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**OAKLAND UNIFIED
SCHOOL DISTRICT**
Community Schools, Thriving Students

OFFICE OF THE GENERAL COUNSEL

June 9, 2025

Charter Schools Division
California Department of Education
1430 N Street
Sacramento, CA 95814-5901
Via E-Mail: charters@cde.ca.gov

**Re: Oakland Unified School District Opposition to Oakland Charter High School Charter Renewal
Appeal to the State Board of Education**

Dear Charter Schools Division:

In accordance with Education Code section 47605(k)(2)(C), the Oakland Unified School District ("OUSD" or "District") submits this correspondence to the State Board of Education ("SBE") to detail how the District Board of Education ("OUSD Board") **did not** abuse its discretion in denying the Oakland Charter High School ("OCHS" or "Charter School") charter renewal petition ("Petition"). The Charter School's appeal does not have merit, and the SBE should affirm the OUSD Board's decision to deny the Petition.

I. Background

OCHS, operated by Amethod Public Schools ("AMPS"), was originally authorized by the District since 2007, and has previously been renewed in 2012 and 2017. Following OCHS's submission of its latest Petition to the District, the OUSD Board held a public hearing on December 9, 2024. Thereafter, on January 2, 2025, the OUSD Board voted to deny the OCHS Petition, by a vote of 4 Ayes, 2 Nays, and 1 Abstained. On January 30, 2025, OCHS submitted its appeal to the Alameda County Office of Education ("ACOE"). The County Board of Education ("ACBOE") held a public hearing on March 11, 2025, and voted to deny the OCHS Petition on April 8, 2025, by a vote of 5 to 2. OCHS has timely submitted its Petition on appeal to the SBE for its consideration.

II. The SBE, in Applying the Abuse of Discretion Standard, Must Give the OUSD Board and the ACBOE the Greatest Deference in the LEAs' Decisions to Deny the Charter.

Education Code section 47605(k)(2)(E) sets forth the abuse of discretion standard which the SBE must apply in hearing the OCHS appeal or otherwise summarily denying review of the appeal based on the documentary record:

The state board shall either hear the appeal or summarily deny review of the appeal based on the documentary record. If the state board hears the appeal, the state board



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may affirm the determination of the governing board of the school district or the county board of education, or both of those determinations, or ***may reverse only upon a determination that there was an abuse of discretion by each of the governing board of the school district and the county board of education.*** Abuse of discretion is the ***most deferential standard of review***, under which the state board must give deference to the decisions of the governing board of the school district and the county board of education to deny the petition. If the denial of a charter petition is reversed by the state board, the state board shall designate, in consultation with the petitioner, either the governing board of the school district or the county board of education in which the charter school is located as the chartering authority.

In adopting significant changes to the charter appeal process as part of Assembly Bill 1505, the Legislature granted more local control and authority, by requiring the SBE to give the greatest deference to the decisions of the local school district governing boards and county boards of education. Accordingly, in hearing a charter appeal, the SBE can only reverse a denial of a petition if it determines that there was an abuse of discretion ***by both*** the school district governing board ***and*** the county board of education.

The State Superintendent of Public Instruction's June 30, 2022 Information Memoranda further explained the abuse of discretion standard, explaining that the SBE's review of a charter petition on appeal is "limited to a determination of whether the district governing board's or county board's decision to deny the charter petitioner 'was arbitrary, capricious, entirely lacking in evidentiary support, unlawful, or procedurally unfair.'" (Memorandum, p. 2.)

California's Third District Court of Appeal recently examined the SBE's application of the abuse of discretion standard in reviewing a charter petition appeal, and upheld the review standard as defined in statute, and as further explained by the CDE guidance, above. (*Napa Valley Unified School District v. State Board of Education* (Mar. 14, 2025, C099068) ___ Cal.App.4th ___.) The Court of Appeal affirmed the trial court decision to find that there was no substantial evidence to support the SBE's determination that the local school district board and county board of education abused their discretion in denying an establishment charter petition. Rather, the Court's decision further reinforces the deference granted to the findings of the local school district board and county board of education.

As explained above, OCHS's allegations of abuse of discretion by the OUSD Board and ACBOE are unsupported. OCHS makes various claims that the OUSD Board and ACBOE both abused their discretion, but presents no substantial facts and/or evidence in support of such allegations. Specifically, OCHS fails to demonstrate that the OUSD Board's and/or ACBOE's decisions to deny the OCHS Petition were "arbitrary, capricious, entirely lacking in evidentiary support, unlawful, or procedurally unfair."

Rather, the OUSD Board's and ACBOE's decisions to deny the OCHS Petition are supported by factual findings, as evidenced in the documentary record. There is no evidence of abuse of discretion by the



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OUSD Board or the ACBOE that would warrant the SBE's reversal of the OUSD Board's and ACBOE's respective denials of the OCHS Petition. Accordingly, the SBE should give deference to the decisions of the OUSD Board and ACBOE to deny the OCHS Petition.

Further, OCHS argues that the proceedings for its Petition, which is a **renewal** petition, "are quasi-judicial in nature, and are entitled to a less deferential standard," as opposed to proceedings for an establishment petition. (OCHS Written Appeal Submission, page 4.) Accordingly, OCHS alleges that OUSD and ACBOE had to provide heightened due process to OCHS in reviewing its Petition, and that both agencies failed to do so in their proceedings and decisions to deny the Petition. OCHS' argument is made up out of whole cloth.

The Charter Schools Act does set forth different review criteria for a local school district board or county board of education reviewing an establishment petition versus a renewal petition, as renewal petitions are subject to review under specific criteria as a high, middle, or low performing charter school. However, per the statute, the "abuse of discretion" standard—one of the "most deferential standard of review"—stands for the appeals of both initial and renewal petitions. (Ed. Code § 47605(k)(2)(E).) There is a single "abuse of discretion" standard by which the SBE should review all charter petitions that are on appeal to the SBE, without any distinction for an establishment or renewal petition.

Here, the OUSD Board reviewed the OCHS Petition under all applicable review criteria, including its renewal criteria, and considered all evidentiary information, before ultimately denying the Petition.

III. The OUSD Board Properly Denied the OCHS Renewal Petition.

OCHS erroneously alleges that the OUSD Board abused its discretion by improperly denying the OCHS renewal under the substantial fiscal and governance factors exception. OCHS's allegations are based on the following claims: (a) OUSD's staff recommended approval of the OCHS Petition; (b) the OUSD Board President made allegedly biased remarks during the decision meeting; and (c) the Resolution adopted by the OUSD Board lacked evidentiary support and was unlawful.

a. OUSD Staff's Recommendation to Approve the Petition Does Not Preclude the Board from Denying the Petition.

Education Code section 47605(b) requires the governing board of a school district to publish all staff recommendations, including the recommended findings, regarding a charter petition at least 15 days before the public hearing at which the governing board will either grant or deny the charter. As specified herein, it is only the governing board that holds the authority to make the decision to either grant or deny the charter, based on board-adopted findings. The role of the district staff is to provide "recommendations" only; staff have no authority to make any decision on a charter petition. There is no requirement in statute that the governing board must adopt its staff's recommendations. OCHS appears to erroneously conflate the staff's analysis, upon which the Board based its decision and findings, with



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the staff's recommendation to approve or deny the charter petition, which is a subjective recommendation and one that is not specifically required.

Here, the OUSD Staff Report did contain a staff recommendation to approve the OCHS Petition. (Documentary Record[1] ("DR"), pp. 2797 and 2836). However, the OUSD Staff Report also provided detailed analysis of various ongoing concerns related to OCHS and its operations, particularly fiscal and governance concerns, as evidenced by OUSD's notice of violation under Education Code section 47607(e) and review of OCHS's proposed corrective action plan. (DR, pp. 2826-2831.) For example, the Staff Report notes that there are "remaining concerns regarding the composition and size of the AMPS Governing Board," specifically noting that "all the members of the AMPS Board during the events covered by the [47607(e)] Notice currently remain on the AMPS Board." (DR, p. 2829.) Also, the Staff Report identifies that proposed action steps to address fiscal concerns "are overly vague or do not include specific timelines" or in other instances do "not specify who will be facilitating the training, how often the training will occur, or when it will occur." (DR, p. 2830.) Even if the staff recommended approval, there are sufficient facts to support factual findings by the OUSD Board to deny the Petition based on remaining fiscal and governance concerns.

Further, the Staff Report also included specific recommendations for the OUSD Board to closely monitor OCHS and various benchmarks, *if* the Petition is approved, in light of the different concerns identified in the Staff Report. Staff recognized that ultimately a decision to grant or deny the Petition wholly rested with the OUSD Board. Further, staff acknowledged that concerns with OCHS were significant enough to warrant monitoring by OUSD, even if the OUSD Board were to approve the Petition.

Despite a staff recommendation to approve the Petition, the OUSD Board is ultimately responsible for determining whether to grant or deny the Petition, as determined by factual findings. The OUSD Board did not demonstrate any abuse of discretion in denying the OCHS Petition, even though the Staff Report contained a recommendation to approve the OCHS Petition.

b. The OUSD Board President's Remarks During the Decision Meeting Do Not Preclude the Board from Denying the Petition.

OCHS alleges that the OUSD Board President's verbal remarks during the decision meeting to "scold" AMPS and its Board of Directors were an abuse of discretion, as the remarks lacked evidentiary support, were procedurally unfair, displayed personal biases, and were focused on AMPS and its Board of Directors instead of OCHS, specifically.

Board members have the authority to ask questions and/or make comments before voting on a decision to grant or deny a charter petition. As a public body, district board members vote on important decisions that impact the operations of its school district, and it is an important aspect of the transparency afforded and required by the Brown Act for these governing bodies to deliberate and make decisions in public.



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Here, the Board President specifically discussed issues that were related to the governance of OCHS, focusing on various concerns about AMPS, the nonprofit public benefit corporation that operates OCHS, and its Board of Directors. This is a legitimate and important aspect of the OUSD Board's consideration and evaluation of OCHS, particularly as there had been a notice of violation issued pursuant to Education Code section 47607(e) identifying substantial concerns with OCHS's governance structure, specifically involving AMPS.

Further, such comments were made by a single member of the OUSD Board, which does not equate action taken by the entire OUSD Board to adopt the Resolution and Staff Report with factual findings to deny the Petition. OCHS conflates the two concepts and wrongfully characterizes the remarks of one Board member as the basis of the whole Board's decision to ultimately deny the Petition.

There was no abuse of discretion based on the Board President's remarks alone, as he is entitled to make comments at the meeting, which were based on his observations, experience, and opinion of OCHS. The Board, as a whole, ultimately voted to deny the Petition, as set forth in the Board Resolution, which by reference, adopted the various factual findings set forth in the Staff Report, including concerns with OCHS's governance structure and AMPS.

c. The Resolution Adopted by the OUSD Board Appropriately Adopts the District Staff Report, Which Contains Factual Findings to Support the OUSD Board's Denial of the OCHS Petition.

OCHS inaccurately alleges that the Resolution adopted by the OUSD Board to deny the OCHS Petition entirely lacked evidentiary support and was unlawful. OCHS claims that the Resolution included no factual findings and made only conclusory statements. The governing board of a school district shall not deny a petition unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings set forth in Education Code section 47605(c)(1)-(8). There is no specific requirement on how the governing board's denial of a petition and its written factual findings must be presented.

Here, the OUSD Board Resolution clearly specified that the OUSD Board "adopts all aspects of the Staff Report on OCHS' petition, except to the extent that any aspect of the Staff Report is inconsistent with the Resolution." (DR, pp. 2761.) The Resolution further explains that the specific legal basis for denial of the OCHS Petition includes: (1) OCHS is demonstrably unlikely to successfully implement the program set forth in the Petition due to substantial governance and fiscal concerns; and (2) the OUSD Board has made the requisite findings in accordance with Education Code section 47607.2(b)(6). (DR, pp. 2761-2762.) By adopting the Staff Report through the Resolution (except to the extent that any aspect of the Staff Report is inconsistent with the Resolution), the OUSD Board has sufficiently adopted specific findings which are detailed in the Staff Report. There is no requirement that the Board's factual findings must be stated in their entirety once again in the Resolution itself.



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Further, as referenced in the Resolution and further discussed in the Staff Report, the OUSD Board has made specific factual findings to support its denial of the Petition. Specifically, the Staff Report contains a detailed analysis of the District's compliance with all of the procedural requirements to deny a renewal petition based on substantial fiscal or governance factors. (DR, pp. 2826-2831.) Prior to denying a renewal petition on such grounds, the chartering authority must provide notice of the violation and an opportunity to cure the violation, including a corrective action plan proposed by the charter school. (Education Code section 47607(e).) The Staff Report details OUSD's full compliance with all of the procedural requirements, along with an outline and analysis of the corrective action plan proposed by OCHS. The Staff Report indicates that the corrective action plan has not been entirely successful, as it sets forth further benchmarks that OUSD Board should recommend and monitor if the OUSD Board grants the renewal. (DR, pp. 2831 and 2836.)

Accordingly, OUSD did not abuse its discretion in denying the OCHS Petition by adopting the Board Resolution, which adopts the Staff Report, to the extent that it is not inconsistent with the Resolution. The Staff Report sets forth the required factual findings to demonstrate and support the OUSD Board's denial of the OCHS Petition.

IV. OUSD Complied With Appeal Procedures By Providing a Video Recording of the Decision Meeting to OCHS.

OCHS further alleges that OUSD abused its discretion by failing to provide a written transcript of the OUSD Board's decision meeting on the OCHS Petition.

In submitting an appeal to the SBE, Education Code Section 47605(k)(2)(A) requires a charter petitioner to submit (i) the charter petition; (ii) the findings and **documentary record** from the district board and county board; (iii) a **written submission** detailing how the governing boards of the district and county abused their discretion. It further explains upon request by the petitioner, the governing boards of the district and county shall prepare the **documentary record, including transcripts** of the public hearing where the boards denied the charter.

OCHS claims that a dictionary definition of "transcript" and the fact that OCHS must submit a "written submission" supports its position that the OUSD Board should have provided a written transcript of the Board meeting, and that a full video of the Board meeting did not suffice. However, as noted above, the "written submission" that must be submitted under section 47605(k)(2)(A) is specifically limited to OCHS's **own** written submission about how the OUSD Board and ACBOE abused their discretion in denying the Petition.

The transcripts are referenced as part of the "documentary record" that the OUSD must provide upon request by OCHS, without any specification of its format. The repeated references to "documentary record" in section 47605(k)(2)(A)-(E) clearly demonstrates that an appeal to the SBE must be supported by records to document what specifically occurred at the district and county levels, as shown through



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the “documentary record.” A link to the video of the Board meeting at which the OUSD Board denied the OCHS Petition clearly provides a full and complete record of all statements, remarks, questions, and comments that were made by the OUSD Board, OUSD staff, OCHS staff, and members of the public regarding the OCHS Petition.

Further, OUSD’s decision to provide a link to the video of the meeting, instead of a “written” transcript as OCHS demanded, was supported by guidance provided by the California Department of Education (“CDE”). The CDE has recognized videos of board meetings produced in lieu of a written transcript. The District received written confirmation from the CDE, dated May 2, 2025, confirming that OUSD may provide a video recording of the OUSD Board meeting.

The District timely provided OCHS with a copy of the documentary record, including a link to the video recording of the OUSD Board meeting. OCHS was not materially harmed nor unduly prejudiced by the District providing this video recording, as OCHS was provided a complete and accurate record of the full Board meeting at which the OUSD Board denied the OCHS Petition. Thus, there was no abuse of discretion by the OUSD Board in providing a video, instead of a written transcript, of the proceedings.

V. The Alameda County Board of Education Properly Denied the OCHS Renewal Petition.

In addition to allegations of abuse of discretion by the OUSD Board, OCHS claims that the Alameda County Board of Education also abused its discretion in denying the OCHS Petition. It alleges that the ACBOE did not properly follow the *de novo* standard in reviewing the Petition on appeal.

While the OUSD cannot speak for the ACBOE, based on a review of the documentary record, the OUSD believes that there was no abuse of discretion by the ACBOE in denying the OCHS Petition. The OCHS inadequately relies on a few excerpts from County staff’s presentation slides and a verbal comment by a single Board member to claim that ACBOE did not accurately apply the *de novo* standard in reviewing and denying the OCHS Petition. Neither the information included on a few presentation slides by County staff nor the brief remarks of a single Board member about the *de novo* standard are sufficient evidence that ACBOE misapplied the *de novo* standard in reviewing the Petition nor abused their discretion in denying the Petition.

VI. Conclusion

For the reasons specified above, OCHS has failed to demonstrate that there was an abuse of discretion at both the district and county levels. Accordingly, the OUSD respectfully urges the SBE to provide the most deference to the decisions of the OUSD Board and ACBOE, and to affirm the OUSD Board’s and ACBOE’s decisions to deny the OCHS Petition.

Please contact our office if you have any questions and/or need any further information.



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Sincerely,

Jenine Lindsey, General Counsel

[1] This is a reference to the Documentary Record submitted by OCHS as part of its appeal packet to the CDE and SBE as Exhibit D. All page references to the DR align with the page numbering as marked on this DR document.

Jenine A. Lindsey