STAFF REPORT AND PROPOSED FINDINGS OF FACT REGARDING SAN LEANDRO CATALYST COLLEGIATE CHARTER PETITION

San Leandro Unified School District
Board Meeting: April 14, 2020

I. INTRODUCTION

A. Background

On February 3, 2020, the San Leandro Unified School District ("District") received a charter petition ("Petition") from San Leandro Catalyst Collegiate ("Petitioner"), a California nonprofit public benefit corporation, seeking to establish a public charter school to be called San Leandro Catalyst Collegiate Charter School ("Charter School").

Petitioner requests a five year term for the Charter School from July 1, 2021 through June 30, 2026. Petitioner anticipates that the Charter School would serve students in grades TK through 5 and would commence operations in the 2021-2022 school year with a Year 1 enrollment of 120 students in grades TK-1. Starting in Year 2, the Charter School would add 60 students and one grade each year, as it grows to a full capacity of 360 students by Year 5. (Petition, pp. 307.)

Petitioner does not currently operate any other charter schools.

B. Timeline for Board Action

Petitioner submitted its Petition on February 3, 2020. Pursuant to Education Code section 47605(b), the District and Petitioners agreed on February 3, 2020 to extend the statutory timeline for consideration of the Petition from 60 days to 71 days, through and including April 14, 2020, in order to conform to the District's scheduled Board meetings. Pursuant to that agreement, the District held a public hearing on March 10, 2020, so that the District's Governing Board ("Board") could consider the level of support for the Petition. (Ed. Code, § 47605(b).) The matter is scheduled for the Board to take final action regarding approval or denial of the Petition on April 14, 2020.

C. Standards for Evaluation of a Charter Petition

New charter school petitions are evaluated under Education Code section 47605. Section 47605 was amended in 2019 via Assembly Bills 1505 and 1507, with most of the substantive amendments going into effect on July 1, 2020. This memorandum applies the provisions of Section 47605 that are currently effective from January 1, 2020 to June 30, 2020.

A local educational agency may not deny the approval of a charter petition unless it makes written factual findings, specific to the particular petition, that one of the following conditions is true:

- The charter school presents an unsound educational program. (Ed. Code § 47605(c)(1).)
    - For new charter petitions reviewed by the State Board of Education, "an unsound educational program" is one that: (1) involves activities that the Board determines

would present the likelihood of physical, educational, or psychological harm to the affected pupils; or (2) is not likely to be of educational benefit to the pupils who attend. (5 C.C.R. § 11967.5.1(b).)

- The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition. (Ed. Code § 47605(c)(2).)

- The petition does not contain the required number of signatures, i.e., either of parents equivalent to at least one half of the pupils that the charter school estimates will enroll in the first year of operation, or of teachers equivalent to at least one-half the number of teachers that the charter school estimates it will employ in the first year of operation. (Ed. Code § 47605(c)(3).)

- The petition does not contain an affirmation of each of the conditions described in Education Code section 47605(e): i.e., that the school will be non-sectarian; will not charge tuition; will not discriminate; shall admit all students who wish to attend, or if more students wish to attend than the school's capacity, will determine admission by a random drawing with only statutorily-authorized preferences; will not determine admission according to a pupil's place of residence; and will notify the district if a student is expelled or leaves the charter school without graduating or completing the school year.

- The petition does not contain reasonably comprehensive descriptions of all of the 16 required elements of the petition (Ed. Code § 47605(c)(5)(A)-(O)): its educational program; measurable pupil outcomes; how progress in meeting outcomes is measured; governance structure; employee qualifications; health and safety procedures; means by which the school will achieve a balanced student population; admission policies & procedures; annual audit procedures; suspension & expulsion procedures; staff retirement plans; school attendance alternatives for pupils residing in the District who choose not to attend charter schools; rights of District employees upon leaving the District to work at a charter school, and of return to the District after employment at a charter school; dispute resolution procedures; and closure procedures.

    - For new charter petitions reviewed by the State Board of Education, "reasonably comprehensive" means that the petition's description of the above elements:

        - Is substantive and is not, for example, a listing of topics with little elaboration;

        - Addresses all aspects of multiple elements;

        - Is specific to the charter petition being proposed;

- Describes, as applicable among the different elements, how the charter school will: (1) improve pupil learning; (2)increase learning opportunities; (3) expand educational opportunities; (4) hold itself accountable for outcomes; and (5) provide vigorous competition in the public school system.

(5 C.C.R. § 11967.5.1.)

II. Summary and Recommendation for Denial of Petition

District Staff believes deficiencies in the Petition in its present form warrant denial, based on the following grounds, pursuant to Education Code section 47605:

1. The Petitioners are demonstrably unlikely to successfully implement the program set forth in the Petition. (Ed. Code, § 47605(b)(2).)

2. The Petition does not contain reasonably comprehensive descriptions of the following required elements set forth in Education Code section 47605 (b)(5)(A-O):
    a. Educational Program
    b. Governance Structure
    c. Health and Safety Procedures
    d. Admissions Policies and Procedures
    e. Audit Procedures
    f. Dispute Resolution Procedures
    g. Closure Procedures

In making the findings of fact set out in this Report, District staff and legal counsel have considered each element of the Petition in light of the standard for a "reasonably comprehensive" program description and the specific criteria for each required element as set out in Cal. Code of Regulations, Title 5, § 11967.5.1(g).

The detailed factual support for the above findings is set forth below.

III. Factual Support for the Proposed Findings

A. Petitioner Is Demonstrably Unlikely to Successfully Implement the Program Set Forth in the Petition

The California Code of Regulations sets out guidelines for use in evaluating a charter school petition that is submitted to the State Board of Education ("SBE") on appeal that are instructive in determining when petitioner is "demonstrably unlikely" to successfully implement their program. The Regulations set forth the following factors in determining whether charter petitioners are "demonstrably unlikely to successfully implement the program": (1) if the petitioners have a past history of involvement with unsuccessful educational programs (e.g., a charter school whose petition was revoked, or ceased operation for reasons within their control); (2) if the petitioners are unfamiliar with the content of the petition or charter school legal

requirements; (3) the petition presents an unrealistic financial or operational plan; or (4) the petitioners personally lack the necessary background in curriculum, instruction, and assessment, or finance and business management, or do not have a plan to secure the services of individuals who have the necessary background in these areas. (5 C.C.R. § 11967.5.1(c).)

Using these Guidelines, District staff have identified issues regarding familiarity with charter school legal requirements, the financial and operational plan, and the Petitioners' backgrounds which support a finding that Petitioners are demonstrably unlikely to successfully implement the program set forth in the Petition.

1. The Petition Suggests Possible Unfamiliarity with Current Charter School Legal Requirements

The Petition's English Learner educational program describes reclassification criteria that are out of date, as described below in Part III.B.2.a. This could indicate that elements of the Petition were copied from older charter petitions from other schools, and were not sufficiently analyzed by Petitioners. Additionally, the Petition's audit procedures are not compliant with the California Nonprofit Integrity Act of 2004, as set forth below in Part III.B.6; and the Petition fails to address legal requirements regarding sexual harassment training, as set forth below in Part III.B.4.

2. Petitioners Lack Necessary Background in Operating an Elementary School

Based on the Petitioners' resumes in Appendix 8 of the Petition, several have backgrounds in finance and business management. Three petitioners, Elizabeth Raji-Greig, Keyur Shah, and Nicollete Fox (the proposed School Director), appear to have backgrounds in curriculum, instruction, and assessment. However, none of them have experience as the head administrator of a school, and none has administrative experience of any kind with an elementary school. Ms. Fox has held a Preliminary Administrative Services Credential since 2018 and expects to obtain a Clear Administrative Services Credential in 2021. Her only experience as a school administrator consists of one year as a Vice Principal at Impact Academy of Arts and Technology, a charter high school in Hayward.

3. Operational Plan: Teacher Recruitment and Retention

All of the teachers who signed the Petition as being "meaningfully interested" in teaching at the Charter School currently teach at Aspire Berkley Maynard Academy, a charter school in Oakland, near Emeryville. (See Petition, Appendix 1.) One of those signatories, Jay Stack, is currently principal of Berkley Maynard. We find it unlikely that all of these signatories, currently employed at another nearby charter school, have a genuine or meaningful interest in teaching at the Charter School—especially Mr. Stack, who would be taking a demotion by making that transition.

Additionally, the proposed compensation structure does not render the proposed Charter School likely to successfully recruit highly qualified and experienced teachers. The salary scale is competitive for starting teacher salaries. However, even factoring in the proposed Charter School's health insurance cap, veteran teacher salaries are more than $12,000 below the highest District teacher salaries. Additionally, the proposed Charter School's salary schedule does not

promote continued learning by teachers, in that there is no increased compensation for earning additional units or advanced degrees.

The proposed Charter School will not be participating in CalSTRS and will instead offer a 403(b) retirement account with a maximum of a 5% employer match. (Petition at p. 291.) With a final pension amount based on a much reduced contribution that would be directly impacted by investment returns, Staff predicts that the proposed Charter School will have difficulty recruiting teachers.

Teachers at the charter school will be required to have workdays of at least 8 hours and 30 minutes per day (Petition at p. 74), compared with District teachers who have a required workday of 6 hours and 40 minutes. Charter teachers would be working 1 hour and 50 minutes more per day than their district counterparts, or about a 27% longer workday.

Additionally, Charter teachers will be teaching 184 days and attend an additional 26 required days of professional development per year, for a total of 210 workdays per year. This compares to 186 days for District teachers, which is a difference of 24 workdays per year (more than a month), equating to teachers at the proposed Charter School working about a 13% longer work year than District teachers. Overall, the additional hours and days of Catalyst teachers add up to more than 81 additional workdays beyond what current San Leandro USD teachers are required to perform.

Finally, the staffing chart in the Petition does not indicate who will be responsible for student supervision during recess periods. Because teachers will already be working 8.5 hour workdays, adequate supervision during recess will be important, and the Petition does not address staffing for this part of the day.

With a longer workday, longer work year, lack of a defined contribution pension system, and lack of protections provided through a collective bargaining agreement, the charter school may find it very difficult to attract and retain highly qualified teachers in an era with an extreme teacher shortage.

4. Operational Plan: Teacher Employment Policies and Procedures

The Petition's description of the staff performance evaluation process (Petition at p. 242) is vague, and lacks substantive evaluation criteria, such as the California Standards for the Teaching Profession. Additionally, although the Petition states that the Charter School will process and maintain teacher credentials according to the requirements of the Commission for Teacher Credentialing and the State's interpretation of "highly qualified" for the purposes of compliance with the *Elementary and Secondary Education Act* (ESEA) (also known as *No Child Left Behind*) (NCLB) (Petition at p. 241), the Petition does not affirm that the teachers it hires will be "highly qualified" and NCLB compliant.

5. Operational Plan: Potential Civil Liability Effects and Insurance Budget

The Petition does not describe the amounts of insurance coverage that will be maintained by the Charter School. Rather, the Petition states that "insurance amounts shall be determined by recommendation of the District and San Leandro Catalyst Collegiate's insurance company for

schools of similar size, location, and student population." This vagueness prevents the District from being able to ascertain whether such coverage will be sufficient enough to protect the students and staff of the Charter School and the District from potential liability of the Charter School and the acts, errors, and omissions of the Charter School's board of directors. Additionally, failure to state the amounts of insurance coverage prevents District staff from assessing whether the budgeted premium amounts of $82 per student is realistic. The District currently pays approximately $90 per ADA for property and liability insurance premiums; however, the District expects that premiums are likely to increase by as much as 10 percent in the 2020-2021 fiscal year.

6. Operational Plan: Student Recruitment and Retention; Class Sizes

The Petition proposes class sizes of 30:1 for TK-3, which is 25% higher than the District's maximum of 24:1. While this class size ratio is allowable under the Local Control Funding Formula, it is significantly higher than the District's target and funding of average 24:1. District staff questions whether a school with a much larger student-to-teacher ratio will remain attractive to students (or teachers), and whether the school will be able to fill all of its rooms at 30:1. The District's multi-year projection requires near-capacity student enrollment to maintain its finances.

An additional issue with student recruitment is Petitioners' statement that the Charter School will use "a combined classroom setting for transitional kindergarten and kindergarten." (Petition at p. 60.) District staff doubts that this format will be attractive to parents, because Petitioners stated to District staff in a March 3, 2020 meeting that the combined format was not proposed for instructional or pedagogical design purposes, but instead for purposes of increasing enrollment (*i.e.* ADA) and easing the process of forming classes, and that the Charter School would not attempt to balance the numbers of TK and K students in these combined classes. Nor did Petitioners present a plan for differentiating TK and K instruction across all instructional topics. The District disfavors combining classes in this manner without a clear pedagogical justification; and the proposed format does not appear informed by current early-childhood learning research but rather is proposed for purposes of fiscal efficiency and operational convenience.

Further, the proposed Charter School is planning to purchase 15 Chromebooks per class, which is a ratio of two students per device. While the budgeted expenditure for computers appears adequate, District parents are aware that the District is able to provide one device per student, with district instructional pedagogy based on that ratio. The proposed Charter School will thus not be technologically competitive with District schools.

7. Operational Plan: Failure to Identify a Location Where the Proposed Charter School Will Operate

Section 47605(a) requires that a petition "identify a single charter school that will operate within the geographic boundaries of that school district." Section 47605(g) further requires that a petition "provide information regarding the proposed operation and potential effects of the charter school, including, but not limited to, the facilities to be used by the charter school […]," and that "[t]he description of the facilities to be used by the charter school shall specify where the charter school intends to locate."

The Petition does not identify a proposed location for the Charter School. The Petition states that Petitioners intend to apply for District facilities through the Proposition 39 process (Petition at p. 305); and that Petitioners are additionally searching for commercial properties that could house the proposed Charter School through its first two years of operation, "as a second option for facilities if the Proposition 39 process does not yield a result acceptable to enrolled families. (*Ibid.*) The Petition states that Petitioners wish to have facilities located within the 94578 zip code, but does not address whether there is any available inventory of possible school site locations within District boundaries that are appropriate to house a TK-5 charter school.[1]

The location of the proposed Charter School must accommodate 360 students by year five of operation to include sufficient classroom space, playground/open space, offices, and ample parking with appropriate ingress/egress access. The school would need to secure a facility within District boundaries that can be ready for use at the start of the 2021-22 school year with the potential to meet enrollment and programmatic needs in future years. The site would need to have a Certificate of Occupancy or other certification demonstrating compliance with Education Code section 47610(d).

The District does not currently have, and does not expect to have, existing vacant space within the desired Zip code that would be adequate to place the proposed Charter School in Year One of operation, when it proposes to open with enrollment of 120, with exclusive allocation of that space to the Charter School. Nor does the District expect to have existing vacant space that would be adequate to be exclusively furnished for Charter School's proposed enrollment of 360 in Year Five of operation. In order to accommodate a Proposition 39 facilities request by the proposed Charter School, the District would need to modify existing facilities to provide for sharing space with the Charter School—possibly by adding portable buildings to an existing District school site, which may not be within the 94578 Zip code.

Although the Petition states that if the Charter School "is not able to acquire a suitable facility through Proposition 39, [it] may seek to rent or purchase a facility," and that its board "has assembled a Facility Task Force to evaluate options" (Petition at p. 318), the Petition does not demonstrate that the Task Force has evaluated any such options or has factored the cost of such options into its Budget. Thus, the Petition does not adequately describe the types and potential locations of facilities needed to operate the size and scope of the educational program proposed in the charter. The resulting lack of specificity and uncertainty about where the Charter School will operate (and the type of facilities it will use) makes it impossible to evaluate whether it has sufficiently budgeted for facilities costs (as detailed below in Part III.A.8.h). Without the identification of a valid location or description of facilities, Petitioners cannot successfully implement their program or demonstrate a plan to serve the interests of the entire community where it plans to locate.

[1] Much of the 94578 Zip code is located outside District boundaries. Pursuant to Education Code section 47605(a), a charter school whose petition is approved after January 1, 2020 must locate within the boundaries of the authorizing district.

8. Operational Plan: The Proposed Budget Is Unclear, Reflects Dubious Assumptions, and Demonstrates that the Financial and Operational Plan is Not Viable

District Staff has identified elements of the Petition that do not have adequate budgetary amounts allocated for them, or whose financial and operational plan depends on factors that are uncertain or speculative, as discussed elsewhere in this Report and below.

Taken together, faulty and erroneous budgetary assumptions have the potential to decimate the Charter School's reserves and bring them below legally required levels for viability. As demonstrated on the chart attached hereto as **Exhibit 1**, the faulty estimates detailed below could add up to approximately $111,479 in combined revenue shortfalls and excess expenditures over the Petition's estimates for Year One of operation—which would exceed the projected Year One ending fund balance of $97,155 by over $14,000 and render the Charter School insolvent. As further discussed below in Part III.A.8.h, if the proposed Charter School were to decline a District offer of shared facilities under Proposition 39 and instead lease commercial space at the prevailing market rate, the additional facilities cost over Petitioners' budget projections would also likely result in a negative fund balance after only the first year of operation.

Furthermore, the fact that multiple areas of the budget are unclear or based on dubious assumptions—including failure to estimate and account for alternative proposed facilities scenarios—raises concerns regarding the thoroughness and overall robustness of Petitioners' financial plans.

a. Assumptions Regarding Title I Revenue

The Petition budgets a Title I funding rate of $350 per eligible student (free/reduced lunch count). In 2019-20, the District is budgeted to receive only $276 per eligible student. Assuming that Title I funding levels remain relatively flat by the proposed Charter School's first year of operation, this difference equates to an overestimation of revenue of more than $5,600 in the first year for the proposed Charter School. This difference increases to almost $17,000 annually at full enrollment, based on current funding levels.[2]

b. Assumptions Regarding Grants

The proposed Charter School's finances are dependent on a $150,000 committed startup grant from Silicon Schools Fund for its pre-opening operations. The Petition budgets an additional $175,000 in grants from Silicon Schools Fund in its first year of operations, based on a commitment from Silicon Schools for "*up to* $500,000" in additional funding in the first two years of operation "upon the school's successful opening." (Petition at p. 309, emphasis added; *see also* Commitment Letter, Petition Appendix 4 at pp. 11-12.) Although the Petition states it is only including $175,000 of that contingent funding in its budget, neither the Petition nor the

[2] Title I funding is subject to fluctuation from year to year: therefore, the District's own multi-year projections estimate future-year Title I funding as equal to current-year funding due to difficulty of predicting increases or decreases. The basis for Charter School's estimate of $350 per eligible student is notated as "based on Title I funding for other Alameda County charter schools." (Petition, Appendix 13 at p. 4.)

Commitment Letter states the criteria upon which the amount and eligibility of these additional grants will be determined by Silicon Schools Fund. If these contingent grants are lower than estimated, or not received, the continued existence of the charter school would be in jeopardy.

c. Professional Development

The proposed Charter School's professional development plan is clearly not adequately budgeted for. The Petition states that "Teachers will attend Induction Training over the summer and weekly professional development throughout the school year to review, internalize, and practice CCSS-aligned curriculum." (*See generally* Petition at pp. 166-180; Petition, Appendix 14: "Induction Training Scope & Sequence".) However, it is unclear whether the Summer Induction training is included in the "Professional Development" budget or in a different budget line item. The Petition's budget items for "Professional Development" and "Professional Development - Other" (Items 5863 and 5864) reference "STEP implementation" and "BES follow on support Year 1 and Year 2," respectively. If professional development is to be contracted, then such services must be part of the budget. If professional development training is to be designed and delivered in-house, then that training development must be accounted for in the budget.

To support integrated ELD (see discussion below regarding English Learners), the Charter plans to provide Guided Language Acquisition Design (GLAD) training for teachers. GLAD certification can cost from $1215 per participant at UOP,[3] to $2300 per participant through ACOE.[4] Again, the Petition's budget line items for "Professional Development" and "Professional Development - Other" (Items 5863 and 5864) reference "STEP implementation" and "BES follow on support Year 1 and Year 2," respectively, but do not reference GLAD training. GLAD also requires teacher observations in the field during the academic school year for multiple days, so implementing this training would require substitute teachers. The budget does not explain how these additional costs will be handled.

Additionally, the proposed Charter School's professional development budget does not provide for teacher training that would be required to adequately service special education students in mainstream classrooms. As discussed below in Part III.B.1.e, the professional development plan set forth in the Petition does not mention special education, except for one unit of the four-week "Induction Training" that provides an overview of "Special Education Supports." (Petition at p. 90; Petition, Appendix 14 at p. 6.)

d. Instructional Materials

The Petition budgets $4,000 to open each of four classrooms with adequate textbooks and curricular materials, which equates to $133 per student. This figure appears to be significantly below the actual expected cost for the adoption of a single subject area. In 2017-18, the District spent approximately $263 per student for a districtwide TK-12 English Language Arts adoption—including textbooks, supplementary materials, teacher editions, consumables, and

[3] *See* https://www.pacific.edu/academics/schools-and-colleges/benerd-college/professional-development/courses-for-teachers/be-glad-certificate.html.

[4] *See* http://www.integratedlearningacoe.org/elective-opportunities?category=Creative+Inquiry.

online access (at over $2.3 million total District cost). The Petition budgets one-half of the per-student cost of a single adoption, which is far from adequate.

The charter school is expecting to spend $133 per student to purchase the following instructional adoptions for all new classrooms: English Language Arts/English Language Development, Mathematics, Science, Social Studies, Visual And Performing Arts, Physical Education, Health (including family life), and any social-emotional support materials. There are additional instructional material requirements for all TK classes. Based on known District costs, the budgeted amount appears insufficient.

The Petition budgets $2,000 per year per classroom for ongoing replacement of textbooks, with a goal of replacing core texts every four years. The amount of $67 per student may be adequate to cover routine damage and replacement costs, but would be approximately one-fourth of the total cost of a full new adoption.

e. Custodial Supplies

The Petition includes a budget of $150 per month for schoolwide custodial supplies, or $1,800 per year. The custodial supplies budget shows a small increase each year, based on inflation (e.g., increases to $1,836 in Year 2); however, the budget does not appear to increase based on expected student enrollment growth. The Petition budgets $15 per student per year in the first year, and $5.41 per student in the fifth year of operations.

The district has budgeted school site custodial supplies at $34 per student for the current year. Petitioners seem to have significantly underestimated the true cost of providing adequate custodial supplies for its operations.

f. Janitorial and Gardening Services and Supplies

The Petition budgets $12,000 per year for contract custodial and gardening services and supplies in its first year of operation. This averages about $46 per weekday throughout the year, and includes items such as gardening supplies, pest control, and unscheduled maintenance. The budget is not sufficient for adequate cleaning of the number of classrooms, offices, restrooms, and other spaces listed in the petition (9,600 square feet in first year). The District will spend more than three times that amount per equivalent number of students on custodial services alone in the current academic year.

g. Special Education Contract Instructors

The Petition has budgeted $400 per ADA for special education contract services, or $45,600 in its first year of operation. Ongoing large increases of special education costs have been impacting district budgets in California for a number of years. The District's total special education costs for all contract services, including specialists and Non-Public School placements, is budgeted at $900 per ADA this year. With the proposed Charter School budgeting significantly less than half that amount, the budget is unlikely to be adequate to serve the average cross section of students who may wish to enroll in the proposed Charter School. Based on district experience, the budget of the charter school should be about $102,000 in its first year of operation. The school's budget and professional development plan do not seem to provide for

accepting students with disabilities in the moderate to severe range, which does not align with the school's stated philosophy regarding serving diverse populations.

h. Operational Plan: Facilities Costs

The uncertainties regarding where the Charter School will locate, which are set forth above in Part III.A.7, make it difficult to evaluate whether the budget allocated for facilities is viable. The Petition sets forth two scenarios for the Charter School's location: either District-furnished facilities under Proposition 39, or leased commercial facilities. However, the Budget only takes the first scenario into account, and does not plan for the possibility that Petitioners would not accept available District-furnished facilities.

The proposed Budget predicts Year 1 expenditures of $120,000 for "Proposition 39 related costs," based on an estimate of $12.50 per square foot *pro rata* facilities fee and the use of 9,600 square feet of District-owned space. The District believes Petitioners' estimate of a *pro rata* per-square-foot rate to be reasonable. However, if Petitioners determine that "if the Proposition 39 process does not yield a result acceptable to enrolled families" (Petition at p. 305),[5] and instead choose to lease a commercial property to house the proposed Charter School, rent for such space would likely be much higher—potentially more than double Petitioners' estimate.

District staff has been looking for several years for a space to lease or purchase to house the District offices, which would occupy approximately 9,000 square feet. However, the District has not been able to find appropriate affordable space; and as a result, District staff are currently housed in several facilities across the District, including at City Hall. A survey of currently available commercial properties in San Leandro shows prevailing monthly market rates of between $2 and $3 per square foot. Using $2 per square foot as an estimate, a facility of 9,600 square feet would cost $230,400 annually—an excess cost which by itself would deplete the Charter School's projected $97,155 reserves below zero in Year One.

Further, the proposed Budget does not account for any costs of converting leased commercial space into a space suitable to house an educational program (which could run into hundreds of thousands of dollars, depending on the location chosen); or of the costs of maintaining an option on space to expand at a leased school site as the Charter School's enrollment grows.

Thus, although the facilities costs in the proposed Budget are realistic if the Charter School accepts an offer of District-owned facilities under Proposition 39, the Budget does not account

[5] As noted above in Part III.A.7, existing District facilities currently do not include 9,600 square feet of vacant space at a single site; and a Proposition 39 facilities offer to the proposed Charter School could involve sharing space with an existing District facility, which would require modifications to the site to add the additional capacity required to accommodate the Charter School.

Sharing space with a District facility would result in somewhat lower facilities costs, because the portion of space that is not exclusively reserved for the charter program is charged to the charter school at a rate proportionate to the amount of space the charter program is exclusively allocated at the facility. (5 C.C.R. § 111969.7(c).) However, such space would not be guaranteed to be located within the Zip code preferred by Petitioners; and it is not guaranteed that Petitioners would accept the offered shared-space arrangement, depending on the location and configuration of the available facilities.

for, and the Petition does not provide a contingency financial plan for, the proposed alternative of Charter School securing its own facilities on the commercial market.

i. Translation Services

The Petition mentions that marketing and enrollment materials will be translated, along with informational sessions. However, the Petition does not include any budgeted amount for translation services. The District is highly linguistically diverse, with a high percentage of students whose home language is other than English: as such, all outward communications to families (including, but not limited to, progress reports, discipline notices, Individualized Education Plans (IEPs), other parent notifications, and meeting and conference materials) are translated into both Chinese and Spanish. For example, with 32% of our families indicating Spanish as their primary language, it is essential to establish funding for communications to be translated into Spanish and to provide interpretation at meetings. The Petition does not account for the cost of these services.

j. Miscellaneous

As discussed below in this Report, the proposed Budget also fails to account for additional expenditures, including without limitation: other needed English Learner professional development, English Learner Advisory Committee meetings, and sexual harassment prevention and other State-mandated trainings.

B. The Petition Does Not Contain Reasonably Comprehensive Descriptions of All Required Elements

On its face, the Petition appears to contain the following mandatory components:

- Signature pages;[6]
- Completed Assurances page;
- Evidence of the organization's incorporation, if applicable;
- Detailed curriculum information;
- Statutorily required affirmations;
- Organizational chart of school;
- Declaration of whether the Charter School will be deemed the exclusive public employer of its employees; and
- Budget.

The Petition contains descriptions of the 16 elements required to be addressed by Education Code Section 47605: (1) the educational program (which includes all of the subtopics suggested

[6] Petitioners have included 18 teacher signatures and 248 parent signatures, while proposing to hire 7 teachers and enroll 120 students in grades TK-1 in the first year of the school's operation. The parent signatures represent 229 students who will supposedly be in grades TK through First grade in 2020-2021.

in the regulations); (2) measurable student outcomes; (3) methods by which student progress in meeting those outcomes is to be measured; (4) a description of the governance structure of San Leandro Catalyst Collegiate; (5) qualifications to be met by employees; (6) procedures that the Charter School will follow to ensure the health and safety of students and staff; (7) a discussion of goals to achieve racial and ethnic balance; (8) detailed admissions requirements; (9) audit information; (10) procedures by which pupils can be suspended or expelled; (11) a discussion of faculty and staff benefits; (12) a discussion of attendance alternatives; (13) language regarding employee rights regarding departure; (14) dispute resolution procedures; (15) an exclusive employer declaration; and (16) closure procedures.

However, the Petition raises several issues and concerns in relation to the comprehensiveness of several of these elements, as set forth below.

1. Educational Program (Ed. Code § 47605(b)(5)(A)) - General

The general educational program described in the Petition is not reasonably comprehensive as to at least the following: science and engineering, literacy / English language arts, assessment and grading, Transitional Kindergarten / Kindergarten, and professional development. Selected deficiencies with the descriptions of these portions of the general educational program are described below. However, the below enumerated deficiencies, taken together, give rise to an across-the-board conclusion that a significant portion of the proposed general academic program is not yet fully developed.

a. Science and Engineering

The Science and Engineering program set forth in the Petition is misaligned, lacks resources, and lacks clear formative assessment strategies.

The Petition does not list curriculum resources for science instruction. Rather, the Petition lists only the Science and Engineering Standards, and promises to internally develop science units of study using tools and sample units from NGSS Storylines. (Petition at pp. 102, 112.) However, NGSS Storylines has only developed lesson sequences for 5 out of the 24 units outlined in the California NGSS Framework. Additionally, just one of those storyline sequences has 23 segments which take between 40 and 60 minutes each.

The Petition states that science and social studies units will alternate. The plan does not articulate how time will be apportioned between these units, to ensure that all standards are addressed. In contrast, the District has been part of several state grant projects in conjunction with ACOE and Cal State East Bay, which offered comprehensive coaching support to staff to ensure rigorous science instruction based on Next Generation Science Standards (NGSS) and integrated into a project-based learning framework. The Petition does not meet basic expectations for teachers to address all standards with all students all year

As for assessments, the Petition states that students will take the CAST summative assessment in 5th grade. However, Petitioners articulate no plan to explicitly formatively assess science and engineering progress in earlier grades, which is incongruous with the Petition's theme of a program that emphasizes science and technology learning.

b. Literacy / English Language Arts

The goals for the proposed Charter School include a focus on a love of literacy, however, the strategies set forth in the Petition fail to include explicit descriptions of how the needs of the culturally and linguistically diverse student body will be met by the proposed curriculum. While a comprehensive approach to literacy in general is described and outlined (*see* Petition at pp. 105-108), little care has been taken to identify how the curriculum has been chosen to meet the unique needs of the culturally and linguistically diverse student population in San Leandro. The Petition overall lacks discussion of culturally responsive teaching practices, such as accommodating discussion styles that include linguistic cooperative overlap, which a communication style that matches many District students' home culture speaking style.

c. Assessment and Grading

The Petition proposes to use a variety of assessment tools and strategies to assess student learning. However, the Petition is vague on how such assessment tools will be used effectively to track students' progress, and how these assessments will be specifically used to inform shifts in instructional practice by Charter School staff.

The Petition states: "All teachers at San Leandro Catalyst Collegiate will be appropriately trained on our school's grading policy and methodology." (Petition at p. 193.) However, the specific methodology is not described; nor is what may be included in consideration of mastery. The Petition states that students will receive an A if "student exceeds grade-level mastery and can apply the standard in new situations." (*Ibid.*) However, there are no details as to how a teacher will measure "exceeding" a standard.

The Petition states that "[f]or content areas currently without state-adopted standards – such as Creativity & Design and Character Education – we will develop rigorous, grade-level standards based on exemplary models from well-reputed organizations, as well as high-performing schools across the region and country." (Petition at p. 192.) However, stating that standards will be developed at some future date does not describe these standards comprehensively enough for the District to evaluate their soundness.

d. Transitional Kindergarten & Kindergarten

Given the variability of child development, even month-to-month, of the first of the 2-year kindergarten program described in the petition, it is essential that Transitional Kindergarten ("TK") teachers have a solid foundation in the the Preschool Learning Foundations ("the Foundations"), the state standards for TK. However, the description of Curriculum Development and Implementation (Petition at p.103) indicates that the School Director and the Dean of Curriculum and Instruction "will tailor and adapt curricular programs and materials...to ensure strong alignment to the California Common Core State Standards and California Content Standards." Under State Priority 1B ("Access to Instructional Materials," Petition at p. 166), the instructional materials to which students will have access are CCSS-aligned. But there are no cited materials that are aligned to the Preschool Foundations, which are the standards for TK as cited by the state. Curricular plans will be "aligned to CCSS and ELD standards," but according

to the Petition, no plans will be aligned to the Foundations. An entire year of TK curricular standards and aligned instructional materials seems to have been neglected.

There is further cause for concern when analyzing the specific instructional materials and strategies planned for TK students in this petition. One of the cited key instructional programs, Cognitively Guided Instruction (CGI), is described in the proposal as the facilitation by teachers of a "constructive problem-solving process by asking deliberate open-ended questions, [to foster] a culture of thinking environment. Students listen to each other's thinking, utilize a variety of resources and strategies to solve the problem, and analyze the process and rationale behind multiple solutions. Curriculum for Math Stories will be internally developed" (Petition at p. 102). The University of California Lab School, which conducts statewide training for educators on CGI, describes the central tenet of the program as "using children's thinking as a basis for curricular decision-making." The failure to mention this foundational design principle for CGI points to a weakness in understanding of the strategy itself, and raises questions about the ability of administrators and teachers to effectively implement the strategy or to write an appropriate curriculum that is based on student understanding of math concepts.

Finally, the daily schedule for TK/K (Petition at pp. 63-66) reflects a deficiency of understanding of the needs of children at this stage of development. After a 15 minute rolling transition in the start of their school day, TK and Kindergarten students are expected to sit quietly for the next 195 minutes, i.e., 3 hours and 15 minutes. During these 195 minutes, 4-year old and 5-year old students will silently eat their breakfast while reading a book or doing schoolwork (presumably a worksheet) for the first 30 minutes of their school day before beginning teacher-led work at the community rug. The next 165 minutes, or 2 hours and 45 minutes, these students will be sitting on the rug or at their seats receiving full or small group instruction or working independently, before a 15 minutes recess. These long stretches of academic work continue after lunch with another large block of time, two and a half hours, before a 15 minute "brain break."

Overall, the entire TK/K day only allows a total of 60 minutes for lunch and recess during the course of an 8 hour schoolday. It is well documented that children, especially young 4 and 5 year olds, need ample opportunity to move, run and cooperatively play during the day. Long stretches of time dedicated to sedentary learning can lead to a decline in a child's balance, coordination, attention and social-emotional well-being. Further, the Petition's emphasis on silence and sitting quietly ignores that students learn through talking, and that teacher-guided rich discourse among peers should be central to the classroom. At the earliest grades, a lack of investment by Petitioners in scaffolding and inciting dialogue, peer to peer interactions, and critical literacy appears unlikely to be successful in the culturally and linguistically diverse population of the District, and in a combined classroom with both TK and K students at widely varying stages of development.

TK programs should align with the California Preschool Learning Foundations. According to Preschool Learning Foundations V.1, a high-quality program for TK encourages active, playful exploration and experimentation, with play being an integral part of the curriculum. Some of the many ways students can demonstrate foundations is through engaging in imaginative play, exploring the environment and materials, making discoveries, being inventive, or interacting with teachers or other adults. Best practices for early childhood learning suggest that teachers can best support young children both by encouraging the rich learning that occurs in children's

self-initiated play and by introducing purposeful instructional activities that playfully engage preschoolers in learning. (*See* also Ed. Code § 8973(b): "The extended-day kindergarten program takes into account ample opportunity for both active and quiet activities within an integrated, experiential, and developmentally appropriate educational program.") The Petition does not sufficiently describe the "active" component of this requirement.

e. Professional Development

The Petition puts forth a plan for professional development; however, the plan is lacking in specific details of the training content. Additionally, the Professional Development schedule devotes little time for teachers to work on curriculum development and instructional strategies.

The Induction Training for new teachers is modeled on a New York charter school, and involves 17 days of training. (Petition at pp. 90-91, Appendix 14.) Of this time, a full week is dedicated to the core mission, values, philosophy and vision of the program. Another week is dedicated to analyzing general curriculum and instructional practices; and another week is dedicated solely to schoolwide practices, routines and procedures. However, the schedule lacks focused concentration on specific curriculum and instructional development.

The detailed Induction Training described in Appendix 14 lacks a description of who would be providing the training, their credentials, or the sources that would be used for teacher learning. Additionally, despite the Petition's stated focus on literacy as a core belief (*see* Petition at p. 14), there is no mention of training in literacy development in the Induction training program.

Regarding ongoing professional development, the Petition outlines various topics and activities the staff will engage in for professional learning on Wednesday afternoons. (Petition at p. 92.) While the Petition indicates that some of this work will occur in Professional Learning Communities, it is not clear how these will be structured, or who will be in charge of leading the professional development in these spaces.

2. Educational Program (Ed. Code § 47605(b)(5)(A)) - Special Student Populations

Additionally, the Petition does not reasonably comprehensively describe how the proposed Charter School will target its educational program toward students with special needs, English learners, socioeconomically disadvantaged students, and foster and homeless youth, as set forth below.

In general, the Petition lacks a reasonably comprehensive description of how evidence-based interventions for these students will be used and deployed. Systemic commitment to effective tiered instruction matters as a first defense to ensuring the least restrictive environment. The District resources and operationalizes differentiation through the use of such tools as: adaptive curriculum and technology integration; strong implementation of a comprehensive, robust assessment system that includes diagnostic, formative, interim and summative assessment tools; schoolwide adoption of a blended learning suite that creates access to personalized, adaptive curriculum in both language arts and mathematics; and corresponding professional development on differentiation principles such as classroom groupings and data driven instructional planning. Teachers must understand how to address Dyslexia, and distinguish between language differences and deficiencies. The overlap between the English Learner population and the

Special Education population in the District demands bilingual credentialed staff who can assess primary language. These kinds of procedures across behavioral and academic goals are not described in the Petition, and there is no plan to develop such systems apparent in the Petition, as evidenced by the staffing model (*i.e.*, class size is 30, classes combine TK and K, and there are no dedicated staff who must have bilingual credentialing as part of the staffing plan.)

a. Students With Disabilities

The Petition's plan for serving students with special needs is deficient in the areas of referral and assessment; service delivery; teacher training; procedural safeguards, and student discipline.

The District has a moderate proportion of students with disabilities—12.8 percent in the 2018-19 school year. This means that of the 120 students to be enrolled in the Charter School's first year of operation, approximately 15 are likely to be identified as having disabilities if Charter School demographics reflect those of the overall District—growing to approximately 46 students in the 2025-26 school year. It is likely that up to 40% of the proposed Charter School's special education population—*i.e.* approximately 6 children in its first year of operation, increasing year by year until reaching 18 children in 2025-26—would need either full or part time attendance in a Special Day Class (SDC). (*See* California Legislative Analyst Office, *Overview of Special Education in California*, November 2019, at p. 11, available at https://lao.ca.gov/reports/2019/4110/overview-spec-ed-110619.pdf (stating that about 20 percent of California's special education students are taught primarily in special day classrooms, and another 20 percent split their time between special day classrooms and mainstream classrooms).)

The Petition states that the proposed Charter School intends to operate as a public school of the District for purposes of special education, pursuant to California Ed. Code § 47641(b). (Petition at p. 139.) However, the proposed Charter School also reserves the right to apply and become an independent Local Education Agency (LEA) member in a Special Education Local Plan Area (SELPA) for purposes of special education. (*Ibid*.) As such, the Petition presents alternative strategies for delivering special education services, depending on its choice of whether to operate as a District school or become an independent LEA for special education purposes. However, the Petition fails to specify the criteria that would govern its decision in this regard, or when this decision would be made.

The proposed procedures for identification and assessment of students with disabilities—i.e. the "Child Find" obligation under federal law—will likely result in delay or denial of special education services for many students who need such services.

First, the Petition states that the charter's internal method for referral will be the Student Support Team (SST) process. This process may be appropriate in many cases, but may not be appropriate in others. It is only appropriate when it is *not already apparent* that a student has or might have a suspected disability. Where school employees know or have reason to suspect that a child has a disability, they have an affirmative duty to evaluate them. (*See* 20 U.S.C. § 1412(a)(3); 34 C.F.R. § 300.111.) The Petition's description of the SST procedures (Petition at pp. 135-137) does not specify that an initial SST meeting could be used to recommend referral for suspected disability. Rather, the Petition describes a process whereby should all previous interventions fail, then at the third SST meeting, the SST team will recommend a special education evaluation to see if an IEP

is necessary. (Petition at p. 136.) This procedure is likely too rigid, because determinations about special education evaluations should be made whenever appropriate, not only after numerous interventions have been tried.

The Petition further states that if the Charter School and District believe an assessment is appropriate after receiving a request for referral from a parent, then the Charter School will provide an assessment plan within 15 days of the request. However, the Petition does not address what will happen if the Charter School and District disagree on the appropriateness of an evaluation—for instance, that in such a case, the Charter School will provide the parent with a prior written notice to describe why the Charter School or District is refusing to proceed with the evaluation.

In the section of the Petition discussing the option for the proposed Charter School to become its own LEA, the Petition does not sufficiently describe how the proposed Charter School will try to locate potentially eligible students. The Petition merely states that it will implement the policies and procedures of the SELPA that it joins, to "ensure timely identification and referral of students suspected of having a disability." (Petition at p. 145.)

There are further deficiencies with respect to the Petition's description of instructional supports and strategies for students with special needs. The Petition describes a "comprehensive inclusion program" that offers interventions and supports in the general education classroom (Petition at p. 149): however, it is silent as to the role of Specialized Academic Instruction ("SAI") provided by certificated special education staff. The Petition does not clearly address "pull-out" SAI services, and does not provide for a separate SDC classroom (although it states in general terms that the Charter School will provide the necessary placement and/or services outside the general education classroom where necessary). Thus, it is unclear how such services will be delivered.

In the section of the Petition discussing the option for the proposed Charter School to become its own LEA, the Petition does not sufficiently describe special education staffing. The Petition states that the Charter School has a "goal" to employ "at least one full-time teacher with a valid special education credential"; and that this teacher will work with the Principal to implement IEPs and 504 plans. (Petition at p. 150). The Petition does not specify whether this Special-Education-certificated teacher would be dedicated to special education full-time, or would coordinate special education services and special education administrative duties in addition to regular full-time classroom teaching duties. Thus, it is not clear that there will be sufficient staff to deliver SAI or SDC services.

In addition, the Petition is deficient with respect to teacher training on special education. The professional development plan in the petition does not mention special education, except for one unit of the four-week "Induction Training" that provides an overview of "Special Education Supports". (Petition at p. 90; Petition, Appendix 14 at p. 6.) Within the section on Curriculum and Instruction beginning on page 95, there are many different academic programs and strategies discussed to teach the various courses, but there is no indication in the Petition regarding how staff will adjust strategies for special needs populations.

The Petition says it will contract out with third-party consultants to provide professional development to teachers to provide direct services to students. However, this consultant model

may not be sufficient to train general education teachers on best practices. Rather, certificated special education teachers should be providing or supervising direct instruction for SAI.

The Petition's discussion of procedural safeguards raises concerns that the Charter School may unlawfully require that parents must participate in a "dispute resolution" process before filing a special education due process complaint. (Petition at p. 144.) The Petition states that if the Charter School operates as a District school for special education purposes:

> [C]oncerns or disagreements raised by parents/guardians will be acknowledged by the school within five (5) days. San Leandro Catalyst Collegiate [will] work with the San Leandro Unified School District *to arrange a meeting between the parents/guardians, the school, and San Leandro Unified School District staff to seek resolution of the disagreement. If a disagreement or concern persists, parents or guardians have the right to initiate a due process hearing* to challenge a decision regarding the identification, evaluation, or educational placement of their child.

(Petition, p. 144 (emphasis added); *see also id.* at p. 152.) This passage is potentially misleading, because as a matter of law, parents have right to file for due process whether they had previously met with Charter School and/or District staff or not. The implication of this passage is that the Charter School does not recognize the right to file for due process unless a disagreement or concern persists after a parent meeting is held.

Finally, the section on Special Procedures for the Consideration of Suspension and Expulsion of Students with Disabilities (Petition at p. 287) fails to describe how the proposed Charter School will work with the District when disciplining students with disabilities. The Petition lacks description of policies and procedures for coordination for implementing discipline, as well as for holding manifestation determination meetings where necessary.

b. English Learner Education

The Petition lacks an adequate plan to serve students identified as English Learners ("EL"). Specifically, the Petition fails to adequately describe designated and integrated English Language Development ("ELD") instructional services, EL progress monitoring, or staff training on ELD instruction; the EL reclassification and monitoring criteria in the Petition are not compliant with current requirements; and the budget does not clearly designate adequate funds for ELD professional development or dedicated ELD instructional staff.

The District has a relatively high proportion of EL students—29.7 percent in the 2018-19 school year. This means that of the 120 students to be enrolled in the Charter School's first year of operation, approximately 35 are likely to be classified as requiring ELD instruction if Charter School demographics reflect those of the overall District—growing to approximately 107 students in the 2025-26 school year.

The Petition states that the School will provide English Learner ("EL") students with both designated and integrated English Language Development ("ELD") instruction. The integrated instruction is fairly clearly described, and includes basic Specially Designed Academic Instruction in English (SDAIE) approaches and a list of strategies that will be incorporated into

instructional practices across content areas. While most of these strategies fall under the rubric of "good teaching" (activating prior knowledge, developing a culturally relevant curriculum, maintaining consistent classroom routines), they appear to describe SDAIE instruction. The Petition also states that teachers will include both academic and language objectives in their lesson plans (which are important components of integrated ELD). To support integrated ELD, the school plans to provide Guided Language Acquisition Design (GLAD) training for teachers. This is well respected training, but as is noted above, it is also a major expense that is not reflected in the current budget. However, the Petition lacks a reasonably comprehensive description of the "specialized attention to [individual EL students'] particular language learning needs" that the ELD Framework[7] specifies must accompany Integrated ELD instruction.

Designated ELD instruction is also not clearly described. The Petition addresses it in one sentence, stating that teachers will provide targeted language instruction at the student's level during literacy blocks. (Petition at p. 158.) The Petition additionally states that the Charter School plans to employ an ELD teacher in Year Two of operation who will "provide push-in services and supports – such as small-group instruction and one-on-one conferences – to students identified as English learners." (Petition at p. 158.) But the qualifications of this teacher are not described, and it is unclear that these supports will be available in Year One. Further, the Petition qualifies this proposed hiring as subject to "budgetary availability" (Petition at p. 161), which leaves open the possibility that this teacher may not be hired in Year Two after all. Petitioner cannot choose to violate the rights of English Learners to receive English Language Development based on "budgetary availability"; and the suggestion that it may do just that is unacceptable. Finally, it is not clear whether the Budget line-items for "Instructional Materials and Supplies" includes ELD materials.

The description of progress monitoring conflates monitoring of individual students and of the program as a whole. The school plans to establish EL student progress goals annually, and provide interventions to students not meeting those goals. Progress will be monitored through review of a list of academic assessments. There is no description of who will be responsible for completing this monitoring and assigning interventions when necessary. Descriptions of interventions for EL students who require additional support are generic: *i.e.*, recommendations for at-home support; targeted, leveled small group practice; supplementary technology-based supports; and Student Support Teams (SSTs). (Petition at p. 159.)

The proposed EL reclassification criteria do not meet current state requirements. Under Criterion 1 (assessment of English proficiency), the Charter School proposes reclassifying students with an overall ELPAC score of 3 or 4 and a sub-score of 3 on all portions of the ELPAC. However, CDE currently requires an overall score of 4 for reclassification (see, e.g., https://www.cde.ca.gov/ta/tg/ep/documents/elpacinfoguide19.pdf, pp 22-24).

[7] "ELD Framework" refers to the *English Language Arts/English Language Development (ELA/ELD) Framework for California Public Schools* which the State Board of Education adopted in July 2014. *See* https://www.cde.ca.gov/ci/rl/cf/elaeldfrmwrksbeadopted.asp.

The school proposes to monitor the progress of Reclassified Fluent (RFEP) students for two years after reclassification. However, State and federal guidelines currently require four years of monitoring.

The Petition states that the school will evaluate student growth based on unspecified standardized and non-standardized assessments. Students will be tracked longitudinally. The Petition does not provide sufficient information to assess whether this evaluation will meet federal legal standards.

The Petition states that staff training will be "robust," and will train teachers to integrate ELD standards into core content curriculum and instruction. This training is to be facilitated by the County Office of Education and private companies and agencies, and may include school-site training contracted through "external partners." (Petition at p. 162.) No specific training on designated ELD is described until an ELD teacher is hired in Year Two ("pending budgetary availability," *see* Petition at p. 161; *see also* Induction Training Scope & Schedule, Petition Appendix 14); and the proposed Budget does not allocate any professional development resources specifically to ELD training.

The Petition's discussion of initial EL identification and assessment appears to meet state and federal requirements.

The Petition states that an English Learner Advisory Committee ("ELAC") will be established "when the number of English learners at our school reaches a minimum of 21 students." (Petition at p. 162.) As stated above, based on District demographics, it is reasonable to expect approximately 35 EL students in Year One of operation. The Petition states that "appropriate funds will be allocated to support reasonable expenses that family members may incur in carrying out their duties as ELAC members." (*Ibid.*) However, the Budget does not specify where these funds would be categorized, or the amount of such funds.

c. Socioeconomically Disadvantaged Students, Homeless Students, and Foster Youth

The Petition lacks a reasonably comprehensive description of a plan for serving socioeconomically disadvantaged ("SED") students, homeless students, and foster youth. The Petition discusses the Multi-Tiered System of Supports ("MTSS") in general terms (Petition at pp. 133-137); however, it does not describe how supports will be specifically delivered to these student populations. Quality MTSS requires integrated support systems across behavioral and academic domains, which provide quality assessments to trigger progressive interventions, robust intervention tools and teams, and progress monitoring. The Petitioner fails to describe assessments that would be used, the integrated technological and curricular tools that would be procured, the training for staff to use these tools and develop systems, and the monitoring of this process. Significantly, the petitioner does not describe how students enter and exit the various tiers of intervention, how this adjusts by grade band, what students would actually receive by whom and for how long, and how the effectiveness of interventions is measured. In sum, the Petitioner has placed a graphic of MTSS and Response to Interventions ("RTI"), without an actual plan that is mindful of the relationship between the many behavioral and academic supports that students in these vulnerable populations may need.

The Petition recites that the proposed Charter School will target recruitment to SED students; that it intends to offer a program that will benefit SED students in general; that it recognizes the high percentage of SED students in the District; and that its program and curriculum is modeled on "inspiration schools" that serve significant populations of SED students. (*See, e.g.*, Petition at pp. 22-43, 49-58, 62-63, 96-103.) But the Petition does not describe or discuss specific supports, interventions, or approaches that are targeted towards meeting the specific needs of the socioeconomically disadvantaged student population of the District. The Petitioner also does not identify or describe the fiscal and human resources that will be allocated toward this end. Additionally, the Petitioner does not describe how personnel will be trained and monitored to determine efficacy. The Petition's description for serving SED students is stated in generalities, and does not provide adequate description regarding how the Charter School will support this population.

The Petition lacks any discussion of supports, interventions, or approaches that are targeted specifically towards meeting the needs of homeless students and foster youth. Although these students are a much smaller percentage of the District student population than SED students, the Petition does acknowledge that these students are present in the District. The San Leandro Unified District has, based on careful partnering with community based organizations and data analysis, created intervention and outreach programming for students in these vulnerable populations in order to address longstanding inequities that students who are SED, homeless, or foster youth face in society. In addition, the District has worked to engage the parent/guardian community from these groups, in order to better inform its goals and actions. Petitioners have failed to describe their plan for raising their own awareness, outreach, and differentiated programming for these populations. As such, the Petition should describe how the proposed Charter School would serve the needs of such students, and it has failed to do so.

3. Governance Structure (Ed. Code § 47605(b)(5)(D))

Section 47605(b)(5)(D) requires a petition to provide a reasonably comprehensive description of "the governance structure of the charter school, including, but not limited to, the process to be followed by the charter school to ensure parental involvement."

The Petition does not emphasize parental and community involvement on the Board (see Petition, pp. 202-207). The Petition outlines a process for nominating candidates to the Board, and states that "additional and future members of the Board of Directors … may include family members of past, current, or future students of the school." However, the nominating procedures and Board Membership Criteria (see pp. 200-201) do not mention parent representation; nor do the Board Bylaws (Petition, Appendix 12). Nor does the Petition specify any process by which the proposed Charter School will seek parental and community representation on the Board. Although parent or community representation on the Board is not a legal requirement, failure to provide for such representation raises doubts as to whether the Petition is tailored to the interests of the community.[8]

[8] The 2019 amendments to section 47605, under AB1505, added language, effective July 1, 2020, expressing Legislative intent that consideration of charter petitions should take into account the "interests of the community in which the school is proposing to locate" (Ed. Code § 47605(c), as amended effective

4. Health and Safety Procedures (Ed. Code § 47605(b)(5)(F))

The Petition does not contain a reasonably comprehensive description of the Charter School's health and safety procedures. (*See* Ed. Code § 47605(b)(5)(F).) Rather, the Petition states that the Charter School "will adopt and implement a comprehensive set of health, safety, and risk management policies and procedures at the school site […] in consultation with our insurance carriers and risk management experts." (Petition at p. 243.) Statements that a plan will be developed at a future date are not sufficient to allow the District to evaluate the plan in approving the Petition.

The Petition also fails to provide a reasonably comprehensive description of the proposed Charter School's health and safety policies regarding sexual harassment. The Petition states on page 244 that the Charter School "will develop and maintain comprehensive policies and procedures to prevent and immediately remediate any concerns about discrimination or harassment …"; however, this statement makes clear that such policies are not yet developed, and therefore cannot be evaluated by the District in determining whether to grant or deny the Petition.

Additionally, the Petition does not include or describe the requirement for sexual harassment prevention training to be provided to supervisors once every two years, or the new requirement under SB 1343 (passed into law September 2018), which requires employers with five or more employees to provide at least one hour of sexual harassment prevention training to all nonsupervisory employees by January 1, 2020. There is no provision for sexual harassment prevention training in the Induction Training plan (Petition, Appendix 14) or in the budget (Petition, Appendix 13).

5. Admissions Policies and Procedures (Ed. Code § 47605(b)(5)(H))

The Petition states that in the event the number of pupils who wish to attend the Charter School exceeds capacity, attendance shall be determined by a random lottery, with preferences extended to siblings of current students, children of employees, and other categories which are permitted by law to be granted preferences. However, the additional preference granted to "Children of Founding Families," (Petition at p. 252) is problematic.

Requiring parents or guardians to volunteer as a condition of admission, enrollment, continued enrollment, attendance, participation in educational activities or receipt of credit or privileges related to educational activities is prohibited. (Ed. Code § 47605(d)(2)(B)(iv).) "Founding Families" are defined on page 254 of the Petition as families who "must contribute significant personal time in founding efforts, including, but not limited to, holding events with other parents,

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Jul. 1, 2020), and providing for denial of a petition upon findings that the proposed charter school "is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate" (Ed. Code § 47605(c)(7), as amended effective Jul. 1, 2020). Although these provisions requiring consideration of community interests are not yet effective, the Board may still take these factors into consideration as part of its evaluation of whether the required charter elements are reasonably comprehensively described in the petition, or whether the petitioners are demonstrably unlikely to successfully implement the proposed educational program.

tabling, collecting petition signatures, and disseminating flyers prior to the holding of a lottery, if necessary." Although the Petition states that "[t]here shall be no requirement that Founding Families contribute funds or a specific number of hours as a part of their commitment" (Petition at p. 254), the Petition does not describe how this fact will be communicated to families. As a result, there is a concern that this policy may discourage families from seeking admission into the Charter School, and thus potentially have a disparate impact on certain populations of students and parents.

6. Audit Procedures (Ed. Code § 47605(b)(5)(I))

The audit procedures on pages 258-259 of the Petition state that annual financial audits will be conducted by an independent auditor selected by the Board of Directors, to be overseen by the Finance Committee (which is discussed on pages 203-204).

The Petition fails to specify that the Charter School will follow all of the requirements of the California Nonprofit Integrity Act of 2004, found at Government Code Section 12586(e) (the "Nonprofit Integrity Act").[9] Among other things, these provisions require the Board of the nonprofit to appoint an audit committee to make recommendations to the Board regarding which independent auditor to retain and to review the audit reports, among other things. Under the Nonprofit Integrity Act, an audit committee may include persons who are not members of the board of directors, but shall not include any cannot include any employees of the organization. If the corporation has a finance committee, it must be separate from the audit committee. Members of the finance committee may serve on the audit committee; however, the chairperson of the audit committee may not be a member of the finance committee, and members of the finance committee shall constitute less than one-half of the membership of the audit committee. The Petition thus describes an audit procedure which fails to comply with the Nonprofit Integrity Act.

7. Dispute Resolution Procedures (Ed. Code § 47605(b)(5)(N))

The Petition sets forth a Dispute Resolution procedure, on pages 295 through 299, which may be overly burdensome and restrictive to District staff in addressing issues as part of its oversight responsibility.

For "Disputes Not Leading to Revocation," the Petition mandates an "informal process" involving written notification and response by hand delivery or certified mail; an "Issue Conference" between the parties, and mediation if the dispute is not resolved through the Issue Conference. The Petition further states that "All will refrain from public commentary regarding any disputes until the matter has progressed through the dispute resolution process." (Petition at p. 295.) This last provision could restrict District staff from, e.g., commenting on ongoing issues with the Charter School at public board meetings. Should the District approve the Petition, it should require that the restriction on public commentary be stricken.

[9] Section 12586(e) applies to a nonprofit that receives or accrues in any fiscal year gross revenue of two million dollars or more. The proposed budget in the Petition states that the Charter School expects to receive over $2 million in revenues starting in Year 2 of operation and thereafter.

For "Disputes That Could Lead to Revocation," the Petition sets forth additional procedures that are not provided for in the Education Code—including that the Board present a written "Dispute Statement" where an issue could lead to revocation; that an Issue Conference be held within five days of a determination that a violation of the charter has occurred; that a Second Issue Conference be held including two members of the boards of both the Charter School and the District; before a Notice of Violation is issued. Members of the District's Board should not be required to participate in a mediation of disputes.

The Petition states that "participation in the dispute resolution procedures outlined in this section shall not be interpreted to impede or act as a prerequisite to the District's ability to proceed with revocation in accordance with California Ed. Code § 47607 and its implementing regulations," and that the Charter School "recognizes it cannot legally bind the District" to issuing a written "Dispute Statement" prior to initiating revocation via the statutory procedure of issuing a Notice of Violation. However, purporting to add superfluous dispute resolution procedures onto the revocation process could unnecessarily prolong and complicate the process of resolving issues that could ultimately lead to revocation.

8. Closure Procedures (Ed. Code § 47605(b)(5)(O))

The Petition does not contain a reasonably comprehensive description of the procedures to be used if the Charter School closes. First, the Petition does not designate an entity or individual who is responsible for closure-related activities. Charter school regulations (5 C.C.R. § 11962) specifies that charter petitions must "[d]esignat[e] … a responsible entity to conduct closure-related activities." The Petition only states that an entity and person or persons will be identified by the Board upon deciding to close the Charter School. (Petition at p. 300.) The Petition also fails to reasonably comprehensively describe events that would trigger a closure, and the effective date of the closure that would be triggered by such events. For instance, although the Petition lists revocation, non-renewal, or voluntary closure as possible reasons for closure (Petition at p. 300), the Petition does not state, for example, when the initiation of closure would be required in each of these events (e.g., at the close of the current school year upon non-renewal).

IV. Conclusion

Based on the foregoing, District Staff recommends that the San Leandro Catalyst Collegiate Charter Petition be denied.