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Alysse Castro
Superintendent

Alameda County Office of Education

Charter Schools Division
California Department of Education
1430 N Street, Suite 5401
Sacramento, CA 95814

Re: Statement by Alameda County Board of Education in Response
to Oakland Charter High School's Appeal of Denial of Its Charter
Renewal Petition

Dear Charter Schools Division:

Pursuant to section 47605(k)(2)(C) of the California Education Code, the Alameda County Board of Education (ACBOE), through designation to the Alameda County Office of Education (ACOE), hereby respectfully submits its written opposition to the appeal submitted by Oakland Charter High School (OCHS) (the "Appeal Submission") of the denial of its charter renewal petition by Oakland Unified School District (OUSD) and ACBOE.

As set forth below, OCHS's Appeal Submission fails to meet its burden to overcome the highly deferential standard of review on an appeal to overturn the denial of a charter renewal petition: *i.e.*, to establish, by specific citations to the documentary record, how both OUSD and ACBOE abused their discretion in denying OCHS's charter renewal.

Accordingly, the State Board should deny the Appeal Petition.

I. Standard of Review on a State Board Appeal of Denial of Charter Renewal by Local Agencies

OCHS contends that review of a charter school renewal petition by a local agency (*i.e.* a local school district or county board of education) is a quasi-judicial proceeding, entitled to a less deferential standard of review on appeal to the State Board than denial of a petition to establish a new charter school, and that OCHS "possesses vested fundamental due process rights in the continuity of its charter" which requires "heightened due process" on a renewal decision. (Appeal Submission at pp. 4-5.)

This contention misstates both statutory and case law regarding charter appeals. In fact, review of a renewal petition by a local agency is a quasi-legislative proceeding, which is subject to the highest level of deference on review by the State Board, *i.e.*, the State Board may only reverse the local agencies' denial if it finds that both agencies abused their discretion.

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A. Charter Renewal Petition Review Is a Quasi-Legislative Proceeding

Because a charter school is deemed to be a school district for purposes of funding allocation, the approval of a new charter petition is akin to creation of a school district, *i.e.*, a quasi-legislative act.^[1] Pursuant to Education Code section 47607(a), a new charter has an initial term of five years, and must thereafter be renewed for one or more subsequent terms to remain valid. Just as granting a petition to establish a new charter is a quasi-legislative act because it creates a school district, granting or denying a petition to renew a charter at the end of its term is also a quasi-legislative act because it determines whether a charter remains in effect following its expiration.^[2] Accordingly, OCHS is incorrect that it “possesses a vested right in the continuity of its charter” (Appeal Submission at p. 4): its charter *expires* at the end of each term, and in order for that charter to be renewed, the school must satisfy the chartering authority that it has satisfied the statutory conditions for renewal. The fact that an administrative body, such as a school board or county board of education, acts in response to specific petitions or parties and indulges in a hearing process does not detract from the legislative nature of the action.^[3]

In a quasi-legislative proceeding such as the decision at issue here, “‘due process of law’ is not an issue”;^[4] and “there is no constitutional right to *any* hearing.”^[5] Only those governmental decisions which are adjudicative in nature are subject to procedural due process principles, and legislative action is not burdened by such requirements.^[6] Judicial review of quasi-legislative acts is limited to whether the agency’s actions were arbitrary, capricious, or entirely lacking evidentiary support.^[7]

One 2019 California Court of Appeal decision has characterized charter renewals as quasi-judicial in nature: however, the state Supreme Court ordered that decision to not be published, and therefore it is not binding precedent on future court decisions and cannot be cited in California courts.^[8]

But whether a charter renewal petition review is considered quasi-judicial or quasi-legislative is now largely a moot question, due to the Legislature enacting explicit statutory mandates to the State Board to grant the highest deference to local agency decisions when reviewing charter appeals, as set forth below.

B. Assembly Bill 1505 (2019) and Senate Bill 114 (2023) Established the “Abuse of Discretion” Standard for State Board Review, Which Is Highly Deferential to the Local District’s and County’s Decisions to Deny a Charter Petition Renewal

Prior to the passage of Assembly Bill 1505 (“AB1505”) in October 2019, when a charter renewal petition was denied by a local school district and a county office of education, the charter school’s appeal to the State Board of Education would be reviewed under the

same standards applicable to review by a local district or a county office—i.e., the State Board would review the petition *de novo*.^[9]

AB1505 changed charter appeal procedures by establishing “a limited appeal process to the [State Board], which will hear appeals for a charter school able to show the school district or county abused its discretion when hearing the petition.”^[10] Thus, under AB1505, when the State Board reviews an appeal of the denial of a charter petition, the State Board’s inquiry is now limited to whether the local district or the county office abused their discretion in denying the petition.^[11] On appeal, the State Board “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.”^[12] This procedure, and the applicable standard of review, is the same on the State Board’s review of local agencies’ decisions not to renew a charter as on its review of denial of a new petition.^[13]

Following AB1505, the Legislature clarified the standard of review in Senate Bill 114 (enacted in 2023), which explicitly states that “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.”^[14] The foregoing standard applies regardless of whether State Board review on a charter appeal is considered quasi-legislative or quasi-judicial.^[15]

Guidance in applying the “abuse of discretion” standard of review may be found in case law governing how courts apply the standard in reviewing agency decisions. There, a court’s authority “is limited to determining whether the decision of the agency was arbitrary, capricious, entirely lacking in evidentiary support, or unlawfully or procedurally unfair.”^[16] When reviewing an agency’s decision under the “abuse of discretion” standard, a court may reverse the agency’s decision only if, based on the evidence before the agency, a reasonable person could not have reached the agency’s conclusion.^[17] In making this determination, the court presumes substantial evidence supports the agency’s decision,^[18] and resolves reasonable doubts *in favor* of the agency’s findings and decision.^[19] Further, to warrant court reversal of a public agency’s decision, abuse of discretion must have been prejudicial.^[20]

Thus, in applying the new standard of review under AB1505, the State Board must let the denial decisions of OUSD and ACBOE stand, unless the State Board finds that OCHS has met its burden of demonstrating the District and County Board did not proceed in the

manner required by law, that their decisions were not supported by the findings, or that their findings were not supported by the evidence. Further, in reviewing the local agencies' decisions, the State Board "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."^[21]

II. OCHS Fails to Demonstrate that ACBOE Abused Its Discretion in Denying OCHS's Renewal

A. On Appeal to the State Board, OCHS Has the Burden to Show Abuse of Discretion by Both OUSD and ACOE

On its appeal of denial, OCHS must meet its burden of demonstrating abuse of discretion by both OUSD and ACBOE, in order to overcome the presumption that the local agencies' decisions were valid.^[22] This burden is only met if OCHS's Appeal Submission "detail[s], with specific citations to the documentary record, how the governing board of the school district and the county board of education abused their discretion."^[23] If OCHS does not meet its burden, then the State Board must deny its appeal.^[24]

To meet its burden, OCHS must provide specific citations to the documentary record to demonstrate that the local agency decisions were "arbitrary, capricious, entirely lacking in evidentiary support, or unlawfully or procedurally unfair."^[25] As demonstrated below, with respect to ACOE's actions, OCHS's Appeal Submission falls short of this standard.^[26] Therefore, the State Board must uphold the local agencies' denials and reject OCHS's appeal.

B. OCHS Fails to Meet Its Burden to Demonstrate that ACBOE Incorrectly Applied the Charter Renewal Standard of Review

OCHS contends that ACBOE's review did not properly follow the *de novo* review standard under Education Code section 47605(k)(1). (Appeal Submission at Part C, pp. 11-14.) This argument is based entirely on ACOE staff's *explanation* of the *de novo* standard to ACBOE during the meeting at which ACBOE made its decision. (*Ibid.*) However, the Appeal Submission fails to meet OCHS's burden to show that ACBOE failed to *apply* what OCHS contends was the correct *de novo* standard.

OCHS contends that ACOE staff "report[ed] the wrong legal standard" to ACBOE (*id.* at pp. 12-13); that ACOE staff's report explained the standard as more narrow than section 47605(c) requires (*id.* at p. 12); and that the *de novo* standard permits consideration by ACBOE of "new evidence" that OUSD had not considered (*id.* at pp. 13-14). However, OCHS's Appeal Submission contains *no* specific citations to the documentary record showing that there was any evidence presented to ACBOE which ACBOE improperly

failed or refused to consider in making its decision to deny OCHS's renewal. (*Id.* at pp. 11-14.)

C. OCHS Fails to Meet Its Burden to Demonstrate that ACBOE Failed to Follow the Law in Denying Renewal

OCHS contends that ACBOE failed to make the required findings to support denial of its renewal under Education Code section 47607.2(b)(6) or 47607(e). (Appeal Submission, Parts D & E.) This contention fails to establish a prejudicial abuse of discretion.

As shown in the minutes of ACBOE's April 8, 2025 meeting, ACBOE denied OCHS's renewal based on its finding that OCHS had a substantial number of "pervasive" fiscal and governance issues, including weak financial controls, as detailed in the staff report. (Supp. Documentary Record ("SR D.4 Financial/Operational Plan") at 0040-0043.)

The ACOE Staff Report described OCHS's fiscal and governance issues, which were originally identified by OUSD after "several months of investigation by the OUSD Office of Charter Schools," in detail at Part E.2.Fiscal and Governance Review (SR at 0047-0049.) These issues included violation of conflict of interest laws; failure of the AMPS governing board to uphold fiduciary duties and provide sufficient oversight; deficiencies in internal controls that could lead to material misstatements on financial statements; recent delinquency in filing an annual audit; inconsistent bookkeeping; and payments made for services not provided. (SR E.2.a Fiscal and Governance Review 0049-0052.)

The Staff Report detailed the notice that was provided to OCHS by OUSD under section 47607(e) in November of 2024, and how OCHS had failed to make satisfactory progress in implementing a Corrective Action Plan since the plan was presented to OUSD by AMPS in December 2024. (SR E2 0047-0048) The Staff Report further documented that OUSD had issued a Notice of Concern to OCHS in March of 2025—*while OCHS's renewal appeal petition was pending before ACBOE*—due to delinquency in filing its 2023-2024 annual audit. (SR D3 Financial Audits 0040-0041.)

Taken together, the Board's finding of pervasive fiscal and governance issues, backed up by the facts in the Staff Report (which was referenced in the Board's motion to deny) documenting ongoing violations and unsatisfactory progress on implementing the Corrective Action Plan, substantially complied with the procedure for denial set forth under section 47607(e). "Substantial compliance, as the phrase is used in [court] decisions, means actual compliance in respect to the substance essential to every reasonable objective of the statute." *Stasher v. Harger-Haldeman* (1962) 58 Cal.2d 23, 29. OCHS was not prejudiced by the findings made by the Board; and as OCHS acknowledges, findings of substantial fiscal or governance factors under section 47607(e) "obviates" any alleged shortcomings in findings supporting denial under section 47607.2(b)(6).

OCHS further contends that ACOE abused its discretion by failing to issue its own notice of violation under section 47607(e) and reasonable opportunity to cure the violation, even

though OUSD had already provided the required notice in November 2024 after months of investigation and AMPS had presented a corrective action plan to OUSD.

OCHS contends that ACBOE's reliance on the prior notice was improper, and that ACBOE should have issued a new notice and requested a new corrective action plan. However, section 47607 does not mandate this redundant procedure; and the statutory 90-day timeline for action on a charter renewal petition would make this redundant procedure impracticable: a county board of education would need to investigate the grounds for the notice of violation (a process which took OUSD, which had direct oversight responsibility over OCHS, *months*), take board action issue a notice of violation, allow submission of a corrective action plan and time for implementation, and further investigate to determine whether sufficient progress had been made.

OCHS does not contend that OUSD's investigation was inadequate or that its notice of violations by OCHS was not supported by evidence. ACBOE's reliance on OUSD's investigation and notice of violation was therefore reasonable. Further, the ACOE Staff Report did not rely only on OCHS's actions to implement the corrective action plan prior to OUSD's January 2, 2025 denial of renewal; rather, it reflected analysis of OCHS's progress on both fiscal and governance issues in January and February 2025, as well as its ongoing progress and its ongoing failures (including delinquency in filing an annual audit as of March 2025). (SR D3 0040-0041.) Thus, OCHS is incorrect to state that ACOE "[did] not make its own findings or offer its own analysis" (Appeal Submission at p. 17). Rather, ACOE Staff exercised its independent discretion and review, and thereby fulfilled its obligation to review the renewal petition *de novo*.

OCHS has not met its burden to establish that ACBOE failed to follow statutory procedures in making its decision to deny renewal.

D. OCHS Was Not Prejudiced in Obtaining the Documentary Record from ACBOE

OCHS's Appeal Submission complains that ACBOE, rather than furnishing a prepared documentary record to OCHS for this appeal, "provided a link to the video of the decision meeting, *and a transcript*," and "did not provide a copy of the charter petition that the Board voted to deny," "its own staff report," or "any of the appeal materials that OCHS submitted." (Appeal Submission at pp. 3-4, emphasis added.) This contention does not support finding that ACBOE abused its discretion in denying OCHS's appeal.

In the first place, an abuse of discretion is only grounds for overturning an agency decision where the abuse of discretion affected the decision itself, and was *prejudicial*.^[27] Actions or events occurring after the challenged decision are utterly irrelevant to determining whether the decision itself was an abuse of discretion; and it would be an abuse of discretion for the State Board to find that any deficiencies in the local agencies'

preparation of the documentary record for this appeal, after their denial decisions were made, prejudiced OCHS with respect to the actual denial decisions.^[28]

Moreover, ACBOE substantially complied with its record preparation obligations under section 47605(k)(2)(A) here. As OCHS admits, upon its request ACBOE provided both a link to the video recording and a transcript. (Appeal Submission at p. 3.) As for the original charter petition or the appeal materials submitted by OCHS, OCHS was presumably in possession of those materials already, given that OCHS created them in the first place. Further, all written materials considered by ACBOE, including the ACOE staff report, were—and still are—readily available for download by OCHS or anyone else, because they were part of the board materials attached to ACBOE’s online agenda for its April 8, 2025 regular meeting, as shown by the screenshot below (taken July 31, 2025):^[29]



Agenda Item Details

Meeting	Apr 08, 2025 - Regular Board Meeting
Category	6. CHARTER ITEMS
Subject	B. Determination Hearing for Oakland Charter High School Appeal of Renewal Petition
Type	Action
Recommended Action	That the Board take appropriate action to either approve or deny Oakland Charter High School's appeal for a charter renewal petition for the 2025-26 through 2029-30 school years.

Oakland Charter High School serves students in ninth through twelfth grades in Oakland, California and operates as a charter school authorized by the Oakland Unified School District (OUSD).

The school's current charter petition ends on June 30, 2025. OCHS' charter renewal petition was denied by OUSD on January 2, 2025. On January 30, 2025, the school submitted an appeal of the OUSD denial to the Alameda County Office of Education, requesting a charter renewal for a five-year term spanning the 2025-26 through 2029-30 school years.

ATTACHMENTS:

- OCHS Renewal Appeal Summary of Findings Report
- OCHS Renewal Appeal Summary of Findings Presentation
- OCHS Charter Renewal Petition
- Public Hearing Notice
- Site Visit Agenda
- OCHS Clarifying Questions Packet
- OCHS Response to Staff Report Presentation

1 - OCHS 2025 Renewal Appeal Staff Report.pdf (4,432 KB) 2 - OCHS 2025 Renewal Appeal ACOE Staff Slide Deck (4.8.25).pdf (3,892 KB)

3 - OCHS Appeal Initial Submission (1.30.25).pdf (53,320 KB) 4 - Notice of Public Hearing - OCHS Appeal of Renewal Petition (03.11.25).pdf (172 KB)

5 - OCHS Renewal Appeal Site Visit Agenda (3.6.25).pdf (144 KB) 6 - OCHS Appeal Clarifying Questions Packet.pdf (41,390 KB)

7 - OCHS Response to ACOE staff report 3.31.2025.pdf (1,620 KB)

OCHS's contentions regarding preparation of the documentary record have no relevance to its appeal of ACBOE’s non-renewal decision, and should be disregarded in determining whether ACBOE’s denial of renewal was an abuse of discretion.

III. CONCLUSION

The State Board has only limited authority to overturn a renewal decision on appeal from denial by a local school district and a county board of education: it may only do so on a finding of “abuse of discretion,” a standard that is highly deferential to the decisions of the local and county agencies. As set forth above, OCHS’s Appeal Submission fails to

overcome its burden to establish abuse of discretion. The State Board should deny OCHS's appeal and allow the discretionary decisions of OUSD and ACBOE to stand.

Sincerely,



Alysse Castro
Alameda County Superintendent of Education

[1] Ed. Code § 47612(c); *see Cal School Bds. Assn. v. State Bd. of Education* (2010) 186 Cal.App.4th 1298, 1324-25; *Cal School Bds. Assn. v. State Bd. of Education* (2015) 240 Cal.App.4th 838, 846-50.

[2] *See Cal School Bds. Assn. v. State Bd. of Education*, *supra* note 1, 186 Cal.App.4th at 1314, n. 12.)

[3] *Heist v County of Colusa* (1984) 163 Cal.App.3d 841, 846; *see also Joint Council of Interns & Residents v. Bd. of Supervisors* (1989) 210 Cal.App.3d 1202, 1211-12.

[4] *City of Santa Cruz v. Local Agency Formation Com.* (1978) 76 Cal.App.3d 381, 388-89, *emphasis added*.

[5] *Mateo-Woodburn v. Fresno Community Hospital & Medical Center* (1990) 221 Cal.App.3d 1169, 1183, *emphasis in original*; *Franchise Tax Board v. Superior Court* (1950) 36 Cal.2d 538, 549; *see Bi-Metallic Co. v. Colorado* (1915) 239 U.S. 441, 445 (explaining the nature of the "legislative-adjudicatory" distinction).

[6] *Mullane v. Central Hanover Tr. Co.* (1950) 339 U.S. 306, 313.

[7] *Heist*, *supra* note 3, 163 Cal.App.3d at 846.

[8] *Oxford Preparatory Academy v. Chino Valley Unified School Dist.* (Cal. App. 4th Dist. Jul. 11, 2019) no. D074703 (review denied, ordered not published Oct. 23, 2019).

[9] *See* Cal. Ed. Code § 47605.5, version effective January 1, 2001 to June 30, 2020, as enacted by Stats.2000, c. 160 (S.B.326), § 1 ("... the charter school may submit its application for renewal [to the State Board] pursuant to the procedures pertaining to a denial of a petition for establishment of a charter school, as provided in subdivision (j) of Section 47605"); Cal. Ed. Code § 47605(j)(1), version effective July 1, 2019 to December 31, 2019, as amended by Stats. 2019, c. 51 (S.B. 75), § 30 (on appeal, "... the state board may approve the petition, in accordance with subdivision (b).")

[10] Assembly Floor Analysis, AB1505, Concurrence in Senate Amendments (Sep. 5, 2019), Summary 5 (*emphasis added*, available at https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200AB1505#; *see also* Senate Rules Committee Floor Analysis, AB1505, Comments

§ 6, pp. 8-9, available at https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200AB1505#.)

[11] Ed. Code § 47605.5, effective July 1, 2020 (“... the charter school may appeal the [nonrenewal] decision pursuant to the procedures pertaining to a denial of a petition for establishment of a charter school, as provided in subdivision (k) of Section 47605 for review in accordance with Section 47607.”); Ed. Code § 47605(k)(2)(E), effective July 1, 2020.

[12] Ed. Code § 47605(k)(2)(E).

[13] Ed. Code § 47605.5, *supra* note 9.

[14] Ed. Code § 47605(k)(2)(E), as amended by Stats.2019, c. 486 (A.B.1505), § 2, eff. Jan. 1, 2020 and Stats.2023, c. 48 (S.B.114), § 41, eff. July 10, 2023.

[15] “There is no published case since the enactment of [AB1505], which altered the State Board's role in the [charter appeal] process, addressing whether, in considering an appeal from a school district board or a county board, the State Board acts in a quasi-legislative or quasi-judicial fashion. Because we conclude the outcome of these appeals would be the same under either standard of review, we need not resolve this dispute.” *Napa Valley Unified School Dist. v. State Bd. of Education* (2025) 110 Cal.App.5th 609, 624-625, review denied (June 25, 2025).

[16] *Fullerton Joint Union High School Dist. v. State Bd. of Education*, 32 Cal.3d 779, 786 (1982); *see also California School Bds. Assn. v. State Bd. of Education*, 186 Cal.App.4th 1298, 1314 (2010); *County of Del Norte v. City of Crescent City*, 71 Cal.App.4th 965, 972 (1999); *California Correctional Peace Officers' Assn. v. State*, 181 Cal.App.4th 1454, 1459-60 (2010).

[17] *Paoli v. Cal. Coastal Com.* (1986) 178 Cal.App.3d 544, 550-551.

[18] *Ross v. California Coastal Com.* (2011) 199 Cal.App.4th 900, 921.

[19] *Topanga Assn. for Scenic Community v. County of Los Angeles*, 11 Cal.3d 506, 514 (1974).

[20] Code Civ. Proc. § 1094.5(b) (“The inquiry in [a court proceeding on a petition for a writ of administrative mandate] shall extend to the questions whether the respondent has proceeded without, or in excess of, jurisdiction; whether there was a fair trial; and whether there was any *prejudicial* abuse of discretion,” *emphasis added*).

[21] Ed. Code § 47605(k)(2)(E), *emphasis added*.

[22] *See* footnote 18, *supra*.

[23] Ed. Code § 47605(k)(2)(A).

[24] *See* Ed. Code § 47605(k)(2)(C) (providing that the local agencies “*may* submit a written opposition to the state board detailing, with specific citations to the documentary record, how [they] did not abuse [their] discretion in denying the petition.”); *compare with* Ed. Code §

47605(k)(2)(A), which provides that the appealing charter petitioner “shall” provide its written submission detailing, with specific citations to the documentary record, how the agencies did abuse their discretion.

[25] See footnote 16, *supra*.

[26] Also, with respect to OUSD’s actions, OCHS:

- Fails to provide specific citations to the documentary record to demonstrate an absence of evidence to support OCHS’s decision. (See Appeal Submission, part A.) OCHS contends that the OUSD Board’s resolution does not make any findings; but because that resolution (reproduced on page 9 of the Appeal Submission) explicitly adopts the OUSD Staff Report, OCHS’s burden is to show that the Staff Report is devoid of evidence to support OUSD’s resolution. OCHS provides no citations to the documentary record to support such a showing.
- Fails to demonstrate procedural unfairness in OUSD’s decision. (See Appeal Submission, part A.) That a single OUSD Board member made critical comments about OCHS or its operating entity AMPS during deliberations does not demonstrate either improper bias, or a lack of evidence to support OUSD’s vote to deny renewal. Absent a direct financial interest, there is a presumption of impartiality, absent “extreme facts.” *Today’s Fresh Start, Inc. v. Los Angeles County Office of Education* (2013) 57 Cal.4th 197, 219. “That [Board] members developed opinions about the petition after having the opportunity to review it, but before voting, is not evidence of unfairness.” *Napa Valley Unified School Dist. v. State Bd. of Education*, *supra* note 15, 110 Cal.App.5th at 627.
- Contends that the OUSD Board member’s remarks during deliberations were “lacking in evidentiary support”; but fails to demonstrate, with specific citations, any evidence in the OUSD staff report that contradicts those remarks. (See Appeal Submission, part A.)
- Incorrectly contends that OUSD’s failure to prepare a transcript of its Board meeting to OCHS was an abuse of discretion that is relevant to this appeal. Under well-settled legal precedent, only a *prejudicial* abuse of discretion (*i.e.*, one that effected the *decision itself*) is grounds for overturning an agency decision. See Part II.B.2 below. OUSD’s alleged refusal to prepare a transcript of a meeting that had *already occurred* could not possibly have prejudiced OCHS with respect to OUSD’s decision that was made at that meeting.

If OCHS fails to meet its burden to demonstrate abuse of discretion by *both* OUSD and ACBOE, then even if the State Board finds that one agency abused its discretion, it must let the non-renewal decision stand. (Ed. Code § 47605(k)(2)(E).)

[27] See, e.g., *Alpha Nu Assn. of Theta Xi v. University of Southern California*, 62 Cal.App.5th 383, 407 (2021) (finding that university’s hearing of a complaint regarding fraternity hazing that was submitted two months after the deadline did not prejudice the fraternity chapter, where there was “little prospect that this modest untimeliness would obstruct the investigation or prejudice Theta Xi’s defense” and the fraternity chapter did “not claim that any evidence had gone stale.” See also *Tran v. County of Los Angeles*, 74 Cal.App.5th 154, 173 (2022) (finding that Board’s erroneous issuance of permit decision after 30-day deadline resulted in less favorable outcome to Plaintiff, because Board lacked jurisdiction after deadline, and therefore the more favorable decision of Commission should have been deemed affirmed).

[28] See, e.g., *Hahn v. Diaz-Barba* (2011) 194 Cal.App.4th 1177, 1193 ("when reviewing the correctness of a trial court's judgment [for abuse of discretion], an appellate court will consider only matters which were part of the record at the time the judgment was entered"); *Cypress Security, LLC v. City and County of San Francisco* (2010) 184 Cal.App.4th 1003, 1014 ("In reviewing a decision, we may consider *only matters that were before the decision maker at the time of its decision* [citations], and [a memorandum prepared after the decision being challenged] therefore has no relevance to abuse of discretion by [the department that made the decision], or any possible error in [the department's] decision." (emphasis added)).

[29] ACBOE's agendas are posted online at <https://go.boarddocs.com/ca/acoe/Board.nsf/Public>. The complete board materials for OCHS's appeal to ACBOE are under the April 8, 2025 board meeting agenda, attached to agenda item 6.B on the online agenda. The shaded links at the bottom of the screen shot lead to downloadable copies of the documents cited in those links.