

**SUTTER COUNTY BOARD OF EDUCATION
STAFF REPORT AND PROPOSED FINDINGS OF FACT
REGARDING NEW PACIFIC SCHOOL – YUBA CITY PETITION**

I. Introduction

On September 21, 2022, New Pacific School—Yuba City (the “Charter,” or “Charter School”) timely submitted a charter school petition (“Petition”) to the Sutter County Board of Education (the “County Board”), pursuant to Education Code section 47605(k)(1)(A), following denial by the Yuba City Unified School District of said Petition on or about August 23, 2022. The Charter School would be located within the boundaries of Yuba City Unified School District and would initially serve 100 students in grades TK-5. The Petition seeks an initial charter term that would begin on July 1, 2023 and end on June 30, 2028.

On October 12, 2022, the County Board held a public hearing to consider the level of public support for the Petition. On November 1, 2022 county staff conducted a capacity interview with Petitioners. On December 14, 2022, the County Board will hold a public hearing to take action to approve or deny the Petition, and to consider the admissions preferences in the Petition.

II. Summary of Charter School’s Proposed Mission and Program

The Mission, Vision, and Goals articulated through the charter petition include a commitment to being leaders in whole child education, inquiry driven learning, and family partnerships. This commitment is supported by:

- A small school environment with individualized educational programs, responsive school resources, and well supported school personnel.
- A student-centered approach designed to ensure students are challenged, engaged, supported, and safe.

Programmatically, the petition describes multi-grade classrooms organized and facilitated by “Learning Growth Plans,” Project Based Learning, and embedded Social Emotional Learning.

The stated goal is to produce graduates who will be lifelong, purpose-driven learners who author their own futures and thrive in a rapidly changing world.

III. Criteria for Reviewing a Charter Petition

A county authorizer reviewing a petition that is appealed from a school district denial must approve or deny petitions in the same manner as a petition to a district. (Ed. Code, § 47605(k)(1)(A).) Education Code section 47605 subd. (c) states that “[t]he

governing board of the school district shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice and with the interests of the community in which the school is proposing to locate.” The authorizer also must consider “the academic needs of the pupils the school proposes to serve.”

A school district board or county authorizer shall not deny such a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings:

1. The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.
2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
3. The petition does not contain the number of signatures required by subdivision (a) [of section 47605].
4. The petition does not contain an affirmation of each of the conditions described in subdivision (e) [of section 47605].
5. The petition does not contain reasonably comprehensive descriptions of all of the 15 elements set forth in [section 47605, subdivision (b)(5)].
6. The petition does not contain a declaration of whether or not the charter school shall be deemed the exclusive public employer of the employees of the charter school for purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code. (Education Code § 47605(b))
7. AB 1505 also introduced two new bases for denial: “community interests” under Education Code Section 47605 (c)(7) and “fiscal impact” under Education Code section 47605 (c)(8). While the proposed school’s potential fiscal impact is a part of the consideration under section 47605 (c)(7), there is a separate basis to deny under (c)(8) if the school district meets the statutory criteria showing inability to absorb the fiscal impact of the proposed charter school. In order to deny based on section 47605 (c)(7), the district must make the following findings:

The charter school is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate. This finding must include analysis and consideration of the fiscal impact of the proposed charter school. The district must also describe the specific facts and circumstances that analyze and consider the following factors:

- The extent to which the proposed charter school would substantially undermine existing services, academic offerings, or programmatic offerings.
 - Whether the proposed charter school would duplicate a program currently offered within the school district and the existing program has sufficient capacity for the pupils proposed to be served within reasonable proximity to where the charter school intends to locate.
8. To deny a petition based on fiscal impact under section 47605 (c)(8), the school district must demonstrate it is not positioned to absorb the fiscal impact of the proposed charter school. Charter schools proposed in a school district satisfying one of these conditions shall be subject to a rebuttable presumption of denial. A school district meets the statutory criteria if:
- it has a qualified interim certification pursuant to Section 42131 and the county superintendent of schools, in consultation with the county office Fiscal Crisis and Management Assistance Team, certifies that approving the charter school would result in the school district having a negative interim certification pursuant to Section 42131;
 - it has a negative interim certification pursuant to Section 42131; or
 - it is under state receivership.

PROPOSED FINDINGS OF FACT¹

County staff conducted a thorough analysis of the Petition and its supporting documents, and provide the County Board with the following proposed findings of fact and recommendation regarding the Petition.

1. Does the Charter present an unsound educational program?

No. Staff have concluded that the Charter does not present an unsound educational program for the students it proposes to educate.

In Summary:

- The small school environment, *Leader in Me*, and project based learning described in the Petition are research-based and provide valid bases for the Charter School’s proposed educational program. (Petition, pgs. 27, 35-36)
- A low student to staff ratio supports the educational program. (Petition, p. 27)

¹ Staff note that some of the data tables referenced and relied upon in the Petition are inaccurate, at least in part. These inaccuracies have been considered by staff, but do not ultimately change the conclusions in this analysis.

- There is no legal requirement that charter schools utilize state adopted curriculum. That being said, curriculum referenced in the Petition, and further discussed in the capacity interview, are appropriate for the educational program. As noted by the Special Education staff's review, the curriculum is effective for targeted instruction and used for students with disabilities. (Petition, pgs. 47-66)
- The Petition provides for supports such as tutoring, targeted one-on-one assistance, strategic interventions, intensive interventions, and online support programs to support student success. (Petition, pgs 18, 100, 105, 113)

2. **Are the Petitioners demonstrably unlikely to successfully implement the program set forth in the Petition?**

No. Staff have concluded that the Petitioners are not demonstrably unlikely to successfully implement the program set forth in the Petition.

In summary:

- The Charter School will be operated by Pacific Charter Institute ("PCI"), which has a record of successfully operating and implementing charter school academic programs in the region. (Petition, pgs. 13, 17-18)
- The Governance, organizational structure, and Board of Directors' experience support successful implementation. (Petition, pgs. 115-127)
- PCI staff's managerial experience and required employee qualifications support successful implementation. (Petition, pgs. 120-125 and 129-135)
- Administrative, educational, Human Resources, Legal, and Special Education services provided by PCI, as described, are sufficient, and there is a history of success at other schools, supporting successful implementation. (Petition, p. 175)
- The financial position of PCI, as analyzed by staff, supports successful implementation. (Appendix 6: 2021 Financial Audit for Pacific Charter Institute & Appendix 7: Budget and Financial Documents)
- The proposed educational program describes its curriculum, methodology, and structure in detail, along with how it will educate its student population, including high and low achievers and special education students, supporting successful implementation. (Petition, p. 43-85)
- The Charter School has represented that it will be approved for membership in the El Dorado Charter SELPA. (Appendix 9: Letter from EDCOE SELPA)

3. **Does the Petition contain the number of signatures required by Education Code 47605(a)?**

Yes. Staff have concluded that the Petition contains the number of signatures required by Education Code 47605(a).

In Summary:

EC 47605(a) states that “the petition may be submitted to the governing board of the school district for review after either of the following conditions is met:

(A) The petition is signed by a number of parents or legal guardians of pupils that is equivalent to at least one-half of the number of pupils that the charter school estimates will enroll in the charter school for its first year of operation.

(B) The petition is signed by a number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the charter school during its first year of operation.”

The Petition budget assumptions project staffing three (3) teachers at the Charter School during its first year of operation (Appendix 7: Budget and financial Documents), and the Petition was signed by three (3) teachers, which exceeded one-half of the number of teachers that the Charter School estimates will be employed at the Charter School during its first year of operation (Appendix 7: Budget and financial Documents). Therefore, this requirement is met.

4. **Does the Petition contain an affirmation of each of the conditions described in subdivision (e) [of section 47605]?**

Yes. Staff have concluded that the Petition contains affirmations of each condition described in Education Code 47605(e).

In Summary:

Formal affirmations are found on Petition pages 8-10, and meet the legal requirements for a charter Petition.

5. **Does the Petition contain reasonably comprehensive descriptions of all of the [15 elements set forth in section 47605, subdivision (c)(5)]?**

Yes. Staff have concluded that the Petition contains reasonably comprehensive descriptions of all of the elements set forth in Education Code 47605(c)(5).

Below is a summary by element.

Element A: Vision, Mission, and Educational Program

A petition should provide a reasonably comprehensive description of the educational program of the charter that includes a description of “whom the charter school is

attempting to educate,” what it means to be an “educated person in the 21st century, and how learning best occurs.” (Ed. Code, § 47605, subd. (c)(5)(A)(i).)

Staff have concluded that this element of the Petition is reasonably comprehensive.

In summary:

- The Petition describes the targeted student populations and community need, including:
 - The students the charter school will try to educate and a demonstration of need for the proposed educational program (Petition, p. 26-37);
 - Grade levels and number of students the charter school plans to serve (Petition, p. 26-27, 36);
 - A clear, concise school mission and vision statement that aligns with the target population (Petition, p. 27); and
 - The needs and challenges of the student groups to be served (Petition, p. 28-34).
- The Petition describes attendance, including:
 - The school year/academic calendar, number of school days and instructional minutes (Petition, p. 43-47);
 - Attendance expectations and requirements, including enrollment projections (Petition, p. 36);
 - The master/daily schedule and proposed bell schedule (Petition, p. 43-47 and Appendix 7: Budget and financial Documents)
- The Petition describes what it means to be an educated person in the 21st Century, including:
 - Goals that are consistent with enabling all pupils to become or remain self-motivated, competent, lifelong learners (Petition, pgs. 26, 38-40);
 - Lists of academic skills and qualities important for an educated person (Petition, pgs. 28, 38); and
 - Lists of general nonacademic skills and qualities important for an educated person (Petition, p. 38-40).
- The Petition describes how learning best occurs and instructional design, including:
 - A framework for instructional design that is aligned with the needs of the students that the charter has identified as its target student population (Petition, pgs. 38-43);
 - A description of the learning setting (e.g., site-based matriculation, independent study, tech-based) (Petition p. 11, 39-40);
 - Instructional approaches and strategies the school will use that will enable the school’s students, including subgroup populations such as English language learners (ELL), to master the content standards for

- the core curriculum areas adopted by the State Board of Education (Petition, pgs. 33-36, 47-65);
- A process for developing or adopting curriculum and teaching methods (Petition, pgs. 47-65);
 - How the charter school will identify and meet the needs of students with disabilities, ELL students, students who are achieving substantially above or below grade level expectations, and other special student populations (note: The description demonstrates understanding of the likely ELL population and includes a sound approach to identify and meet the needs of subgroup populations) (Petition, pgs. 70-85);
 - A special education plan including, but not limited to, the means by which the charter school will comply with the provisions of Education Code section 47641 (Petition, pgs. 79-85); and
 - A plan for professional development that aligns with the charter school's proposed program (Petition, pgs. 66-68).
- The Petition describes its materials and technology, including:
 - How staff's and students' technology resources are aligned with the instructional program and meet state assessment requirements (Petition, p. 70-71);
 - What materials are available to students (Petition, pgs. 39, 70-71);
 - student-to-computer ratio appears reasonable (Petition, p. 70-71);
 - A description or plan for providing adaptive technology for special education students (Petition, pgs. 70, 79-83); and
 - Common Core technology standards, digital assessments, and professional learning (Petition, p. 66-68, 70-71).
 - The Petition describes annual goals, including:
 - Annual goals for all pupils and for each subgroup of pupils identified pursuant to Education Code Section 52052 that apply to the grade levels served (Petition, pgs. 91-110);
 - Goals tied to state priorities listed in Education Code Section 52060(d) and LCAP, as appropriate (additional priorities related to unique aspects of the proposed charter school program include goals and specific annual actions) (Petition, pgs. 91-110); and
 - Specific annual actions designed to achieve the stated goals (Petition, pgs. 99-110).
 - The Petition describes requirements for Charter Schools serving high school students, including:
 - How parents will be informed about the transferability of courses to other public high schools (Petition, p. 47);
 - How parents will be informed about the eligibility of courses to meet college entrance requirements (Petition, pgs. 68-69);

- How each student will receive information on how to complete and submit the Free Application for Federal Student Aid (FAFSA) (Petition, p. 71);
- How the exit outcomes will align with mission, curriculum and assessments (Petition, pgs. 86, 90, 91);
- Information indicating that all students will have the opportunity to take courses that meet the University of California’s A-G requirements (Petition, pgs. 22-23, 47); and
- Planned graduation requirements and Western Association of Schools and Colleges accreditations (Petition, pgs. 17, 47-68).

Element B: Measurable Student Outcomes

Every charter petition must identify annual goals, specific annual actions to achieve those goals, measurable pupil outcomes and methods of measuring progress in meeting pupil outcomes. (Ed. Code, § 47605(c)(5)(B-C).)

Staff have concluded that this element of the Petition is reasonably comprehensive.

In summary:

The Petition describes measurable pupil outcomes for all groups, i.e., specific assessment methods or tools listed for each exit outcome. (Petition, pgs. 89-110)

The Petition describes a description of how pupil outcomes align with the state priorities consistent with the Local Control and Accountability Plan (LCAP), as described in Education Code section 52060(d), that apply for the grade levels served or the nature of the program. (Petition, pgs. 89-110)

The Petition describes specific annual actions designed to achieve the stated goals. (Petition, pgs. 91-109)

The Petition describes additional school priorities related to unique aspects of the proposed charter school program, with goals and specific annual actions. (Petition, pgs. 109-110)

The Petition describes a description of how pupil outcomes will address state content and performance standards in core academic areas. (Petition, pgs. 91-110)

The Petition describes a description of how exit outcomes align with the mission and instructional design of the program. (Petition, pgs. 90-110)

The Petition describes a description or affirmation that benchmark skills and specific classroom-level skills will be developed. (Petition, pgs. 89-91)

The Petition discusses school wide student performance goals students will achieve over a given period of time, including attendance levels, dropout rates, and graduation rate goals. (Petition, pgs. 91-109)

Element C: Student Progress Measurement

Every charter petition must identify annual goals, specific annual actions to achieve those goals, measurable pupil outcomes and methods of measuring progress in meeting pupil outcomes. (Ed. Code, § 47605(c)(5)(B-C).

Staff have concluded that this element of the Petition is reasonably comprehensive.

In Summary

The Petition describes assessment tools that include required state and federal assessments (e.g., SBAC, ELPAC) for purposes of accountability. (Petition, pgs. 89, 111-114)

The Petition describes at least one assessment method or tool listed for each of the exit assessments. (Petition, pgs. 111-114)

The Petition describes a variety of alternative assessment tools, including tools that use objective means of assessment consistent with the measurable pupil outcomes. (Petition, pgs. 111-114)

The Petition generally describes how chosen assessments are appropriate for standards and skills the charter school seeks to measure. (Petition, pgs. 111-114)

The Petition describes a plan for collecting, analyzing, using and reporting student and school performance to charter school staff and to students’ parents and guardians, and for using the data continually to monitor and improve the charter school’s educational program. (Petition, pgs. 87-91 and 111-114)

Element D: Governance Structure

A Petition must provide a reasonably comprehensive description of the Charter School’s governance structure, including the process for parental involvement. (Ed. Code, § 47605 (c)(5)(D))

Staff have concluded that this element of the Petition is reasonably comprehensive.

In Summary:

The Petition indicates that “New Pacific School will operate autonomously from the District with the exception of the supervisory oversight as required by statute and other contracted services as negotiated between the District and PCI,” and “the PCI Board is

the governing body that will oversee the Charter School, with a Director at the Charter School overseeing day-to-day operations.” (Petition, p. 115).

The Petition describes evidence of PCI’s incorporation as a nonprofit benefit corporation. (Petition, p. 115, 176)

The Petition provides the names and relevant qualifications of all persons whom the Petitioner nominates to serve on the governing body of the charter school. (Petition, p. 116-117)

The Petition references a set of bylaws and basic policies. (Petition, p. 7, 75, 117-118, 122, 176 and Appendix 4: PCI Articles of Incorporation and Bylaws)

The Petition describes evidence that the organization and design of the governance structure reflect the following:

- A seriousness of purpose to ensure that the charter will become and remain a viable enterprise.
- An understanding and assurance of compliance with open meeting requirements.

(Petition, pgs. 8-10 and 115-118)

The Petition generally describes the key features of governing structure including, but not limited to, the following:

- The Petition generally describes a delineation of roles and responsibilities of the governing board and staff. (Petition, pgs. 117-125)
- The Petition generally describes the interaction between the Charter School and the charter management organization with regard to budget, expenditures, personnel, and daily operations. (Petition, p.118-121 and 172-175)
- The Petition generally describes the purpose and composition of board, board committees and/or advisory councils. (Petition, pgs. 116-118 and 125-127)
- The Petition describes the method for selection of replacement board members. (Petition, p. 119)

The Petition generally describes a process for involvement or input of parents and guardians in the governance of the charter school, including the following:

- A delineation of roles and responsibilities of parent councils, advisory committee and other supporting groups. (Petition, p. 125-127)
- A description that it shall notify the parents and guardians of applicant pupils and currently enrolled pupils that parental involvement is not a requirement for acceptance to or continuation at the charter school. (Petition, p. 9)

The Petition generally references specific policies and internal controls that are meant to prevent fraud, embezzlement and conflict of interest, and that ensure the

implementation and monitoring of those policies. (Petition, p. 118, 174, 175 and Appendix 5: Conflict of Interest Code)

During the Capacity Interview, Petitioners communicated specific trainings and professional development that the board takes advantage of. (Petition, p. 118)

The Petition generally describes other important legal or operational relationships between the charter school and granting agency. (Petition, p. 168, 172, 176-177)

Element E: Employee Qualifications

The Petition should identify the qualifications required of individuals who will work at the Charter School. (Ed. Code, § 47605(c)(5)(E).)

Staff have concluded that this element of the Petition is reasonably comprehensive.

In Summary:

The Petition describes core and college preparatory teachers, and affirms all teachers will hold appropriate Commission on Teacher Credentialing certificates, per Education Code 47605.4. (Petition, p. 9, 130)

The Petition describes those positions that the charter school regards as key and for which it specifies additional qualifications, responsibilities and accountability. (Petition, pgs. 129-133)

The Petition describes general qualifications for the various categories of employees (e.g., other administrative, instructional support, non-instructional support). These qualifications appear sufficient to ensure the health and safety of the charter school's faculty, staff and students; however, it is unclear whether an administrative credential will be required for the school principal or other administrators with responsibility for evaluating certificated employees and expelling students, even if such a credential is not strictly required by law. (Petition, pgs. 129-133)

The Petition describes a plan for recruitment, selection, development and evaluation of staff and charter school leaders. (Petition, p. 133-135)

The Petition describes roles and lines of authority for board and management positions. (Petition, pgs. 120- 125 and Appendix 4: PCI Articles of Incorporation and Bylaws)

The Petition does not specify the teacher to student ratio, stating "student to staff ratios will be low" (Petition, p. 27). The budget provides for 3 teachers and 4 teacher assistants to 100 students (Appendix 7: Budget and Financial Documents).

Element F: Health and Safety Procedures

Pursuant to Education Code section 47605(c)(5)(F), the Petition must include the procedures that the school will follow to ensure the health and safety of students and staff.

Staff have concluded that this element of the Petition is reasonably comprehensive.

In Summary:

The Petition discusses a comprehensive charter school safety plan, provides a safety plan, and gives assurance that the plan will be updated annually and staff shall receive training in emergency response, including appropriate first responder training or its equivalent. (Petition, p. 136-140 and Appendix 8: Safety Plan)

The Petition makes assurances that the charter school will require a criminal background clearance report and proof of tuberculosis examination prior to employment. (Petition, p. 136)

The Petition makes assurances that the charter school will adopt procedures to prevent acts of bullying and cyberbullying, and make the California Department of Education (CDE) online training module available to all employees who interact with students. (Petition, p. 140)

The Petition discusses that charter schools with grades 7-12 will adopt a suicide prevention policy. (Petition, p. 137)

The Petition sufficiently describes health and safety practices for students and staff. (Petition, pgs. 85, 136-140)

The Petition describes assurances regarding compliance with the Americans with Disabilities Act (ADA). (Petition, p. 8)

Element G: Racial and Ethnic Balance

Education Code section 47605(c)(5)(G) requires that a charter petition include a reasonably comprehensive description of the means by which the school will achieve a racial and ethnic balance among its students that is reflective of the general population residing within the territorial jurisdiction of the charter authorizer to which the charter petition is submitted.

Staff have concluded that this element of the Petition is reasonably comprehensive.

In Summary:

The Petition generally describes practices and policies the charter school will design and implement to attract a diverse applicant pool and enrollment that reflects the general population, including special populations that reside within the district's territorial jurisdiction. (Petition, pgs. 141-145)

The Petition describes practices and policies that appear tailored to achieve racial and ethnic balance. (Petition, p. 141-145)

The Petition describes outreach strategies, which identify the targeted groups for achieving balance. (Petition, p. 141)

The Petition indicated recruitment materials would be published in Spanish, but there was no mention of printing recruitment materials in Punjabi even though a significant portion of the population in the surrounding geographic area speaks Punjabi. (Petition, P. 141). If the Petition is approved, a memorandum of understanding with the Charter School should include the Charter School's assurance it will print student recruitment and other materials in the languages of all significant sub populations (15% and greater).

Element H: Admissions Policies and Procedures

The Petition must describe its admissions requirements, if applicable, pursuant to Education Code section 47605(c)(5)(H).

Staff have concluded that this element of the Petition is reasonably comprehensive.

In Summary:

The Petition describes the following assurances: The charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against a pupil on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code, including immigration status, equal rights, and opportunities in the educational institutions of the state. (Petition p. 8, 129, 142)

The Petition describes a clear description of admission policies that satisfy legal requirements in the staff's assessment. (Petition, p. 142-145)

The Petition provides a description of how students in the community will be informed and given an equal opportunity to attend the charter school. (Petition, p. 141)

The Petition describes proposed admissions and enrollment requirements, process and timeline, which include the following:

- Information to be collected through the interest form, application form, and/or enrollment form. (Petition, pgs. 143)
- Assurances that enrollment preferences will not require mandatory parent volunteer hours as a criteria for admission. (Petition, pg. 9, 142)

The Petition describes the public random drawing processes that comply with state and federal laws. (Petition, pgs. 143-145)

The Petition does not give any indication that preferences, if given, will negatively impact the racial, ethnic and unduplicated pupil balance the charter school strives to reflect. (Petition, pgs. 8-9, 143-144)

Element I: Annual Independent Financial Audits

The Petition must describe the manner in which annual, independent, financial audits will be conducted, which will employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies will be resolved to the satisfaction of the chartering authority. (Ed. Code, § 47605 (c)(5)(I).)

Staff have concluded that this element of the Petition is reasonably comprehensive.

In Summary:

The Petition describes the manner in which the audit will be conducted. (Petition, p. 146)

The Petition describes procedures to select and retain an independent auditor, including:

- Qualifications that will be used for the selection of an independent auditor,
- Assurance that the auditor will have experience in education finance.

(Petition, p. 146)

The Petition describes assurance that the annual audit will employ generally accepted accounting principles. (Petition, pg. 146)

The Petition describes scope and timing of audit, as well as distribution of completed audit to authorizer, county office, State Controller, California Department of Education, and/or other agencies required by law. (Petition, pg. 146)

The Petition describes a process and timeline that the charter school will follow to address any audit findings and/or resolve audit exceptions. (Petition, pg. 146)

The Petition indicates that “the Charter School will inform the District of any outstanding exceptions or deficiencies at the time of audit submission and how they are resolved to the satisfaction of the District”. The Petition further adds that “any disputes regarding the resolution of audit exceptions and deficiencies will be referred to the dispute resolution process referenced in Element N of the petition, or if applicable, referred to the Education Audit Appeals Panel process in compliance with Education Code Section 41344.(Petition, p. 146) However, the Petition states in Element N that “New Pacific School recognizes that it cannot bind the District to a dispute resolution procedure to which the District does not agree. (Petition, p. 168).

Such a proposed resolution does not necessarily ensure the authorizer’s satisfaction. (Petition, pg. 146.)

The Petition describes who is responsible for contracting with and overseeing the independent audit. (Petition, pg. 146)

Element J: Suspension/Expulsion Policies and Procedures

Education Code section 47605(c)(5)(J) requires that the petition contain a reasonably comprehensive description of the procedures by which pupils can be suspended or expelled from the charter school for disciplinary reasons, or otherwise involuntarily removed from the charter school for any reason. “Involuntarily removal” includes disenrollment, dismissal, and transfer. Petitions must also describe, at a minimum, “how the charter school will comply with federal and state constitutional procedural and substantive due process requirements.”

Staff have concluded that this element of the Petition is reasonably comprehensive.

In summary:

The Petition describes a process for suspensions of fewer than 10 days, including the following:

- Oral or written notice of the charges against the pupil.
- If the pupil denies the charges, an explanation of the evidence that supports the charges.
- How an opportunity will be provided for the pupil to present a rebuttal to the charges.

(Petition, p. 155-156)

The Petition describes a process for suspensions of 10 days or more and all other expulsions for disciplinary reasons, including the following:

- Timely, written notice of the charges against the pupil and an explanation of the pupil’s basic rights.
- A process of hearing adjudicated by a neutral officer within a reasonable number of days, and to which the pupil has the right to bring legal counsel or an advocate.

(Petition, p.157-158)

The Petition describes a clear statement that no pupil shall be involuntarily removed by the charter school for any reason unless the parent or guardian of the pupil has been provided with written notice, and that ensures the written notice shall be in the native language of the pupil or the pupil’s parent or guardian. (Petition, p. 149)

The Petition describes an understanding of relevant laws protecting constitutional rights of students.

- Provides for due process for all students and demonstrates understanding of the rights of students with disabilities, in regard to suspension, expulsion and involuntary dismissal. (Petition, pgs. 148-149)

Explanation of how authorizer may be notified of disciplinary matters. (Petition, p. 160)

Element K: Staff Retirement System

The Petition must describe the manner in which staff members of the Charter School will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security. (Ed. Code, § 47605(c)(5)(K).) Staff have concluded that this element of the Petition is reasonably comprehensive.

In summary:

The Petition describes a statement of what retirement options will be offered to employees: State Teachers' Retirement System (STRS) (if STRS, then all teachers must participate); Public Employees' Retirement System (PERS); and Social Security. (Petition, pg. 165)

The Petition describes whether and how retirement will be offered. (Petition, pg. 134, 165)

The Petition describes who is responsible for ensuring that the appropriate arrangements for coverage have been made. (Petition, pg. 165)

Element L: Public School Attendance Alternatives

The Petition must describe the public school attendance alternatives for pupils residing within the attendance area who choose not to attend the Charter School. (Ed. Code, § 47605 (c)(5)(L).)

Staff have concluded that this element of the Petition is reasonably comprehensive.

In summary:

The Petition discusses attendance alternatives for students who reside within the county and choose not to attend the charter school. (Petition, pg. 166)

Element M: Post-employment Rights of Employees

The Petition must include the rights of the charter authorizer's employee upon leaving charter authorizer employment to work in the Charter School and any rights of return to the charter authorizer after employment at the Charter School. (Ed. Code, § 47605(c)(5)(M).)

Staff have concluded that this element of the Petition is reasonably comprehensive.

In summary:

The Petition describes school district employees' return to employment rights, including the following:

- Whether, and how staff may resume employment within the district or authorizer. (Petition, pg. 167)

The potential ability to transfer sick and/or vacation leave to and from the charter school and another LEA was referenced in the Petition. Staff was uncertain of employees' ability to transfer leave. Petitioners clarified in the capacity interview that employees are able to transfer sick leave. (Petition, pg. 167)

Element N: Dispute Resolution Procedures

The Petition must include the procedures to be followed by the Charter School and the SCOE to resolve disputes relating to provisions of the charter. (Ed. Code, § 47605(c)(5)(N).)

Staff have concluded that this element of the Petition is reasonably comprehensive.

In summary:

The Petition describes a process for the charter and the authorizer to settle disputes related to the provisions of the charter. (Petition, pg. 168-169)

The Petition references that PCI policies and procedures will be used by the Charter to resolve internal complaints and disputes (Petition, pgs. 139, 168).

- Includes a reference to the Uniform Complaint procedures and a description of how this process is communicated to parents, staff and the community. (Petition, pg. 168)

The Petition describes an acknowledgement that, except for disputes between the chartering authority and the charter school, all disputes involving the charter school shall be resolved by the charter school according to the charter school's own internal policies. (Petition, pg. 168). However, nowhere are the policies/procedures included with the Petition.

The Petition describes a statement that if any such dispute concerns facts or circumstances that may be cause for revocation of the charter, the authorizer shall not be obligated by the terms of the dispute resolution process as a precondition to revocation. (Petition, pg. 169)

Element O: Closure Procedures

The Petition must include the procedures to be used if the Charter School closes. (Ed. Code, § 47605(c)(5)(O))

Staff have concluded that this element of the Petition is reasonably comprehensive.

In summary:

The Petition describes procedures to be used if the charter school closes, including the following:

- Who is the responsible entity or person that will conduct closure-related activities?
- How the charter will communicate the closure to students, parents and guardians, the authorizing entity, the county office of education, the charter’s special education local plan area, the retirement systems in which the school’s employees participate, and the California Department of Education.
- Who will conduct the process for the completion and submission of final financial reports, expenditure reports for entitlement grants, and the filing of any required final expenditure and performance reports?

(Petition, pp. 170 -171)

The Petition describes the maintenance plan for pupil records and the manner in which parents and guardians may obtain copies of pupil records if the charter school closes, including how information will be preserved and transferred. (Petition, pp. 170 -171)

The Petition describes a process for how the charter will ensure a final audit of the charter school.

- An assurance the audit will be conducted within six months of closure.
- The disposition of the charter school’s assets.
- Plans for disposing net assets including at least the following:
 - The disposition of all assets of the charter, including cash and accounts receivable and an inventory of property, equipment and other items of material value.
 - An accounting of all liabilities, including accounts payable and any reduction in apportionments as a result of audit findings or other investigations, loans, and unpaid staff compensation.
 - An assessment of the disposition of any restricted funds received by or due to the charter.
 - Process for the return of any donated materials and property in accordance with any conditions established when the donation of such materials or property was accepted.

(Petition, pp. 170 -171)

The Petition describes the transfer and maintenance of personnel records in accordance with applicable law. (Petition, pp. 170 -171)

Required Supplemental Criteria

Financial and Administrative Plan

Staff have concluded that this portion of the Petition is reasonably comprehensive.

In summary:

The Petition describes a first year operational budget, including:

- Annual revenues and expenditures clearly identified by source. (Appendix 7: Budget and Financial Documents)

Petitioner has LCAP goals and actions that seem to be aligned with their budget; ideally, the Petition would reflect further assumptions to strengthen the alignment verification. (Petition, pgs. 91-109 and Appendix 7: Budget and Financial Documentation). During the Capacity interview, petitioners described their alignment of goals with the budget. However, Petitioners should provide a clear written description of the alignment of LCAP expenditures with their budget.

The Petition describes financial projections that include a clear description of planning assumptions. (Appendix 7: Budget and Financial Documents -)

The Petition describes start-up costs with a reasonable allocation for most major start-up costs. (Appendix 7: Budget and Financial Documents)

The Petition describes cash flow projections for first three years with a monthly projection of revenue receipts in line with local, state and federal funding disbursements. (Appendix 7: Budget and Financial Documents)

The Petition describes structure for administrative services and operations (Petition, p. 175-176)

Back Office Providers

Staff have concluded that this portion of the Petition is reasonably comprehensive.

In summary:

The Petition describes the name of the back office provider and a description of support used by the charter. (Petition, p. 175)

Charter Management Organization

Staff have concluded that this portion of the Petition is reasonably comprehensive.

In summary:

The Petition describes the name and relationship of PCI to charter school, along with other relevant details. (Petition, pgs. 173-175)

Facilities: Evaluation Criteria Education Code § 47605(h)

Staff have concluded that this portion of the Petition is reasonably comprehensive.

In summary:

The Petition generally describes the type and the location of the charter school facility or facilities that the Petitioner proposes to operate, even though it does not identify the precise location it will operate. (Petition, pgs. 29, 175)

The Petition generally describes current and projected availability of facilities but does not presently specify where the Charter School proposes to locate, or specifically what facilities will be used as that process remains underway with the Charter School's realtor. (Petition, p. 175) The Petition includes

- Assurances of legal compliance with all health and safety, ADA, and applicable building codes. (Petition, p. 140, 176)
- Adequate budget for anticipated costs, including renovation, rent, maintenance and utilities. (Appendix 7: Budget and Financial Documents)
- Assurance that the facilities shall be accessible for all students with disabilities (Petition, p. 79)

The Petition described that the Charter School may apply for Proposition 39 facilities (Petition, p. 176)

Impact Statement: Evaluation Criteria Education Code § 47605(h)

Staff have concluded that this portion of the Petition is reasonably comprehensive.

In summary:

The Petition discusses an anticipated operational memorandum of understanding between the authorizer and charter school, and further discusses potential civil liability effects, upon the school and the authorizer. (Petition, p. 172, 176)

Community Impact: Evaluation Criteria Education Code § 47605(c)(7)

Staff have concluded that this portion of the Petition is reasonably comprehensive.

The Petition adequately described a program that Staff has determined does not reflect that it will duplicate a program currently offered by the District, within the meaning of Education Code section 47605(c)(7), nor is there evidence it will it substantially undermine existing school district services, academic offerings, or program offerings. (Petition, pgs. 26-114)

Special Education: Evaluation Criteria Education Code § 47641(a) and Education Code § 47646

Staff have concluded that this element of the Petition is reasonably comprehensive.

In summary:

The Petition sufficiently describes the school's special education structure in detail, including discussion of provision of services under the IDEA, Section 504, special education staffing, responses to requests for assessments, identification and referral, the IEP process, student placement, addressing due process and parent concerns, and more. (Petition, p. 74, 79-85)

The Charter Petition includes evidence that the school has consulted with, and will become a member of, the El Dorado Charter SELPA. (Appendix 9: Letter from EDCOE SELPA)

The Petition includes the following assurances:

- The charter will comply with all provisions of IDEA. (Petition, p.79)
- Discusses admission based on disability or lack of available services. (Petition, pgs. 82,142-143)
- Student study team process will be implemented. (Petition, p.73-74)
- Students qualifying for Section 504 services will receive such services. (Petition, p 84-85.)

Required Declaration

Staff have concluded that this element of the Petition is reasonably comprehensive.

In summary:

The Petition describes a declaration of whether or not the charter school shall be deemed the exclusive public employer of the employees of the charter school. (Petition, p. 8)

Affirmations: Evaluation Criteria Education Code § 47605(e)

Staff have concluded that this element of the Petition is reasonably comprehensive.

In summary:

The Petition describes affirmations that:

- The school will be nonsectarian in its:
 - Programs
 - Admission policies
 - Employment practices
 - All other operations(Petition, p. 8, 129, 142)
- The school shall not charge tuition. (Petition, p. 8, 142)
- The school shall not discriminate against any pupil on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the California Penal Code. (Petition, p. 8, 129, 142)
- Admission to a charter school shall not be determined according to the place of residence of the pupil, or of the pupil's parent or legal guardian, within this state, except that an existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school. (Petition, p.8, 142)

- The charter school shall admit all pupils who wish to attend the charter school. (Petition, p. 8, 143)
- The school will comply with federal, state and local laws as required for charter schools. (Petition, p. 8-10)

Alternative Education Criteria: Education Code § 58500 – 58512

Staff have concluded that this element of the Petition is not applicable.

Independent Study Criteria: (5 Year Moratorium)

Staff have concluded that this element of the Petition is not applicable.

6. Does the Petition contain a declaration of whether or not the charter school shall be deemed the exclusive public employer of the employees of the charter school for purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code. (Education Code § 47605(b))?

- **Yes.** Staff have determined that the Petition contains the required declaration.

In Summary:

The declaration is found on page 8 of the Petition.

7. Is the charter school demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate?

- **No.** Staff have determined the Charter School is not demonstrably unlikely to serve the interests of the entire community in which it is proposing to operate.

In summary:

- The Petition and associated documents do not support a finding that the proposed Charter School would substantially undermine existing services, academic offerings, or programmatic offerings of the school district in which it is proposing to locate.
- The Petition and associated documents do not support a finding that the proposed charter school would duplicate a program currently offered within the local school district, within the meaning of Education Code § 47605(c)(7).

8. Whether the school district is not positioned to absorb the fiscal impact of the proposed charter school?

- **None of the statutory criteria are present indicating the school district is not positioned to absorb the fiscal impact of the proposed charter school, within the meaning of Education Code § 47605(c)(8).**

In summary:

- The District does not have a qualified interim certification pursuant to Section 42131 and the county superintendent of schools, in consultation with the County Office Fiscal Crisis and Management Assistance Team, has not certified that approving the charter school would result in the school district having a negative interim certification pursuant to Section 42131;
- The District does not have a negative interim certification pursuant to Section 42131; and
- The District is not under state receivership.

9. **Evidence for denying the Petition.**

From Staff's analysis, no findings specific to the particular Petition were identified that rose to the level of justifying denial of the Petition. However, several deficient items are noted in this staff report and should be resolved through an operational Memorandum of Understanding and other oversight measures. These items include:

- a. Lack of more precise facilities information, including specific address;
- b. Lack of inclusion of dispute resolution policy/procedures for internal conflict referenced in the petition;
- c. Ambiguity in language following assurance that Charter School will resolve any audit deficiencies to the satisfaction of the authorizer;
- d. While goals and actions of the Charter School's LCAP are present in the petition, as well as budget expenditures that could achieve their stated goals and actions, Petitioners lack a clear description of the correlation between their goals and budget.
- e. Lack of assurance that recruitment materials will be printed in all languages that are identified as the primary language spoken by 15% or more of families within the District's boundaries in order to achieve a racial and ethnic balance.

Staff Recommendation

Based on Staff's careful review of the Petition, it is recommended that the County Board adopt the above findings as its own, and:

1. Approve the Petition submitted by the Charter School, as Staff have concluded that the Petition meets the requirements for approval pursuant to Education Code section 47605; and
2. As a condition of approval, require the Charter School, within 45 days of approval, to:

- a. Execute a Memorandum of Understanding addressing the items noted in Section 9 (a)-(e) of this staff report; and
 - b. Provide documentation verifying purchase or lease of Charter School facilities, including the precise location for said facilities.
 - c. Make changes throughout the Petition as needed to reflect the County Board as authorizer.
3. Approve any admissions preferences set forth in the Petition.