# Attachment 5: California Department of Education Letter of Concern to Eagle Collegiate Academy Dated November 12, 2021

**The below letter was prepared on the official letterhead of the California Department of Education (CDE), bearing the CDE Seal, address, and contact information.**

November 12, 2021

Ken Higginbotham, Board President
Dr. Ogo Okoye-Johnson, Chief Executive Officer
Eagle Collegiate Academy
PO Box 803234
Santa Clarita, CA 91380

Dear Board President Higginbotham and Chief Executive Officer Okoye-Johnson:

## Subject: Letter of Concern Regarding Adherence to the Charter Petition, Memorandum of Understanding, and Applicable Laws

The purpose of this letter is to inform the Eagle Collegiate Academy (ECA) of the California Department of Education’s (CDE’s) concerns with regard to ECA’s fidelity to the conditions, standards, and procedures set forth in the charter; ECA’s adherence to the Memorandum of Understanding (MOU) between the California State Board of Education (SBE) and ECA; ECA’s critical fiscal situation; and ECA’s compliance with laws governing charter schools. Various offices within the CDE (School Facilities and Transportation Services Division, SBE Oversight and Technical Assistance Office, and Public Charter Schools Grant Program Office) have been in communication with ECA in an attempt to monitor and address concerns that have not been remedied. Specifically, following ECA’s reported drop in enrollment and lack of facility procurement, the CDE sent an email to the school on November 2, 2021, and conducted two calls that occurred on November 3, 2021, outlining the most severe concerns and suggesting immediate steps to cure the problems. The concerns and required corrective actions for ECA are as follows:

###  Violation of Charter Approved by the SBE – Fiscal Year (FY) 2021–22 Enrollment

ECA’s petition, approved by the SBE on July 8, 2020, included a prospective enrollment of 168 students. On September 30, 2021, ECA reported to the CDE that school began on September 7, 2021, with an enrollment of 131 students. On November 1, 2021, ECA reported to the CDE a total enrollment count of 12 students in its Charter School 20 Day Attendance Report. This is a decline of over 90 percent from the anticipated petition enrollment. In early October 2021, ECA received a charter school advance payment of $611,729 based on an estimated average daily attendance of 159.6 calculated based on the 168 projected enrollment. The CDE is estimating that based on current average daily attendance, ECA has been overpaid in LCFF state aid by approximately $500,000.

Additionally, ECA’s petition budget was based on a projected enrollment of 168 students. Upon learning of the school’s substantial drop in enrollment, the CDE conducted a fiscal analysis based on ECA’s Charter School 20 Day Attendance Report, which indicated a decrease in ECA’s FY 2021–22 total revenues from the originally projected $2,581,644 to $145,916. With such a significant decline in enrollment, the petition budget revenues and expenditures are no longer accurate and necessitate a revision reflecting the current enrollment numbers in order to demonstrate how ECA can be sustainable with so few students.

Per the MOU between the SBE and ECA, “the School’s startup enrollment must be consistent with the enrollment data described in the charter” (p. 13). Additionally, Section 4.2 of the MOU between the SBE and ECA states that changes to the charter deemed to be material revisions may not be made without SBE approval. Amendments to the charter considered to be material changes include, but are not limited to, the following:

* Any change that could significantly impact the academic or financial sustainability of the School

### Corrective Action:

To remedy its concerns, the CDE requests that ECA provide a Fiscal Corrective Action Plan (FCAP) adopted by the charter school governing board that includes all of the following:

* Written narrative explaining what caused the decline in anticipated enrollment and what steps will be taken to address the decline
* Written narrative on the budget actions that have been taken to date to adjust to the lower enrollment numbers and proposed budget actions in the future
* Explanation of how teacher and staff salaries and CalSTRS/retirement are and will continue to be paid
* Revised multiyear budget and cash flow statements for the current FY (2021–22) and two subsequent FYs (2022–23 and FY 2023–24) with written detailed assumptions included that reflect ECA’s resolution on addressing the unanticipated enrollment decline and revised expenditures
* Manner of calculating average daily attendance during the period of online instruction
* ECA board agenda and scheduled meeting date approving the FCAP
* Outreach, enrollment, recruitment, and retention plan to recover projected enrollment

### Violation of Charter Approved by the SBE – Facilities

The fourth condition (p. 1) of approval by the SBE required school facilities to be “completed and ready for the CDE inspection on or before May 28, 2021.” Based on ECA’s reporting to the CDE, ECA has not opened in a facility as a classroom-based charter school in accordance with the petition approved by the SBE on July 8, 2020. This violates the condition of approval, which required a facility to have been secured and approved by the CDE prior to the start of the instructional year.

According to Section 4.2 of the MOU between the SBE and ECA, changes to the charter deemed to be material revisions may not be made without SBE approval. Amendments to the charter considered to be material changes include, but are not limited to, the following:

* Adding sites or closing sites
* Any action taken on the part of the School which will result in a significant shift in pupil population to or from a site (i.e. site-based program changed to an online program)

### Corrective Action:

To remedy the CDE’s concern, ECA must provide the CDE with the following:

* Facility lease agreement and opening date, signed by lessor and a representative of the ECA, with a narrative of the immediate opening plan for ECA students to receive instruction
* Evidence of an Educational Group E occupancy permit on file with the city, county, or other appropriate jurisdiction

Per Section 4.3 of the MOU, the CDE will visit and inspect the facility to ensure it meets all Field Act regulations and all regulations in Title V of the *California Code of Regulations*. ECA may not commence operations in the facility without written approval from the CDE.

### Violation of Charter Approved by the SBE – Educational Program

ECA’s charter as approved by the SBE outlines a classroom-based International Baccalaureate (IB) educational program and does not include a nonclassroom-based program. ECA has reported to the CDE that students are receiving online instruction only; the approved petition does not outline an educational program consisting solely of remote learning. Per Section 4.2 of the MOU between the SBE and ECA, changes to the charter deemed to be material revisions may not be made without SBE approval. Amendments to the charter considered to be material changes include, but are not limited to, the following:

* Substantial changes to the educational program including the addition or deletion of an educational program, mission, or vision
* Changing or adding a nonclassroom-based program

Furthermore, the school has not provided evidence that it is abiding by the required Independent Study legal requirements, including Assembly Bill 130 requirements, to provide an all nonclassroom-based program and to receive apportionment for students. These include, but are not limited to, a compliant board policy, signed and dated compliant master agreements for each student, pupil residency in the county or a contiguous county, and a completed work product that is at least the equivalent in time value to the charter’s school day as determined and evaluated by a certificated employee of the charter. In addition, independent study participation must be voluntary and all students must have a classroom option (pursuant to California *Education Code* [*EC*] Section 51747[g][8] [<https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=51747&lawCode=EDC>] and *EC* Section 51749.6[a][6] [<https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=51749.6&lawCode=EDC>]. If these conditions are not met, it is possible that ECA will not be certified for funding, will not continue to receive future apportionments, and/or will receive an audit finding, which could result in additional fiscal impact. Additionally, because ECA received $ 611,729 in the first charter school special advance based on 168 students while only serving 12 students, the charter school was overpaid and funds will need to be recouped through offset of future principal apportionment payments and/or through an invoice.

### Corrective Action:

To remedy the CDE’s concern, ECA must provide the CDE with the following:

* A detailed written description of the current curriculum and the manner of delivery, including a sample description of student learning activities and how the IB program is being integrated into the current curriculum
* Number of English learners and how designated and integrated instruction is being provided
* Number of students with Individualized Education Plans (IEPs) and how instruction is being provided in accordance with any IEPs
* Evidence that the school has implemented all requirements of AB 130 and Independent Study legal requirements for the 2021–22 school year, including a classroom-based alternative, a compliant board policy, signed and dated compliant master agreements for each student, pupil residency in the county or a contiguous county, and a completed work product that is at least the equivalent in time value to the charter’s school day as determined and evaluated by a certificated employee of the charter

### Violation of Law – Governance

*EC* Section 47606.5 requires a charter school’s governing board to “hold a public hearing to adopt a local control and accountability plan using a template adopted by the state board.” The CDE reviewed all of ECA’s posted board meeting agendas, which included meetings dated from February 23, 2021, to October 26, 2021, and found no evidence of such action noted on any board meeting agenda.

Additionally, Senate Bill 126 requires all charter schools to adopt a conflict-of-interest code. The CDE is aware that ECA staff have drafted a conflict-of-interest code; however, the CDE’s aforementioned review of ECA’s board meetings agendas found no evidence suggesting the board has adopted a conflict-of-interest code.

Furthermore, the MOU between the SBE and ECA, requires several items to be posted on the school’s website. The CDE’s review of ECA’s website, conducted on November 9, 2021, found no evidence of the following items, which is in violation of the MOU:

* School physical and mailing addresses
* Board approved policies
* Annual calendar of board meetings
* Board meeting minutes (must be posted within 30 days)
* Current charter petition
* Outreach and recruitment plan
* Lottery procedures
* Application and enrollment forms for lunch program
* Conflict of interest policy
* Student/parent handbook
* Campus supervision policy
* Discipline policy
* Williams Act policy
* Health/safety and emergency plans
* Bell schedule with teacher names and grade level assignment
* Local Control and Accountability Plan (LCAP)
* Board-approved budget

### Corrective Action:

To remedy the CDE’s concern, ECA must provide the CDE with the following:

* An LCAP using a template adopted by the SBE with evidence of board adoption
* Evidence of board approval of a compliant conflict-of-interest code and evidence of approval by the appropriate governing authority
* Notification that all website items listed above have been appropriately posted along with direct links to each item

The ECA Board is required to submit the requested corrective action plans to the CDE by **5 p.m. on December 6, 2021**, by email to [SBEOVERSIGHT@cde.ca.gov](SBEOVERSIGHT%40cde.ca.gov). The CDE will review the plans and provide a follow-up letter within 30 days ECA’s submission. Furthermore, it should be noted ECA may need to submit a material revision in the future to comply with the MOU. The CDE will provide technical assistance as appropriate.

If ECA is unable to make these changes or otherwise provide the corrective action for each of the concerns raised by the CDE by the due date, the CDE will recommend that the SBE issue a Notice of Violation to the ECA Board. A Notice of Violation is the initial step in the charter revocation process pursuant to *EC* Section 47607. If you have any questions or need any additional information regarding this letter, please contact Craig Heimbichner, Education Administrator, Charter Schools Division, by phone at 916-323­5759 or by email at cheimbichner@cde.ca.gov.

Sincerely,

/s/

Stephanie Farland, Director Charter Schools Division

SF:rr

cc: Brooks Allen, Executive Director, California State Board of Education

Lisa Constancio, Deputy Superintendent, Operations and Administration Branch, California Department of Education

*Sent via First Class Mail and Email to:*

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