasonably comprehensive description of admission requirements. The 2019–20 demographic data show that the racial and ethnic balance served by JHH is not reflective of that of WCCUSD. The CDE is concerned that the preferences that are currently written in Element 8–Admission Requirements of the JHH petition will not yield a racial and ethnic balance reflective of WCCUSD. It appears that the current JHH admission requirements set up an enrollment process that prohibits JHH from reaching demographics reflective of WCCUSD.

The JHH petition states that in accordance with *EC* Section 47605(d)(2)(B), preferences shall be given to the following pupils in the following order (Attachment 3 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>):

1. Sibling of pupils admitted to or attending JHH
2. Pupils who are enrolled in the immediate prior grade level of another AMPS charter school
3. Pupils of founding families
4. Children of AMPS teachers and staff (not to exceed 10 percent of JHH’s enrollment)
5. Residents of WCCUSD
6. All other pupils in the state

**Element 10–Suspension and Expulsion Procedures**

The JHH petition does not present a reasonably comprehensive description of suspension and expulsion procedures for criteria E.

The JHH petition states that when an appeal relating to the placement of the pupil or the manifestation determination has been requested by either the parent or JHH, the pupil shall remain in the interim alternative educational setting pending the decision of the hearing officer in accordance with state and federal law, including 20 *United States Code* (*USC*) Section 1415(k), until the expiration of the 45-day time period provided for in an interim alternative educational setting, unless the parent and JHH agree otherwise. In accordance with 20 *USC* Section 1415(k)(3), if a parent or guardian disagrees with any decision regarding placement, or the manifestation determination, or if JHH believes that maintaining the current placement of the pupil is substantially likely to result in injury to the pupil or to others, the parent or guardian, or JHH may request a hearing. In such an appeal, a hearing officer may (1) return a pupil with a disability to the placement from which the pupil was removed or (2) order a change of placement of a pupil with a disability to an appropriate interim alternative setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of such pupil is substantially likely to result in injury to the pupil or to others (Attachment 3 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>).

The automatic placement of a pupil in an interim alternative educational setting until the expiration of the 45-day time period is contrary to 20 *USC* Section 1415(k)(3), which only gives a hearing officer the authority to order such a placement.

The CDE notes that the Family Handbook that is posted on the JHH website states that AMPS has implemented a Student Attendance Review Board (SARB) process designed to meet with parents or guardians of pupils who have exceeded the allowable amount of unexcused absences. The Family Handbook states that the SARB may place the pupil on probation and require an attendance contract to be signed by both the parent and the pupil acknowledging that any further unexcused absences or tardies shall be grounds for an additional hearing in front of the SARB, which may result in dismissal from AMPS. This language could be interpreted as an additional offense for expulsion not listed in the JHH petition. Furthermore, this condition may discourage families from applying to JHH.

**Element 11–Retirement Coverage**

The JHH petition does not present a reasonably comprehensive description of retirement coverage. The JHH petition states that the AMPS organization believes in investing in and retaining staff, and as such, has an established a 401(k) retirement program with a matching commitment and vesting schedule for every participating employee; however, the JHH petition does not specify who specifically will be responsible for ensuring that appropriate arrangements for that coverage have been made (Attachment 3 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>).

**Element 14–Dispute Resolution Procedures**

The JHH petition does not present a reasonably comprehensive description of dispute resolution procedures. The JHH petition does not include the following:

* Recognize the fact that the SBE is not an LEA.
* Recognize that, because it is not an LEA, the SBE may choose to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, provided that if the SBE intends to resolve a 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.
* Recognize that if the substance of a dispute is a matter that could result in the taking of appropriate action, including, but not limited to, revocation of the charter in accordance with *EC* Section 47604.5, the matter will be addressed at the SBE’s discretion in accordance with that provision of law and any regulations pertaining thereto.
* Recognize that the SBE cannot be pre-bound to a contractual obligation to split the costs of mediation or agree to mediation to resolve disputes.

## Conclusion

In summary, the CDE recommends that the SBE deny the request to renew the JHH petition.

While the CDE finds that the JHH petition is consistent with sound educational practice and meets the academic criteria, the CDE has concerns regarding the significant decline in the academic progress of EL pupils in ELA and math, as well as concerns regarding an enrollment process that prohibits JHH from reaching demographics reflective of WCCUSD.

A detailed analysis of the CDE’s review of the entire JHH petition is provided in Attachment 1.

**Documents Reviewed by the California Department of Education**

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

* JHH petition (Attachment 3 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>)
* Educational and demographic data of schools where pupils would otherwise be required to attend (Attachment 2 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>)
* JHH budget and financial projections (Attachment 4 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>)
* Letter dated March 24, 2020, description of changes to the JHH charter on appeal necessary to reflect the SBE as the authorizing entity (Attachment 5 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>)
* WCCUSD findings evidencing the denial of the JHH petition and petitioner’s response (Attachment 6 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>)
* March 11, 2020, CCCBOE agenda regarding the recommendation to take no action on the JHH renewal petition appeal and petitioner’s response (Attachment 7 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>)
* JHH articles of incorporation, bylaws, and conflict of interest policy (Attachment 8 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>)
* JHH appendices and supporting documents (Attachment 9 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>)
* WCCUSD supporting documents (Attachment 10 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>)

**West Contra Cost Unified School District Findings**

On December 18, 2019, WCCUSD took action and denied the petition to renew JHH based on the following findings (Attachment 6 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>):

* The petition presents an unsound educational program.
* The charter school is demonstrably unlikely to implement the program set forth in the petition.

**Contra Costa County Office of Education Findings**

On March 11, 2020, CCCBOE did not take action on the JHH petition (Attachment 7 of Agenda Item 09 on the ACCS June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>).

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

Currently, 33 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
* 25 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 1 percent of the revenue of the charter school for the CDE’s oversight activities; however, no additional resources are allocated to the CDE for oversight.

**Attachments**

* **Attachment 1:** California Department of Education Charter School Petition Review Form: John Henry High (49 Pages)
* **Attachment 2:** California State Board of Education Standard Conditions on Opening and Operation (4 Pages)