

**WEST CONTRA COSTA  
UNIFIED SCHOOL DISTRICT**

**BOARD OF TRUSTEES**



**MISSION STATEMENT**

WCCUSD, in partnership with the community, serves the whole child, preparing every student to succeed in higher education, career, and life by pairing high quality academics with social, emotional, and wellness support.

*“Whole Child, Whole Community”*

**MEETING OF**  
December 3, 2014

**WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT  
BOARD OF EDUCATION  
SPECIAL MEETING AGENDA  
DECEMBER 3, 2014**

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**BOARD AGENDA PACKETS AND INFORMATION:**

Complete Board meeting packets are available for review at the Administration Building, the District's six high schools, and at public libraries throughout West County.

Complete Board agendas and packets are available online at: [www.wccusd.net](http://www.wccusd.net).

Any writings or documents that are public records and are provided to a majority of the governing board regarding an open session item on this agenda will be made available for public inspection in the District office located at 1108 Bissell Avenue, Richmond, CA 94801 during normal business hours. In addition, such writings and documents may be posted on the District's website as noted above.

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**VIEWING THE BOARD MEETINGS:**

**Television:**

Live television broadcast of regularly scheduled Board meetings is available by the City of Pinole on PCTV Channel 26/28, the City of Richmond KCRT Channel 28 and the City of Hercules Cable Channel 28. Please check the city websites for local listings of broadcast schedules.

You may also find the complete meeting available on a tape-delay basis through the Richmond City Web Page at: <http://www.kcrt.com> within a few days of the recording date.

Audio recordings of Board meetings are kept on file at the Administration Building, 1108 Bissell Avenue, Richmond, CA 94801 (510-231-1101).

The Board of Education would like to acknowledge Comcast, the cities of Pinole and Richmond, and WCCUSD staff for their generosity and efforts in helping to televise WCCUSD Board of Education meetings.

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**ATTENDING BOARD MEETINGS:**

The public is warmly invited to attend and participate in all WCCUSD Board of Education meetings.

**Location:**      **LOVONYA DEJEAN MIDDLE SCHOOL  
3400 MACDONALD AVENUE  
RICHMOND, CA 94805**

**Time:**            The **Board of Education's Open Session meeting will begin at 6:30 PM.** The Board will convene at **5:45 PM** in the Multi-Purpose Room to receive comments from anyone wishing to address the Board regarding closed session items (Exhibit A). The Board will then adjourn to closed session and reconvene in open session to address the regular agenda (Exhibits B-G) at 6:30 PM.

**Order of Business:** **ORDER OF BUSINESS MAY BE CHANGED WITHOUT NOTICE**

**Special Accommodations:** Upon written request to the District, disability-related modifications or accommodations, including auxiliary aids or services, will be provided. Please contact the Superintendent's Office at 510-231-1101 at least 48 hours in advance of meetings.

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"of children be more careful than anything."  
e.e. cummings

**B. OPENING PROCEDURES**

- B.1 Pledge of Allegiance**
- B.2 Welcome and Meeting Procedures**
- B.3 Roll Call**
- B.4 Report/Ratification of Closed Session**
- \* **B.5 Agenda Review and Adoption (Public Comment)**

**F. ACTION ITEMS**

\* **F.1 Resolution No. 43-1415: Requesting BAAQMD Reconsider Permit**

Comment:

At the request of Mr. Andres Soto, Board President Ramsey has placed Resolution No. 43-1415 on the agenda for the Board to consider requesting the Bay Area Air Quality Management District (BAAQMD) reconsider its decision to grant a permit to Kinder Morgan.

Recommendation:

That the Board review and act upon Mr. Soto's request

Fiscal Impact:

None

\* **F.2 Revision to Board Bylaw 9260 Legal Protection**

Comment:

The District recognizes the necessity to protect Board members and employees while acting within the scope of their office or employment in accordance with Education Code 35208. The policy revision stipulates provisions regarding legal counsel.

Recommendation:

Recommend Approval

Fiscal Impact:

None

\* **F.3 Aspire Richmond Technology Academy Charter School Staff and Counsel Findings of Fact, and Board Decision**

Comment:

On or about September 5, 2014, the West Contra Costa Unified School District ("District") received a charter petition ("Petition") from Aspire Public Schools ("Petitioners"). The Petition proposes establishing Aspire Richmond Technology Academy ("Charter School") for a term of five years from July 1, 2015 through June 30, 2020. Pursuant to Education Code section 47605 subdivision (a)(1)(A), the Petition is signed by the requisite number of parents/legal guardians meaningfully interested in enrolling their students at the Charter School (Appendix I).

The District held a public hearing on October 1, 2014, so that the District’s Governing Board (“Board”) could consider the level of support for the Petition (Ed. Code, § 47605, subd. (b)). Petitioners are an established charter school operator, and support for the Petition among the District’s teachers, employees and parents appeared to be split.

Staff reviewed the petition, then provided written feedback on all elements including the proposed educational program, fiscal and governance structures, student admissions and discipline, labor and personnel issues, facilities and legal issues. The review team from the District staff included: Steve Collins, Director of Special Education, Cheryl Cotton, Director of Human Resources, Linda Delgado, Coordinator of Educational Services, Phil Gonsalves, Director for Mathematics Instruction, Mimi Melodia, Coordinator for English Language Development, Lyn Potter, Director for Educational Services, Daniela Parasidis, Director of Business Services, and Mehdi Rizvi, Principal Accountant.

District staff has identified concerns within the Petition, which are described in detail below, and believes that those deficiencies could warrant a denial of the Petition. However, staff finds its concerns are relatively minor when compared with the legislative intent of the Charter Schools Act “that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged.” (Ed. Code, § 47605, subd. (b)).

In sum, District staff recommends that the Board approve the Petition for the establishment of the Charter School without conditions for a five year term, commencing with the 2015-2016 school year and expiring on June 30, 2020. In the event the Board approves the Petition, District staff also recommends that a separate memorandum of understanding that addresses the concerns regarding the Petition, as noted herein, be negotiated between the Petitioners and the Superintendent and/or his designee, for consideration by the Board at its meeting scheduled for January 21, 2015.

Notwithstanding the above, if after review of the Petition and the discussion herein the Board wishes to deny the Petition, the Board may base its denial on the findings of fact set forth below. Please note that these findings of fact have been grouped for convenience under the grounds for denial of a charter petition, which are also discussed below. However, certain findings of fact may support more than one ground for denial.

**Finding 1: The Petitioners are Demonstrably Unlikely to Successfully Implement the Program Set Forth in the Petition.**

In order to successfully implement the program described in the Petition, Petitioners must demonstrate that they are familiar with the content of the Petition and the requirements of laws applicable to the proposed school; present a realistic financial and operational plan; have the necessary background in areas critical to the Charter School’s success, or have a plan for securing the services of individuals with the necessary background, including curriculum, instruction, assessment, finance and business management.

Based upon the information provided in the Petition, the Petitioners are demonstrably unlikely to successfully implement the educational program for the following reasons:

- A. The Petition presents an inadequate plan for facilities.
- B. The Petition presents an inadequate financial plan for the proposed charter school.

- C. The Petition presents an inadequate plan for English language learners.
- D. The Petition is not compliant with the Brown Act.
- E. The Petition’s discussion regarding the transitional kindergarten program lacks specificity.
- F. The Petitioners present an inadequate plan to meet the needs of foster youth.
- G. The Petition’s discussion regarding the summer technology program lacks specificity.
- H. Petitioners present an inadequate plan for students with emotional challenges.

A. The Petition Presents an Inadequate Plan for Facilities.

Education Code section 47605, subdivision (g) requires Petitioners to, “...provide information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be used by the school, [including] where the school intends to locate.” The Petition fails to identify with any specificity where the school intends to locate. The Petition states that the Charter School is actively searching for a private facility “*yet to be identified* in Richmond, California.” (p. 123, emphasis added.) Without more, the Petition simply lists an ambition, rather than a concrete plan specifying *where* the Charter School intends to locate and *how* the Charter School will attain a school facility.

The indefinite location of the proposed Charter School negatively impacts other key elements, such as the opening date for the Charter School. Although the Petition seeks a term from July 1, 2015 through June 30, 2020, the Petition conditions the start date of the academic year on the attainment of facilities, which Petitioners state is “yet to be identified.” (p. 84.) According to the Petition, “[t]he opening date of The Charter School will *depend* on when Aspire is able to secure a suitable facility.” (p. 123, emphasis added.) Even if the Petition is approved, the District has no assurances at this time as to when or where the Charter School will open.

B. The Petition Presents an Inadequate Financial Plan for the Proposed Charter School.

A charter petition should, at a minimum, include a first-year operational budget, start-up costs and cash flow, and financial projections for the first three years. (Ed. Code, § 47605, subd. (g).) Among other things, the operational budget must: (1) include “reasonable estimates of all anticipated revenues and expenditures necessary to operate the school;” (2) “demonstrate an understanding of the timing of the receipt of various revenues and their relationship to [the] timing of expenditures;” and (3) “appear[ ] viable and over a period of no less than two years of operations provide[ ] for the amassing of a reserve equivalent to that required by law for a school district of similar size to the proposed charter school.” (5 CCR § 11967.5.1, subd. (c)(3)(B).)

The Petition’s budget fails to provide detail in several critical areas, including special education. Although the Charter School’s 2015-2016 budget identifies approximately \$153,000 in state special education revenues, the budget fails to specify where the Charter School makes corresponding expenditures equal to the total revenues received for this category. (Three Year Budget.) The budget does provide a single line-item where approximately \$25,300 in “Special Education Home Office Charges” are given to Petitioners for unspecified reasons, however, there is over \$127,000 that remains

unaccounted. (Three Year Budget.) The Petition does not provide the required specificity as to its budget because to fails to explain on how the Charter School intends to spend the state special education revenues.

Another budgetary line-item that lacks specificity is the revenue account titled “Other Federal”. Petitioners project “Other Federal” revenues in the amount of \$350,000 in the Charter School’s first year of operation. (Three Year Budget.) This amount accounts for more than 10% of the Charter School’s budget and yet there is no explanation of what the source is for this revenue or whether there are any restrictions on how this revenue may be spent. This revenue source *may* be a reference to federal charter school start up grant funding. However, Petitioners do not identify the source of this “Other Federal” revenue. Without the \$350,000 in “Other Federal” revenue, the Charter School would not be able to close the 2015-2016 fiscal year with a positive cash balance, making this revenue source a critical part of the Charter School’s first year budget. (2015-2016 Cash Flow.)

Additionally, the Petition contemplates a loan from Petitioners’ Home Office to the Charter School in the amount of \$400,000 for cash flow purposes. This loan is critical to the Charter School’s ability to have a positive cash balance on a month to month basis as well as at year end. Without this nearly half-a-million dollar loan, the Charter School would not be fiscally solvent. However, Petitioners do not provide any detail about the terms of this loan, or whether Petitioners’ Home Office could sustain the temporary transfer of these funds to the Charter School.

Petitioners have also filed another charter petition with the District seeking the establishment of a school (grades 6 through 12) that is also scheduled to receive a loan from Petitioners’ Home Office ranging from \$425,000 to \$500,000. If both petitions were granted, Petitioners’ Home Office would be loaning more than \$800,000 to two new charter schools in the District. The Petition does not provide any detail on how the Home Office would be impacted by these loans. Petitioners’ fiscal solvency cannot be evaluated without information regarding the terms and condition of these loans, as well as budget documents detailing the finances of Petitioners’ Home Office.

C. The Petition Presents an Inadequate Plan for English Language Learners.

According to the California Department of Education, charter schools are subject to all federal requirements and specific state requirements established for English Language Learner (“ELL”) programs. Program reviews for charter school, just as for other public schools, are conducted under the State’s Categorical Program Monitoring Process. (See <http://www.cde.ca.gov/sp/cs/re/qandasec4mar04.asp#Q1>.) At a minimum, the Petition should identify specific assessments, a consistent curriculum, and a schedule for monitoring student progress in reaching English proficiency.

Petition describes a Parental Exception Waiver, whereby parents can remove their students from an ELL classroom. (Appendix IV.) However, Petition lacks a description of either the language, or the method of instruction to be offered for students who have effectively waived out of the Mainstream English Program. Without more, it is unclear as to whether the Charter school can properly implement their program for ELL.

D. The Petition is not compliant with the Brown Act.

The Petition states that the Charter School shall “[c]omply with the Ralph M. Brown Act.” (p. 11.) The purpose of the Brown Act (Gov. Code, §§ 54590, et seq.), is to ensure that agencies take actions “openly

and that their deliberations be conducted openly” and to ensure that the public remains informed about public affairs. (Gov. Code, § 54590.) However, the Petition presents numerous instances whereby the Charter School’s practices are inconsistent with the Brown Act.

Providing the members of the governing board, as well as the public, with notice of regular and special meetings is an essential requirement of the Brown Act. “Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.” (Gov. Code, § 54594.3, subd. (a).)

The Petition does not ensure that members of the public receive proper notice under the Brown Act. In order to hold a special meeting consistent with the Brown Act, an agency must,

[D]eliver written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television station requesting notice in writing and posting a notice on the local agency’s Internet Web site, if the local agency has one. The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice.

(Gov. Code, § 54596, subd. (a).)

The Petition does not ensure that notice of the Charter School Board’s meetings are actually received as required by the Brown Act. The Petition states that the Charter School’s Board may hold special meetings “only after twenty-four (24) hours notice is given to each Director and to the public ... .” (Appendix VIII, § 6.4, para. (a).) However, the Petition defines its process for notice in a manner that is inconsistent with the Brown Act. The Petition states that, “Notice by mail or email shall be deemed received at the time a properly addressed written notice is deposited in the United States mail, postage prepaid.” (Appendix VIII, § 6.4, para. (c).) However, deeming notice received upon mailing is improper because it effectively defeats the purpose of a notice requirement. Simply dropping a written notice into the U.S. Mail, which may take 2-3 days for delivery, does not legally comply with the Brown Act regarding meetings to take place within 24 hours. The process set forth in the Petition for notifying the public also fails to ensure that the public receives actual notice of the special meeting in any meaningful manner. As a result, this practice is likely to diminish parental participation, and is not reasonably calculated to fulfill the Brown Act’s notice requirement.

Regarding special meetings, the Petition has no mention of whether the Charter School will provide the local media with notification of a special meeting as required under the Brown Act. Without such a process, the Petition is out of compliance with the Brown Act.

The Brown Act defines a “meeting” as “any congregation *of a majority of the members* of a legislative body at the same time and location... to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.” (Gov. Code, § 54592.2, subd. (a).) Despite this rule, the Petition allows the Charter School to delegate “all authority of the [Charter School’s] Board in the management and business affairs of the Corporation...” to an Executive Committee, which is comprised of two or more Directors and a Chairperson. (Appendix VIII, § 8.2.) Staff has concerns about the concentration of such broad authority in a committee that is small as three members and which stands apart from the Charter School’s Board of Directors.

E. The Petition's Discussion Regarding the Transitional Kindergarten Program Lacks Specificity.

In addition to a traditional kindergarten class, Petitioners intend to offer transitional kindergarten program. "The Charter School will also offer transitional kindergarten and comply with all applicable requirements regarding transitional kindergarten." (p. 21.) However, the Petition offers no details about this program. The Petition fails to describe the curriculum, the associated costs and expenditures, and the staffing levels and qualifications required for those involved with the program.

Petition also fails to describe how the introduction of a transitional kindergarten program will affect the initial enrollment numbers. Petition proposes an initial enrollment of 312 students, with 48 students in each of the K, 1st, 2nd, and 3rd grades, and enrollment of 60 students in each of the 4th and 5th grades. (Appendix XIV.) It is unclear whether the transitional kindergarten students will count towards the 48 students in kindergarten, or whether an entirely different enrollment number is contemplated.

F. The Petitioners Present an Inadequate Plan to Meet the Needs of Foster Youth.

As a part of the new Local Control Funding Formula, the Petition must describe how the Charter School will achieve each of the eight state priorities listed in Education Code section 52060 subdivision (d). More specifically, the Petition must provide how each enumerated subgroup of pupils, including foster youth, will achieve each state priority. (Ed. Code, § 52052, subd. (a)(2)(A-E).)

The Petition fails to describe how the Charter School will address the needs of foster youth. In fact, the Petition in its entirety fails to mention foster youth at all. The Petition fails to detail any strategies, curriculum, or support aimed at helping the foster youth achieve each state priority.

G. The Petition's Discussion Regarding the Summer Technology Program Lacks Specificity.

In addition to a traditional school year, Petitioners intend to offer a Summer Boot Camp that focuses on technology issues. The Petition states that, "In order to effectively prepare students for an immersive technological environment, we aim to offer students a summer technology boot camp in which students will learn the basics around computer usage and safety, keyboarding skills, foundational information about Google Apps for Education, and how to access their work from home." (p. 26.) However, the Petition provides no further detail about this program. The Petition does not explain how many students will be enrolled in the Summer Boot Camp, or how many teachers will participate in the camp. The Petition fails to address how long the boot camp will last, or provide the curriculum that the teachers will be following.

H. Petitioners Present an Inadequate Plan for Students with Emotional Challenges.

The Petition states, "Aspire's multi-tiered, trauma-informed approach to supporting students' mental health and behavioral needs will ensure that these challenges are identified early and often." (p. 24.) Petitioners' primary method for addressing the mental health and behavioral needs of students is the formation of groups such as the "Grade Level Team (GLT)". The Petition states, "For students who are experiencing behavioral challenges, the GLT may work to create an individualized Behavior Map and/or Behavior Contract. Behavioral goals will be developed and assessed over time to determine if students are ready to return to [lower levels of assessment]." (p. 24.) However, the Petition lacks discussion on which personnel will constitute the GLT, or what training and qualifications will be required to ensure the proper identification and assessment of students with mental health and behavioral needs.

The Petition goes on to state, “It is our aim to have a Spanish-speaking, on-site mental health provider who will be able to work with individual students and families in need of mental health support, while other students may be referred to quality mental health providers within the community.” (p. 25.) The Petition does not indicate whether the “Spanish-speaking, on-site mental health provider” would be an employee of the Charter School, a volunteer or a professional from another entity. The Petition also does not state the type of qualifications this position must have or costs associated with this position. Petitioners do not address whether similar services will be available to students who speak neither English nor Spanish.

It is also unclear whether Petitioners intend to take responsibility for students struggling with mental health and behavioral issues to provide services at no cost or, if they are simply referring such students to services they may not necessarily be able to afford.

### **Finding 2: The Petition Does Not Contain Reasonably Comprehensive Descriptions of Certain Required Elements**

The Petition serves as Petitioners proposal for the Charter School’s establishment and operation. As such, the Petition must provide reasonably comprehensive descriptions of certain elements in its program and operations as required in Education Code section 47605, subdivision (b)(5)(A-P). The following elements do not meet this standard due to incomplete or inadequate information, which in some instances contradict the requirements of the law:

- A. The Petition lacks a clear and consistent expulsion policy.
- B. The Petition lacks a description of how the Charter School will outreach to students with disabilities.
- C. The Petition fails to demonstrate an understanding of Richmond’s racial and ethnic diversity.
- D. The Petition does not adequately describe a clear governance structure that will encourage parental participation.
- E. The Petition lacks a reasonably comprehensive description of individuals to be employed by the Charter School.
- F. The Petition does not provide a reasonably comprehensive description of the health and safety procedures.
- G. The Petition does not provide a reasonably comprehensive description of the dispute resolution process.

#### **A. The Petition Lacks a Clear and Consistent Expulsion Policy.**

The Petition’s expulsion policy is inconsistent and unclear. In one instance, the Petition states that “A student may be expelled by the Aspire Administrative Panel.” (p. 102.) However, this statement is later contradicted where the Petition states, “The Aspire Administrative Panel may *recommend* expulsion of any student found to have committed a suspendable or expellable offense.” (p. 102, emphasis added.) It

is unclear whether the Aspire Administrative Panel (“Panel”) has the authority to expel students or may solely recommend an expulsion.

There is also confusion regarding the Charter School’s expulsion procedures. The Petition lists certain offenses that require a “second finding of fact.” (p. 104.) However, the Petition fails to provide a comprehensive description as to what constitutes a secondary finding of fact.

The Petition is also unclear as to readmission of previously expelled students. In describing the readmission process, the Petition states “there is no guarantee of re-enrollment to the expelling school (or a partner school), even if the rehabilitation plan is met.” (p. 102.) However, this statement is later contradicted where Petition states “If a student has met all terms, the student is re-admitted [. . .]” (p. 103.) It is unclear whether a student is guaranteed readmission when he/she meets all of the terms of a rehabilitation plan, or if Charter School offers no guarantee of re-enrollment, even if the terms of a rehabilitation plan have been met. The policies as provided in the Petition are inadequate and do not provide parents proper notice as to what the accurate readmission process is for their student.

**B. The Petition Fails to Demonstrate an Understanding of Richmond’s Racial and Ethnic Diversity.**

Staff has serious concerns regarding Petitioners’ discussion of the racial and ethnic diversity of Richmond. Petitioners assert that they “selected Richmond as the location for this new school because Richmond has a high need population, a high percentage of FRL students, and a lack of high-performing schools.” (p. 6.) While the Petition discusses the racial and ethnic demographics of the District, Petitioners fail to demonstrate an understanding of the racial and ethnic demographics of the Richmond community they specifically target. Without a clear understanding of Richmond’s racial and ethnic makeup, it is uncertain whether the Charter School will be able to strive for, obtain, and ultimately maintain a racial and ethnic balance that is reflective of the Richmond community.

**C. The Petition Lacks a Description of how the Charter School will Outreach to Students with Disabilities.**

Staff has concerns about the Charter School’s outreach to, and recruitment of students with disabilities. According to the U.S. Department of Education, Office for Civil Rights, charter schools should “recruit [students] from all segments of the community served by the school, including *students with disabilities* and students of all races, colors and national origins.” (United States Department of Education’s Office for Civil Rights, Applying Federal Civil Rights Laws to Public Charter Schools (May 2000), <<https://www2.ed.gov/offices/OCR/archives/pdf/charter.pdf>> [as of Oct. 21, 2014], emphasis added.) The Petition does mention a basic outreach plan aimed to “achieve a racially and ethnically diverse student population” (p. 88.) reflective of the District, however, the Petition is silent with regard to outreach strategies for the recruitment of students with disabilities.

**D. The Petition Does Not Adequately Describe a Clear Governance Structure that will Encourage Parental Participation.**

The Petition must include a reasonably comprehensive description of, “the governance structure of the school, including, but not limited to, the process to be followed by the school to *ensure* parental involvement.” (Ed. Code, § 47605, subd. (b)(5)(D), emphasis added.) In the case of the District, parents become involved in the decision making process by participating in the District’s Board meetings which are regularly held within the District’s boundaries for the convenience of the parents

and the public at large. However, the Petition does not offer similar convenient opportunities on a regular basis. The Petition states that the, “Meetings shall be conducted at the principal office of the Corporation. The Board of Directors may also designate that a meeting be held in any place within California ... .” (Appendix VIII, §6.2.) Because the Charter School’s corporate principal office is located in Oakland (Appendix VIII, § 1.1), the Charter School’s Board will likely meet in locations outside of the District’s boundaries on a regular basis. Given the inconvenience of securing transportation for travel outside of the District boundaries for many District families, out-of-District Board meetings will likely dissuade parental involvement rather than encourage it.

Additionally, the Petition presents a confusing and unclear governance structure. While the Petition describes the duties and roles of the Charter School’s Board, the Petition also mentions several other positions throughout, without explaining the roles or duties for these positions. The positions which lack description include, but are not limited to:

- District Superintendent (Appendix IX)
- President (Appendix VIII)
- Director of Expanded Legal Positions (Appendix VIII)
- Director of School Support and Improvement and Sustainability (Appendix VIII)

Without properly delineating the roles, and duties of these referenced positions, parents are not afforded a clear and reasonably comprehensive description of the Charter School’s governance structure.

Education Code section 47604, subdivision (b) entitles the District to appoint one representative to the Charter School’s governing board. The right to appoint the District’s representative is at the sole discretion of the District’s Governing Board. However, the Petition inappropriately asserts that the Charter School’s Board of Directors retains the power select and remove members of the Board, which would include the District’s representative. The Petition states, “Any Director may be removed, with or without cause, by a vote of the majority of the entire Board of Directors... .” (Appendix VIII, § 5.3, para. (e), emphasis added.) The Petition also states, “Subsequent Directors shall be elected by a majority vote of the Directors at each Annual Meeting, including the vote(s) of any Director whose term of office expires with that meeting.” (Appendix VIII, § 5.3, para. (a).) Any requirement that the District’s representative must be vetted by, or can be removed by, the Charter School is an impermissible limitation on the District’s right to appoint its representative.

E. The Petition Lacks a Reasonably Comprehensive Description of the Individuals to be Employed by the Charter School.

Education Code section 47605 subdivision (b)(5)(E) requires the Petition to include a reasonably comprehensive description of the qualifications to be met by individuals to be employed by the school. The Regulations clarify that a petition should: identify the general qualifications for the various categories of employees that the charter school intends to hire; identify key positions and their specific qualifications; and specify requirements for employment. (5 CCR § 11967.5.1, subd. (f)(5).) The Petition only lists the qualifications for the Principal, Business Manager, and general education Teachers. (pp. 44-46.) However, the Petition fails to define the credentials or qualifications required for the “Cert. Support”, “Instructional Aides”, “Class. Support”, “Clerical/Office Staff” and “Class. Other” positions listed in the Charter School’s budget. (Appendix XIV.) The Petition also fails to define the credentials and qualifications required for special education teachers, para-professionals and other

special education staff (resource specialist, speech and language pathologist, occupational therapist, etc), which may be needed in support of providing required special education services.

Furthermore, the Petition states that the “Charter School may choose not to require credentials for teachers in non-core, noncollege-prep courses.” (p. 78.) While charter schools have “flexibility” for hiring instructors for noncore classes, the qualifications for these positions should nevertheless be clearly articulated. The Petition fails to provide such details.

F. The Petition does not Provide a Reasonably Comprehensive Description of the Health and Safety Procedures.

Petitioners are required to provide a comprehensive description of “procedures that the school will follow to ensure the health and safety of pupils and staff.” (Ed. Code, § 47605, subd. (b)(5)(F).) The Petition fails to meet this requirement, and specifically fails to provide a comprehensive description of how the Charter School will implement and oversee medication usage by students.

Petitioners states the school will adhere to the Education Code, California Department of Education guidance, and applicable law. Simply citing what is required by law is not a sufficient substitute for a plan on how the Charter School will address medication usage and administration. In the attached Student Family Handbook, Petitioners do describe policies regarding the required documentation and prescriptions for medication. Petition also states that “all medication must be dispensed through the office.” (Appendix XVII.) However, Petitioners fail to mention *who* can administer the medication, a crucial aspect of any school’s health and safety procedures.

G. The Petition Does Not Provide a Reasonably Comprehensive Description of the Dispute Resolution Process.

Education Code section 47605, subdivision (b)(5)(N) requires a petition to include “the procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.” However, the Petition’s dispute resolution process goes beyond establishing a process to resolve conflicts, and instead attempts to impose requirements upon the District. For instance, the Petition states, “[t]he staff and Governing Board members of Aspire agree to attempt to resolve all disputes between the district and Aspire regarding this charter pursuant to the terms of this section. Both will refrain from public commentary regarding any disputes until the matter has progressed through the dispute resolution process.” (p. 114.) The Petition is not a contract. Any suggestion that the Petition somehow requires the District to refrain from making public comments, or compels the District to act in a particular manner is misguided. Even assuming that these conditions and restrictions were acceptable to the District, they should be negotiated and set out in an operational Memorandum of Understanding between the parties, rather than in the Petition. Approving the Petition with these terms may inhibit the District’s ability to conduct effective oversight.

Recommendation:

District staff recommends approval of the Petition for a five year term without conditions, commencing with the 2015-2016 school year and expiring on June 30, 2020. In the event the Board approves the Petition, staff recommends that a separate memorandum of understanding that addresses the concerns regarding the Petition, as noted herein, be negotiated between the Petitioners and the Superintendent and/or his designee, for consideration by the Board at its meeting scheduled for January 21, 2015.

Notwithstanding the above, should the Board decide that the concerns raised herein warrant a denial of the Petition, the Board could base its denial 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 certain required elements set forth in Education Code section 47605, subdivisions (b)(5)(A-P).

In order to deny the Petition on the grounds set forth above, Education Code section 47605, subdivision (b), requires the Governing Board to make “written factual findings, specific to the particular petition, setting forth specific facts to support one or more” grounds for denying the Petition. Should the Board decide to deny the Petition, District Staff recommends that the Board adopt these final findings of fact as enumerated in the attached Staff Report as its own.

Fiscal Impact:  
None at this time.

\* **F.4 Aspire Richmond California College Preparatory Academy Charter School Staff and Counsel Findings of Fact, and Board Decision**

Comment:

On or about September 5, 2014, the West Contra Costa Unified School District (“District”) received a charter petition (“Petition”) from Aspire Public Schools (“Petitioners”). The Petition proposes establishing Aspire Richmond California College Preparatory Academy (“Charter School”) for a term of five years from July 1, 2015 through June 30, 2020. Pursuant to Education Code section 47605 subdivision (a)(1)(A), the Petition is signed by the requisite number of parents/legal guardians meaningfully interested in enrolling their students at the Charter School (Appendix I).

The District held a public hearing on October 1, 2014, so that the District’s Governing Board (“Board”) could consider the level of support for the Petition (Ed. Code, § 47605, subd. (b)). Petitioners are an established charter school operator, and support for the Petition among the District’s teachers, employees and parents appeared to be split.

District staff reviewed the petition, then provided written feedback on all elements including the proposed educational program, fiscal and governance structures, student admissions and discipline, labor and personnel issues, facilities and legal issues. The review team from the District staff included: Steve Collins, Director of Special Education, Cheryl Cotton, Director of Human Resources, Linda Delgado, Coordinator of Educational Services, Phil Gonsalves, Director for Mathematics Instruction, Mimi Melodia, Coordinator for English Language Development, Lyn Potter, Director for Educational Services, Daniela Parasidis, Director of Business Services, and Mehdi Rizvi, Principal Accountant.

District staff has identified concerns within the Petition, including, but not limited to, the Charter School’s plans for facilities and projected finances and believes that those deficiencies could warrant a denial of the Petition. However, staff finds its concerns are relatively minor when compared with the legislative intent of the Charter Schools Act “that charter schools are and should become an integral part

of the California educational system and that establishment of charter schools should be encouraged.” (Ed. Code, § 47605, subd. (b)).

In sum, District staff recommends that the Board approve the Petition for the establishment of the Charter School without conditions for a five year term, commencing with the 2015-2016 school year and expiring on June 30, 2020. In the event the Board approves the Petition, District staff also recommends that a separate memorandum of understanding that addresses the concerns regarding the Petition, as noted herein, be negotiated between the Petitioners and the Superintendent and/or his designee, for consideration by the Board at its meeting scheduled for January 21, 2015.

Notwithstanding the above, if after review of the Petition and the discussion herein the Board wishes to deny the Petition, the Board may base its denial on the findings of fact set forth below. Please note that these findings of fact have been grouped for convenience under the grounds for denial of a charter petition, which are also discussed below. However, certain findings of fact may support more than one ground for denial.

### **Proposed Findings of Fact**

#### **Finding 1: The Petitioners are Demonstrably Unlikely to Successfully Implement the Program Set Forth in the Petition.**

In order to successfully implement the program described in the Petition, Petitioners must demonstrate that they are familiar with the content of the Petition and the requirements of laws applicable to the proposed school; present a realistic financial and operational plan; have the necessary background in areas critical to the Charter School’s success, or have a plan for securing the services of individuals with the necessary background, including curriculum, instruction, assessment, finance and business management.

Based upon the information provided in the Petition, the Petitioners are demonstrably unlikely to successfully implement the educational program for the following reasons:

- I. The Petition presents an inadequate plan for facilities.
- J. The Petition presents an inadequate financial plan for the proposed Charter School.
- K. The Petition over relies on community colleges to provide class options for older students.
- L. The Petition imposes inappropriate student fees.
- M. The Petition is not compliant with the Brown Act.
- N. The Petition presents an inadequate plan for intra-Aspire transfers.
- O. The Petition miscalculates the Charter School’s instructional day minutes.
- P. The Petition presents an inadequate plan for their proposed summer school instructional program.
- Q. Petitioners present an inadequate plan for students with emotional challenges.

R. The Petition presents an inadequate plan for English language learners.

A. The Petition Presents an Inadequate Plan for Facilities.

Education Code section 47605, subdivision (g) requires Petitioners to, "...provide information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be used by the school, [including] where the school intends to locate." The Petition fails to identify with any specificity where the school intends to locate. The Petition states that the Charter School is actively searching for a private facility "*yet to be identified* in Richmond, California." (p. 127, emphasis added.) Without more, the Petition simply lists an ambition, rather than a concrete plan specifying *where* the Charter School intends to locate and *how* the Charter School will attain a school facility.

The indefinite location of the proposed Charter School negatively impacts other key elements, such as the opening date for the Charter School. Although the Petition seeks a term from July 1, 2015 through June 30, 2020, the Petition conditions the start date of the academic year on the attainment of facilities, which Petitioners state is "yet to be identified." (p. 127.) According to the Petition, "[t]he opening date of The Charter School will *depend* on when Aspire is able to secure a suitable facility." (p. 127, emphasis added.) Even if the Petition is approved, the District has no assurances at this time as to when or where the Charter School will open.

B. The Petition Presents an Inadequate Financial Plan for the Proposed Charter School.

A charter petition should, at a minimum, include a first-year operational budget, start-up costs and cash flow, and financial projections for the first three years. (Ed. Code, § 47605, subd. (g).) Among other things, the operational budget must: (1) include "reasonable estimates of all anticipated revenues and expenditures necessary to operate the school;" (2) "demonstrate an understanding of the timing of the receipt of various revenues and their relationship to [the] timing of expenditures;" and (3) "appear[ ] viable and over a period of no less than two years of operations provide[ ] for the amassing of a reserve equivalent to that required by law for a school district of similar size to the proposed charter school." (5 CCR § 11967.5.1, subd. (c)(3)(B).)

Although the Petition provides the basic financial information for the Charter School, Petitioners propose two very different enrollment scenarios. Appendix XVa is entitled "School financials – enrollment scenario 1" ("Scenario 1"), and Appendix XVb is entitled "School financials – enrollment scenario 2" ("Scenario 2"). Scenario 1 lays out the more ambitious plan with an expected enrollment of 420 students in grades 6 through 12 during the Charter School's first year of operation. Approximately 39 staff members are projected under Scenario 1 with about 60 students enrolled per grade level. Scenario 1 also projects approximately \$4.6 million in revenue and \$4.1 million in expenses during the Charter School's first year.

Scenario 2 has an expected enrollment of 300 students in grades 6, 9, 10, 11 and 12 during the Charter School's first year of operation. Approximately 33 staff members are projected under Scenario 2 with about 60 students enrolled per grade level. Scenario 2 also projects approximately \$3.4 million in revenue and \$3.3 million in expenses during the Charter School's first year.

Scenarios 1 and 2 describe two separate charter school enrollment plans with significant differences in their staffing, revenues and expenses. It is not clear which of these enrollment plans would be

implemented because Petitioners predicate that decision on the type of facility they are able to secure. (p. 20.) The Petition fails to state when Petitioners will select a facility or when they will commit to an enrollment scenario. The alternative scenarios presented in the Petition lack clarity, and interfere with the District's ability to provide proper oversight.

Additionally, the Petition contemplates a loan from Petitioners' Home Office to the Charter School ranging from \$425,000 to \$500,000 for cash flow purposes. This loan is critical to the Charter School's ability to have a positive cash balance on a month to month basis as well as at year end. Without this nearly half-a-million dollar loan, the Charter School would not be fiscally solvent. However, Petitioners do not provide any detail about the terms of this loan, or whether Petitioners' Home Office could sustain the temporary transfer of these funds to the Charter School.

Petitioners have also filed another charter petition with the District seeking the establishment of an elementary school that is also scheduled to receive a loan from Petitioners' Home Office in the amount of \$400,000. If both petitions were granted, Petitioners' Home Office would be loaning more than \$800,000 to two new charter schools in the District. The Petition does not provide any detail on how the Home Office would be impacted by these loans. Petitioners' fiscal solvency cannot be evaluated without information regarding the terms and condition of these loans, as well as budget documents detailing the finances of Petitioners' Home Office.

#### C. The Petition Over Relies on Community Colleges to Provide Class Options for Older Students.

Petitioners' goal to prepare students for college is one that the District shares. However, the Petitioners appear to pass this responsibility largely on to the community colleges. The Petition's educational program requires students to enroll at a community college in order to complete their high school graduation requirements. (pp. 32, and 51-52.) The Petition states "[a]s an Early College High School, [the Charter School] aims to blend high school and college into a coherent educational program, making it possible for all students to earn two years of college credit at the same time they are earning a high school diploma ... ." (p. 31, emphasis added.) However, the Charter School's educational program does not "blend", rather, it depends on community colleges to complete the high school education of the Charter School's students.

According to the Charter School's sample class schedule, high school seniors in their second semester are expected to enroll in seven (7) classes, five (5) of which will be at a community college and one (1) as an internship. (p. 32.) In order to graduate, Charter School seniors must enroll at a community college in order to take: U.S. Government; CC English 1A; "CC AA Lit."; Statistics or Calculus; and Biology. (pp. 31-32, and 51-52.) The only class seniors are scheduled to take at the Charter School is their "Advisory" class. (p. 32.)

The Petitioners' plan to require students to attend community colleges in order to graduate high school, though well intentioned, presents concerns. Under this plan, the District would have little to no authority over how the community colleges fulfill the high school education of the Charter School students. Concerns regarding the community colleges' services may also go unresolved, or proceed too slowly to benefit affected graduating seniors. Another area of concern is the availability of community college classes to the Charter School's students. It is unclear whether any community college would offer the necessary classes to the Charter School's senior class in a manner that would allow the students to graduate in a timely fashion. The Petition is also unclear on whether any community college would grant priority enrollment to graduating high school seniors. The practice of requiring students to attend

community colleges in order to graduate may expose the Charter School to liability regarding the imposition of inappropriate student fees, which is addressed in greater detail below.

The lack of a comprehensive description regarding the relationship between the Charter School and the local community colleges, and the programs that might be available, makes the Petitioners demonstrably unlikely to successfully implement the educational program as set forth in the Petition.

D. The Petition Imposes Inappropriate Student Fees.

The Petition states that the Charter School has the following graduation requirements:

- Students *must* take at least 5 college courses [at community colleges], 15 college credits. College units may be equivalent to 50 or more high school credits and may be used to satisfy the academic elective or A-G requirements above. (¶) This may be waived by schools due to financial constraints, however student must still meet the academic elective requirement above.
- Students *must* apply to at least three (3) 4-year colleges or universities (*in addition to or instead of* community colleges).

(p. 52, emphasis added.) Although community colleges are generally offered as affordable postsecondary options to *college* students, *high school* students attending public schools, like the Charter School, are guaranteed a free education. (Cal. Const. Art. IX, § 5; Ed. Code, § 49011.) Requiring students to enroll in a community college, or apply to certain number of schools, triggers the need for students to pay for college applications, tuition, books and lab fees. Such requirements are contrary to state law. (Ed. Code, § 49010, subd. (b)(1).)

The Education Code also states, “[a] fee waiver policy shall not make a pupil fee permissible.” (Ed. Code, § 49010, subd. (b)(2).) The fact that the Charter School offers a fee waiver based on “financial constraints” does not remediate the Charter School’s practice of imposing inappropriate fees.

E. The Petition is not Compliant with the Brown Act.

The Petition states that the Charter School shall “[c]omply with the Ralph M. Brown Act.” (p. 10.) The purpose of the Brown Act (Gov. Code, §§ 54590, *et seq.*), is to ensure that agencies take actions “openly and that their deliberations be conducted openly” and to ensure that the public remains informed about public affairs. (Gov. Code, § 54590.) However, the Petition presents numerous instances whereby the Charter School’s practices are inconsistent with the Brown Act.

Providing the members of the governing board, as well as the public, with notice of regular and special meetings is an essential requirement of the Brown Act. “Every notice for a special meeting *shall provide an opportunity* for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.” (Gov. Code, § 54594.3, subd. (a).)

The Petition does not ensure that members of the public receive proper notice under the Brown Act. In order to hold a special meeting consistent with the Brown Act, an agency must,

[D]eliver written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television station requesting notice in writing and posting a notice on the local agency’s Internet Web site, if the local agency has one. The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice.

(Gov. Code, § 54596, subd. (a).)

The Petition does not ensure that notice of the Charter School Board’s meetings are actually received as required by the Brown Act. The Petition states that the Charter School’s Board may hold special meetings “only after twenty-four (24) hours notice is given to each Director and to the public ... .” (Appendix IX, § 6.4, para. (a).) However, the Petition defines its process for notice in a manner that is inconsistent with the Brown Act. The Petition states that, “Notice by mail or email shall be deemed received at the time a properly addressed written notice is deposited in the United States mail, postage prepaid.” (Appendix IX, § 6.4, para. (c).) However, deeming notice received upon mailing is improper because it effectively defeats the purpose of a notice requirement. Simply dropping a written notice into the U.S. Mail, which may take 2-3 days for delivery, does not legally comply with the Brown Act regarding meetings to take place within 24 hours. The process set forth in the Petition for notifying the public also fails to ensure that the public receives actual notice of the special meeting in any meaningful manner. As a result, this practice is likely to diminish parental participation, and is not reasonably calculated to fulfill the Brown Act’s notice requirement.

Regarding special meetings, the Petition has no mention of whether the Charter School will provide the local media with notification of a special meeting as required under the Brown Act. Without such a process, the Petition is out of compliance with the Brown Act.

The Brown Act defines a “meeting” as “any congregation *of a majority of the members* of a legislative body at the same time and location... to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.” (Gov. Code, § 54592.2, subd. (a).) Despite this rule, the Petition allows the Charter School to delegate “all authority of the [Charter School’s] Board in the management and business affairs of the Corporation...” to an Executive Committee, which is comprised of two or more Directors and a Chairperson. (Appendix IX, § 8.2.) Staff has concerns about the concentration of such broad authority in a committee that is small as three members and which stands apart from the Charter School’s Board of Directors.

#### F. The Petition Presents an Inadequate Plan for Intra-Aspire Transfers.

Staff has serious concerns regarding the process for enrollment of students from the Berkeley, Aspire California College Preparatory Academy (“Berkeley”) into the proposed Charter School. According to the Petition, “pending approval of this charter petition, Aspire will open a new secondary school in Richmond in place of a high school we currently operate in Berkeley, Aspire California College Preparatory Academy.” (p. 7; emphasis added.) “[A]pproximately half of the high school students currently attending the 9-12 school in Berkeley commute from within the borders of WCCUSD and the majority come from the Richmond area.” (p. 7.)

Petitioners imply that the Aspire students previously enrolled in the Berkeley campus, and who reside in the Richmond area, will be attending the proposed Charter School. The Petition states, “It is important to Aspire that we are honor current Aspire families living in the Richmond area, as well as the new

families whom we are eager to serve and that we manage demand appropriately.” (p. 20.) However Petitioners fail to describe how these “current Aspire” students will be transferred, including, but not limited to, what preference, if any, they will be afforded in the case a public random drawing is necessary.

Petitioner’s do provide an “Intra-Aspire Transfer” policy in the attached Aspire Student Family Handbook (“Handbook”), however it is unclear as to whether this transfer policy applies. (Appendix XVIII.) The Handbook’s transfer policy is not applicable to the Charter School, unless the Petition has specific enabling language. According to the policy, students currently attending an Aspire School who wish to transfer, can do so by filling out an “Intra-Aspire Transfer Request.” (Appendix XVIII.) By filling out the request, students are provided “enrollment priority to transfer to an alternate Aspire campus (*if applicable, based on specifications of school’s charter*).” (Appendix XVIII; emphasis added.) By its own language, the Intra-Aspire Transfer policy does not apply to the proposed Charter School because the Petition lacks any enabling language that specifies that the Intra-Aspire Transfer Policy will apply.

Even if the Intra-Aspire Transfer policy were applicable, Petitioner’s failure to provide how these transfer requests will align with their enrollment preferences creates an unclear and inadequate plan. The Petition establishes enrollment preferences in the case a public random drawing becomes necessary. (p. 93.) Under the stated policy, preferences will be given as follows:

- Children of Aspire Regular, Full-time employees
- Siblings of students already admitted to the Charter School
- Children of founding families of the Charter School
- Students who are eligible for free or reduced price meals
- Children residing within the District
- All other students who reside in the state of California

(p. 93.) Nowhere in this policy is there mention of intra-Aspire transfer students. There is also no mention of how much preference will be given to such students. Note that this is a new school, and these are not “returning” students with admissions priority. If they were given priority as “returning” students, such a practice would be ripe for a legal challenge from students who are not provided admissions. As a result, it is unclear how Petitioners intend to implement the Intra-Aspire procedure and enroll students from the Berkeley campus into the proposed Charter School. Without more, the Petition presents an inadequate plan for transfers between Aspire Charter Schools.

#### G. The Petition Miscalculates the Charter School’s Instructional Day Minutes.

Petitioners boldly state that, “Aspire provides roughly 15% more *learning time* for students than traditional public schools, and uses time more effectively during the year and day to maximize in-depth learning. [...] Aspire schools have, on average, a *7.5 hour school* day for grades 1-12. In other words, Aspire students receive about *one hour more* instruction each day than students in traditional public schools. A sample school bell schedule is attached in Appendix II.” (p. 27, emphasis added.) However, a close review of the sample bell schedule provided by Petitioners reveals that Petitioners have miscalculated the length of their average school day. When Petitioners’ average school day is adjusted to reflect only the instructional minutes given to students, the Charter School’s average school day is actually shorter than promised by approximately an hour.

The sample bell schedule states that students in grades 6-12 begin the day at 8:00 a.m. and end at 3:30 p.m., for total of 7.5 hours for the entire day. (Appendix II.) However, when the time allocated for lunch and passing between periods is calculated, using the times listed in the Petition, the instructional minutes for students in grades 6-12 is actually 6 hours and 35 minutes per day, or nearly an hour less instructional time than what Petitioners promise. Although Petitioners boast of having more instructional time than traditional schools, the reality is Petitioners offer nearly identical amounts of instructional time.

#### H. The Petition Presents an Inadequate Plan for their Proposed Summer School Instructional Program

The Petition states that the Charter School may require “summer school instructional programs for students in grades 7-12 who do not demonstrate sufficient progress towards passing the exit examination.” (p. 51.) However, the Petition fails to detail any specifics of this proposed program. It is unclear whether Petitioners plan on enrolling their students in the District’s already impacted summer programs or if Petitioners aim to run their own summer school program. If Petitioners intend to run their own program, they fail to describe the essential elements of the program including, but not limited to;

- Curriculum for each grade level
- Staffing required for the program
- Number of students expected to enroll
- Where the classes will be held
- Costs and expenditures

Without a detailed description of the aforementioned aspects of a summer educational program, Board cannot be, and is not, assured that Petitioners’ summer school program will be successful.

#### I. Petitioners Present an Inadequate Plan for Students with Emotional Challenges.

The Petition states, “Aspire’s multi-tiered, trauma-informed approach to supporting students’ mental health and behavioral needs will ensure that these challenges are identified early and often.” (p. 24.) Petitioners’ primary method for addressing the mental health and behavioral needs of students is the formation of groups such as the “Grade Level Team (GLT)”. The Petition states, “For students who are experiencing behavioral challenges, the GLT may work to create an individualized Behavior Map and/or Behavior Contract. Behavioral goals will be developed and assessed over time to determine if students are ready to return to [lower levels of assessment].” (p. 24.) However, the Petition lacks discussion on which personnel will constitute the GLT, or what training and qualifications will be required to ensure the proper identification and assessment of students with mental health and behavioral needs.

The Petition goes on to state, “It is our aim to have a Spanish-speaking, on-site mental health provider who will be able to work with individual students and families in need of mental health support, while other students may be referred to quality mental health providers within the community.” (p. 25.) The Petition does not indicate whether the “Spanish-speaking, on-site mental health provider” would be an employee of the Charter School, a volunteer or a professional from another entity. The Petition also does not state the type of qualifications this position must have or costs associated with this position. Petitioners do not address whether similar services will be available to students who speak neither English nor Spanish.

It is also unclear whether Petitioners intend to take responsibility for students struggling with mental health and behavioral issues to provide services at no cost, or if they are simply referring such students to services they may not necessarily be able to afford.

**J. The Petition Presents an Inadequate Plan for English Language Learners.**

According to the California Department of Education, charter schools are subject to all federal requirements and specific state requirements established for English Language Learner (“ELL”) programs. Program reviews for charter school, just as for other public schools, are conducted under the State’s Categorical Program Monitoring Process. (See <http://www.cde.ca.gov/sp/cs/re/qandasec4mar04.asp#Q1>.) At a minimum, the Petition should identify specific assessments, a consistent curriculum, and a schedule for monitoring student progress in reaching English proficiency.

Petition describes a Parental Exception Waiver, whereby parents can remove their students from an ELL classroom. (Appendix V.) However, Petition lacks a description of either the language, or the method of instruction to be offered for students who have effectively waived out of the Mainstream English Program. Without more, it is unclear as to whether the Charter school can properly implement their program for ELL.

**Finding 2: The Petition Does Not Contain Reasonably Comprehensive Descriptions of Certain Required Elements**

The Petition serves as Petitioners’ proposal for the Charter School’s establishment and operation. As such, the Petition must provide reasonably comprehensive descriptions of certain elements in its program and operations as required in Education Code section 47605, subdivision (b)(5)(A-P). The following elements do not meet this standard due to incomplete or inadequate information, which in some instances contradict the requirements of the law:

- A. The Petition lacks a clear and consistent expulsion policy.
- B. The Petition fails to demonstrate an understanding of Richmond’s racial and ethnic diversity.
- C. The Petition lacks a description of how the Charter School will outreach to students with disabilities.
- D. The Petition does not adequately describe a clear governance structure that will encourage parental participation.
- E. The Petition lacks a reasonably comprehensive description of individuals to be employed by the Charter School.
- F. The Petition does not provide a reasonably comprehensive description of the health and safety procedures.
- G. The Petition does not provide a reasonably comprehensive description of the dispute resolution process.

H. The Petition Lacks a Clear and Consistent Expulsion Policy.

The Petition’s expulsion policy is inconsistent and unclear. In one instance, the Petition states that “A student may be expelled by the Aspire Administrative Panel.” (p. 105.) However, this statement is later contradicted where the Petition states, “The Aspire Administrative Panel may *recommend* expulsion of any student found to have committed a suspendable or expellable offense.” (p. 105, emphasis added.) It is unclear whether the Aspire Administrative Panel (“Panel”) has the authority to expel students or may solely recommend an expulsion.

There is also confusion regarding the Charter School’s expulsion procedures. The Petition lists certain offenses that require a “second finding of fact.” (p. 107.) However, the Petition fails to provide a comprehensive description as to what constitutes a secondary finding of fact.

The Petition is also unclear as to readmission of previously expelled students. In describing the readmission process, the Petition states “there is no guarantee of re-enrollment to the expelling school (or a partner school), even if the rehabilitation plan is met.” (p. 105.) However, this statement is later contradicted where Petition states “If a student has met all terms, the student is re-admitted [. . .]” (p. 106.) It is unclear whether a student is guaranteed readmission when he/she meets all of the terms of a rehabilitation plan, or if Charter School offers no guarantee of re-enrollment, even if the terms of a rehabilitation plan have been met. The policies as provided in the Petition are inadequate and do not provide parents proper notice as to what the accurate readmission process is for their student.

B. The Petition Fails to Demonstrate an Understanding of Richmond’s Racial and Ethnic Diversity.

Staff has serious concerns regarding Petitioners’ discussion of the racial and ethnic diversity of Richmond. Petitioners assert that they “selected Richmond as the location for this new school because Richmond has a high need population, a high percentage of FRL students, and a lack of high-performing schools.” (p. 7.) While the Petition discusses the racial and ethnic demographics of the District, Petitioners fail to demonstrate an understanding of the racial and ethnic demographics of the Richmond community they specifically target. Without a clear understanding of Richmond’s racial and ethnic makeup, it is uncertain whether the Charter School will be able to strive for, obtain, and ultimately maintain a racial and ethnic balance that is reflective of the Richmond community.

Additionally, Staff has concerns regarding the enrollment of ELL students. In the 2013-2014 school year, Aspire California College Preparatory Academy, Berkeley (“Berkeley”), the charter school that Petitioners propose to close down if this Petition is granted, had an ELL enrollment of only 5% of their student population. (p. 19.) In contrast, District high schools located in the Richmond area had a significantly higher enrollment of ELL students; Richmond High, 41%, Kennedy High, 35%, De Anza Senior High, 16%. (p. 19.) This discrepancy is concerning because nearly one-half of the students attending the Berkeley campus “commute from within the borders of WCCUSD and the majority come from the Richmond area.” (p. 7.) The Petitioners fail to provide an explanation as to why the Berkeley ELL enrollment is significantly lower than other schools in the Richmond area, even though a large portion of their students reside in the Richmond area. Berkeley’s enrollment numbers regarding ELL students do not reflect the numbers found in other public schools in Richmond.

C. The Petition Lacks a Description of how the Charter School will Outreach to Students with Disabilities.

Staff has concerns about the Charter School’s outreach to, and recruitment of students with disabilities. According to the U.S. Department of Education, Office for Civil Rights, charter schools should “recruit [students] from all segments of the community served by the school, including *students with disabilities* and students of all races, colors and national origins.” (United States Department of Education’s Office for Civil Rights, Applying Federal Civil Rights Laws to Public Charter Schools (May 2000), <<https://www2.ed.gov/offices/OCR/archives/pdf/charter.pdf>> [as of Oct. 21, 2014], emphasis added.) As noted above, the Petition does mention a basic outreach plan aimed to “achieve a racially and ethnically diverse student population” reflective of the District, however, the Petition is silent with regard to outreach strategies for the recruitment of students with disabilities (p. 91.).

D. The Petition Does Not Adequately Describe a Clear Governance Structure that will Encourage Parental Participation.

The Petition must include a reasonably comprehensive description of, “the governance structure of the school, including, but not limited to, the process to be followed by the school to *ensure* parental involvement.” (Ed. Code, § 47605, subd. (b)(5)(D), emphasis added.) In the case of the District, parents become involved in the decision making process by participating in the District’s Board meetings which are regularly held within the District’s boundaries for the convenience of the parents and the public at large. However, the Petition does not offer similar convenient opportunities on a regular basis. The Petition states that the, “Meetings shall be conducted at the principal office of the Corporation. The Board of Directors may also designate that a meeting be held in any place within California ... .” (Appendix IX, §6.2.) Because the Charter School’s corporate principal office is located in Oakland (Appendix IX, § 1.1), the Charter School’s Board will likely meet in locations outside of the District’s boundaries on a regular basis. Given the inconvenience of securing transportation for travel outside of the District boundaries for many District families, out-of-District Board meetings will likely dissuade parental involvement rather than encourage it.

Additionally, the Petition presents a confusing and unclear governance structure. While the Petition describes the duties and roles of the Charter School’s Board, the Petition also mentions several other positions throughout, without explaining the roles or duties for these positions. The positions which lack description include, but are not limited to:

- District Superintendent (Appendix X)
- President (Appendix IX)
- Director of Expanded Legal Positions (Appendix IX)
- Director of School Support and Improvement and Sustainability (Appendix IX)

Without properly delineating the roles, and duties of these referenced positions, parents are not afforded a clear and reasonably comprehensive description of the Charter School’s governance structure.

Education Code section 47604, subdivision (b) entitles the District to appoint one representative to the Charter School’s governing board. The right to appoint the District’s representative is at the sole discretion of the District’s Governing Board. However, the Petition inappropriately asserts that the Charter School’s Board of Directors retains the power select and remove members of the Board, which would include the District’s representative. The Petition states, “Any Director may be removed, with or without cause, by a vote of the majority of the entire Board of Directors... .” (Appendix IX, § 5.3, para. (e), emphasis added.) The Petition also states, “Subsequent Directors shall be elected by a majority vote of the Directors at each Annual Meeting, including the vote(s) of any Director whose term of office

expires with that meeting.” (Appendix IX, § 5.3, para. (a).) Any requirement that the District’s representative must be vetted by, or can be removed by, the Charter School is an impermissible limitation on the District’s right to appoint its representative.

E. The Petition Lacks a Reasonably Comprehensive Description of Individuals to be Employed by the Charter School.

Education Code section 47605 subdivision (b)(5)(E) requires the Petition to include a reasonably comprehensive description of the qualifications to be met by individuals to be employed by the school. The Regulations clarify that a petition should: identify the general qualifications for the various categories of employees that the charter school intends to hire; identify key positions and their specific qualifications; and specify requirements for employment. (5 CCR § 11967.5.1, subd. (f)(5).) The Petition only lists the qualifications for the Principal, Business Manager, and general education Teachers. (pp. 83-85.) However, the Petition fails to define the credentials or qualifications required for the “Cert. Support”, “Instructional Aides”, “Class. Support”, “Clerical/Office Staff” and “Class. Other” positions listed in the Charter School’s budget. (Appendix XVa.) The Petition also fails to define the credentials and qualifications required for special education teachers, para-professionals and other special education staff (resource specialist, speech and language pathologist, occupational therapist, etc), which may be needed in support of providing required special education services.

Furthermore, the Petition states that the “Charter School may choose not to require credentials for teachers in non-core, noncollege-prep courses.” (p. 83.) While charter schools have “flexibility” for hiring instructors for noncore classes, the qualifications for these positions should nevertheless be clearly articulated. The Petition fails to provide such details.

F. The Petition Does Not Provide a Reasonably Comprehensive Description of the Health and Safety Procedures.

Petitioners are required to provide a comprehensive description of “procedures that the school will follow to ensure the health and safety of pupils and staff.” (Ed. Code, § 47605, subd. (b)(5)(F).) The Petition fails to meet this requirement, and specifically fails to provide a comprehensive description of how the Charter School will implement and oversee medication usage by students.

Petitioners states the school will adhere to the Education Code, California Department of Education guidance, and applicable law. (p. 88.) Simply citing what is required by law is not a sufficient substitute for a plan on how the Charter School will address medication usage and administration. In the attached Student Family Handbook, Petitioners do describe policies regarding the required documentation and prescriptions for medication. Petition also states that “all medication must be dispensed through the office.” (Appendix XVIII.) However, Petitioners fail to mention *who* can administer the medication, a crucial aspect of any school’s health and safety procedures.

G. The Petition Does Not Provide a Reasonably Comprehensive Description of the Dispute Resolution Process.

Education Code section 47605, subdivision (b)(5)(N) requires a petition to include “the procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.” However, the Petition’s dispute resolution process goes beyond establishing a process to resolve conflicts, and instead attempts to impose requirements upon the District. For

instance, the Petition states, “[t]he staff and Governing Board members of Aspire agree to attempt to resolve all disputes between the district and Aspire regarding this charter pursuant to the terms of this section. Both will refrain from public commentary regarding any disputes until the matter has progressed through the dispute resolution process.” (p. 117.) The Petition is not a contract. Any suggestion that the Petition somehow requires the District to refrain from making public comments, or compels the District to act in a particular manner is misguided. Even assuming that these conditions and restrictions were acceptable to the District, they should be negotiated and set out in an operational Memorandum of Understanding between the parties, rather than in the Petition. Approving the Petition with these terms may inhibit the District’s ability to conduct effective oversight.

Recommendation:

District staff recommends approval of the Petition for a five year term without conditions, commencing with the 2015-2016 school year and expiring on June 30, 2020. In the event the Board approves the Petition, staff recommends that a separate memorandum of understanding that addresses the concerns regarding the Petition, as noted herein, be negotiated between the Petitioners and the Superintendent and/or his designee, for consideration by the Board at its meeting scheduled for January 21, 2015.

Notwithstanding the above, should the Board decide that the concerns raised herein warrant a denial of the Petition, the Board could base its denial 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 certain required elements set forth in Education Code section 47605, subdivisions (b)(5)(A-P).

In order to deny the Petition on the grounds set forth above, Education Code section 47605, subdivision (b), requires the Governing Board to make “written factual findings, specific to the particular petition, setting forth specific facts to support one or more” grounds for denying the Petition. Should the Board decide to deny the Petition, District Staff recommends that the Board adopt these final findings of fact as enumerated in the attached Staff Report as its own.

Fiscal Impact:

None at this time.

\* **F.5 John Henry High School Staff and Counsel Findings of Fact, and Board Decision**

Comment:

On or about September 5, 2014, the West Contra Costa Unified School District (“District”) received a charter petition (“Petition”) from Amethod Public School (“AMPS” or “Petitioners”) for the establishment of John Henry High School (“Charter School”). The Petitioners requested a five year term from July 1, 2015 through June 30, 2020. Pursuant to the Education Code, the District held a public hearing on October 15, 2014, so that the District’s Governing Board (“Board”) could consider the level of support for the Petition (Ed. Code, § 47605, subd. (b)).

District staff members who read and analyzed the petition included: Steve Collins, Director of Special Education, Cheryl Cotton, Director of Human Resources, Linda Delgado, Coordinator of Educational

Services, Phil Gonsalves, Director for Mathematics Instruction, Mimi Melodia, Coordinator for English Language Development, Sonja Neeley-Johnson, Director for Educational Services, Daniela Parasidis, Director of Business Services, and Mehdi Rizvi, Principal Accountant. Staff provided written feedback on all elements, including the proposed educational program, fiscal and governance structures, student admissions and discipline, labor and personnel issues, facilities and legal issues.

District staff has identified concerns within the Petition, which are described in detail below, and believes that those deficiencies could warrant a denial of the Petition. However, staff finds its concerns are relatively minor when compared with the legislative intent of the Charter Schools Act “that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged.” (Ed. Code, § 47605, subd. (b)).

In sum, District staff recommends that the Board approve the Petition for the establishment of the Charter School without conditions for a five year term, commencing with the 2015-2016 school year and expiring on June 30, 2020. In the event the Board approves the Petition, District staff also recommends that a separate memorandum of understanding that addresses the concerns regarding the Petition, as noted herein, be negotiated between the Petitioners and the Superintendent and/or his designee, for consideration by the Board at its meeting scheduled for January 21, 2015.

Notwithstanding the above, if after review of the Petition and the discussion herein the Board wishes to deny the Petition, the Board may base its denial on the findings of fact set forth below. Please note that these findings of fact have been grouped for convenience under the grounds for denial of a charter petition, which are also discussed below. However, certain findings of fact may support more than one ground for denial.

**Finding 1: The Petitioners are Demonstrably Unlikely to Successfully Implement the Program Set Forth in the Petition.**

In order to successfully implement the program described in the Petition, Petitioners must demonstrate that they are familiar with the content of the Petition and the requirements of laws applicable to the proposed school; present a realistic financial and operational plan; have the necessary background in areas critical to the Charter School’s success, or have a plan for securing the services of individuals with the necessary background, including curriculum, instruction, assessment, finance and business management.

As reviewed below, there is concern whether the Charter School will successfully implement its program.

A. The Petitioners are Demonstrably Unlikely to Enroll a Student Body Whose Diversity is Reflective of the Demographics of the Territorial Jurisdiction of the District.

The law requires that the Charter School provide a description of the “means by which it will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.” (Ed. Code, § 47606, subd. (b)(5)(G).) The Petition states that it “seeks to enroll a student body in grades ninth through twelve whose diversity represents the general population residing within the geographical boundaries of the district and community where the Charter School is to be located.” (Petition, page 18.) The Petition further states that the Charter School will make a “substantial effort to recruit the

underserved, low-income students in the school’s target service area of Richmond, CA.” (Id.) Notwithstanding these assurances, data supports that AMPS schools that are currently in operation are engaged in a trend where a large percentage of students enrolled in the schools are Hispanic or Latino, and the African American student population does not account for a significant percentage of enrollment.

According to the Petition, the African American student population in the District in 2012 was 22.7%, and the Hispanic or Latino population was 48.2%. (Petition, page 19.) According to the 2010 census conducted by the United States Census Bureau, 26.6% of the population in Richmond is African American. However, CDE “Dataquest” reports for RCA illustrate that, for the 2012-13 school year, 87.8% of RCA students were Hispanic or Latino, while only 11.1% were African American. The following school year, the percentage of African American students at RCA was even lower. Specifically, for the 2013-14 school year, 95.2% of RCA students were Hispanic or Latino, while only 2.7% were African American. From school year 2012-13 to school year 2013-14 RCA, without explanation, experienced a significant 8.4% decrease in its enrollment of African American students from one school year to the next.

Data regarding OCA and OCHS demonstrate a similar trend of high Hispanic or Latino student enrollment and very low enrollment of African American students. A five year summary of student enrollment data for Hispanic or Latino and African American subgroups for AMPS’s schools in Oakland is as follows:

**Oakland Charter Academy**

<b>School Year</b>	<b>% of Latino or Hispanic Students of Total Enrollment</b>	<b>% of African American Students of Total Enrollment</b>
2009-10	91.2	1.5
2010-11	91.0	2.8
2011-12	89.0	2.3
2012-13	68.9	2.5
2013-14	41.1	2.1

**Oakland Charter High School**

<b>School Year</b>	<b>% of Latino or Hispanic Students of Total Enrollment</b>	<b>% of African American Students of Total Enrollment</b>
2009-10	73.9	2.2
2010-11	70.2	4.1
2011-12	60.8	4.4
2012-13	61.3	2.2
2013-14	50	3.4

Further, the Petition states that “African American and Latino subgroups, which make up approximately 70% of the WCCUSD populations, are performing well below the academic achievement rate of the Asian and White populations.” (Petition, page 19.) A stated goal of the Petitioners’ education program is to “seek to address such gaps in performance for Richmond students.” (Petition, page 20.) The Petition states, with regard to RCA, that “specifically the Latino and low income subgroups have thrived within the AMPS model scoring at an API score above 800 over the years.” (Petition, page 20.) While

there is no question that AMPS has experienced great success with its Latino student population, the Petition offers no discussion with regard to the success of African American students at AMPS schools.

Moreover, the Petition contains a vague plan for the recruitment and marketing of students. For example, the Petition states that the Charter School will undertake recruitment activities such as “attending option fairs,” “meet with local Athletic Teams and leagues,” and “attend local community functions and fairs.” However, there are no specific fairs or meetings discussed. (Petition, page 98.) Similarly, there is no explanation as to what “Athletic Teams and leagues” the Charter School will meet or how those organizations will have an impact on the Charter School’s recruitment process. Overall, while the Petition assures the recruitment efforts of the Charter School will “target all populations within the area, regardless of race, disability or gender,” there is no specific discussion in the Petition as to how the Charter School will reach out to the African American community in its recruiting and marketing efforts. (Petition, page 97.)

Taken as a whole, the student enrollment data set forth above demonstrates a problem with the ability of AMPS to enroll, enroll and/or retain African American students amongst its student population. This fundamental flaw serves as evidence of the Charter School being demonstrably unlikely to implement its educational program in compliance with the legal requirement that the Charter School seeks to achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the District as described in the Petition.

**B. The Petitioners are Demonstrably Unlikely to Implement the Special Education Program as Described in the Petition.**

The Petition states that “all students will have access to the Charter School and no student shall be denied admission nor counseled out of the Charter School due to the nature, extent, or severity of his/her disability or due to the student’s request for, or actual need for, special education services.” (Petition, page 47.) The Petitioners also recognize its responsibility to “enroll and support students who can benefit from its programs...” (Petition, page 42.) Despite these assurances, the percentage of special education students served by existing AMPS schools operating within the District is not commensurate with the percentage of special education students enrolled in District schools.

Specifically, for the 2014-15 school year, the special education student enrollment at the District is 13.49%. The special education student enrollment data for RCA and BJE is summarized as follows:

<b>School</b>	<b>% of Special Education Students Served</b>	<b>Difference between % of Special Education Students Served in the District and % Served at charter school</b>
Benito Juarez Elementary	5.42 %	-8.07 %
Richmond Charter Academy	4.68 %	-8.63 %

While the Petition states that the Charter School “seeks to enroll a student body in grades ninth through twelve whose diversity represents the general population residing within the geographical boundaries of the district and community where the Charter School is to be located,” it is silent with regard to outreach strategies for the recruitment of students with disabilities. (Petition, page 18.) Further, the Petition does

not describe any student outcomes for the potentially significant subgroup of pupils with disabilities. (Petition, pages 62-64.)

According to the U.S. Department of Education, Office for Civil Rights, charter schools should “recruit [students] from all segments of the community served by the school, including *students with disabilities* and students of all races, colors and national origins.” (United States Department of Education’s Office for Civil Rights, Applying Federal Civil Rights Laws to Public Charter Schools (May 2000), <<https://www2.ed.gov/offices/OCR/archives/pdf/charter.pdf>> [as of Oct. 21, 2014]; emphasis added.)

Petitioners’ demonstrated trend of low special education student enrollment that is significantly less than the percentage of special education students served by the District, along with the Charter School’s lack of recruitment strategies for students with disabilities, raises concerns about the Charter School’s ability to seek, serve, and retain special education students in accordance with the law and the program for special education that is outlined in the Petition.

C. The Petition Presents an Inadequate Financial Plan for the Proposed Charter School.

A charter petition should, at a minimum, include a first-year operational budget, start-up costs and cash flow, and financial projections for the first three years. (Ed. Code, § 47605, subd. (g).) Among other things, the operational budget must: (1) include “reasonable estimates of all anticipated revenues and expenditures necessary to operate the school;” (2) “demonstrate an understanding of the timing of the receipt of various revenues and their relationship to [the] timing of expenditures;” and (3) “appear[ ] viable and over a period of no less than two years of operations provide[ ] for the amassing of a reserve equivalent to that required by law for a school district of similar size to the proposed charter school.” (5 CCR § 11967.5.1, subd. (c)(3)(B).)

Although the Petition provides the basic financial information for the Charter School, as outlined below, a number of concerns were noted regarding the financial documents the Charter School provided to the District.

i. Some Budget Assumptions Conflict with Information in the Petition and/or are Without Appropriate Explanation.

The number of FTEs assumed in the budget for the first five years of the Charter School’s operation as set forth on page 144 of the Appendix conflicts with the number of FTEs described in the Petition on page 126. Specifically:

- In 2016-17, the budget assumes 23 FTEs, yet the Petition states there will be 25 FTEs.
- In 2018-19, the budget assumes 30 FTEs, yet the Petition states there will be 32 FTEs.
- In 2019-20, the budget assumes 32 FTEs, yet the Petition states there will be 33 FTEs.

Similarly, there are discrepancies between the total number of teachers listed in the budget set forth on page 144 of the Appendix and with the number of teachers set forth in the Petition on page 126. Specifically:

- In 2017-18, the budget assumes 25 teachers, yet the Petition states there will be 22 teachers.
- In 2018-19, the budget assumes 23 teachers, yet the Petition states there will be 22 teachers.
- In 2019-20, the budget assumes 25 teachers, yet the Petition states there will be 23 teachers.

If the numbers stated in the budget are correct, it is noted that the budget assumes 25 teachers in 2017-18 and 23 teachers in 2018-19. There is no explanation provided regarding this reduction in FTE, which is odd, because the student population is projected to grow.

ii. There Are Concerns Regarding the Charter School’s Proposed Three Year Budget.

Concern exists with regard to some of the Charter School’s revenue projections. For example, the budget projects revenues for the SB740 facility grant. This facility grant is provided to schools that demonstrate eligibility of 70% of students for the Free and Reduced Meal Program. However, the Petition does not provide sufficient supporting data or documentation to support its projection for at least 70% Free and Reduced Meal Program students. Additionally, revenues for the Education Protection Account (“EPA”) increase from \$36,000 in 2015-16 to \$324,237 in 2016-17. There is no explanation provided for this large \$288,237 increase. Moreover, in 2015-16, Petitioners calculate EPA revenues at \$200/ADA. However, in 2016-17, Petitioners switched their methodology to calculate EPA revenue to be approximately 21% of the Charter School’s state aid. There is no explanation as to why the Petitioners switched their methodology in calculating this revenue.

In addition, rent costs are understated by \$60,000 in the Charter School’s first two years of operation. Rent costs in the budget have been increased on a per student basis. However, adding additional facility space for the increase in enrollment is not possible, and the Charter School will be required to lease a facility that is sufficient for 400 students (500 students if the Charter School achieves its 2020 enrollment target of 500 students). Thus, the estimate for rental costs should be based on the going rate for facilities that suit the capacity of the school, not on a per student basis.

iii. There is No Free and Reduced Lunch Program Noted in the Budget.

The Charter School assumes that 70% of its students will qualify for the Free and Reduced Lunch Program. (Petition, page 124.) However, the Petition states that the Charter School is not planning to offer a Free and Reduced Lunch Program at its school. (Petition, page 125.) There is an expectation that students are to bring their own lunch to school each day. While implementation of the Free and Reduced Lunch Program is not required by law, based on the demographics of the District, not offering the program could work to the detriment of children who cannot afford to bring healthy lunches with them to school each day. Further, failure to offer the Free and Reduced Lunch Program could impact the application pool and diversity of the Charter School. This would contradict Petitioner’s stated goal “to enroll a student body in grades ninth through twelve whose diversity represents the general population residing within the geographical boundaries of the district and community where the Charter School is to be located.” (Petition, page 18.)

iv. Accounts Payable Transactions Listed in the Budget Appear Incomplete.

There are no account payables included in the budget beyond June. However, the Petition contemplates providing programs over the summer months. Thus, it is unclear why the Charter School would not have to pay any staff during the months of July and August.

**Finding 2: The Petition Does Not Contain Reasonably Comprehensive Descriptions of Certain Required Elements**

The Petition serves as Petitioners' proposal for the Charter School's establishment and operation. Therefore, the Petition must provide reasonably comprehensive descriptions of certain elements in its program and operations as required in Education Code section 47605, subdivision (b)(5)(A-P). As set forth below, the Petition does not contain reasonably comprehensive descriptions of certain elements required by law.

A. The Petition Lacks a Reasonably Comprehensive Description of the Educational Program of the Charter School.

While the Petition mentions that the Charter School's curriculum will align with Common Core, the Petition does not specifically define or identify any specific curriculum that the Charter School will use for the core subjects of reading, writing, mathematics, history/social science, and science. (Petition, page 17.)

B. The Educational Program Set Forth in the Petition Does Not Include a Description of the Annual Goals For Each Required Subgroup of Pupils.

As a part of the new Local Control Funding Formula, the Petition must describe how the Charter School will achieve each of the eight state priorities listed in Education Code section 52060, subdivision (d), including how achievement will be met by each subgroup identified in Education Code section 52052, subdivision (a)(2). (Ed. Code § 47605, subd. (b)(5)(B).) The subgroups identified in Education Code section 52052, subdivision (a)(2) are as follows: (A) Ethnic subgroups; (B) Socioeconomically disadvantaged pupils; (C) English learners; (D) Pupils with disabilities; and (E) Foster youth.

While the Petition contains a description of how the Charter School intends to meet annual goals for all pupils, with specific activities that address state and local priorities identified in Education Code section 52060, subdivision (d), the Petition fails to include a description of how achievement will be met by each subgroup identified above. Further, the Petition fails to make any mention of foster youth, whatsoever.

C. The Petition Does Not Provide a Reasonably Comprehensive Description of the Governance Structure of the Charter School.

According to Education Code section 47605, subdivision (b)(5)(D), a charter petition must include a reasonably comprehensive description of, "the governance structure of the school..." However, the governance structure proposed in the Petition poses questions regarding the ability of the Board to make sound business decisions. Further, the applicability of the Brown Act to committees mentioned in the Petition to ensure that their recommendations and decision making is transparent to parents and the public is unclear.

Neither the Petition nor the Conflict of Interest policy adopted by the AMPS Governing Board ("Board") contains an assurance that the Board will comply with Government Code section 1090. While the applicability of Government Code Section 1090 to Charter Schools is debatable, Charter School adherence to Government Code Section 1090 is, at the very least, a recommended best practice for Charter School governance. One concern related to the Board's failure to comply with Government Code section 1090 is that the Board Bylaws allow for the Chief Executive Officer of AMPS to be a director on the Board. (Appendix, page 482.) The Conflict of Interest policy states that a "voting member of the governing board who receives compensation, directly or indirectly, from the

Organization for services is precluded from voting on matters pertaining to that member's compensation." While a Board member is precluded from voting on matters related to his or her compensation, the rest of the Board is not. This practice is prohibited by school districts pursuant to Government Code section 1090.

In addition, the Board Bylaws allow for the Board to create committees to consider and make recommendations upon matters referred to them by the Board. (Appendix, page 489.) The Bylaws do not contain any assurance that the committees will comply with the Brown Act. Similarly, there is no assurance that the Family-Staff-Team ("FST") Advisory Committee will be subject to the Brown Act. (Petition, page 84.)

D. The Petition Does Not Provide a Reasonably Comprehensive Description of the Qualifications to be Met by Individuals to be Employed by the Charter School.

Education Code section 47605, subdivision (b)(5)(E) requires a charter petition to include a reasonably comprehensive description of the qualifications to be met by individuals to be employed by the school. The Regulations clarify that a petition should: identify the general qualifications for the various categories of employees that the charter school intends to hire; identify key positions and their specific qualifications; and specify requirements for employment. (5 CCR § 11967.5.1, subd. (f)(5).) The Petition fails to meet all of these requirements, and, in some cases, includes contradictory and/or vague information regarding Charter School employees. Specifically, the deficiencies noted in the Petition with regard to teacher qualifications include the following:

- The Petition includes a limited teacher job description. (Petition, pages 90-91). The job description provided reads more like a list of requirements, and does not provide a clear and comprehensive description of teacher job responsibilities. Further, the Employee Handbook states that "Job supervisor(s) will explain job responsibilities." (Appendix, page 305.) The Employee Handbook also states "your job responsibilities may change at any time during your employment" and that AMPS "reserves the right, at any time, with or without notice, to alter or change job responsibilities, reassign or transfer job positions or assign additional job responsibilities." (Id.)
- The Petition contains no information as to how the Charter School identifies, hires, and screens substitute teachers.
- The Petition lists a "mix of intervention services" that will be provided to students who are not meeting outcomes. (Petition, page 39.) It is unclear if these intervention services are included in the budget. It is also unclear which employees will be providing these intervention services. For example, the Petition states that intervention services may include "before-or after-school instructional support provided by non-classroom educators in a one-on-one setting or in small groups." (Petition, page 39.) However, these "non-classroom" educators are never identified, nor are their qualifications discussed in the Petition.
- The Charter School's Family Care and Medical Leave ("FMLA") policy, as set forth in the Employee Handbook, states "an employee on FMLA leave remains an employee and the leave will not create a break in service." (Appendix, page 324.) The Employee Handbook states that employees are "at-will," unless otherwise stated in a written agreement, it is unclear why any employee would have seniority. (Appendix, page 301.) Thus, the Petition contains contradictory information regarding employee classification and status.

Based on the deficiencies noted above, the Petition does not provide a clear description of the individuals to be employed by the Charter School.

E. The Petition Does Not Provide a Reasonably Comprehensive Description of the Procedures that the Charter School Will Follow to Ensure the Health and Safety of Pupils and Staff.

Petitioners are required to provide a comprehensive description of “procedures that the school will follow to ensure the health and safety of pupils and staff.” (Ed. Code § 47605, subd. (b)(5)(F).) While the Petition contains the Charter School’s health and safety policies and procedures, its policy with regard to “Medication in School” fails to provide a reasonably comprehensive description of how the Charter School will implement and oversee medication usage by students. (Petition, page 94). Specifically, the “Medication in School” policy does not address the administration of non-oral medications, such as insulin and diastat, or the administration of student health plans.

F. The Petition Does Not Include a Reasonably Comprehensive Description of the Procedures by Which Pupils Can Be Suspended or Expelled.

Charter petitions must include a description of the “procedures by which pupils can be suspended or expelled.” (Ed. Code § 47605, subd. (b)(5)(h).) The Charter School’s proposed student discipline policy sets forth the grounds upon which students may be suspended or expelled. (Petition, pages 103-111.) However, there is no discussion of the standard the Charter School Board or Administrative Panel would apply in evaluating a student’s discretionary expulsion. Although not required to adhere to the Education Code’s disciplinary procedures, constitutional due process requires that the Charter School make clear the circumstances under which a student may be eligible for expulsion, as opposed to simply suspension. Further, this fails to provide guidance to administrators with standards in meting out discipline.

Recommendation:

District staff recommends approval of the Petition for a five year term without conditions, commencing with the 2015-2016 school year and expiring on June 30, 2020. In the event the Board approves the Petition, staff recommends that a separate memorandum of understanding that addresses the concerns regarding the Petition, as noted herein, be negotiated between the Petitioners and the Superintendent and/or his designee, for consideration by the Board at its meeting scheduled for January 21, 2015.

Notwithstanding the above, should the Board decide that the concerns raised herein warrant a denial of the Petition, the Board could base its denial 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, subd. (b)(2).)
2. The Petition does not contain reasonably comprehensive descriptions of certain required elements set forth in Education Code section 47605, subdivisions (b)(5)(A-P).

Should the Board decide to deny the Petition, District Staff recommends that the Board adopt these final findings of fact as its own.

Fiscal Impact:  
None at this time.

\* **F.6 Contracts**

Comment:  
Permission is requested of the Board of Education to approve contracts as detailed, dated December 3, 2014.

Recommendation:  
Recommend Approval

Fiscal Impact:  
As noted per contracts summary

\* **F.7 Approval of Additional Architectural Services**

Comment:  
The District has retained WLC Architects (WLC) as the Architect of Record for the Pinole Valley High School Project. Pursuant to Facilities Subcommittee recommendation on November 18, 2014, staff recommends additional services for Board approval. The services include 1.) adjustments for project program, square footage, and scope increases, and 2.) fees for extended project duration for multiple phases of the overall project.

Recommendation:  
Approve additional Architectural Services for WLC Architects, Inc.

Fiscal Impact:  
Total for this action: \$7,538,881. Funding sources is Bond Fund.

**B. OPENING PROCEDURES - CONTINUED**

\* **B.6 Minutes:** November 6, 2014; November 12, 2014

\* **B.7 WCCUSD Public Comment**

Members of the public are invited to speak to the Board about any matter that is not otherwise on the agenda and is related to issues affecting public education in the WCCUSD. **Approximately 30 minutes will be allocated for this item.** If there are more requests to speak than can be heard within this time limit, “WCCUSD Public Comment” will continue after Item G. Individuals wishing to speak must submit a “WCCUSD Public Comment” form prior to the beginning of this item on the agenda.

Depending on the number of persons who wish to speak, from one to three minutes will be allocated to each speaker at the discretion of the President of the Board in order to accommodate as many speakers as possible. The Board cannot dialogue on any issues brought before it by the public that have not been previously agendized, but may refer these to staff for response and/or placement on future agendas.

**C. BUSINESS ITEMS**

**CONSENT ITEMS (Routine Matters)**

Consent Calendar Items designated by “CI” are considered routine and will be enacted, approved and adopted by one motion, unless a request for removal, discussion or explanation is received from any Board member or member of the public in attendance. Items the Board pulls for discussion or explanation will be addressed following Section E.

**\*CI C.1 Grants/Awards/Agreements**

Comment:

Formal acceptance is requested from the Board of Education to accept the grants/awards/agreements, as detailed, dated December 3, 2014.

Recommendation:

Recommend Approval

Fiscal Impact:

As noted per grants summary

**\*CI C.2 Acceptance of Donations**

Comment:

The District has received donations as summarized, dated December 3, 2014.

Recommendation:

Recommend Approval

Fiscal Impact:

As noted per grants summary

**\*CI C.3 Approval of Fund-Raising Activities**

Comment:

The planned fund-raising events for the 2014-15 school year are summarized, dated December 3, 2014.

Recommendation:

Recommend Approval

Fiscal Impact:

Additional revenue for schools

**\*CI C.4 Adoption of Resolution No. 44-1415: Replacement of Outdated Warrant**

Comment:

Government Code Section 298029(c) allows the governing board, by resolution, to order a replacement check be issued for a warrant that is stale dated. This resolution authorizes the issuance of a check to

replace the outdated warrant for Lee Matteucci. Staff recommends replacement of the stale dated warrant.

Recommendation:

Recommend approval to replace the outdated warrant

Fiscal Impact:

None

**\*CI C.5 Routine Personnel Changes – Classified**

Comment:

Routine personnel changes include actions to hire, promote, or terminate classified employees in accordance with appropriate laws, established policies and procedures.

Recommendation:

Ratify and Approve Classified Personnel Changes

Fiscal Impact:

None

**\*CI C.6 Approval of District Local Control Accountability Plan Parent Committee Nominees**

Comment:

On January 29, 2014 the Board approved the guidelines for the selection of the members of the District Local Control Accountability Plan Parent Committee. Letters seeking recommendations for nominees were sent to the heads of organizations. Principals solicited parent participants through flyers, phone calls and at School Site Councils and other meetings. The application was also posted on the District's web site. Each high school attendance area family of principals met to review the applications received at their individual schools and agreed by consensus on the nominees presented below. High school principals also nominated sophomore and junior level students to serve as ex officio members.

At the March 12, 2014 meeting the Board approved 33 members for the community. Since that time Raquel Donoso has been nominated by Concilio Latino to replace Alma Gomez.

Recommendation:

That the Board approve the additional member to the District Local Control Accountability Plan Parent Committee for 2014 and 2015.

Fiscal Impact:

None

**E. COMMITTEE COMMUNICATIONS**

(Education Code 35145.5; Government Code 54950 et seq.)

\* **E.1 In Memory of Members of the School Community**

Comment:

The District would like to take time to recognize the contributions of members of our school community who have passed away. The District requests the community to submit names to be reported as a regular part of each agenda.

Richmond High School junior Rodney Frazier, Jr. was tragically killed. He was an energetic student and well thought of by his peers and teachers. He was an integral player on the school's basketball team at the position of point guard. He touched the lives of many people.

Our thoughts go out to the family and friends in the loss of their loved one.

Recommendation:

For Information Only

Fiscal Impact:

None

**F. ACTION ITEMS - CONTINUED**

\* **F.8 Presentation of the Initial Bargaining Proposal from West Contra Costa Unified School District to the United Teachers of Richmond (UTR)**

Comment:

Pursuant to the Educational Employment Relations Act, the initial proposal for negotiations by school districts and labor unions must be submitted at a public meeting of the governing board. The initial proposal of the West Contra Costa Unified School District to the United Teachers of Richmond is presented tonight as an information item. At the next regularly scheduled board meeting this item will come back for public hearing and adoption by the Board of Education.

Negotiations proposal:

The current duration for the bargaining unit agreement between the two parties concludes on June 30, 2015. The District shall meet and bargain on all contractual Articles 1-52 with UTR to produce a successor agreement to the current contract.

Recommendation:

The Board of Education receive the initial bargaining proposal to the United Teachers of Richmond (UTR) as an information item.

Fiscal Impact:

To Be Determined

\* **F.9 Initial Bargaining Proposal from United Teachers of Richmond (UTR) to the West Contra Costa Unified School District**

Comment:

Pursuant to the Educational Employment Relations Act, the initial proposal for negotiations by school districts and labor unions must be submitted at a public meeting of the governing board. The initial proposal from the United Teachers of Richmond (UTR) to the West Contra Costa Unified School District is presented tonight as an information item. At the next regularly scheduled board meeting this item will come back for public hearing and adoption by the Board of Education.

Negotiations proposal:

The United Teachers of Richmond would like to sunshine the agreement between West Contra Costa Unified School District and the United Teachers of Richmond's CBA Contractual Bargaining Agreement for July 1, 2015 through June 30, 2018 in its' entirety, to meet and negotiate a good faith successor agreement.

Recommendation:

The Board of Education receive the initial bargaining proposal for labor negotiations with the United Teachers of Richmond.

Fiscal Impact:

To Be Determined

\* **F.10 Joint Initial Bargaining Proposal – with West Contra Costa Unified School District and West Contra Costa Administrators Association (WCCAA)**

Comment:

Pursuant to the Educational Employment Relations Act, the initial proposal for negotiations by school districts and labor unions must be submitted at a public meeting of the governing board. The joint initial proposal of West Contra Costa Administrators Associate (WCCAA) and West Contra Costa Unified School District is presented tonight as an information item. At the next regularly scheduled board meeting this item will come back for public hearing and adoption by the Board of Education.

Negotiations Proposal:

The current duration for the bargaining unit agreement between the two parties concludes on June 30, 2015. The parties through the interest based process agree to negotiate on the following Articles:

- Article 1: Agreement
- Article 2: Recognition
- Article 3: Salary
- Article 8: Leaves
- Article 11: Filling Bargaining Unit Vacancies
- Article 12: Benefits
- Article 13: Transfer
- Article 15: Evaluation
- Article 16: Reduced Work Year
- Article 20: Discipline
- Article 21: Safety

- Article 22: Work Days/Years
- Article 23: End of Year Release/Reassignments of Certificated Administrators
- New Articles
- Article 25: Professional Development
- Article 26: Threshold to Determine Need for Additional Support

Recommendation:

The Board of Education receive the joint initial bargaining proposal for labor negotiations with the West Contra Costa Administrators Association.

Fiscal Impact:

To Be Determined

\* **F.11 Resolution 42-1415: In Support of Richmond Plan to Keep Doctors Medical Center Open**

Comment:

The City of Richmond is seeking support for a plan that would help keep Doctors Medical Center open.

Recommendation:

That the Board consider the resolution

Fiscal Impact:

No Financial Impact for the District

**D. AWARDS, RECOGNITIONS, AND REPORTS**

\* **D.1 Resolution No. 41-1415: Resolution of Commendation to Elaine Merriweather for Dedicated Service to Students, Staff and the Community, December 3, 2014**

Comment:

A resolution of commendation will be presented to Elaine Merriweather for four years of service on the Board of Education and to the Students, Staff, and Community of the West Contra Costa Unified School District.

Elaine Merriweather was instrumental in the development of Transitional Kindergarten and other early childhood education programs to serve families of the West Contra Costa area. She has provided leadership for the Board Safety Climate Subcommittee implementing numerous improvements to provide safer schools facilities and more positive school climates. She has also been a strong advocate for Full Services Community Schools and School Based Health Centers, ensuring that students, their families, and our communities have access to resources they need to impact educational outcomes.

Recommendation:

Recognition and Resolution Honoring Board Member Elaine Merriweather

Fiscal Impact:

None

\* **D.2 Resolution No. 39-1415: Resolution of Commendation to Charles Ramsey for Dedicated Service to Students, Staff and the Community, December 3, 2014**

Comment:

A resolution of commendation will be presented to Charles Ramsey for twenty-one years of service on the Board of Education and to the Students, Staff, and Community of the West Contra Costa Unified School District.

Charles Ramsey has provided leadership for improving student learning, building new schools and renovation of others to enhance the daily lives of students and staff, providing critical links to the community, and supporting the district through a very difficult period for school finance. With Mr. Ramsey's leadership and commitment the District emerged from state receivership in June 2012.

Recommendation:

Recognition and Resolution Honoring Board Member Charles Ramsey

Fiscal Impact:

None

**G. DISCUSSION ITEMS**

**H. UNFINISHED REQUESTS TO ADDRESS THE BOARD** (continued from Item E)

**I. COMMENTS OF THE BOARD OF EDUCATION AND SUPERINTENDENT**

**J. THE NEXT SCHEDULED BOARD OF EDUCATION MEETING**

Lovonya DeJean Middle School – December 10, 2014

**K. ADJOURNMENT**

At 10:00 PM, any items remaining on the agenda that require immediate attention will be moved to this time. All other items will be tabled to another or the following Board meeting in order to make fair and attentive decisions. The meeting will adjourn at 10:30 PM. The meeting may be extended by a majority vote of the Board of Education.

The public may address items which are marked with an asterisk (\*).

**A. CLOSED SESSION**

**A.1 CALL TO ORDER**

**A.2 DISCLOSURE OF ITEMS TO BE DISCUSSED IN CLOSED SESSION**  
(Government Code 54957.7)

**A.3 RECESS TO CLOSED SESSION AS SCHEDULED**

**See Exhibit A**

(Government Code Section 54954.5)

The **Open Session** will resume at the end of the **Closed Session** in the Multi-Purpose Room at approximately 6:30 PM.

**EXHIBIT A**

(Government Code Section 54954.5)

**CLOSED SESSION AGENDA**

**December 3, 2014**

**1. CONFERENCE WITH REAL PROPERTY NEGOTIATOR**

**2. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION**

[Government Code Section 54956.9(d)(1)]

- a. Palmer and Pollack v. WCCUSD
- b. California Charter School Association v. WCCUSD

**3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION/SIGNIFICANT EXPOSURE TO LITIGATION**

[Government Code Section 54956.9(d)(2) or (d)(3)]

Two cases

**4. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION/INITIATION OF LITIGATION**

[Government Code Section 54956.9(d)(4)]

One case

**5. LIABILITY CLAIMS (Government Code Section 54956.95)**

**6. CONFERENCE WITH LABOR NEGOTIATORS**

- a. Superintendent/Dr. Bruce Harter

- b. Employee Organizations
  - UTR
  - Local One
  - School Supervisors Association
  - WCCAA
  
- c. Unrepresented Employees
  - Confidential and Management

**7. PUBLIC EMPLOYEE APPOINTMENT**

**8. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957)**

**9. STUDENT DISCIPLINE (Education Code Section 35146)**

Expulsions

**10. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE/COMPLAINT  
(Government Code Section 54957)**

**11. REPORT OF CLOSED SESSION ACTIONS**

**West Contra Costa Unified School District  
Minutes of the Special Board of Education Meeting  
Closed Session  
DeJean Middle School  
3400 Macdonald Ave., Multipurpose Room  
Richmond, CA 94805**

Agenda Item B.6

**November 6, 2014**

**A. CLOSED SESSION**

**B. OPENING PROCEDURES**

President Ramsey called the meeting to order at 5:45 P.M. The Board recessed into Closed Session. President Ramsey reconvened the Public Session to report action taken in Closed Session at 7:45 P.M.

**Public Comment Prior to Closed Session:**

None

**B.1 Pledge of Allegiance**

**B.2 Welcome and Meeting Procedures**

**B.3 Roll Call**

**Board Members Present:** Randall Enos, Todd Groves, Elaine Merriweather, Madeline Kronenberg, Charles Ramsey

**Staff Present:** Sheri Gamba, Associate Superintendent for Business Services; Wendell Greer, Associate Superintendent for Secondary Schools; Superintendent Bruce Harter; Denise Cifelli, Confidential Secretary; Lisa LeBlanc, Associate Superintendent of Operations

**B.4 Report/Ratification of Closed Session**

Superintendent Harter said there was no action to report.

**C. The Next Regularly Scheduled Board of Education Meeting – November 12, 2014**

**D. ADJOURNMENT**

President Ramsey adjourned the meeting at 7:48 PM in the name of his mother, Eleanor Mason Ramsey.

BH:dc

Min Sp Mtg 11-6-14

**West Contra Costa Unified School District  
Minutes of the Board of Education Meeting  
Lovonya DeJean Middle School  
3400 Macdonald Avenue  
Richmond, CA 94805**

Agenda Item B.6

**November 12, 2014**

**A. CLOSED SESSION**

**B. OPENING PROCEDURES**

President Ramsey called the meeting to order at 5:30 P.M. The Board recessed into Closed Session. President Ramsey called the Public Session to order at 6:34 P.M.

**B.1 Pledge of Allegiance**

President Ramsey led the pledge of allegiance.

**B.2 Welcome and Meeting Procedures**

President Ramsey offered welcome and instructions to the public regarding the meeting.

**B.3 Roll Call**

**Board Members Present:** Randall Enos, Todd Groves, Madeline Kronenberg, Elaine Merriweather, Charles Ramsey

**Staff Present:** Elizabeth Carmody, Director Community Engagement; Jeff Carter, MIS Production Supervisor; Steve Collins, SELPA Director; Linda Delgado, Coordinator Charter Schools; Luis Freese, District Engineer; Sheri Gamba, Associate Superintendent Business Services; Wendell Greer, Associate Superintendent K-Adult Schools; Bruce Harter, Superintendent; Debbie Haynie, Executive Secretary; Joshua Herrera, Electronics Technician; Keith Holtslander, Director Facilities & Construction; Lisa LeBlanc, Associate Superintendent M & O/Bond Program; Mary Phillips, Chief Technology Officer; Nia Rashidchi, Assistant Superintendent Educational Services; Reyna Touriel, Translator; Marcus Walton, Communications Director; Ken Whittmore, Assistant Superintendent Human Resources

**B.6 Agenda Review and Adoption**

President Ramsey announced that item F.1 had been tabled from the agenda. He announced that speakers who requested to speak on that item would not be heard at this time. The issues around Aspire and Amethod Charter Schools would not be heard at this meeting and would be heard at a future meeting.

Superintendent Harter added that the Board intended to bring the charter school petitions for John Henry High School and the two Aspire schools to the December 3<sup>rd</sup> meeting for action.

A brief recess was taken at this time.

**MOTION: Mr. Groves moved approval of the agenda as amended including tabling F.1 and moving Public Comment B.8 to follow item B.4. Mr. Enos seconded. Mr. Enos, Mr. Groves, Ms. Kronenberg, Ms. Merriweather, and President Ramsey voted yes, with no abstentions and no absences. Motion carried 5-0-0-0.**

**B.4 Presentation of Student Board Representative from Kennedy High School**

Mr. Francisco Ortiz provided a report of activities at Kennedy High School.

**B.8 Public Comment:**

Ines Gonzalez, Monzerrat Ledesema, Miguel Cervantes, Yolanda Lopez, Katy Vasquez, Mariela Cuellar, Flor Castro, Ofelia Alonso, Eric Swabeck, Petra Tornero, Dalia Gomez, Tomasa Espinoza, Christina Slamon, Pablo Ramirez, Oscar Figueroa, Juan Martinez, Patricia Zuniga, Cara Houser, Sri Lekha, Kathleen Sullivan, Jacqueline Trimmer, Monique Swain

A brief recess was taken at this time.

**Youth Commission:**

Aliza Johnson and Francisco Ortiz from Kennedy High School, and JaMes Williams from Middle College High reported on the October 27<sup>th</sup> Youth Commission meeting where discussion included the Local Control Accountability Plan and recommendations for better involvement of parents and students. They discussed the use of various social media networks, as well as ideas for more engagement and involvement of stakeholders.

**B.5 Report/Ratification of Closed Session**

Superintendent Harter asked the Board to ratify action taken in Closed Session to appoint the following administrators:

Jackie Kim, Internal Auditor

Mark Bonnet, Executive Director Bond Finance

**MOTION: Mr. Groves moved to ratify action taken in Closed Session to appoint administrators Jackie Kim and Mark Bonnet. Mr. Enos seconded. Mr. Enos, Mr. Groves, Ms. Kronenberg, Ms. Merriweather, and President Ramsey voted yes, with no abstentions and no absences. Motion carried 5-0-0-0.**

Superintendent Harter asked the Board to ratify action taken in Closed Session to approve the Superintendent's evaluation and approve a one year extension to his contract to June 30, 2018.

**MOTION: Mr. Groves moved to ratify action taken in Closed Session to approve the Superintendent's evaluation and one year extension to his contract. Ms. Kronenberg seconded. Mr. Enos, Mr. Groves, Ms. Kronenberg, Ms. Merriweather, and President Ramsey voted yes, with no abstentions and no absences. Motion carried 5-0-0-0.**

**B.6 Agenda Review and Adoption**

This item was moved to follow item B.3.

**B.7 Minutes: October 1, 2014; October 15, 2014**

**MOTION: Mr. Groves moved approval of the Minutes of October 1, 2014 and October 15, 2014. Ms. Kronenberg seconded. Mr. Enos, Mr. Groves, Ms. Kronenberg, Ms. Merriweather, and President Ramsey voted yes, with no abstentions and no absences. Motion carried 5-0-0-0.**

**B.8 WCCUSD Public Comment**

This item was moved to follow item B.4.

**C. BUSINESS ITEM**

**C.1 Grants/Awards/Agreements**

**C.2 Acceptance of Donations**

**C.3 Approval of Fund-Raising Activities**

**C.4 Contracts**

This item was pulled for separate action.

**C.5 Summary of Payroll and Vendor Warrant Reports**

**C.6 Notice of Completions: Bid 35410055-00 El Cerrito High School AC for Dance Studios and Multi-Use Rooms, Bid 16210028-00 Verde Elementary School Circulation & Parking Improvements, Bid 3621377-01 Pinole Valley High School Detention Basin, Bid 1461206-02 Ohlone Elementary School Interim Campus, and Bid 1451612-15 Olinda Elementary School Miscellaneous Repairs**

**C.7 Certificated Board Authorization - Education Code 44258.3**

**C.8 Routine Personnel Changes - Certificated**

**C.9 Routine Personnel Changes – Classified**

**C.10 Response to the 2014-15 Contra Costa Civil Grand Jury request for policies and procedures for the administration of medications**

**C.11 NCLB Supplemental Educational Services (SES) Tutoring Contracts**

**C.12 Resolution No: 33-1415: California Sikh American Awareness and Appreciation Month**

**C.13 Resolution No. 34-1415: American Education Week: November 16 – 22, 2014**

**C.14 Special Education Memorandum of Understanding with Making Waves Academy**

**C.15 Certification of Athletic Coaches – Fall Sports**

**C.16 Ratification and Approval of Engineering Services Contracts**

**C.17 Approval of Negotiated Change Orders**

This item was pulled for separate action.

**C.18 Approval of Negotiated Change Orders – M&O**

**C.19 Approve Measure J and D 2010, Measure E 2012, Bond Program Budget Expenditure Authorization**

This item was pulled for separate action.

**C.20 Citizens' Bond Oversight Committee (CBOC) Appointment: Dr. Harlan-Ogbeide**

This item was pulled for separate action.

**C.21 Independent Legal Counsel for CBOC**

This item was pulled for separate action.

**C.22 Adoption of Resolution No. 40-1415: Support of Applications For Eligibility Determination and Funding Authorization to Sign Applications and Associated Documents**

**C.23 Acceptance of Contra Costa County Office of Education Annual Report for Williams Settlement Legislation**

**MOTION: Mr. Groves moved Approval of Consent Items C. 1 – C.3, C.5 – C.16, C.18, C22 and C.23. Ms. Kronenberg seconded. Mr. Enos, Mr. Groves, Ms. Kronenberg, Ms. Merriweather, and President Ramsey voted yes, with no abstentions and no absences. Motion carried 5-0-0-0.**

**C.21 Independent Legal Counsel for CBOC**

Superintendent Harter provided background regarding the request from the Citizens' Bond Oversight Committee leadership to approve legal counsel. If approved, a Request for Qualifications will be developed and the Committee Chairperson will be involved in the selection process for legal firms.

**Public Comment:**

Anton Jungherr

**Board Comment:**

None

**MOTION: Mr. Groves moved approval of Consent Item C. 21 Independent Legal Counsel for CBOC. Mr. Enos seconded. Mr. Enos, Mr. Groves, Ms. Kronenberg, Ms. Merriweather, and President Ramsey voted yes, with no abstentions and no absences. Motion carried 5-0-0-0.**

**C.20 Citizens' Bond Oversight Committee (CBOC) Appointment: Dr. Harlan-Ogbeide**

Superintendent Harter explained that this was a recommendation from the City of San Pablo.

**Public Comment:**

Anton Jungherr

**Board Comment:**

None

**MOTION: Mr. Groves moved approval of Consent Item C. 20 Citizens' Bond Oversight Committee (CBOC) Appointment: Dr. Harlan-Ogbeide. Ms. Kronenberg seconded. Mr. Enos, Mr. Groves, Ms. Kronenberg, Ms. Merriweather, and President Ramsey voted yes, with no abstentions and no absences. Motion carried 5-0-0-0.**

**C.19 Approve Measure J and D 2010, Measure E 2012, Bond Program Budget Expenditure Authorization**

**Public Comment:**

Anton Jungherr

**Board Comment:**

President Ramsey explained that the item Mr. Jungherr referred to was an adjustment of funding already set aside for the DeAnza project, a reconciliation item.

**MOTION: Mr. Enos moved approval of Consent Item C. 19 Approve Measure J and D 2010, Measure E 2012, Bond Program Budget Expenditure Authorization. Ms. Kronenberg seconded. Mr. Enos, Mr. Groves, Ms. Kronenberg, Ms. Merriweather, and President Ramsey voted yes, with no abstentions and no absences. Motion carried 5-0-0-0.**

**C.17 Approval of Negotiated Change Orders**

**Public Comment:**

Alex Aliferis

**Board Comment:**

President Ramsey spoke about the rationale for the adjustments, particularly the Pinole Valley Interim Campus Detention Basin and project acceleration necessary to open school on time. He spoke about budget adjustments and the over-all budgets with 10 % contingencies. He said these are needed and necessary expenses within budgetary amounts approved for projects.

**MOTION: Mr. Groves moved approval of Consent Item C. 17 Approval of Negotiated Change Orders. Mr. Enos seconded. Mr. Enos, Mr. Groves, Ms. Kronenberg, Ms. Merriweather, and President Ramsey voted yes, with no abstentions and no absences. Motion carried 5-0-0-0.**

**C.4 Contracts**

Due to the requests from public comment regarding specific contracts, President Ramsey asked that the Board approve the five contracts related to educational services and take the remaining contracts individually for separate votes.

**MOTION: Mr. Groves moved approval of five contracts related to educational services. Ms. Kronenberg seconded. Mr. Enos, Mr. Groves, Ms. Kronenberg, Ms. Merriweather, and President Ramsey voted yes, with no abstentions and no absences. Motion carried 5-0-0-0.**

**Public Comment:**

Anton Jungherr, Ben Steinberg, Scottie Smith, Don Gosney, Alex Aliferis, Lorraine Humes, Michael Wisely, Tanna Monteiro, Maria Montes, Irma Beltran, Cathy Garza, Barbara Young, Luis Ledesma, Jacqueline Trimmer

**Board Comment:**

None

**Swanson & McNamara Contract**

Ms. Kronenberg recused herself from action on this item and left building.

Mr. Groves had questions of legal counsel. Mr. Ed Sklar, attorney with the legal firm Lozano Smith, explained why it was recommended that board members have separate representation regarding the Securities and Exchange Commission investigation. Mr. Groves continued to ask whether the District was in compliance with the law and about any of conflict of interest violations. Mr. Sklar responded that he not aware of any violations. Mr. Groves expressed a request to seek a second opinion from county counsel.

**MOTION: Mr. Groves motioned to seek a second opinion with County Counsel to determine that there was no violation of conflict of interest laws before making any determination on the contract. This motion failed for lack of a second.**

**MOTION: President Ramsey moved approve of the contract for Board Member Kronenberg with the firm of Swanson & McNamara in the amount as described. This motion failed for lack of a second.**

The Board continued with discussion and questions of Attorney Ed Sklar.

**MOTION: Mr. Groves moved to approve the contract for Madeline Kronenberg with the caveat that the District seek a second opinion from County Counsel regarding conflict of interest issues. Mr. Enos seconded. A roll call vote was taken with Mr. Enos, Mr. Groves and President Ramsey voting yes, Ms. Merriweather and Student Representative Francisco Ortiz abstaining (advisory vote only), and Ms. Kronenberg recused. The motion carried 3-0-1-1.**

Ms. Kronenberg returned to the meeting.

**Ramsey & Ehrlich LLP Contract**

President Ramsey recused himself from action on this item and left the building. Clerk Groves assumed the gavel in his absence and presided over the meeting.

Clerk Groves asked for views of the Board regarding the Ramsey & Ehrlich contract for an additional \$350,000, totaling \$500,000.

Ms. Kronenberg asked about details of the contract to which Ms. Gamba said that this was an estimate provided by the firm of Ramsey & Ehrlich. Ms. Gamba explained that a letter of engagement had been provided detailing the services and hourly rate along with an estimate of overall cost.

Ms. Kronenberg continued the discussion with Mr. Sklar regarding a “not to exceed amount” that could possibly be spent at a lesser amount.

Clerk Groves proposed tabling the issue for a more serious vetting of the contract.

Ms. Gamba related a point of order to call for the question of whether the Board will make a motion and second on this matter.

Clerk Groves called the question for a motion on this item.

**MOTION: Ms. Kronenberg moved approval of the Ramsey & Ehrlich Contract. Mr. Enos seconded the motion. A roll call vote was taken with Ms. Kronenberg voting yes, Ms. Merriweather, Student Representative Francisco Ortiz (advisory vote only), and Clerk Groves voting no, Mr. Enos abstaining and President Ramsey recused. The motion failed 1-2-1-1.**

President Ramsey returned to the meeting and resumed the gavel.

Student Representative Francisco Ortiz left the meeting for the evening.

#### **F1 Discovery Contract**

**MOTION: Mr. Groves moved approval of the F1 Discovery Contract. Mr. Enos seconded the motion. Mr. Enos, Mr. Groves, Ms. Kronenberg voted yes, with Ms. Merriweather, and President Ramsey abstaining and no absences. The motion carried 3-0-2-0.**

#### **Barg Coffin Lewis & Trapp LLC Contract**

**MOTION: Ms. Kronenberg moved approval of the Barg Coffin Lewis & Trapp LLC Contract. Mr. Enos seconded the motion. Mr. Enos, Mr. Groves, Ms. Kronenberg and President Ramsey voted yes, with Ms. Merriweather abstaining and no absences. The motion carried 4-0-1-0.**

A brief recess was taken at this time.

President Ramsey left the dais. Clerk Groves assumed gavel.

#### **D. AWARDS, RECOGNITIONS, AND REPORTS**

None

#### **E. COMMITTEE COMMUNICATIONS**

##### **E.1 Standing Reports**

**Citizens Bond Oversight Committee.** Chairperson Ivette Ricco provided a report overviewing developments of the last several months. She reported that the committee toured both the Ohlone Elementary and Gompers High School campuses. A Change Order Subcommittee had been formed to review the change orders process and report findings to the full Committee. The Pinole Valley High School Subcommittee had toured the campus and met with the principal. This Subcommittee will also review change orders for the project. The Training Subcommittee has held two training sessions which were video recorded and are available on the CBOC website. An Asset Management Subcommittee is in development to review efforts to maximize bond revenues and implementing cost saving measures. The next meeting is scheduled for December 3, 2014.

**Ivy League Connection.** Don Gosney spoke about the program for the upcoming year saying that he met with 700 eligible students and has received an enthusiastic response. He spoke about the need for financial support as well as several university scholarships. He spoke of the success of the program tied to support from the community.

**Academic Subcommittee.** Ms. Rashidchi announced the next meeting scheduled for November 18 at DeAnza High School. The agenda will include discussion on STEM initiatives and review of homework from academic teachers.

**Safety and School Climate Committee.** Ms. Merriweather announced the upcoming meeting for November 13 at Pinole Valley High School. She said that everyone is welcome to attend.

**Technology Subcommittee.** Ms. Kronenberg announced the next meeting for November 17, 2014.

**E.2 Superintendent's Report**

Superintendent Harter provided a report of activities in the District.

Mr. Enos left the dais.

**E.3 In Memory of Members of the School Community**

Superintendent Harter recognized the contributions of members of the community who have passed away. Clerk Groves asked everyone to stand for a moment of silence.

**Public Comment:**

None

**Board Comment:**

None

**F. ACTION ITEMS**

**F.1 Resolution No. 37-1415: Resolution Directing Superintendent and Staff to Seek a Waiver of Education Code section 47605(b) from the State Board of Education**

This item was tabled from the agenda.

**F.2 Amended Resolution No. 38-1415: Credential Assignment Options**

Mr. Whittemore explained this was an annual action required of the Board regarding teachers with emergency or limited assignment credentials. He explained that this was an updated from the last action of May 28, 2014.

**Public Comment:**

None

**Board Comment:**

Clerk Groves asked how many teachers were covered by the Declaration of Need. Mr. Whittemore responded with clarification regarding the various categories of needed teachers.

**MOTION: Ms. Kronenberg moved approval of Amended Resolution No. 38-1415: Credential Assignment Options. Ms. Merriweather seconded. A roll call vote was taken with Mr. Groves, Ms. Kronenberg, Ms. Merriweather, voting yes, with no abstentions, and Mr. Enos and President Ramsey absent. Motion carried 3-0-0-2.**

Mr. Enos returned to the dais.

**F.3 Resolution 29-1415: Resolution directing certain actions in connection with the Continuing Disclosure Obligations of the West Contra Costa Unified School District under its General Obligation Bond Program**

Ms. Gamba introduced Disclosure Counsel Attorneys Rudy Salo and Graham Beck from Nixon Peabody LLC. Mr. Salo explained requirements from the Securities and Exchange Commission regarding municipalities self-reporting and disclosure obligations.

**Public Comment:**

Anton Jungherr

President Ramsey returned to the dais and resumed the gavel.

**Board Comment:**

Ms. Kronenberg asked Mr. Salo for an example of continuing disclosure obligations. Mr. Salo provided an example regarding disclosure statements a five year period. He detailed the new requirements set forth.

Ms. Merriweather asked whether the policies, once developed, will come to the Board for approval. Mr. Salo affirmed and Ms. Gamba emphasized the development of policies and procedures.

Mr. Groves asked about primary responsibility for disclosure information. Ms. Gamba provided clarification.

**MOTION: Mr. Enos moved approval of Resolution 29–1415: Resolution directing certain actions in connection with the Continuing Disclosure Obligations of the West Contra Costa Unified School District under its General Obligation Bond Program. Ms. Kronenberg seconded. Mr. Enos, Mr. Groves, Ms. Kronenberg, Ms. Merriweather, and President Ramsey voted yes, with no abstentions and no absences. Motion carried 5-0-0-0.**

**F.5 Public Hearing Riverside Overpass**

Superintendent Harter announced that this item was the second step in the approval process to approve an easement for building the landing pad of the freeway overcrossing to the Riverside Elementary campus. He said that this item will return on December 10, 2014 with a recommendation to grant the easement. He asked the Board to open the public hearing.

**Public Comment:**

Cecilia Valdez, Paul Morris, Don Gosney, Hisham Noeimi

The public hearing was closed.

**G.1 General Obligation Bond/Post-Issuance Tax Compliance Procedures – AR 7214**

Ms. Gamba introduced Mr. Graham Beck from Nixon Peabody. She said that this Administrative Regulation would better serve the District by having rules and regulations easily at hand for operating in the post-issuance compliance procedures. Board members reviewed the handout provided.

**Public Comment:**

None

**Board Comment:**

None

**G.2 Project Status Report**

Ms. LeBlanc introduced Mr. Holtslander who provided an update of construction projects in the District.

**Public Comment:**

None

**Board Comment:**

None

**F.4 Resolution No. 32-1415 Authorizing the Issuance and Sale of its General Obligation Refunding Bonds, 2014 Series A, in an Aggregate Principal Amount not to Exceed \$135,000,000, Including Bond Subject to the Compounding of Interest, and Approving Certain Other Matters Relating to Said Bonds**

Ms. Gamba introduced the finance team including KNN Public Finance, Piper Jaffrey, Nixon Peabody and Stifel Nicolas & Co. David Leifer led the presentation report regarding the proposed sale of \$135,000,000 in general obligation bonds.

Mr. Groves left the dais.

**Public Comment:**

Alex Aliferis, Susan Chamberlain, Anton Jungherr, Lorraine Humes

Mr. Groves returned to the dais.

**Board Comment:**

President Ramsey thanked the fiscal office and facilities team, commending their work to complete construction projects giving the District the needed and necessary schools to enable students to compete in the 21<sup>st</sup> century. He spoke about property assessed valuation growth and staying within target tax rates.

**MOTION: Mr. Groves moved approval of Resolution No. 32-1415 Authorizing the Issuance and Sale of its General Obligation Refunding Bonds, 2014 Series A, in an Aggregate Principal Amount not to Exceed \$135,000,000, Including Bond Subject to the Compounding of Interest, and Approving Certain Other Matters Relating to Said Bonds. Ms. Kronenberg seconded. A roll call vote was taken with Mr. Enos, Mr. Groves, Ms. Kronenberg, Ms. Merriweather, and President Ramsey voting yes, with no abstentions and no absences. Motion carried 5-0-0-0.**

**F.5 Public Hearing on the Governing Board’s Proposed Adoption of Resolution No. 36-1415 To Convey An Easement to Contra Costa County at the Riverside Elementary School Site, as Authorized by Sections 17556 *et seq.*, of the Education Code**

This item was moved to follow item F.3.

**G. DISCUSSION ITEMS**

**G.1 General Obligation Bond/Post-Issuance Tax Compliance Procedures –AR 7214**

This item was moved earlier on the agenda.

**G.2 Project Status Report**

This item was moved earlier on the agenda.

**H. UNFINISHED REQUESTS TO ADDRESS THE BOARD (continued from Item E)**

None

**I. COMMENTS OF THE BOARD OF EDUCATION AND SUPERINTENDENT**

Mr. Enos commented on the long night.

Ms. Kronenberg recognized Rodney Frazier, Richmond High School student murdered last week, as well as the other students who were injured. She asked the community to come together in support of Richmond High in the loss of one of their students. She commented on the meeting’s conversations about important things for the community including the Caliber charter community.

Ms. Merriweather extended her thanks to the community for allowing her to serve on the Board for four years, enumerating the accomplishments of paying off the debt, the passage of Proposition 30 providing the initiative for LCFF funds for the neediest students. She spoke of meeting wonderful teachers, administrators, and students. She thanked her colleagues who have worked hard in moving the District forward. She commended the incoming board members who will bring the same energy to the Board in the fight for public education. She concluded by saying that she has made an impact during her four years of service and looked forward to continued advocacy for teachers and students at the state level.

President Ramsey reminded the audience of another meeting scheduled for December 3, 2014. He commended the newly elected Board members and Ms. Kronenberg’s re-election. Mr. Ramsey spoke of his parents and their belief in their children, recalling his mother’s experience as an African American female student at UC Berkeley. He spoke of the kind, generous spirit of his parents.

President Ramsey adjourned the meeting in the names of his parents Eleanor Mason Ramsey and Henry Ramsey, Jr.

**J. THE NEXT SCHEDULED BOARD OF EDUCATION MEETING**

Lovonya DeJean Middle School – December 10, 2014

**K. ADJOURNMENT**

President Ramsey adjourned the meeting at 10:23 PM.

*Motion vote count order: Yes-No-Abstain-Absent*

BH:dh

WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT

1108 Bissell Avenue  
Richmond, California 94801-3135  
Office of Superintendent of Schools

**ITEM REQUIRING ATTENTION----BOARD OF EDUCATION**

**To:** Board of Education

**Meeting Date:** December 3, 2014

**From:** Sheri Gamba *SG*  
Associate Superintendent Business Services

**Agenda Item:** CI C.1

**Subject:** Grants/Awards/Agreements

**Background Information:**

Formal action is requested from the Board of Education to accept the grants/awards/agreements, as detailed on the attached sheet dated December 3, 2014.

**Recommendation:** Recommend Approval

**Fiscal Impact:** As noted per grants summary.

**DISPOSITION BY BOARD OF EDUCATION**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved \_\_\_\_\_ Not Approved \_\_\_\_\_ Tabled \_\_\_\_\_

GRANT / AWARD / AGREEMENT NOTIFICATIONS

Project Name	Project Amount for Budget Period	Funding Agency	Comments
CPA - Health Sports Medicine Academy (9009) at DAHS	\$62,820	California Department of Education - Career and College Transition Division	Funding for the Health Sports Medicine Academy at De Anza High School
Resource # 6385	7/1/14 - 6/30/16		PCA # 25220-01
CPA - Information Technology Academy (ITA) at DAHS	\$62,820	California Department of Education - Career and College Transition Division	Funding for the Information Technology Academy (ITA) at De Anza High School
Resource # 6385	7/1/14 - 6/30/16		PCA # 25220-02
CPA - Information Technology at ECHS	\$62,820	California Department of Education - Career and College Transition Division	Funding for the Information Technology Academy at El Cerrito High School
Resource # 6385	7/1/14 - 6/30/16		PCA # 25220-03
CPA - Media Academy at ECH	\$62,820	California Department of Education - Career and College Transition Division	Funding for the Media Academy at El Cerrito High School
Resource # 6385	7/1/14 - 6/30/16		PCA # 25220-04
CPA - Hospitality and International Tourism Industry at HHS	\$62,820	California Department of Education - Career and College Transition Division	Funding for the Academy of Hospitality & International Tourism Industry at Hercules H.S.
Resource # 6385	7/1/14 - 6/30/16		PCA # 25220-05
CPA - School Law and Social Justice Academy at KHS	\$41,880	California Department of Education - Career and College Transition Division	Funding for the School Law and Social Justice Academy at Kennedy High School
Resource # 6385	7/1/14 - 6/30/16		PCA # 25220-06

GRANT / AWARD / AGREEMENT NOTIFICATIONS

Project Name	Project Amount for Budget Period	Funding Agency	Comments
CPA - Information Technology Academy at KHS	\$62,820	California Department of Education - Career and College Transition Division	Funding for the Information Technology Academy at Kennedy High School
Resource # 6385	7/1/14 - 6/30/16		PCA # 25220-08
CPA - Law and Justice Academy at PVHS	\$62,820	California Department of Education - Career and College Transition Division	Funding for the Law and Justice Academy at Pinole Valley High School
Resource # 6385	7/1/14 - 6/30/16		PCA # 25220-09
CPA - Visual and Performing Arts Academy at PVHS	\$62,820	California Department of Education - Career and College Transition Division	Funding for the Visual and Performing Arts Academy at Pinole Valley High School
Resource # 6385	7/1/14 - 6/30/16		PCA # 25220-10
CPA - Law Academy at RHS	\$62,820	California Department of Education - Career and College Transition Division	Funding for the Law Academy at Richmond High School
Resource # 6385	7/1/14 - 6/30/16		PCA # 25220-11
CPA - Creative and Performing Arts Academy (CAPA) at RHS	\$62,820	California Department of Education - Career and College Transition Division	Funding for the Creative and Performing Arts Academy at Richmond High School
Resource # 6385	7/1/14 - 6/30/16		PCA # 25220-12
CPA - Health Academy at PVHS	\$62,820	California Department of Education - Career and College Transition Division	Funding for the Health Academy at Pinole Valley High School
Resource # 6385	7/1/14 - 6/30/16		PCA # 25220-13
Carl D. Perkins Career & Tech Ed Improvement Act of 2006	\$272,812	California Department of Education - Career Tech Ed Admin & Mgt Office	Funding for the 14-15 Ed Tech Program

GRANT / AWARD / AGREEMENT NOTIFICATIONS

Project Name	Project Amount for Budget Period	Funding Agency	Comments
Apple ConnectEd Program Grant at Stege Elementary	\$0	Apple Inc.	This is a no cost Grant at Stege Apple will provide a document listing the fair market value after that has been determined.

WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT

1108 Bissell Avenue  
Richmond, California 94801-3135  
Office of Superintendent of Schools

**ITEM REQUIRING ATTENTION----BOARD OF EDUCATION**

**To:** Board of Education

**Meeting Date:** December 3, 2014

**From:** Sheri Gamba *SG*  
Associate Superintendent Business Services

**Agenda Item:** CI C.2

**Subject:** Acceptance of Donations

**Background Information:** The District has received donations as summarized on the attached sheet dated **December 3, 2014**. The estimated values for any non-cash donations (as indicated by an asterisk) are those provided by the donor. Staff recommends acceptance of these donations.

**Recommendation:** Recommend Approval

**Fiscal Impact:** As noted per donations summary.

DISPOSITION BY BOARD OF EDUCATION

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved \_\_\_\_\_ Not Approved \_\_\_\_\_ Tabled \_\_\_\_\_

West Contra Costa Unified School District  
 December 3, 2014 Board Meeting

<u>Donor Name</u>	<u>Description or Purpose</u>	<u>Estimated Value</u>	<u>Receiving School or Department</u>
Mr. & Mrs. Ponce	Materials and Supplies	\$30.00	Cameron School
Mr. Kenneth Fong	Materials and Supplies	\$30.00	Cameron School
Ms. Sierra Fong	Materials and Supplies	\$30.00	Cameron School
Mr. Larry Nelson	Materials and Supplies	\$30.00	Cameron School
Target Take Charge of Education	Materials and Supplies	\$179.67	Highland Elementary
Target Take Charge of Education	Materials and Supplies	\$1,339.35	Madera Elementary
Ms. Sally Gidaro	Instructional Aid for K Class	\$100.00	Nystrom Elementary
Ms. Bridget Coughran	Instructional Aid for K Class	\$19,000.00	Nystrom Elementary
Wells Fargo Community Support Campaign	Materials and Supplies	\$374.45	Ohlone Elementary
Goodshop	Materials and Supplies	\$61.98	Ohlone Elementary
Savemart	Materials and Supplies	\$15.57	Korematsu Middle
PG&E Corporation Foundation	Materials and Supplies	\$202.65	Hercules Middle
Ms. Shelie McEntire	Materials and Supplies	*\$466.69	Hercules High

\*Estimated values for the non-cash donations are provided by the donor  
 Donation Précis 120314

WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT  
1108 Bissell Avenue  
Richmond, California 94801-3135  
Office of Superintendent of Schools

**ITEM REQUIRING ATTENTION----BOARD OF EDUCATION**

**To:** Board of Education

**Meeting Date:** December 3, 2014

**From:** Sheri Gamba *SG*  
Associate Superintendent Business Services

**Agenda Item:** CI C.3

**Subject:** Approval of Fund-Raising Activities

**Background Information:** The planned fund-raising events for the 2014-15 school year is summarized on the attached sheet dated December 3, 2014.

**Recommendation:** Recommend Approval

**Fiscal Impact:** Additional revenue for schools

**DISPOSITION BY BOARD OF EDUCATION**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved \_\_\_\_\_ Not Approved \_\_\_\_\_ Tabled \_\_\_\_\_

West Contra Costa Unified School District  
 December 3, 2014 Board Meeting

APPROVAL OF FUND-RAISERS

<b><u>School</u></b>	<b><u>Fund-Raising Activity</u></b>	<b><u>Activity Sponsor</u></b>
Fairmont Elementary	Sale of Ice-Cream Treats	Fairmont PTA
King Elementary	Sale of World's Finest Chocolates	King PTA
Murphy Elementary	Sale of Packaged Frozen Treats	Murphy PTA
Murphy Elementary	Sale of Packaged Snacks	Murphy PTA
Murphy Elementary	Sale of Chocolates	Murphy PTA
Murphy Elementary	Sale of Packaged Nachos	Murphy PTA
Murphy Elementary	Sale of Packaged Cookie Dough	Murphy PTA
Washington Elementary	The Box Tops for Education, where PTA receives rebate for every box tops turned in.	Washington PTA
Washington Elementary	Community letter in form of Monetary Donation	Washington PTA
Washington Elementary	Book Fair	Washington PTA
De Anza High	Sale of Food and Drinks during Home Coming Dance.	De Anza High Shimada Club
De Anza High	Yogurtland	De Anza High PTSA
De Anza High	Dinner at Kaliente Restaurant	De Anza High PTSA
De Anza High	See's Gift Certificate	De Anza High PTSA
De Anza High	Paper Drive	De Anza High PTSA
De Anza High	Aloha Dinner and Dance	De Anza High PTSA
De Anza High	Rummage Sale	De Anza High PTSA
De Anza High	Zumba Exercise	De Anza High PTSA
El Cerrito High	Gift Wrapping Fundraiser at Barnes and Noble	ECHS Class of 2017
El Cerrito High	Winter Carnival	ECHS PTA
Pinole Valley High	Leadership will Purchase Spirit Items and Sell to Students on Homecoming and Rally Days	PVHS Leadership
Pinole Valley High	Senior Class will Host Kinders Fundraiser	PVHS Class of 2015
Pinole Valley High	Sale of Cheese Cake off Campus and After School	PVHS Music Dept.
Pinole Valley High	Chocolate Sales	PVHS Music Dept.
Pinole Valley High	Zumba-a- Thon	PVHS Music Dept.
Pinole Valley High	Gift Wrapping	PVHS Music Dept.
Pinole Valley High	Dinner and Silent Auction	PVHS Music Dept.
Pinole Valley High	Selling Valentine's and Singing Grams	PVHS Music Dept.
Pinole Valley High	Class of 2017 will Receive Percentage of Purchase for Showing Flier at Chipotle	PVHS Class of 2017
Pinole Valley High	Sale of Shopping Bags with Marching Band Logo	PVHS Band Dept.
Pinole Valley High	Sale of World's Finest Chocolates	PVHS Band Dept.
Pinole Valley High	Sale of Band Shirts with Student Created Logo	PVHS Band Dept.

WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT  
1108 Bissell Avenue  
Richmond, California 94801-3135  
Office of the Superintendent

**ITEM REQUIRING ATTENTION----BOARD OF EDUCATION**

**To:** Board of Education

**Meeting Date:** December 3, 2014

**From:** Sheri Gamba  
Associate Superintendent Business Services

**Agenda Item:** CI C.4

**Subject:** Adoption of Resolution No. 44-1415: Replacement of Outdated Warrant

**Background Information:** Government Code Section 298029(c) allows the governing board, by resolution, to order a replacement check be issued for a warrant that is stale dated. This resolution authorizes the issuance of a check to replace the outdated warrant for Lee Matteucci. Staff recommends replacement of the stale dated warrant.

**Recommendation:** Recommend approval to replace the outdated warrant

**Fiscal Impact:** None

DISPOSITION BY BOARD OF EDUCATION

Motion by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Approved \_\_\_\_\_

Not Approved \_\_\_\_\_

Tabled \_\_\_\_\_

BOARD OF EDUCATION  
WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT  
RESOLUTION NO. 44-1415  
~~REPLACEMENT OF OUTDATED WARRANT~~  
December 3, 2014

WHEREAS Government Code Section 29802(c) allows the governing board, by resolution, to order that a replacement check be issued for a warrant that is stale dated.

BE IT RESOLVED, by the Board of Education of the West Contra Costa Unified School District, that we issue a check to replace the following stale dated check:

Type:	Vendor Check
Payee:	Lee Matteucci
Check No.:	449203
Amount:	\$225.89
Issue Date:	March 14, 2012

PASSED AND ADOPTED on the 11<sup>th</sup> day of September, 2013, at a regular meeting of the Board of Education by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

I hereby certify that the foregoing is a full, true and correct copy of a resolution passed at a meeting of the Board of Education, of the West Contra Costa Unified School District.

\_\_\_\_\_  
Bruce Harter  
Secretary, Board of Education

West Contra Costa Unified School District  
1108 Bissell Avenue  
Richmond, California 94801  
Office of the Superintendent

**ITEM REQUIRING ATTENTION----BOARD OF EDUCATION**

**To:** Board of Education

**Meeting Date:** December 3, 2014

**From:** Kenneth L. Whittemore,   
Assistant Superintendent Human Resources

**Agenda Item:** CI C.5

**Subject:** Routine Personnel Changes – Classified

**Background Information:**

Routine personnel changes include actions to hire, promote, or terminate classified employees in accordance with appropriate laws, established policies and procedures.

**Recommendation:** Ratify and Approve Classified Personnel Changes

**Fiscal Impact:** None

**DISPOSITION BY BOARD OF EDUCATION**

Motion by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Approved \_\_\_\_\_

Not Approved \_\_\_\_\_

Tabled \_\_\_\_\_

**WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT**

December 3, 2014

**Classified Employee Ratification**

<b>PROMOTIONS</b>				
Avalos	Cheryl	Food Service Aide	Nystrom Elementary	10/8/2014
Barron	Anabel	School Comm. Outreach Worker Bilingual	Stege Elementary	9/22/2014
Castillo	Marisol	El TK Instructional Asst. Bilingual	Peres Elementary	10/10/2014
Clay	Muriel	Special Education Assistant	Transition	10/2/2014
Dandie	Latanya	Classroom Support Aide	Hercules High	9/26/2014
Dupree	Kaylyn	Special Education Assistant-Autistic	Montalvin Elementary	10/20/2014
Garcia Rodriguez	Ivan	Graduate Tutor Bilingual	Richmond High	10/6/2014
Holman	John	Typist Clerk 1	Wilson Elementary	9/29/2014
Johnson	Justin	Graduate Tutor	Verde Elementary	10/6/2014
Keys	Sabrina	Information Literacy Assistant	Juan Crespi Middle	10/20/2014
Lopez	Arturo	Custodian	Helms Middle	10/1/2014
Nord-Taylor	Mika	Food Service Aide/Clerk	Kensington Elementary	9/22/2014
Ochoa	Javier	School Comm. Outreach Worker Bil.	Montalvin Elementary	10/11/2014
Quinonez	Efren	Custodian	De Anza High	10/14/2014
Ramirez-Estrada	Jose	Custodian	Central Kitchen	9/22/2014
Randle	Tinika	Food Service Aide	Peres Elementary	10/1/2014
Samson	Christina	Graduate Tutor	Mira Vista Elementary	10/1/2014
Stewart	Gabriel	Head Custodian	Grant Elementary	10/27/2014
White	Jonathan	Graduate Tutor	Murphy Elementary	10/15/2014

<b>RETURN FROM LEAVE</b>				
Melero	Sylvia	Special Education Assistant	Shannon Elementary	10/1/2014
Molden	Kendra	Special Education Assistant	Transition	9/23/2014

<b>RESIGNATIONS</b>				
Jones	Nichole	Instructional Assistant Special Ed.	North Campus	10/10/2014
Palacios	Jessica	Graduate Tutor	Chavez Elementary	10/24/2014
Wright	Sharon	Instructional Assistant Special Ed.	Peres Elementary	10/15/2014

<b>TERMINATIONS - JOB ABANDONMENT</b>				
Viveros-Gonzalez	Ruben	Instructional Assistant Special Ed.	De Anza High	9/11/2014

West Contra Costa Unified School District  
1108 Bissell Avenue  
Richmond, California 94801  
Office of the Superintendent

**ITEM REQUIRING ATTENTION----BOARD OF EDUCATION**

**To:** Board of Education **Meeting Date:** December 3, 2014  
**From:** Bruce Harter **Agenda Item:** CI C.6  
Superintendent  
**Subject:** Approval of District Local Control Accountability Plan Parent Committee Nominees

**Background Information:**

On January 29, 2014 the Board approved the guidelines for the selection of the members of the District Local Control Accountability Plan Parent Committee. Letters seeking recommendations for nominees were sent to the heads of organizations. Principals solicited parent participants through flyers, phone calls and at School Site Councils and other meetings. The application was also posted on the District's web site. Each high school attendance area family of principals met to review the applications received at their individual schools and agreed by consensus on the nominees presented below. High school principals also nominated sophomore and junior level students to serve as ex officio members.

At the March 12, 2014 meeting the Board approved 33 members for the community. Since that time Raquel Donoso has been nominated by Concilio Latino to replace Alma Gomez.

**Recommendation:**

That the Board approve the additional member to the District Local Control Accountability Plan Parent Committee for 2014 and 2015.

**Fiscal Impact:** None

**DISPOSITION BY BOARD OF EDUCATION**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved \_\_\_\_\_ Not Approved \_\_\_\_\_ Tabled \_\_\_\_\_

West Contra Costa Unified School District  
1108 Bissell Avenue  
Richmond, California 94801  
Office of the Superintendent

**ITEM REQUIRING ATTENTION---BOARD OF EDUCATION**

**To:** Board of Education

**Meeting Date:** December 3, 2014

**From:** Bruce Harter  
Superintendent

**Agenda Item:** D.1

**Subject:** Resolution No. 41-1415: Resolution of Commendation to Elaine Merriweather for Dedicated Service to Students, Staff and the Community, December 3, 2014

**Background Information:**

A resolution of commendation will be presented to Elaine Merriweather for four years of service on the Board of Education and to the Students, Staff, and Community of the West Contra Costa Unified School District.

Elaine Merriweather was instrumental in the development of Transitional Kindergarten and other early childhood education programs to serve families of the West Contra Costa area. She has provided leadership for the Board Safety Climate Subcommittee implementing numerous improvements to provide safer schools facilities and more positive school climates. She has also been a strong advocate for Full Services Community Schools and School Based Health Centers, ensuring that students, their families, and our communities have access to resources they need to impact educational outcomes.

**Recommendation:** Recognition and Resolution Honoring Board Member Elaine Merriweather

**Fiscal Impact:** None

**DISPOSITION BY BOARD OF EDUCATION**

Motion by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Approved \_\_\_\_\_

Not Approved \_\_\_\_\_

Tabled \_\_\_\_\_

**West Contra Costa Unified School District**  
**Resolution No. 41-1415**  
**Resolution of Commendation**  
**To**  
**Elaine Merriweather**  
**For**  
**Dedicated Service to Students, Staff and the Community**  
**December 3, 2014**

*WHEREAS*, Elaine Merriweather has been a member of the Board of Education since 2010;

*WHEREAS*, during her tenure on the Board of Education, the District paid off its \$47 million state loan and emerged from state receivership four years ahead of schedule; and

*WHEREAS*, she was instrumental in the development and refinement of Transitional Kindergarten and other early childhood education programs to serve the families of West Contra Costa County; and

*WHEREAS*, she has provided leadership for the Board Safety/Climate Subcommittee implementing numerous improvements to provide safer school facilities, more positive school climates, enhanced emergency preparedness training, better staff utilization and increased communication among schools and families to provide more secure campuses and safer school events; and

*WHEREAS*, as a member of the Board Academic Subcommittee, she helped implement numerous improvements to the instructional program that has resulted in increased academic achievement for all students and increased access to professional development for our classroom teachers; and

*WHEREAS*, she has been an advocate for Full Services Community Schools and School Based Health Centers, ensuring that students, their families, and our communities have access to the resources they need to impact educational outcomes for all students; and

*WHEREAS*, she worked diligently on behalf of our students to ensure passage of a bond measure and a parcel tax measure – including Measure E (2012) and Measure G (2012); and

*WHEREAS*, she was active as liaison to the City of Richmond as well as other community groups and organizations; and

*WHEREAS*, her participation at the policy level resulted in many school renovations, new schools and improvement to the facilities for our students; and

*WHEREAS*, her encouragement of student participation in the district and her advocacy for student voice has helped our young people prepare for the future.

*NOW THEREFORE, BE IT RESOLVED*, the Board of Education, students, faculty, parents, staff, and community, extend to Elaine Merriweather our sincere appreciation for the last four years of dedicated service.

*PASSED AND ADOPTED* by the Board of Education of the West Contra Costa Unified School District on the third day of December 2014, by the following vote:

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_ ABSTAIN \_\_\_\_\_

*I HEREBY CERTIFY* that the foregoing resolution was duly introduced, passed, and adopted by the Board of Education at a meeting held on December 3, 2014.

\_\_\_\_\_  
Bruce Harter, Secretary  
Board of Education

West Contra Costa Unified School District  
1108 Bissell Avenue  
Richmond, California 94801  
Office of the Superintendent

**ITEM REQUIRING ATTENTION---BOARD OF EDUCATION**

**To:** Board of Education

**Meeting Date:** December 3, 2014

**From:** Bruce Harter  
Superintendent

**Agenda Item:** D.2

**Subject:** Resolution No. 39-1415: Resolution of Commendation to Charles Ramsey for Dedicated Service to Students, Staff and the Community, December 3, 2014

**Background Information:**

A resolution of commendation will be presented to Charles Ramsey for twenty-one years of service on the Board of Education and to the Students, Staff, and Community of the West Contra Costa Unified School District.

Charles Ramsey has provided leadership for improving student learning, building new schools and renovation of others to enhance the daily lives of students and staff, providing critical links to the community, and supporting the district through a very difficult period for school finance. With Mr. Ramsey's leadership and commitment the District emerged from state receivership in June 2012.

**Recommendation:** Recognition and Resolution Honoring Board Member Charles Ramsey

**Fiscal Impact:** None

**DISPOSITION BY BOARD OF EDUCATION**

Motion by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Approved \_\_\_\_\_

Not Approved \_\_\_\_\_

Tabled \_\_\_\_\_

West Contra Costa Unified School District

Resolution No. 39-1415

Resolution of Commendation

To

Charles Ramsey

For

Dedicated Service to Students, Staff and the Community

December 3, 2014

**WHEREAS**, Charles Ramsey has been a member of the Board of Education since 1993; and

**WHEREAS**, during his tenure on the Board of Education, the District paid off its \$47 million state loan and emerged from state receivership four years ahead of schedule; and

**WHEREAS**, he served as President of the Board for seven terms, chaired the Board Facilities Subcommittee several times, and served as a liaison to the cities of Richmond and Pinole; and

**WHEREAS**, as co-founder of the Ivy League Connection, he led efforts to provide scholarships for District students to experience campus life while immersed in rigorous and challenging college course at some of the nation's most highly selective college and universities; and

**WHEREAS**, he was instrumental to the passage of several construction bond measures that raised more than \$1.6 billion on behalf of our students, including Measure E (1998), Measure M (2000), Measure D (2002), Measure J (2005), Measure D (2010), and Measure E (2012); and

**WHEREAS**, he also contributed significantly to the passage of three parcel tax measures—Measure J (2004), Measure D (2008), and Measure G (2012)—that reduced class sizes, provided counselors, librarians, and support staff, and continued student access to athletic and extracurricular programs; and

**WHEREAS**, under his leadership, the District has renovated, rebuilt or made major improvements at Bayview, Ellerhorst, Lupine Hills, Harding, Kensington, Lincoln, Madera, Mira Vista, Montalvin, Murphy, Nystrom, Riverside, Sheldon, Stewart, Tara Hills, Verde, Washington, Chavez, Hannah Ranch, Dover, Downer, Ford, King, Peres and Ohlone elementary schools; Pinole, Crespi, Helms and Hercules middle Schools; and De Anza, El Cerrito, Kennedy, Richmond, and Hercules high schools; and has championed ongoing construction or the design and planning for the construction at Coronado, Cameron, Highland, Fairmont, Lake, Olinda, Shannon, Stege, Valley View, and Wilson elementary schools, Korematsu Middle School; Gompers Continuation and Pinole Valley high schools; the Richmond Swim Center and information technology projects throughout the District; and

**WHEREAS**, his encouragement of student participation in Mock Trial and the Youth Development through Law, and advocacy for student voice has prepared our young people for the future; and

**WHEREAS**, he has been instrumental in the District raising its academic achievement, developing parental participation, increasing student attendance, enhancing safety programs and services, and expanding post-secondary opportunities for students.

**NOW THEREFORE, BE IT RESOLVED**, the Board of Education, students, faculty, parents, staff, and community, extend to Charles Ramsey our sincere appreciation for his years of dedicated service.

**PASSED AND ADOPTED** by the Board of Education of the West Contra Costa Unified School District on the third day of December 2014, by the following vote:

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_ ABSTAIN \_\_\_\_\_

**I HEREBY CERTIFY** that the foregoing resolution was duly introduced, passed, and adopted by the Board of Education at a meeting held on December 3, 2014.

\_\_\_\_\_  
Bruce Harter, Superintendent

West Contra Costa Unified School District  
1108 Bissell Avenue  
Richmond, California 94801-3135  
Office of Superintendent of Schools

**ITEM REQUIRING ATTENTION---BOARD OF EDUCATION**

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**To:** Board of Education **Meeting Date:** December 3, 2014  
**From:** Bruce Harter **Agenda Item:** E.1  
Superintendent  
**Subject:** In Memory of Members of the School Community

**Background Information:**

The District would like to take time to recognize the contributions of members of our school community who have passed away. The District requests the community to submit names to be reported as a regular part of each agenda.

Richmond High School junior Rodney Frazier, Jr. was tragically killed. He was an energetic student and well thought of by his peers and teachers. He was an integral player on the school's basketball team at the position of point guard. He touched the lives of many people.

Our thoughts go out to the family and friends in the loss of their loved one.

**Recommendation:** For Information Only

**Fiscal Impact:** None

<b>DISPOSITION BY BOARD OF EDUCATION</b>		
Motion by: _____	Seconded by: _____	
Approved _____	Not Approved _____	Tabled _____

dh

West Contra Costa Unified School District  
1108 Bissell Avenue  
Richmond, California 94801  
Office of the Superintendent

**ITEM REQUIRING ATTENTION---BOARD OF EDUCATION**

**To:** Board of Education

**Meeting Date:** December 3, 2014

**From:** Bruce Harter  
Superintendent

**Agenda Item:** F.1

**Subject:** Resolution No. 43-1415: Requesting BAAQMD Reconsider Permit

**Background Information:**

At the request of Mr. Andres Soto, Board President Ramsey has placed Resolution No. 43-1415 on the agenda for the Board to consider requesting the Bay Area Air Quality Management District (BAAQMD) reconsider its decision to grant a permit to Kinder Morgan.

**Recommendation:**

That the Board review and act upon Mr. Soto's request

**Fiscal Impact:** None

**DISPOSITION BY BOARD OF EDUCATION**

Motion by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Approved \_\_\_\_\_

Not Approved \_\_\_\_\_

Tabled \_\_\_\_\_

**RESOLUTION No. 43-1415**

**RESOLUTION  
OF  
THE WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT  
AGAINST KINDER MORGAN RICHMOND'S CRUDE BY RAIL OPERATION**

WHEREAS, the fossil fuel industries have already accessed readily accessible fossil fuels and are using extreme extraction technologies to remove the remaining forms of fossil fuels,

WHEREAS, crude oil fracked from the Bakken Shale Formation and mined from the Alberta Tar Sands present existent environmental damage to the land, air and water of those areas and a risk to the future inhabitability of the Earth,

WHEREAS, these crude oils are discounted in costs and extracted in the center of the North American continent far away from major refineries and consumer markets requiring transportation via pipeline or rail,

WHEREAS, the US and Canadian rail companies are common carriers, meaning they are required to carry whatever product shippers wish to put on the rail lines resulting in a 4,000% increase of these materials being carried on the rail lines in the past 3 years,

WHEREAS, this increase in Crude By Rail transportation has resulted in several disasters here and in Canada (Lac Megantic, Quebec, Casselton, North Dakota, Hammond, Indiana, Aliceville, Alabama, Lynchburg, Virginia as well as several near misses) which have resulted in the loss of human life and billions of dollars of damages to communities and their surrounding environment,

WHEREAS, US consumers are increasingly using less refined fossil fuels products, particularly gasoline, thus oil refiners are increasingly turning to export markets for their US refined products,

WHEREAS, the extraction of and the refining of extreme extracted crude oils such as Bakken and Tar Sands knowingly result in increased greenhouse gas (GHG) emissions and toxic air contaminant co-pollutants,

WHEREAS, the Bay Area Air Quality Management District (BAAQMD) issued a permit ministerially to Kinder Morgan to convert its ethanol-by-rail operation at the BNSF rail yard in Richmond to a Crude By Rail operation and chose to not notify members of the public or even its own governing board,

WHEREAS, Kinder Morgan signed an exclusive contract with Tesoro Golden Eagle refinery in Avon, California, to supply them with the fracked Bakken crude from North Dakota via tanker trucks over our local roads, and state and federal highways,

WHEREAS, Kinder Morgan is bringing in up to three unit trains of 100 cars per week into Richmond resulting up to 900 tanker truck trips per week to the Tesoro refinery creating even more diesel pollution in already disproportionately impacted communities,

WHEREAS, the people of Richmond and the Bay Area had no knowledge of the Kinder Morgan Richmond operation being permitted by BAAQMD until an investigative report by KPIX televised the report showing the operation in action,

WHEREAS, Earthjustice, on behalf of Asian Pacific Environmental Network, Communities for a Better Environment, Natural Resources Defense Council and the Sierra Club, filed for injunctive relief in San Francisco Superior Court to stop the Kinder Morgan Richmond operation until such time a public review under the California Environmental Quality Act (CEQA) was concluded,

WHEREAS, Judge James Busch determined the case could not move forward because the statute of limitations of 180 days had passed by the time the action was filed, leaving the people of Richmond, its institutions and up rail communities unprotected from the risk of catastrophic explosions and unable to comment using CEQA,

WHEREAS, on November 7, 2014, InterState Oil Co. no longer uses McClellan Business Park in Sacramento as a Bakken Crude transfer station, identical to the Kinder Morgan Richmond operation, subsequent to settling a lawsuit by Earth Justice and Larry Greene, Executive Director of the Sacramento Metropolitan Air Quality District, said "We made an error when the permit was developed, and it should have gone to a full CEQA review,

WHEREAS, an analysis of potential blast zone radii of rail lines carrying Bakken and Tar Sands crude through Richmond and West Contra Costa County would impact 27 schools and the Administration Office building of the West Contra Costa Unified School District,

WHEREAS, the same blast zone map indicates the impact in the City of Richmond would include the Kaiser Hospital, four community centers, most of the Neighborhood Council districts, the Richmond Civic Center, the Richmond Police Headquarters and five of seven Richmond Fire Stations,

WHEREAS, most local schools, parts of Contra Costa College, most of the business district and most residents of the City of San Pablo are in the identified blast zone radius,

WHEREAS, previous rail car derailment explosions of Bakken crude in North America have demonstrated most emergency responders, including those in West Contra Costa County, do not have sufficient equipment and supplies, such as fire suppression foam, to adequately respond to a catastrophic explosion of a rail car derailment explosion,

THEREFORE BE IT RESOLVED, the West Contra Costa Unified School District Board of Trustees disagrees in the strongest possible terms with the BAAQMD staff's decision to issue a ministerial permit without any public notification or review to Kinder Morgan

Richmond for the off loading of Bakken crude oil and Alberta Tar Sands crude oil at its leased facility at the BNSF rail yard in Richmond, CA,

THEREFORE BE IT ALSO RESOLVED, the West Contra Costa Unified School District Board of Education requests the BAAQMD Board of Directors to review the Kinder Morgan permit and, if feasible, revoke the permit and subject the project to a complete CEQA process,

PASSED AND ADOPTED by the Governing Board of the West Contra Costa Unified School District of Contra Costa County, California, on December 3, 2014 by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

I HEREBY CERTIFY that the foregoing resolution was duly and regularly introduced, passed, and adopted by the members of the Governing Board of the West Contra Costa Unified School District at a public meeting of said Board held on December 3, 2014.

\_\_\_\_\_  
Todd Groves  
Clerk, Board of Education

West Contra Costa Unified School District  
1108 Bissell Avenue  
Richmond, California 94801  
Office of the Superintendent

**ITEM REQUIRING ATTENTION----BOARD OF EDUCATION**

**To:** Board of Education

**Meeting Date:** December 12, 2014

**From:** Sheri Gamba  
Associate Superintendent, Business Services

**Agenda Item:** F.2

**Subject:** Revision to Board Bylaw 9260 Legal Protection

**Background Information:**

The District recognizes the necessity to protect Board members and employees while acting within the scope of their office or employment in accordance with Education Code 35208. The policy revision stipulates provisions regarding legal counsel.

**Recommendation:** Recommend Approval

**Fiscal Impact:** None

**DISPOSITION BY BOARD OF EDUCATION**

Motion by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Approved \_\_\_\_\_

Not Approved \_\_\_\_\_

Tabled \_\_\_\_\_

# West Contra Costa USD

## Board Bylaw

### Legal Protection

BB 9260

### Board Bylaws

#### Liability Insurance

The Governing Board shall provide insurance necessary to protect Board members and employees while acting within the scope of their office or employment in accordance with Education Code 35208.

#### Protection Against Liability

No Board member shall be liable for harm caused by his/her act or omission when acting within the scope of district responsibilities. The act or omission must be in conformity with federal, state and local laws and made in furtherance of an effort to control, discipline, expel or suspend a student, or maintain order or control in the classroom or school. (20 USC 6736)

The protection against liability shall not apply when: (20 USC 6736)

1. The Board member acted with willful or criminal misconduct, gross negligence, recklessness, or a conscious, flagrant indifference to the harmed person's right to safety.
2. The Board member caused harm by operating a motor vehicle.
3. The Board member was not properly licensed, if required, by the State for such activities.
4. The Board member was found by a court to have violated a federal or state civil rights law.
5. The Board member was under the influence of alcohol or any drug at the time of the misconduct.
6. The misconduct constituted a crime of violence pursuant to 18 USC 16 or an act of terrorism for which the Board member has been convicted in a court.
7. The misconduct involved a sexual offense for which the Board member has been convicted in a court.

#### Providing Legal Counsel

**Board members and staff shall be provided legal counsel at the cost of the District if they are called upon during an administrative proceeding, action, or other inquiry of the District by a Local, State or Federal Agency or Court of Law to the extent allowed by**

**Government Code. Counsel selection shall be at the discretion of the Board.**

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Legal Reference:

EDUCATION CODE

17029.5 Contract funding; board liability

35208 Liability insurance

35214 Liability insurance (self-insurance or a combination of self-insurance and insurance through an insurance company)

GOVERNMENT CODE

815.3 Intentional torts

820-823 Tort Claims Act

825.6 Indemnification of public entity

1090-1098 Conflicts of interest, prohibitions applicable to specified officers

54950-54963 The Ralph M. Brown Act

87100-89503 Conflicts of interest

UNITED STATES CODE, TITLE 18

16 Crime of violence defined

UNITED STATES CODE, TITLE 20

6731-6738 Teacher Protection Act

COURT DECISIONS

Caldwell v. Montoya (Paramount Unified School District) 10 Cal 4th 972 (1995)

Policy WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT

adopted: May 2, 2007            Richmond, California

West Contra Costa Unified School District  
1108 Bissell Avenue  
Richmond, California 94801  
Office of the Superintendent

**ITEM REQUIRING ATTENTION---BOARD OF EDUCATION**

**To:** Board of Education **Meeting Date:** December 3, 2014  
**From:** Wendell C. Greer **Agenda Item:** F.3  
Associate Superintendent, K-Adult Operations  
**Subject:** Aspire Richmond Technology Academy Charter School Staff and Counsel Findings of Fact, and Board Decision.

**Background Information:**

On or about September 5, 2014, the West Contra Costa Unified School District ("District") received a charter petition ("Petition") from Aspire Public Schools ("Petitioners"). The Petition proposes establishing Aspire Richmond Technology Academy ("Charter School") for a term of five years from July 1, 2015 through June 30, 2020. Pursuant to Education Code section 47605 subdivision (a)(1)(A), the Petition is signed by the requisite number of parents/legal guardians meaningfully interested in enrolling their students at the Charter School (Appendix I).

The District held a public hearing on October 1, 2014, so that the District's Governing Board ("Board") could consider the level of support for the Petition (Ed. Code, § 47605, subd. (b)). Petitioners are an established charter school operator, and support for the Petition among the District's teachers, employees and parents appeared to be split.

Staff reviewed the petition, then provided written feedback on all elements including the proposed educational program, fiscal and governance structures, student admissions and discipline, labor and personnel issues, facilities and legal issues. The review team from the District staff included: Steve Collins, Director of Special Education, Cheryl Cotton, Director of Human Resources, Linda Delgado, Coordinator of Educational Services, Phil Gonsalves, Director for Mathematics Instruction, Mimi Melodia, Coordinator for English Language Development, Lyn Potter, Director for Educational Services, Daniela Parasidis, Director of Business Services, and Mehdi Rizvi, Principal Accountant.

District staff has identified concerns within the Petition, which are described in detail below, and believes that those deficiencies could warrant a denial of the Petition. However, staff finds its concerns are relatively minor when compared with the legislative intent of the Charter Schools Act "that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged." (Ed. Code, § 47605, subd. (b)).

In sum, District staff recommends that the Board approve the Petition for the establishment of the Charter School without conditions for a five year term, commencing with the 2015-2016 school year and expiring on June 30, 2020. In the event the Board approves the Petition, District staff also recommends that a separate memorandum of understanding that addresses the concerns regarding the Petition, as noted herein, be negotiated between the Petitioners and the Superintendent and/or his designee, for consideration by the Board at its meeting scheduled for January 21, 2015.

Notwithstanding the above, if after review of the Petition and the discussion herein the Board wishes to deny the Petition, the Board may base its denial on the findings of fact set forth below. Please note that these findings of fact have been grouped for convenience under the grounds for denial of a charter petition, which are also discussed below. However, certain findings of fact may support more than one ground for denial.

**Finding 1: The Petitioners are Demonstrably Unlikely to Successfully Implement the Program Set Forth in the Petition.**

In order to successfully implement the program described in the Petition, Petitioners must demonstrate that they are familiar with the content of the Petition and the requirements of laws applicable to the proposed school; present a realistic financial and operational plan; have the necessary background in areas critical to the Charter School's success, or have a plan for securing the services of individuals with the necessary background, including curriculum, instruction, assessment, finance and business management.

Based upon the information provided in the Petition, the Petitioners are demonstrably unlikely to successfully implement the educational program for the following reasons:

- A. The Petition presents an inadequate plan for facilities.
- B. The Petition presents an inadequate financial plan for the proposed charter school.
- C. The Petition presents an inadequate plan for English language learners.
- D. The Petition is not compliant with the Brown Act.
- E. The Petition's discussion regarding the transitional kindergarten program lacks specificity.
- F. The Petitioners present an inadequate plan to meet the needs of foster youth.
- G. The Petition's discussion regarding the summer technology program lacks specificity.
- H. Petitioners present an inadequate plan for students with emotional challenges.

A. The Petition Presents an Inadequate Plan for Facilities.

Education Code section 47605, subdivision (g) requires Petitioners to, "...provide information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be used by the school, [including] where the school intends to locate." The Petition fails to identify with any specificity where the school intends to locate. The Petition states that the Charter School is actively searching for a private facility "*yet to be identified* in Richmond, California." (p. 123, emphasis added.) Without more, the Petition simply lists an ambition, rather than a concrete plan specifying *where* the Charter School intends to locate and *how* the Charter School will attain a school facility.

The indefinite location of the proposed Charter School negatively impacts other key elements, such as the opening date for the Charter School. Although the Petition seeks a term from July 1, 2015 through June 30, 2020, the Petition conditions the start date of the academic year on the attainment of facilities, which Petitioners state is "yet to be identified." (p. 84.) According to the Petition, "[t]he opening date of The Charter School will *depend* on when Aspire is able to secure a suitable facility." (p. 123, emphasis added.) Even if the Petition is approved, the District has no assurances at this time as to when or where the Charter School will open.

B. The Petition Presents an Inadequate Financial Plan for the Proposed Charter School.

A charter petition should, at a minimum, include a first-year operational budget, start-up costs and cash flow, and financial projections for the first three years. (Ed. Code, § 47605, subd. (g).) Among other things, the operational budget must: (1) include "reasonable estimates of all anticipated revenues and expenditures necessary to operate the school;" (2) "demonstrate an understanding of the timing of the receipt of various revenues and their relationship to [the] timing of expenditures;" and (3) "appear[ ] viable and over a period of no less than two years of operations provide[ ] for the amassing of a reserve equivalent to that required by law for a school district of similar size to the proposed charter school." (5 CCR § 11967.5.1, subd. (c)(3)(B).)

The Petition's budget fails to provide detail in several critical areas, including special education. Although the Charter School's 2015-2016 budget identifies approximately \$153,000 in state special education revenues, the budget fails to specify where the Charter School makes corresponding expenditures equal to the total revenues received for this category. (Three Year Budget.) The budget does provide a single line-item where approximately \$25,300 in "Special Education Home Office Charges" are given to Petitioners for unspecified reasons, however, there is over \$127,000 that remains unaccounted. (Three Year Budget.) The Petition does not provide the required specificity as to its budget because it fails to explain on how the Charter School intends to spend the state special education revenues.

Another budgetary line-item that lacks specificity is the revenue account titled "Other Federal". Petitioners project "Other Federal" revenues in the amount of \$350,000 in the Charter School's first year of operation. (Three Year Budget.) This amount accounts for more than 10% of the Charter School's budget and yet there is no explanation of what the source is for this revenue or whether there are any restrictions on how this revenue may be spent. This revenue source *may* be a reference to federal charter school start up grant funding. However, Petitioners do not identify the source of this "Other Federal" revenue. Without the \$350,000 in "Other Federal" revenue, the Charter School would not be able to close the 2015-2016 fiscal year with a positive

cash balance, making this revenue source a critical part of the Charter School's first year budget. (2015-2016 Cash Flow.)

Additionally, the Petition contemplates a loan from Petitioners' Home Office to the Charter School in the amount of \$400,000 for cash flow purposes. This loan is critical to the Charter School's ability to have a positive cash balance on a month to month basis as well as at year end. Without this nearly half-a-million dollar loan, the Charter School would not be fiscally solvent. However, Petitioners do not provide any detail about the terms of this loan, or whether Petitioners' Home Office could sustain the temporary transfer of these funds to the Charter School.

Petitioners have also filed another charter petition with the District seeking the establishment of a school (grades 6 through 12) that is also scheduled to receive a loan from Petitioners' Home Office ranging from \$425,000 to \$500,000. If both petitions were granted, Petitioners' Home Office would be loaning more than \$800,000 to two new charter schools in the District. The Petition does not provide any detail on how the Home Office would be impacted by these loans. Petitioners' fiscal solvency cannot be evaluated without information regarding the terms and condition of these loans, as well as budget documents detailing the finances of Petitioners' Home Office.

C. The Petition Presents an Inadequate Plan for English Language Learners.

According to the California Department of Education, charter schools are subject to all federal requirements and specific state requirements established for English Language Learner ("ELL") programs. Program reviews for charter school, just as for other public schools, are conducted under the State's Categorical Program Monitoring Process. (See <http://www.cde.ca.gov/sp/cs/re/qandasec4mar04.asp#Q1>.) At a minimum, the Petition should identify specific assessments, a consistent curriculum, and a schedule for monitoring student progress in reaching English proficiency.

Petition describes a Parental Exception Waiver, whereby parents can remove their students from an ELL classroom. (Appendix IV.) However, Petition lacks a description of either the language, or the method of instruction to be offered for students who have effectively waived out of the Mainstream English Program. Without more, it is unclear as to whether the Charter school can properly implement their program for ELL.

D. The Petition is not compliant with the Brown Act.

The Petition states that the Charter School shall "[c]omply with the Ralph M. Brown Act." (p. 11.) The purpose of the Brown Act (Gov. Code, §§ 54590, et seq.), is to ensure that agencies take actions "openly and that their deliberations be conducted openly" and to ensure that the public remains informed about public affairs. (Gov. Code, § 54590.) However, the Petition presents numerous instances whereby the Charter School's practices are inconsistent with the Brown Act.

Providing the members of the governing board, as well as the public, with notice of regular and special meetings is an essential requirement of the Brown Act. "Every notice for a special

meeting *shall provide an opportunity* for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.” (Gov. Code, § 54594.3, subd. (a).)

The Petition does not ensure that members of the public receive proper notice under the Brown Act. In order to hold a special meeting consistent with the Brown Act, an agency must,

[D]eliver written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television station requesting notice in writing and posting a notice on the local agency’s Internet Web site, if the local agency has one. The notice shall be *delivered personally* or by any other means and shall be *received* at least 24 hours before the time of the meeting as specified in the notice.

(Gov. Code, § 54596, subd. (a).)

The Petition does not ensure that notice of the Charter School Board’s meetings are actually received as required by the Brown Act. The Petition states that the Charter School’s Board may hold special meetings “only after twenty-four (24) hours notice is given to each Director and to the public ... .” (Appendix VIII, § 6.4, para. (a).) However, the Petition defines its process for notice in a manner that is inconsistent with the Brown Act. The Petition states that, “Notice by mail or email shall be deemed received *at the time* a properly addressed written notice *is deposited* in the United States mail, postage prepaid.” (Appendix VIII, § 6.4, para. (c).) However, deeming notice received upon mailing is improper because it effectively defeats the purpose of a notice requirement. Simply dropping a written notice into the U.S. Mail, which may take 2-3 days for delivery, does not legally comply with the Brown Act regarding meetings to take place within 24 hours. The process set forth in the Petition for notifying the public also fails to ensure that the public receives actual notice of the special meeting in any meaningful manner. As a result, this practice is likely to diminish parental participation, and is not reasonably calculated to fulfill the Brown Act’s notice requirement.

Regarding special meetings, the Petition has no mention of whether the Charter School will provide the local media with notification of a special meeting as required under the Brown Act. Without such a process, the Petition is out of compliance with the Brown Act.

The Brown Act defines a “meeting” as “any congregation of a majority of the members of a legislative body at the same time and location... to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.” (Gov. Code, § 54592.2, subd. (a).) Despite this rule, the Petition allows the Charter School to delegate “all authority of the [Charter School’s] Board in the management and business affairs of the Corporation...” to an Executive Committee, which is comprised of two or more Directors and a Chairperson. (Appendix VIII, § 8.2.) Staff has concerns about the concentration of such broad authority in a committee that is small as three members and which stands apart from the Charter School’s Board of Directors.

E. The Petition's Discussion Regarding the Transitional Kindergarten Program Lacks Specificity.

In addition to a traditional kindergarten class, Petitioners intend to offer transitional kindergarten program. "The Charter School will also offer transitional kindergarten and comply with all applicable requirements regarding transitional kindergarten." (p. 21.) However, the Petition offers no details about this program. The Petition fails to describe the curriculum, the associated costs and expenditures, and the staffing levels and qualifications required for those involved with the program.

Petition also fails to describe how the introduction of a transitional kindergarten program will affect the initial enrollment numbers. Petition proposes an initial enrollment of 312 students, with 48 students in each of the K, 1st, 2nd, and 3rd grades, and enrollment of 60 students in each of the 4th and 5th grades. (Appendix XIV.) It is unclear whether the transitional kindergarten students will count towards the 48 students in kindergarten, or whether an entirely different enrollment number is contemplated.

F. The Petitioners Present an Inadequate Plan to Meet the Needs of Foster Youth.

As a part of the new Local Control Funding Formula, the Petition must describe how the Charter School will achieve each of the eight state priorities listed in Education Code section 52060 subdivision (d). More specifically, the Petition must provide how each enumerated subgroup of pupils, including foster youth, will achieve each state priority. (Ed. Code, § 52052, subd. (a)(2)(A-E).)

The Petition fails to describe how the Charter School will address the needs of foster youth. In fact, the Petition in its entirety fails to mention foster youth at all. The Petition fails to detail any strategies, curriculum, or support aimed at helping the foster youth achieve each state priority.

G. The Petition's Discussion Regarding the Summer Technology Program Lacks Specificity.

In addition to a traditional school year, Petitioners intend to offer a Summer Boot Camp that focuses on technology issues. The Petition states that, "In order to effectively prepare students for an immersive technological environment, we aim to offer students a summer technology boot camp in which students will learn the basics around computer usage and safety, keyboarding skills, foundational information about Google Apps for Education, and how to access their work from home." (p. 26.) However, the Petition provides no further detail about this program. The Petition does not explain how many students will be enrolled in the Summer Boot Camp, or how many teachers will participate in the camp. The Petition fails to address how long the boot camp will last, or provide the curriculum that the teachers will be following.

H. Petitioners Present an Inadequate Plan for Students with Emotional Challenges.

The Petition states, "Aspire's multi-tiered, trauma-informed approach to supporting students' mental health and behavioral needs will ensure that these challenges are identified early and often." (p. 24.) Petitioners' primary method for addressing the mental health and behavioral

needs of students is the formation of groups such as the “Grade Level Team (GLT)”. The Petition states, “For students who are experiencing behavioral challenges, the GLT may work to create an individualized Behavior Map and/or Behavior Contract. Behavioral goals will be developed and assessed over time to determine if students are ready to return to [lower levels of assessment].” (p. 24.) However, the Petition lacks discussion on which personnel will constitute the GLT, or what training and qualifications will be required to ensure the proper identification and assessment of students with mental health and behavioral needs.

The Petition goes on to state, “It is our aim to have a Spanish-speaking, on-site mental health provider who will be able to work with individual students and families in need of mental health support, while other students may be referred to quality mental health providers within the community.” (p. 25.) The Petition does not indicate whether the “Spanish-speaking, on-site mental health provider” would be an employee of the Charter School, a volunteer or a professional from another entity. The Petition also does not state the type of qualifications this position must have or costs associated with this position. Petitioners do not address whether similar services will be available to students who speak neither English nor Spanish.

It is also unclear whether Petitioners intend to take responsibility for students struggling with mental health and behavioral issues to provide services at no cost or, if they are simply referring such students to services they may not necessarily be able to afford.

**Finding 2: The Petition Does Not Contain Reasonably Comprehensive Descriptions of Certain Required Elements**

The Petition serves as Petitioners proposal for the Charter School’s establishment and operation. As such, the Petition must provide reasonably comprehensive descriptions of certain elements in its program and operations as required in Education Code section 47605, subdivision (b)(5)(A-P). The following elements do not meet this standard due to incomplete or inadequate information, which in some instances contradict the requirements of the law:

- A. The Petition lacks a clear and consistent expulsion policy.
- B. The Petition lacks a description of how the Charter School will outreach to students with disabilities.
- C. The Petition fails to demonstrate an understanding of Richmond’s racial and ethnic diversity.
- D. The Petition does not adequately describe a clear governance structure that will encourage parental participation.
- E. The Petition lacks a reasonably comprehensive description of individuals to be employed by the Charter School.
- F. The Petition does not provide a reasonably comprehensive description of the health and safety procedures.

G. The Petition does not provide a reasonably comprehensive description of the dispute resolution process.

A. The Petition Lacks a Clear and Consistent Expulsion Policy.

The Petition's expulsion policy is inconsistent and unclear. In one instance, the Petition states that "A student may be expelled by the Aspire Administrative Panel." (p. 102.) However, this statement is later contradicted where the Petition states, "The Aspire Administrative Panel may *recommend* expulsion of any student found to have committed a suspendable or expellable offense." (p. 102, emphasis added.) It is unclear whether the Aspire Administrative Panel ("Panel") has the authority to expel students or may solely recommend an expulsion.

There is also confusion regarding the Charter School's expulsion procedures. The Petition lists certain offenses that require a "second finding of fact." (p. 104.) However, the Petition fails to provide a comprehensive description as to what constitutes a secondary finding of fact.

The Petition is also unclear as to readmission of previously expelled students. In describing the readmission process, the Petition states "there is no guarantee of re-enrollment to the expelling school (or a partner school), even if the rehabilitation plan is met." (p. 102.) However, this statement is later contradicted where Petition states "If a student has met all terms, the student is re-admitted [ . . .]" (p. 103.) It is unclear whether a student is guaranteed readmission when he/she meets all of the terms of a rehabilitation plan, or if Charter School offers no guarantee of re-enrollment, even if the terms of a rehabilitation plan have been met. The policies as provided in the Petition are inadequate and do not provide parents proper notice as to what the accurate readmission process is for their student.

B. The Petition Fails to Demonstrate an Understanding of Richmond's Racial and Ethnic Diversity.

Staff has serious concerns regarding Petitioners' discussion of the racial and ethnic diversity of Richmond. Petitioners assert that they "selected Richmond as the location for this new school because Richmond has a high need population, a high percentage of FRL students, and a lack of high-performing schools." (p. 6.) While the Petition discusses the racial and ethnic demographics of the District, Petitioners fail to demonstrate an understanding of the racial and ethnic demographics of the Richmond community they specifically target. Without a clear understanding of Richmond's racial and ethnic makeup, it is uncertain whether the Charter School will be able to strive for, obtain, and ultimately maintain a racial and ethnic balance that is reflective of the Richmond community.

C. The Petition Lacks a Description of how the Charter School will Outreach to Students with Disabilities.

Staff has concerns about the Charter School's outreach to, and recruitment of students with disabilities. According to the U.S. Department of Education, Office for Civil Rights, charter schools should "recruit [students] from all segments of the community served by the school,

including *students with disabilities* and students of all races, colors and national origins.” (United States Department of Education’s Office for Civil Rights, Applying Federal Civil Rights Laws to Public Charter Schools (May 2000), <https://www2.ed.gov/offices/OCR/archives/pdf/charter.pdf> [as of Oct. 21, 2014], emphasis added.) The Petition does mention a basic outreach plan aimed to “achieve a racially and ethnically diverse student population” (p. 88.) reflective of the District, however, the Petition is silent with regard to outreach strategies for the recruitment of students with disabilities.

D. The Petition Does Not Adequately Describe a Clear Governance Structure that will Encourage Parental Participation.

The Petition must include a reasonably comprehensive description of, “the governance structure of the school, including, but not limited to, the process to be followed by the school to *ensure* parental involvement.” (Ed. Code, § 47605, subd. (b)(5)(D), emphasis added.) In the case of the District, parents become involved in the decision making process by participating in the District’s Board meetings which are regularly held within the District’s boundaries for the convenience of the parents and the public at large. However, the Petition does not offer similar convenient opportunities on a regular basis. The Petition states that the, “Meetings shall be conducted at the principal office of the Corporation. The Board of Directors may also designate that a meeting be held in any place within California ... .” (Appendix VIII, §6.2.) Because the Charter School’s corporate principal office is located in Oakland (Appendix VIII, § 1.1), the Charter School’s Board will likely meet in locations outside of the District’s boundaries on a regular basis. Given the inconvenience of securing transportation for travel outside of the District boundaries for many District families, out-of-District Board meetings will likely dissuade parental involvement rather than encourage it.

Additionally, the Petition presents a confusing and unclear governance structure. While the Petition describes the duties and roles of the Charter School’s Board, the Petition also mentions several other positions throughout, without explaining the roles or duties for these positions. The positions which lack description include, but are not limited to:

- District Superintendent (Appendix IX)
- President (Appendix VIII)
- Director of Expanded Legal Positions (Appendix VIII)
- Director of School Support and Improvement and Sustainability (Appendix VIII)

Without properly delineating the roles, and duties of these referenced positions, parents are not afforded a clear and reasonably comprehensive description of the Charter School’s governance structure.

Education Code section 47604, subdivision (b) entitles the District to appoint one representative to the Charter School’s governing board. The right to appoint the District’s representative is at the sole discretion of the District’s Governing Board. However, the Petition inappropriately asserts that the Charter School’s Board of Directors retains the power select and remove members of the Board, which would include the District’s representative. The Petition states, “Any Director may be removed, with or without cause, by a vote of the majority of the entire

Board of Directors... ." (Appendix VIII, § 5.3, para. (e), emphasis added.) The Petition also states, "Subsequent Directors shall be elected by a majority vote of the Directors at each Annual Meeting, including the vote(s) of any Director whose term of office expires with that meeting." (Appendix VIII, § 5.3, para. (a).) Any requirement that the District's representative must be vetted by, or can be removed by, the Charter School is an impermissible limitation on the District's right to appoint its representative.

E. The Petition Lacks a Reasonably Comprehensive Description of the Individuals to be Employed by the Charter School.

Education Code section 47605 subdivision (b)(5)(E) requires the Petition to include a reasonably comprehensive description of the qualifications to be met by individuals to be employed by the school. The Regulations clarify that a petition should: identify the general qualifications for the various categories of employees that the charter school intends to hire; identify key positions and their specific qualifications; and specify requirements for employment. (5 CCR § 11967.5.1, subd. (f)(5).) The Petition only lists the qualifications for the Principal, Business Manager, and general education Teachers. (pp. 44-46.) However, the Petition fails to define the credentials or qualifications required for the "Cert. Support", "Instructional Aides", "Class. Support", "Clerical/Office Staff" and "Class. Other" positions listed in the Charter School's budget. (Appendix XIV.) The Petition also fails to define the credentials and qualifications required for special education teachers, para-professionals and other special education staff (resource specialist, speech and language pathologist, occupational therapist, etc), which may be needed in support of providing required special education services.

Furthermore, the Petition states that the "Charter School may choose not to require credentials for teachers in non-core, noncollege-prep courses." (p. 78.) While charter schools have "flexibility" for hiring instructors for noncore classes, the qualifications for these positions should nevertheless be clearly articulated. The Petition fails to provide such details.

F. The Petition does not Provide a Reasonably Comprehensive Description of the Health and Safety Procedures.

Petitioners are required to provide a comprehensive description of "procedures that the school will follow to ensure the health and safety of pupils and staff." (Ed. Code, § 47605, subd. (b)(5)(F).) The Petition fails to meet this requirement, and specifically fails to provide a comprehensive description of how the Charter School will implement and oversee medication usage by students.

Petitioners states the school will adhere to the Education Code, California Department of Education guidance, and applicable law. Simply citing what is required by law is not a sufficient substitute for a plan on how the Charter School will address medication usage and administration. In the attached Student Family Handbook, Petitioners do describe policies regarding the required documentation and prescriptions for medication. Petition also states that "all medication must be dispensed through the office." (Appendix XVII.) However, Petitioners

fail to mention *who* can administer the medication, a crucial aspect of any school's health and safety procedures.

G. The Petition Does Not Provide a Reasonably Comprehensive Description of the Dispute Resolution Process.

Education Code section 47605, subdivision (b)(5)(N) requires a petition to include "the procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter." However, the Petition's dispute resolution process goes beyond establishing a process to resolve conflicts, and instead attempts to impose requirements upon the District. For instance, the Petition states, "[t]he staff and Governing Board members of Aspire agree to attempt to resolve all disputes between the district and Aspire regarding this charter pursuant to the terms of this section. Both will refrain from public commentary regarding any disputes until the matter has progressed through the dispute resolution process." (p. 114.) The Petition is not a contract. Any suggestion that the Petition somehow requires the District to refrain from making public comments, or compels the District to act in a particular manner is misguided. Even assuming that these conditions and restrictions were acceptable to the District, they should be negotiated and set out in an operational Memorandum of Understanding between the parties, rather than in the Petition. Approving the Petition with these terms may inhibit the District's ability to conduct effective oversight.

**Summary and Recommendations**

District staff recommends approval of the Petition for a five year term without conditions, commencing with the 2015-2016 school year and expiring on June 30, 2020. In the event the Board approves the Petition, staff recommends that a separate memorandum of understanding that addresses the concerns regarding the Petition, as noted herein, be negotiated between the Petitioners and the Superintendent and/or his designee, for consideration by the Board at its meeting scheduled for January 21, 2015.

Notwithstanding the above, should the Board decide that the concerns raised herein warrant a denial of the Petition, the Board could base its denial 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 certain required elements set forth in Education Code section 47605, subdivisions (b)(5)(A-P).

In order to deny the Petition on the grounds set forth above, Education Code section 47605, subdivision (b), requires the Governing Board to make "written factual findings, specific to the particular petition, setting forth specific facts to support one or more" grounds for denying the Petition. Should the Board decide to deny the Petition, District Staff recommends that the Board adopt these final findings of fact as enumerated in the attached Staff Report as its own.

**Fiscal Impact:** None at this time.

DISPOSITION BY BOARD OF EDUCATION

Motion by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Approved \_\_\_\_\_

Not Approved \_\_\_\_\_

Tabled \_\_\_\_\_

**RESOLUTION OF THE  
BOARD OF EDUCATION  
OF THE WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT**

**RESOLUTION NO 47-1415**

**A RESOLUTION OF THE GOVERNING BOARD OF THE WEST CONTRA  
COSTA UNIFIED SCHOOL DISTRICT GRANTING THE PETITION TO  
ESTABLISH ASPIRE RICHMOND CALIFORNIA COLLEGE PREPARATORY  
ACADEMY**

WHEREAS, on or about September 16, 2014, the West Contra Costa Unified School District ("District") received a petition ("Petition") proposing the establishment of Aspire Richmond California College Preparatory Academy ("Charter School");

WHEREAS, consistent with Education Code section 47605 subdivision (b), at a meeting on October 1, 2014, the District's Board of Education ("Board") held a public hearing on the Petition, at which time the Board considered the level of support for the Petition by teachers employed by the District, other employees of the District, and parents and guardians;

WHEREAS, the Board has convened on December 3, 2014, to consider whether to grant or deny the Petition;

WHEREAS, the District's staff and legal counsel reviewed and analyzed the Petition and supporting documents for legal, programmatic and fiscal sufficiency, and has recommended that the Petition be approved;

NOW THEREFORE, BE IT RESOLVED, that the Board of Education of the West Contra Costa Unified School District grants a 5-year charter to establish Aspire Richmond California College Preparatory Academy, commencing with the 2015-2016 school year and expiring June 30, 2020;

BE IT FURTHER RESOLVED, that a separate memorandum of understanding that addresses District staff concerns regarding the Petition, as noted in the staff report, be negotiated between the Petitioners and the Superintendent and/or his designee for consideration by the Board at its meeting scheduled for January 21, 2015;

APPROVED, PASSED AND ADOPTED by the Governing Board of the West Contra Costa Unified School District on this 3rd day of December, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

I hereby certify that the foregoing is a full, true and correct copy of a Resolution adopted, at a regular meeting of the Governing Board of the West Contra Costa Unified School District held on December 3, 2014.

\_\_\_\_\_  
Charles T. Ramsey, President  
Board of Education

West Contra Costa Unified School District  
1108 Bissell Avenue  
Richmond, California 94801  
Office of the Superintendent

**ITEM REQUIRING ATTENTION----BOARD OF EDUCATION**

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**To:** Board of Education

**Meeting Date:** December 3, 2014

**From:** Wendell C. Greer  
Associate Superintendent, K-Adult Operations

**Agenda Item:** F.4

**Subject:** Aspire Richmond California College Preparatory Academy Charter School Staff and Counsel Findings of Fact, and Board Decision.

**Background Information:**

On or about September 5, 2014, the West Contra Costa Unified School District (“District”) received a charter petition (“Petition”) from Aspire Public Schools (“Petitioners”). The Petition proposes establishing Aspire Richmond California College Preparatory Academy (“Charter School”) for a term of five years from July 1, 2015 through June 30, 2020. Pursuant to Education Code section 47605 subdivision (a)(1)(A), the Petition is signed by the requisite number of parents/legal guardians meaningfully interested in enrolling their students at the Charter School (Appendix I).

The District held a public hearing on October 1, 2014, so that the District’s Governing Board (“Board”) could consider the level of support for the Petition (Ed. Code, § 47605, subd. (b)). Petitioners are an established charter school operator, and support for the Petition among the District’s teachers, employees and parents appeared to be split.

District staff reviewed the petition, then provided written feedback on all elements including the proposed educational program, fiscal and governance structures, student admissions and discipline, labor and personnel issues, facilities and legal issues. The review team from the District staff included: Steve Collins, Director of Special Education, Cheryl Cotton, Director of Human Resources, Linda Delgado, Coordinator of Educational Services, Phil Gonsalves, Director for Mathematics Instruction, Mimi Melodia, Coordinator for English Language Development, Lyn Potter, Director for Educational Services, Daniela Parasidis, Director of Business Services, and Mehdi Rizvi, Principal Accountant.

District staff has identified concerns within the Petition, including, but not limited to, the Charter School’s plans for facilities and projected finances and believes that those deficiencies could warrant a denial of the Petition. However, staff finds its concerns are relatively minor when compared with the legislative intent of the Charter Schools Act “that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged.” (Ed. Code, § 47605, subd. (b)).

In sum, District staff recommends that the Board approve the Petition for the establishment of the Charter School without conditions for a five year term, commencing with the 2015-2016 school year and expiring on June 30, 2020. In the event the Board approves the Petition, District staff also recommends that a separate memorandum of understanding that addresses the concerns regarding the Petition, as noted herein, be negotiated between the Petitioners and the Superintendent and/or his designee, for consideration by the Board at its meeting scheduled for January 21, 2015.

Notwithstanding the above, if after review of the Petition and the discussion herein the Board wishes to deny the Petition, the Board may base its denial on the findings of fact set forth below. Please note that these findings of fact have been grouped for convenience under the grounds for denial of a charter petition, which are also discussed below. However, certain findings of fact may support more than one ground for denial.

**Proposed Findings of Fact**

**Finding 1: The Petitioners are Demonstrably Unlikely to Successfully Implement the Program Set Forth in the Petition.**

In order to successfully implement the program described in the Petition, Petitioners must demonstrate that they are familiar with the content of the Petition and the requirements of laws applicable to the proposed school; present a realistic financial and operational plan; have the necessary background in areas critical to the Charter School's success, or have a plan for securing the services of individuals with the necessary background, including curriculum, instruction, assessment, finance and business management.

Based upon the information provided in the Petition, the Petitioners are demonstrably unlikely to successfully implement the educational program for the following reasons:

- A. The Petition presents an inadequate plan for facilities.
- B. The Petition presents an inadequate financial plan for the proposed Charter School.
- C. The Petition over relies on community colleges to provide class options for older students.
- D. The Petition imposes inappropriate student fees.
- E. The Petition is not compliant with the Brown Act.
- F. The Petition presents an inadequate plan for intra-Aspire transfers.
- G. The Petition miscalculates the Charter School's instructional day minutes.

H. The Petition presents an inadequate plan for their proposed summer school instructional program.

I. Petitioners present an inadequate plan for students with emotional challenges.

J. The Petition presents an inadequate plan for English language learners.

A. The Petition Presents an Inadequate Plan for Facilities.

Education Code section 47605, subdivision (g) requires Petitioners to, "...provide information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be used by the school, [including] where the school intends to locate." The Petition fails to identify with any specificity where the school intends to locate. The Petition states that the Charter School is actively searching for a private facility "*yet to be identified* in Richmond, California." (p. 127, emphasis added.) Without more, the Petition simply lists an ambition, rather than a concrete plan specifying *where* the Charter School intends to locate and *how* the Charter School will attain a school facility.

The indefinite location of the proposed Charter School negatively impacts other key elements, such as the opening date for the Charter School. Although the Petition seeks a term from July 1, 2015 through June 30, 2020, the Petition conditions the start date of the academic year on the attainment of facilities, which Petitioners state is "yet to be identified." (p. 127.) According to the Petition, "[t]he opening date of The Charter School will *depend* on when Aspire is able to secure a suitable facility." (p. 127, emphasis added.) Even if the Petition is approved, the District has no assurances at this time as to when or where the Charter School will open.

B. The Petition Presents an Inadequate Financial Plan for the Proposed Charter School.

A charter petition should, at a minimum, include a first-year operational budget, start-up costs and cash flow, and financial projections for the first three years. (Ed. Code, § 47605, subd. (g).) Among other things, the operational budget must: (1) include "reasonable estimates of all anticipated revenues and expenditures necessary to operate the school;" (2) "demonstrate an understanding of the timing of the receipt of various revenues and their relationship to [the] timing of expenditures;" and (3) "appear[ ] viable and over a period of no less than two years of operations provide[ ] for the amassing of a reserve equivalent to that required by law for a school district of similar size to the proposed charter school." (5 CCR § 11967.5.1, subd. (c)(3)(B).)

Although the Petition provides the basic financial information for the Charter School, Petitioners propose two very different enrollment scenarios. Appendix XVa is entitled "School financials – enrollment scenario 1" ("Scenario 1"), and Appendix XVb is entitled "School financials – enrollment scenario 2" ("Scenario 2"). Scenario 1 lays out the more ambitious plan with an expected enrollment of 420 students in grades 6 through 12 during the Charter School's first year of operation. Approximately 39 staff members are projected under Scenario 1 with about 60 students enrolled per grade level. Scenario 1 also projects approximately \$4.6 million in revenue and \$4.1 million in expenses during the Charter School's first year.

Scenario 2 has an expected enrollment of 300 students in grades 6, 9, 10, 11 and 12 during the Charter School's first year of operation. Approximately 33 staff members are projected under Scenario 2 with about 60 students enrolled per grade level. Scenario 2 also projects approximately \$3.4 million in revenue and \$3.3 million in expenses during the Charter School's first year.

Scenarios 1 and 2 describe two separate charter school enrollment plans with significant differences in their staffing, revenues and expenses. It is not clear which of these enrollment plans would be implemented because Petitioners predicate that decision on the type of facility they are able to secure. (p. 20.) The Petition fails to state when Petitioners will select a facility or when they will commit to an enrollment scenario. The alternative scenarios presented in the Petition lack clarity, and interfere with the District's ability to provide proper oversight.

Additionally, the Petition contemplates a loan from Petitioners' Home Office to the Charter School ranging from \$425,000 to \$500,000 for cash flow purposes. This loan is critical to the Charter School's ability to have a positive cash balance on a month to month basis as well as at year end. Without this nearly half-a-million dollar loan, the Charter School would not be fiscally solvent. However, Petitioners do not provide any detail about the terms of this loan, or whether Petitioners' Home Office could sustain the temporary transfer of these funds to the Charter School.

Petitioners have also filed another charter petition with the District seeking the establishment of an elementary school that is also scheduled to receive a loan from Petitioners' Home Office in the amount of \$400,000. If both petitions were granted, Petitioners' Home Office would be loaning more than \$800,000 to two new charter schools in the District. The Petition does not provide any detail on how the Home Office would be impacted by these loans. Petitioners' fiscal solvency cannot be evaluated without information regarding the terms and condition of these loans, as well as budget documents detailing the finances of Petitioners' Home Office.

C. The Petition Over Relies on Community Colleges to Provide Class Options for Older Students.

Petitioners' goal to prepare students for college is one that the District shares. However, the Petitioners appear to pass this responsibility largely on to the community colleges. The Petition's educational program requires students to enroll at a community college in order to complete their high school graduation requirements. (pp. 32, and 51-52.) The Petition states "[a]s an Early College High School, [the Charter School] aims to *blend* high school and college into a coherent educational program, making it possible for all students to earn two years of college credit at the same time they are earning a high school diploma ... ." (p. 31, emphasis added.) However, the Charter School's educational program does not "blend", rather, it depends on community colleges to complete the high school education of the Charter School's students.

According to the Charter School's sample class schedule, high school seniors in their second semester are expected to enroll in seven (7) classes, five (5) of which will be at a community college and one (1) as an internship. (p. 32.) In order to graduate, Charter School seniors must enroll at a community college in order to take: U.S. Government; CC English 1A; "CC AA Lit.";

Statistics or Calculus; and Biology. (pp. 31-32, and 51-52.) The only class seniors are scheduled to take at the Charter School is their "Advisory" class. (p. 32.)

The Petitions' plan to require students to attend community colleges in order to graduate high school, though well intentioned, presents concerns. Under this plan, the District would have little to no authority over how the community colleges fulfill the high school education of the Charter School students. Concerns regarding the community colleges' services may also go unresolved, or proceed too slowly to benefit affected graduating seniors. Another area of concern is the availability of community college classes to the Charter School's students. It is unclear whether any community college would offer the necessary classes to the Charter School's senior class in a manner that would allow the students to graduate in a timely fashion. The Petition is also unclear on whether any community college would grant priority enrollment to graduating high school seniors. The practice of requiring students to attend community colleges in order to graduate may expose the Charter School to liability regarding the imposition of inappropriate student fees, which is addressed in greater detail below.

The lack of a comprehensive description regarding the relationship between the Charter School and the local community colleges, and the programs that might be available, makes the Petitioners demonstrably unlikely to successfully implement the educational program as set forth in the Petition.

D. The Petition Imposes Inappropriate Student Fees.

The Petition states that the Charter School has the following graduation requirements:

- Students must take at least 5 college courses [at community colleges], 15 college credits. College units may be equivalent to 50 or more high school credits and may be used to satisfy the academic elective or A-G requirements above. (¶) This may be waived by schools due to financial constraints, however student must still meet the academic elective requirement above.
- Students must apply to at least three (3) 4-year colleges or universities (in addition to or instead of community colleges).

(p. 52, emphasis added.) Although community colleges are generally offered as affordable postsecondary options to *college* students, *high school* students attending public schools, like the Charter School, are guaranteed a free education. (Cal. Const. Art. IX, § 5; Ed. Code, § 49011.) Requiring students to enroll in a community college, or apply to certain number of schools, triggers the need for students to pay for college applications, tuition, books and lab fees. Such requirements are contrary to state law. (Ed. Code, § 49010, subd. (b)(1).)

The Education Code also states, "[a] fee waiver policy shall not make a pupil fee permissible." (Ed. Code, § 49010, subd. (b)(2).) The fact that the Charter School offers a fee waiver based on "financial constraints" does not remediate the Charter School's practice of imposing inappropriate fees.

E. The Petition is not Compliant with the Brown Act.

The Petition states that the Charter School shall “[c]omply with the Ralph M. Brown Act.” (p. 10.) The purpose of the Brown Act (Gov. Code, §§ 54590, et seq.), is to ensure that agencies take actions “openly and that their deliberations be conducted openly” and to ensure that the public remains informed about public affairs. (Gov. Code, § 54590.) However, the Petition presents numerous instances whereby the Charter School’s practices are inconsistent with the Brown Act.

Providing the members of the governing board, as well as the public, with notice of regular and special meetings is an essential requirement of the Brown Act. “Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.” (Gov. Code, § 54594.3, subd. (a).)

The Petition does not ensure that members of the public receive proper notice under the Brown Act. In order to hold a special meeting consistent with the Brown Act, an agency must,

[D]eliver written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television station requesting notice in writing and posting a notice on the local agency’s Internet Web site, if the local agency has one. The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice.

(Gov. Code, § 54596, subd. (a).)

The Petition does not ensure that notice of the Charter School Board’s meetings are actually received as required by the Brown Act. The Petition states that the Charter School’s Board may hold special meetings “only after twenty-four (24) hours notice is given to each Director and to the public ... .” (Appendix IX, § 6.4, para. (a).) However, the Petition defines its process for notice in a manner that is inconsistent with the Brown Act. The Petition states that, “Notice by mail or email shall be deemed received at the time a properly addressed written notice is deposited in the United States mail, postage prepaid.” (Appendix IX, § 6.4, para. (c).) However, deeming notice received upon mailing is improper because it effectively defeats the purpose of a notice requirement. Simply dropping a written notice into the U.S. Mail, which may take 2-3 days for delivery, does not legally comply with the Brown Act regarding meetings to take place within 24 hours. The process set forth in the Petition for notifying the public also fails to ensure that the public receives actual notice of the special meeting in any meaningful manner. As a result, this practice is likely to diminish parental participation, and is not reasonably calculated to fulfill the Brown Act’s notice requirement.

Regarding special meetings, the Petition has no mention of whether the Charter School will provide the local media with notification of a special meeting as required under the Brown Act. Without such a process, the Petition is out of compliance with the Brown Act.

The Brown Act defines a “meeting” as “any congregation of a majority of the members of a legislative body at the same time and location... to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.” (Gov. Code, § 54592.2, subd. (a).) Despite this rule, the Petition allows the Charter School to delegate “all authority of the [Charter School’s] Board in the management and business affairs of the Corporation...” to an Executive Committee, which is comprised of two or more Directors and a Chairperson. (Appendix IX, § 8.2.) Staff has concerns about the concentration of such broad authority in a committee that is small as three members and which stands apart from the Charter School’s Board of Directors.

F. The Petition Presents an Inadequate Plan for Intra-Aspire Transfers.

Staff has serious concerns regarding the process for enrollment of students from the Berkeley, Aspire California College Preparatory Academy (“Berkeley”) into the proposed Charter School. According to the Petition, “pending approval of this charter petition, Aspire will open a new secondary school in Richmond *in place of* a high school we currently operate in Berkeley, Aspire California College Preparatory Academy.” (p. 7; emphasis added.) “[A]pproximately half of the high school students currently attending the 9-12 school in Berkeley commute from within the borders of WCCUSD and the majority come from the Richmond area.” (p. 7.)

Petitioners imply that the Aspire students previously enrolled in the Berkeley campus, and who reside in the Richmond area, will be attending the proposed Charter School. The Petition states, “It is important to Aspire that we are honor current Aspire families living in the Richmond area, as well as the new families whom we are eager to serve and that we manage demand appropriately.” (p. 20.) However Petitioners fail to describe how these “current Aspire” students will be transferred, including, but not limited to, what preference, if any, they will be afforded in the case a public random drawing is necessary.

Petitioner’s do provide an “Intra-Aspire Transfer” policy in the attached Aspire Student Family Handbook (“Handbook”), however it is unclear as to whether this transfer policy applies. (Appendix XVIII.) The Handbook’s transfer policy is not applicable to the Charter School, unless the Petition has specific enabling language. According to the policy, students currently attending an Aspire School who wish to transfer, can do so by filling out an “Intra-Aspire Transfer Request.” (Appendix XVIII.) By filling out the request, students are provided “enrollment priority to transfer to an alternate Aspire campus (*if applicable, based on specifications of school’s charter*).” (Appendix XVIII; emphasis added.) By its own language, the Intra-Aspire Transfer policy does not apply to the proposed Charter School because the Petition lacks any enabling language that specifies that the Intra-Aspire Transfer Policy will apply.

Even if the Intra-Aspire Transfer policy were applicable, Petitioner’s failure to provide how these transfer requests will align with their enrollment preferences creates an unclear and inadequate plan. The Petition establishes enrollment preferences in the case a public random drawing becomes necessary. (p. 93.) Under the stated policy, preferences will be given as follows:

- Children of Aspire Regular, Full-time employees
- Siblings of students already admitted to the Charter School
- Children of founding families of the Charter School
- Students who are eligible for free or reduced price meals
- Children residing within the District
- All other students who reside in the state of California

(p. 93.) Nowhere in this policy is there mention of intra-Aspire transfer students. There is also no mention of how much preference will be given to such students. Note that this is a new school, and these are not “returning” students with admissions priority. If they were given priority as “returning” students, such a practice would be ripe for a legal challenge from students who are not provided admissions. As a result, it is unclear how Petitioners intend to implement the Intra-Aspire procedure and enroll students from the Berkeley campus into the proposed Charter School. Without more, the Petition presents an inadequate plan for transfers between Aspire Charter Schools.

G. The Petition Miscalculates the Charter School’s Instructional Day Minutes.

Petitioners boldly state that, “Aspire provides roughly 15% more *learning time* for students than traditional public schools, and uses time more effectively during the year and day to maximize in-depth learning. [...] Aspire schools have, on average, a *7.5 hour school* day for grades 1-12. In other words, Aspire students receive about *one hour more* instruction each day than students in traditional public schools. A sample school bell schedule is attached in Appendix II.” (p. 27, emphasis added.) However, a close review of the sample bell schedule provided by Petitioners reveals that Petitioners have miscalculated the length of their average school day. When Petitioners’ average school day is adjusted to reflect only the instructional minutes given to students, the Charter School’s average school day is actually shorter than promised by approximately an hour.

The sample bell schedule states that students in grades 6-12 begin the day at 8:00 a.m. and end at 3:30 p.m., for total of 7.5 hours for the entire day. (Appendix II.) However, when the time allocated for lunch and passing between periods is calculated, using the times listed in the Petition, the instructional minutes for students in grades 6-12 is actually 6 hours and 35 minutes per day, or nearly an hour less instructional time than what Petitioners promise. Although Petitioners boast of having more instructional time than traditional schools, the reality is Petitioners offer nearly identical amounts of instructional time.

H. The Petition Presents an Inadequate Plan for their Proposed Summer School Instructional Program

The Petition states that the Charter School may require “summer school instructional programs for students in grades 7-12 who do not demonstrate sufficient progress towards passing the exit examination.” (p. 51.) However, the Petition fails to detail any specifics of this proposed program. It is unclear whether Petitioners plan on enrolling their students in the District’s already impacted summer programs or if Petitioners aim to run their own summer school

program. If Petitioners intend to run their own program, they fail to describe the essential elements of the program including, but not limited to;

- Curriculum for each grade level
- Staffing required for the program
- Number of students expected to enroll
- Where the classes will be held
- Costs and expenditures

Without a detailed description of the aforementioned aspects of a summer educational program, Board cannot be, and is not, assured that Petitioners' summer school program will be successful.

I. Petitioners Present an Inadequate Plan for Students with Emotional Challenges.

The Petition states, "Aspire's multi-tiered, trauma-informed approach to supporting students' mental health and behavioral needs will ensure that these challenges are identified early and often." (p. 24.) Petitioners' primary method for addressing the mental health and behavioral needs of students is the formation of groups such as the "Grade Level Team (GLT)". The Petition states, "For students who are experiencing behavioral challenges, the GLT may work to create an individualized Behavior Map and/or Behavior Contract. Behavioral goals will be developed and assessed over time to determine if students are ready to return to [lower levels of assessment]." (p. 24.) However, the Petition lacks discussion on which personnel will constitute the GLT, or what training and qualifications will be required to ensure the proper identification and assessment of students with mental health and behavioral needs.

The Petition goes on to state, "It is our aim to have a Spanish-speaking, on-site mental health provider who will be able to work with individual students and families in need of mental health support, while other students may be referred to quality mental health providers within the community." (p. 25.) The Petition does not indicate whether the "Spanish-speaking, on-site mental health provider" would be an employee of the Charter School, a volunteer or a professional from another entity. The Petition also does not state the type of qualifications this position must have or costs associated with this position. Petitioners do not address whether similar services will be available to students who speak neither English nor Spanish.

It is also unclear whether Petitioners intend to take responsibility for students struggling with mental health and behavioral issues to provide services at no cost, or if they are simply referring such students to services they may not necessarily be able to afford.

J. The Petition Presents an Inadequate Plan for English Language Learners.

According to the California Department of Education, charter schools are subject to all federal requirements and specific state requirements established for English Language Learner ("ELL") programs. Program reviews for charter school, just as for other public schools, are conducted under the State's Categorical Program Monitoring Process. (See <http://www.cde.ca.gov/sp/cs/re/qandasec4mar04.asp#Q1>.) At a minimum, the Petition should

identify specific assessments, a consistent curriculum, and a schedule for monitoring student progress in reaching English proficiency.

Petition describes a Parental Exception Waiver, whereby parents can remove their students from an ELL classroom. (Appendix V.) However, Petition lacks a description of either the language, or the method of instruction to be offered for students who have effectively waived out of the Mainstream English Program. Without more, it is unclear as to whether the Charter school can properly implement their program for ELL.

**Finding 2: The Petition Does Not Contain Reasonably Comprehensive Descriptions of Certain Required Elements**

The Petition serves as Petitioners' proposal for the Charter School's establishment and operation. As such, the Petition must provide reasonably comprehensive descriptions of certain elements in its program and operations as required in Education Code section 47605, subdivision (b)(5)(A-P). The following elements do not meet this standard due to incomplete or inadequate information, which in some instances contradict the requirements of the law:

- A. The Petition lacks a clear and consistent expulsion policy.
- B. The Petition fails to demonstrate an understanding of Richmond's racial and ethnic diversity.
- C. The Petition lacks a description of how the Charter School will outreach to students with disabilities.
- D. The Petition does not adequately describe a clear governance structure that will encourage parental participation.
- E. The Petition lacks a reasonably comprehensive description of individuals to be employed by the Charter School.
- F. The Petition does not provide a reasonably comprehensive description of the health and safety procedures.
- G. The Petition does not provide a reasonably comprehensive description of the dispute resolution process.

A. The Petition Lacks a Clear and Consistent Expulsion Policy.

The Petition's expulsion policy is inconsistent and unclear. In one instance, the Petition states that "A student may be expelled by the Aspire Administrative Panel." (p. 105.) However, this statement is later contradicted where the Petition states, "The Aspire Administrative Panel may *recommend* expulsion of any student found to have committed a suspendable or expellable offense." (p. 105, emphasis added.) It is unclear whether the Aspire Administrative Panel ("Panel") has the authority to expel students or may solely recommend an expulsion.

There is also confusion regarding the Charter School's expulsion procedures. The Petition lists certain offenses that require a "second finding of fact." (p. 107.) However, the Petition fails to provide a comprehensive description as to what constitutes a secondary finding of fact.

The Petition is also unclear as to readmission of previously expelled students. In describing the readmission process, the Petition states "there is no guarantee of re-enrollment to the expelling school (or a partner school), even if the rehabilitation plan is met." (p. 105.) However, this statement is later contradicted where Petition states "If a student has met all terms, the student is re-admitted [ . . .]" (p. 106.) It is unclear whether a student is guaranteed readmission when he/she meets all of the terms of a rehabilitation plan, or if Charter School offers no guarantee of re-enrollment, even if the terms of a rehabilitation plan have been met. The policies as provided in the Petition are inadequate and do not provide parents proper notice as to what the accurate readmission process is for their student.

B. The Petition Fails to Demonstrate an Understanding of Richmond's Racial and Ethnic Diversity.

Staff has serious concerns regarding Petitioners' discussion of the racial and ethnic diversity of Richmond. Petitioners assert that they "selected Richmond as the location for this new school because Richmond has a high need population, a high percentage of FRL students, and a lack of high-performing schools." (p. 7.) While the Petition discusses the racial and ethnic demographics of the District, Petitioners fail to demonstrate an understanding of the racial and ethnic demographics of the Richmond community they specifically target. Without a clear understanding of Richmond's racial and ethnic makeup, it is uncertain whether the Charter School will be able to strive for, obtain, and ultimately maintain a racial and ethnic balance that is reflective of the Richmond community.

Additionally, Staff has concerns regarding the enrollment of ELL students. In the 2013-2014 school year, Aspire California College Preparatory Academy, Berkeley ("Berkeley"), the charter school that Petitioners propose to close down if this Petition is granted, had an ELL enrollment of only 5% of their student population. (p. 19.) In contrast, District high schools located in the Richmond area had a significantly higher enrollment of ELL students; Richmond High, 41%, Kennedy High, 35%, De Anza Senior High, 16%. (p. 19.) This discrepancy is concerning because nearly one-half of the students attending the Berkeley campus "commute from within the borders of WCCUSD and the majority come from the Richmond area." (p. 7.) The Petitioners fail to provide an explanation as to why the Berkeley ELL enrollment is significantly lower than other schools in the Richmond area, even though a large portion of their students reside in the Richmond area. Berkeley's enrollment numbers regarding ELL students do not reflect the numbers found in other public schools in Richmond.

C. The Petition Lacks a Description of how the Charter School will Outreach to Students with Disabilities.

Staff has concerns about the Charter School's outreach to, and recruitment of students with disabilities. According to the U.S. Department of Education, Office for Civil Rights, charter schools should "recruit [students] from all segments of the community served by the school, including *students with disabilities* and students of all races, colors and national origins." (United States Department of Education's Office for Civil Rights, Applying Federal Civil Rights Laws to Public Charter Schools (May 2000), <<https://www2.ed.gov/offices/OCR/archives/pdf/charter.pdf>> [as of Oct. 21, 2014], emphasis added.) As noted above, the Petition does mention a basic outreach plan aimed to "achieve a racially and ethnically diverse student population" reflective of the District, however, the Petition is silent with regard to outreach strategies for the recruitment of students with disabilities (p. 91.).

D. The Petition Does Not Adequately Describe a Clear Governance Structure that will Encourage Parental Participation.

The Petition must include a reasonably comprehensive description of, "the governance structure of the school, including, but not limited to, the process to be followed by the school to *ensure* parental involvement." (Ed. Code, § 47605, subd. (b)(5)(D), emphasis added.) In the case of the District, parents become involved in the decision making process by participating in the District's Board meetings which are regularly held within the District's boundaries for the convenience of the parents and the public at large. However, the Petition does not offer similar convenient opportunities on a regular basis. The Petition states that the, "Meetings shall be conducted at the principal office of the Corporation. The Board of Directors may also designate that a meeting be held in any place within California ... ." (Appendix IX, §6.2.) Because the Charter School's corporate principal office is located in Oakland (Appendix IX, § 1.1), the Charter School's Board will likely meet in locations outside of the District's boundaries on a regular basis. Given the inconvenience of securing transportation for travel outside of the District boundaries for many District families, out-of-District Board meetings will likely dissuade parental involvement rather than encourage it.

Additionally, the Petition presents a confusing and unclear governance structure. While the Petition describes the duties and roles of the Charter School's Board, the Petition also mentions several other positions throughout, without explaining the roles or duties for these positions. The positions which lack description include, but are not limited to:

- District Superintendent (Appendix X)
- President (Appendix IX)
- Director of Expanded Legal Positions (Appendix IX)
- Director of School Support and Improvement and Sustainability (Appendix IX)

Without properly delineating the roles, and duties of these referenced positions, parents are not afforded a clear and reasonably comprehensive description of the Charter School's governance structure.

Education Code section 47604, subdivision (b) entitles the District to appoint one representative to the Charter School's governing board. The right to appoint the District's representative is at

the sole discretion of the District's Governing Board. However, the Petition inappropriately asserts that the Charter School's Board of Directors retains the power select and remove members of the Board, which would include the District's representative. The Petition states, "Any Director may be removed, with or without cause, by a vote of the majority of the entire Board of Directors... ." (Appendix IX, § 5.3, para. (e), emphasis added.) The Petition also states, "Subsequent Directors shall be elected by a majority vote of the Directors at each Annual Meeting, including the vote(s) of any Director whose term of office expires with that meeting." (Appendix IX, § 5.3, para. (a).) Any requirement that the District's representative must be vetted by, or can be removed by, the Charter School is an impermissible limitation on the District's right to appoint its representative.

E. The Petition Lacks a Reasonably Comprehensive Description of Individuals to be Employed by the Charter School.

Education Code section 47605 subdivision (b)(5)(E) requires the Petition to include a reasonably comprehensive description of the qualifications to be met by individuals to be employed by the school. The Regulations clarify that a petition should: identify the general qualifications for the various categories of employees that the charter school intends to hire; identify key positions and their specific qualifications; and specify requirements for employment. (5 CCR § 11967.5.1, subd. (f)(5).) The Petition only lists the qualifications for the Principal, Business Manager, and general education Teachers. (pp. 83-85.) However, the Petition fails to define the credentials or qualifications required for the "Cert. Support", "Instructional Aides", "Class. Support", "Clerical/Office Staff" and "Class. Other" positions listed in the Charter School's budget. (Appendix XVa.) The Petition also fails to define the credentials and qualifications required for special education teachers, para-professionals and other special education staff (resource specialist, speech and language pathologist, occupational therapist, etc), which may be needed in support of providing required special education services.

Furthermore, the Petition states that the "Charter School may choose not to require credentials for teachers in non-core, noncollege-prep courses." (p. 83.) While charter schools have "flexibility" for hiring instructors for noncore classes, the qualifications for these positions should nevertheless be clearly articulated. The Petition fails to provide such details.

F. The Petition Does Not Provide a Reasonably Comprehensive Description of the Health and Safety Procedures.

Petitioners are required to provide a comprehensive description of "procedures that the school will follow to ensure the health and safety of pupils and staff." (Ed. Code, § 47605, subd. (b)(5)(F).) The Petition fails to meet this requirement, and specifically fails to provide a comprehensive description of how the Charter School will implement and oversee medication usage by students.

Petitioners states the school will adhere to the Education Code, California Department of Education guidance, and applicable law. (p. 88.) Simply citing what is required by law is not a sufficient substitute for a plan on how the Charter School will address medication usage and administration. In the attached Student Family Handbook, Petitioners do describe policies

regarding the required documentation and prescriptions for medication. Petition also states that “all medication must be dispensed through the office.” (Appendix XVIII.) However, Petitioners fail to mention *who* can administer the medication, a crucial aspect of any school’s health and safety procedures.

G. The Petition Does Not Provide a Reasonably Comprehensive Description of the Dispute Resolution Process.

Education Code section 47605, subdivision (b)(5)(N) requires a petition to include “the procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.” However, the Petition’s dispute resolution process goes beyond establishing a process to resolve conflicts, and instead attempts to impose requirements upon the District. For instance, the Petition states, “[t]he staff and Governing Board members of Aspire agree to attempt to resolve all disputes between the district and Aspire regarding this charter pursuant to the terms of this section. Both will refrain from public commentary regarding any disputes until the matter has progressed through the dispute resolution process.” (p. 117.) The Petition is not a contract. Any suggestion that the Petition somehow requires the District to refrain from making public comments, or compels the District to act in a particular manner is misguided. Even assuming that these conditions and restrictions were acceptable to the District, they should be negotiated and set out in an operational Memorandum of Understanding between the parties, rather than in the Petition. Approving the Petition with these terms may inhibit the District’s ability to conduct effective oversight.

**Summary and Recommendations**

District staff recommends approval of the Petition for a five year term without conditions, commencing with the 2015-2016 school year and expiring on June 30, 2020. In the event the Board approves the Petition, staff recommends that a separate memorandum of understanding that addresses the concerns regarding the Petition, as noted herein, be negotiated between the Petitioners and the Superintendent and/or his designee, for consideration by the Board at its meeting scheduled for January 21, 2015.

Notwithstanding the above, should the Board decide that the concerns raised herein warrant a denial of the Petition, the Board could base its denial 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 certain required elements set forth in Education Code section 47605, subdivisions (b)(5)(A-P).

In order to deny the Petition on the grounds set forth above, Education Code section 47605, subdivision (b), requires the Governing Board to make “written factual findings, specific to the particular petition, setting forth specific facts to support one or more” grounds for denying the

Petition. Should the Board decide to deny the Petition, District Staff recommends that the Board adopt these final findings of fact as enumerated in the attached Staff Report as its own.

**Fiscal Impact:** None at this time.

DISPOSITION BY BOARD OF EDUCATION		
Motion by: _____	Seconded by: _____	
Approved _____	Not Approved _____	Tabled _____

**RESOLUTION OF THE  
BOARD OF EDUCATION  
OF THE WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT**

**RESOLUTION NO. 48-1415**

**A RESOLUTION OF THE GOVERNING BOARD OF THE WEST CONTRA  
COSTA UNIFIED SCHOOL DISTRICT GRANTING THE PETITION TO  
ESTABLISH ASPIRE RICHMOND TECHNOLOGY ACADEMY**

WHEREAS, on or about September 5, 2014, the West Contra Costa Unified School District ("District") received a petition ("Petition") proposing the establishment of Aspire Richmond Technology Academy ("Charter School");

WHEREAS, consistent with Education Code section 47605 subdivision (b), at a meeting on October 1, 2014, the District's Board of Education ("Board") held a public hearing on the Petition, at which time the Board considered the level of support for the Petition by teachers employed by the District, other employees of the District, and parents and guardians;

WHEREAS, the Board has convened on December 3, 2014, to consider whether to grant or deny the Petition;

WHEREAS, the District's staff and legal counsel reviewed and analyzed the Petition and supporting documents for legal, programmatic and fiscal sufficiency, and has recommended that the Petition be approved;

NOW THEREFORE, BE IT RESOLVED, that the Board of Education of the West Contra Costa Unified School District grants a 5-year charter to establish Aspire Richmond Technology Academy, commencing with the 2015-2016 school year and expiring June 30, 2020;

BE IT FURTHER RESOLVED, that a separate memorandum of understanding that addresses District staff concerns regarding the Petition, as noted in the staff report, be negotiated between the Petitioners and the Superintendent and/or his designee for consideration by the Board at its meeting scheduled for January 21, 2015;

APPROVED, PASSED AND ADOPTED by the Governing Board of the West Contra Costa Unified School District on this 3rd day of December, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

I hereby certify that the foregoing is a full, true and correct copy of a Resolution adopted, at a regular meeting of the Governing Board of the West Contra Costa Unified School District held on December 3, 2014.

\_\_\_\_\_  
Charles T. Ramsey, President  
Board of Education

West Contra Costa Unified School District  
1108 Bissell Avenue  
Richmond, California 94801  
Office of the Superintendent

**ITEM REQUIRING ATTENTION---BOARD OF EDUCATION**

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**To:** Board of Education

**Meeting Date:** December 3, 2014

**From:** Wendell C. Greer  
Associate Superintendent, K-Adult Operations

**Agenda Item:** F.5

**Subject:** John Henry High School Staff and Counsel Findings of Fact, and Board Decision.

**Background Information:** On or about September 5, 2014, the West Contra Costa Unified School District ("District") received a charter petition ("Petition") from Amethod Public School ("AMPS" or "Petitioners") for the establishment of John Henry High School ("Charter School"). The Petitioners requested a five year term from July 1, 2015 through June 30, 2020. Pursuant to the Education Code, the District held a public hearing on October 15, 2014, so that the District's Governing Board ("Board") could consider the level of support for the Petition (Ed. Code, § 47605, subd. (b)).

District staff members who read and analyzed the petition included: Steve Collins, Director of Special Education, Cheryl Cotton, Director of Human Resources, Linda Delgado, Coordinator of Educational Services, Phil Gonsalves, Director for Mathematics Instruction, Mimi Melodia, Coordinator for English Language Development, Sonja Neeley-Johnson, Director for Educational Services, Daniela Parasidis, Director of Business Services, and Mehdi Rizvi, Principal Accountant. Staff provided written feedback on all elements, including the proposed educational program, fiscal and governance structures, student admissions and discipline, labor and personnel issues, facilities and legal issues.

District staff has identified concerns within the Petition, which are described in detail below, and believes that those deficiencies could warrant a denial of the Petition. However, staff finds its concerns are relatively minor when compared with the legislative intent of the Charter Schools Act "that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged." (Ed. Code, § 47605, subd. (b)).

In sum, District staff recommends that the Board approve the Petition for the establishment of the Charter School without conditions for a five year term, commencing with the 2015-2016 school year and expiring on June 30, 2020. In the event the Board approves the Petition, District staff also recommends that a separate memorandum of understanding that addresses the concerns regarding the Petition, as noted herein, be negotiated between the Petitioners and the

Superintendent and/or his designee, for consideration by the Board at its meeting scheduled for January 21, 2015.

Notwithstanding the above, if after review of the Petition and the discussion herein the Board wishes to deny the Petition, the Board may base its denial on the findings of fact set forth below. Please note that these findings of fact have been grouped for convenience under the grounds for denial of a charter petition, which are also discussed below. However, certain findings of fact may support more than one ground for denial.

**Finding 1: The Petitioners are Demonstrably Unlikely to Successfully Implement the Program Set Forth in the Petition.**

In order to successfully implement the program described in the Petition, Petitioners must demonstrate that they are familiar with the content of the Petition and the requirements of laws applicable to the proposed school; present a realistic financial and operational plan; have the necessary background in areas critical to the Charter School's success, or have a plan for securing the services of individuals with the necessary background, including curriculum, instruction, assessment, finance and business management.

As reviewed below, there is concern whether the Charter School will successfully implement its program.

**A. The Petitioners are Demonstrably Unlikely to Enroll a Student Body Whose Diversity is Reflective of the Demographics of the Territorial Jurisdiction of the District.**

The law requires that the Charter School provide a description of the "means by which it will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted." (Ed. Code, § 47606, subd. (b)(5)(G).) The Petition states that it "seeks to enroll a student body in grades ninth through twelve whose diversity represents the general population residing within the geographical boundaries of the district and community where the Charter School is to be located." (Petition, page 18.) The Petition further states that the Charter School will make a "substantial effort to recruit the underserved, low-income students in the school's target service area of Richmond, CA." (Id.) Notwithstanding these assurances, data supports that AMPS schools that are currently in operation are engaged in a trend where a large percentage of students enrolled in the schools are Hispanic or Latino, and the African American student population does not account for a significant percentage of enrollment.

According to the Petition, the African American student population in the District in 2012 was 22.7%, and the Hispanic or Latino population was 48.2%. (Petition, page 19.) According to the 2010 census conducted by the United States Census Bureau, 26.6% of the population in Richmond is African American. However, CDE "Dataquest" reports for RCA illustrate that, for the 2012-13 school year, 87.8% of RCA students were Hispanic or Latino, while only 11.1% were African American. The following school year, the percentage of African American students at RCA was even lower. Specifically, for the 2013-14 school year, 95.2% of RCA students were Hispanic or Latino, while only 2.7% were African American. From school year

2012-13 to school year 2013-14 RCA, without explanation, experienced a significant 8.4% decrease in its enrollment of African American students from one school year to the next.

Data regarding OCA and OCHS demonstrate a similar trend of high Hispanic or Latino student enrollment and very low enrollment of African American students. A five year summary of student enrollment data for Hispanic or Latino and African American subgroups for AMPS's schools in Oakland is as follows:

**Oakland Charter Academy**

School Year	% of Latino or Hispanic Students of Total Enrollment	% of African American Students of Total Enrollment
2009-10	91.2	1.5
2010-11	91.0	2.8
2011-12	89.0	2.3
2012-13	68.9	2.5
2013-14	41.1	2.1

**Oakland Charter High School**

School Year	% of Latino or Hispanic Students of Total Enrollment	% of African American Students of Total Enrollment
2009-10	73.9	2.2
2010-11	70.2	4.1
2011-12	60.8	4.4
2012-13	61.3	2.2
2013-14	50	3.4

Further, the Petition states that “African American and Latino subgroups, which make up approximately 70% of the WCCUSD populations, are performing well below the academic achievement rate of the Asian and White populations.” (Petition, page 19.) A stated goal of the Petitioners’ education program is to “seek to address such gaps in performance for Richmond students.” (Petition, page 20.) The Petition states, with regard to RCA, that “specifically the Latino and low income subgroups have thrived within the AMPS model scoring at an API score above 800 over the years.” (Petition, page 20.) While there is no question that AMPS has experienced great success with its Latino student population, the Petition offers no discussion with regard to the success of African American students at AMPS schools.

Moreover, the Petition contains a vague plan for the recruitment and marketing of students. For example, the Petition states that the Charter School will undertake recruitment activities such as “attending option fairs,” “meet with local Athletic Teams and leagues,” and “attend local community functions and fairs.” However, there are no specific fairs or meetings discussed. (Petition, page 98.) Similarly, there is no explanation as to what “Athletic Teams and leagues” the Charter School will meet or how those organizations will have an impact on the Charter School’s recruitment process. Overall, while the Petition assures the recruitment efforts of the Charter School will “target all populations within the area, regardless of race, disability or gender,” there is no specific discussion in the Petition as to how the Charter School will reach

out to the African American community in its recruiting and marketing efforts. (Petition, page 97.)

Taken as a whole, the student enrollment data set forth above demonstrates a problem with the ability of AMPS to enroll, enroll and/or retain African American students amongst its student population. This fundamental flaw serves as evidence of the Charter School being demonstrably unlikely to implement its educational program in compliance with the legal requirement that the Charter School seeks to achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the District as described in the Petition.

**B. The Petitioners are Demonstrably Unlikely to Implement the Special Education Program as Described in the Petition.**

The Petition states that “all students will have access to the Charter School and no student shall be denied admission nor counseled out of the Charter School due to the nature, extent, or severity of his/her disability or due to the student’s request for, or actual need for, special education services.” (Petition, page 47.) The Petitioners also recognize its responsibility to “enroll and support students who can benefit from its programs...” (Petition, page 42.) Despite these assurances, the percentage of special education students served by existing AMPS schools operating within the District is not commensurate with the percentage of special education students enrolled in District schools.

Specifically, for the 2014-15 school year, the special education student enrollment at the District is 13.49%. The special education student enrollment data for RCA and BJE is summarized as follows:

<b>School</b>	<b>% of Special Education Students Served</b>	<b>Difference between % of Special Education Students Served in the District and % Served at charter school</b>
Benito Juarez Elementary	5.42 %	-8.07 %
Richmond Charter Academy	4.68 %	-8.63 %

While the Petition states that the Charter School “seeks to enroll a student body in grades ninth through twelve whose diversity represents the general population residing within the geographical boundaries of the district and community where the Charter School is to be located,” it is silent with regard to outreach strategies for the recruitment of students with disabilities. (Petition, page 18.) Further, the Petition does not describe any student outcomes for the potentially significant subgroup of pupils with disabilities. (Petition, pages 62-64.)

According to the U.S. Department of Education, Office for Civil Rights, charter schools should “recruit [students] from all segments of the community served by the school, including *students with disabilities* and students of all races, colors and national origins.” (United States

Department of Education's Office for Civil Rights, Applying Federal Civil Rights Laws to Public Charter Schools (May 2000), <<https://www2.ed.gov/offices/OCR/archives/pdf/charter.pdf>> [as of Oct. 21, 2014]; emphasis added.)

Petitioners' demonstrated trend of low special education student enrollment that is significantly less than the percentage of special education students served by the District, along with the Charter School's lack of recruitment strategies for students with disabilities, raises concerns about the Charter School's ability to seek, serve, and retain special education students in accordance with the law and the program for special education that is outlined in the Petition.

C. The Petition Presents an Inadequate Financial Plan for the Proposed Charter School.

A charter petition should, at a minimum, include a first-year operational budget, start-up costs and cash flow, and financial projections for the first three years. (Ed. Code, § 47605, subd. (g).) Among other things, the operational budget must: (1) include "reasonable estimates of all anticipated revenues and expenditures necessary to operate the school;" (2) "demonstrate an understanding of the timing of the receipt of various revenues and their relationship to [the] timing of expenditures;" and (3) "appear[ ] viable and over a period of no less than two years of operations provide[ ] for the amassing of a reserve equivalent to that required by law for a school district of similar size to the proposed charter school." (5 CCR § 11967.5.1, subd. (c)(3)(B).)

Although the Petition provides the basic financial information for the Charter School, as outlined below, a number of concerns were noted regarding the financial documents the Charter School provided to the District.

i. Some Budget Assumptions Conflict with Information in the Petition and/or are Without Appropriate Explanation.

The number of FTEs assumed in the budget for the first five years of the Charter School's operation as set forth on page 144 of the Appendix conflicts with the number of FTEs described in the Petition on page 126. Specifically:

- In 2016-17, the budget assumes 23 FTEs, yet the Petition states there will be 25 FTEs.
- In 2018-19, the budget assumes 30 FTEs, yet the Petition states there will be 32 FTEs.
- In 2019-20, the budget assumes 32 FTEs, yet the Petition states there will be 33 FTEs.

Similarly, there are discrepancies between the total number of teachers listed in the budget set forth on page 144 of the Appendix and with the number of teachers set forth in the Petition on page 126. Specifically:

- In 2017-18, the budget assumes 25 teachers, yet the Petition states there will be 22 teachers.
- In 2018-19, the budget assumes 23 teachers, yet the Petition states there will be 22 teachers.

- In 2019-20, the budget assumes 25 teachers, yet the Petition states there will be 23 teachers.

If the numbers stated in the budget are correct, it is noted that the budget assumes 25 teachers in 2017-18 and 23 teachers in 2018-19. There is no explanation provided regarding this reduction in FTE, which is odd, because the student population is projected to grow.

ii. There Are Concerns Regarding the Charter School's Proposed Three Year Budget.

Concern exists with regard to some of the Charter School's revenue projections. For example, the budget projects revenues for the SB740 facility grant. This facility grant is provided to schools that demonstrate eligibility of 70% of students for the Free and Reduced Meal Program. However, the Petition does not provide sufficient supporting data or documentation to support its projection for at least 70% Free and Reduced Meal Program students. Additionally, revenues for the Education Protection Account ("EPA") increase from \$36,000 in 2015-16 to \$324,237 in 2016-17. There is no explanation provided for this large \$288,237 increase. Moreover, in 2015-16, Petitioners calculate EPA revenues at \$200/ADA. However, in 2016-17, Petitioners switched their methodology to calculate EPA revenue to be approximately 21% of the Charter School's state aid. There is no explanation as to why the Petitioners switched their methodology in calculating this revenue.

In addition, rent costs are understated by \$60,000 in the Charter School's first two years of operation. Rent costs in the budget have been increased on a per student basis. However, adding additional facility space for the increase in enrollment is not possible, and the Charter School will be required to lease a facility that is sufficient for 400 students (500 students if the Charter School achieves its 2020 enrollment target of 500 students). Thus, the estimate for rental costs should be based on the going rate for facilities that suit the capacity of the school, not on a per student basis.

iii. There is No Free and Reduced Lunch Program Noted in the Budget.

The Charter School assumes that 70% of its students will qualify for the Free and Reduced Lunch Program. (Petition, page 124.) However, the Petition states that the Charter School is not planning to offer a Free and Reduced Lunch Program at its school. (Petition, page 125.) There is an expectation that students are to bring their own lunch to school each day. While implementation of the Free and Reduced Lunch Program is not required by law, based on the demographics of the District, not offering the program could work to the detriment of children who cannot afford to bring healthy lunches with them to school each day. Further, failure to offer the Free and Reduced Lunch Program could impact the application pool and diversity of the Charter School. This would contradict Petitioner's stated goal "to enroll a student body in grades ninth through twelve whose diversity represents the general population residing within the geographical boundaries of the district and community where the Charter School is to be located." (Petition, page 18.)

iv. Accounts Payable Transactions Listed in the Budget Appear Incomplete.

There are no account payables included in the budget beyond June. However, the Petition contemplates providing programs over the summer months. Thus, it is unclear why the Charter School would not have to pay any staff during the months of July and August.

**Finding 2: The Petition Does Not Contain Reasonably Comprehensive Descriptions of Certain Required Elements**

The Petition serves as Petitioners' proposal for the Charter School's establishment and operation. Therefore, the Petition must provide reasonably comprehensive descriptions of certain elements in its program and operations as required in Education Code section 47605, subdivision (b)(5)(A-P). As set forth below, the Petition does not contain reasonably comprehensive descriptions of certain elements required by law.

A. The Petition Lacks a Reasonably Comprehensive Description of the Educational Program of the Charter School.

While the Petition mentions that the Charter School's curriculum will align with Common Core, the Petition does not specifically define or identify any specific curriculum that the Charter School will use for the core subjects of reading, writing, mathematics, history/social science, and science. (Petition, page 17.)

B. The Educational Program Set Forth in the Petition Does Not Include a Description of the Annual Goals For Each Required Subgroup of Pupils.

As a part of the new Local Control Funding Formula, the Petition must describe how the Charter School will achieve each of the eight state priorities listed in Education Code section 52060, subdivision (d), including how achievement will be met by each subgroup identified in Education Code section 52052, subdivision (a)(2). (Ed. Code § 47605, subd. (b)(5)(B).) The subgroups identified in Education Code section 52052, subdivision (a)(2) are as follows: (A) Ethnic subgroups; (B) Socioeconomically disadvantaged pupils; (C) English learners; (D) Pupils with disabilities; and (E) Foster youth.

While the Petition contains a description of how the Charter School intends to meet annual goals for all pupils, with specific activities that address state and local priorities identified in Education Code section 52060, subdivision (d), the Petition fails to include a description of how achievement will be met by each subgroup identified above. Further, the Petition fails to make any mention of foster youth, whatsoever.

C. The Petition Does Not Provide a Reasonably Comprehensive Description of the Governance Structure of the Charter School.

According to Education Code section 47605, subdivision (b)(5)(D), a charter petition must include a reasonably comprehensive description of, "the governance structure of the school...." However, the governance structure proposed in the Petition poses questions regarding the ability

of the Board to make sound business decisions. Further, the applicability of the Brown Act to committees mentioned in the Petition to ensure that their recommendations and decision making is transparent to parents and the public is unclear.

Neither the Petition nor the Conflict of Interest policy adopted by the AMPS Governing Board ("Board") contains an assurance that the Board will comply with Government Code section 1090. While the applicability of Government Code Section 1090 to Charter Schools is debatable, Charter School adherence to Government Code Section 1090 is, at the very least, a recommended best practice for Charter School governance. One concern related to the Board's failure to comply with Government Code section 1090 is that the Board Bylaws allow for the Chief Executive Officer of AMPS to be a director on the Board. (Appendix, page 482.) The Conflict of Interest policy states that a "voting member of the governing board who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that member's compensation." While a Board member is precluded from voting on matters related to his or her compensation, the rest of the Board is not. This practice is prohibited by school districts pursuant to Government Code section 1090.

In addition, the Board Bylaws allow for the Board to create committees to consider and make recommendations upon matters referred to them by the Board. (Appendix, page 489.) The Bylaws do not contain any assurance that the committees will comply with the Brown Act. Similarly, there is no assurance that the Family-Staff-Team ("FST") Advisory Committee will be subject to the Brown Act. (Petition, page 84.)

D. The Petition Does Not Provide a Reasonably Comprehensive Description of the Qualifications to be Met by Individuals to be Employed by the Charter School.

Education Code section 47605, subdivision (b)(5)(E) requires a charter petition to include a reasonably comprehensive description of the qualifications to be met by individuals to be employed by the school. The Regulations clarify that a petition should: identify the general qualifications for the various categories of employees that the charter school intends to hire; identify key positions and their specific qualifications; and specify requirements for employment. (5 CCR § 11967.5.1, subd. (f)(5).) The Petition fails to meet all of these requirements, and, in some cases, includes contradictory and/or vague information regarding Charter School employees. Specifically, the deficiencies noted in the Petition with regard to teacher qualifications include the following:

- The Petition includes a limited teacher job description. (Petition, pages 90-91). The job description provided reads more like a list of requirements, and does not provide a clear and comprehensive description of teacher job responsibilities. Further, the Employee Handbook states that "Job supervisor(s) will explain job responsibilities." (Appendix, page 305.) The Employee Handbook also states "your job responsibilities may change at any time during your employment" and that AMPS "reserves the right, at any time, with or without notice, to alter or change job responsibilities, reassign or transfer job positions or assign additional job responsibilities." (Id.)
- The Petition contains no information as to how the Charter School identifies, hires, and screens substitute teachers.

- The Petition lists a “mix of intervention services” that will be provided to students who are not meeting outcomes. (Petition, page 39.) It is unclear if these intervention services are included in the budget. It is also unclear which employees will be providing these intervention services. For example, the Petition states that intervention services may include “before-or after-school instructional support provided by non-classroom educators in a one-on-one setting or in small groups.” (Petition, page 39.) However, these “non-classroom” educators are never identified, nor are their qualifications discussed in the Petition.
- The Charter School’s Family Care and Medical Leave (“FMLA”) policy, as set forth in the Employee Handbook, states “an employee on FMLA leave remains an employee and the leave will not create a break in service.” (Appendix, page 324.) The Employee Handbook states that employees are “at-will,” unless otherwise stated in a written agreement, it is unclear why any employee would have seniority. (Appendix, page 301.) Thus, the Petition contains contradictory information regarding employee classification and status.

Based on the deficiencies noted above, the Petition does not provide a clear description of the individuals to be employed by the Charter School.

E. The Petition Does Not Provide a Reasonably Comprehensive Description of the Procedures that the Charter School Will Follow to Ensure the Health and Safety of Pupils and Staff.

Petitioners are required to provide a comprehensive description of “procedures that the school will follow to ensure the health and safety of pupils and staff.” (Ed. Code § 47605, subd. (b)(5)(F).) While the Petition contains the Charter School’s health and safety policies and procedures, its policy with regard to “Medication in School” fails to provide a reasonably comprehensive description of how the Charter School will implement and oversee medication usage by students. (Petition, page 94). Specifically, the “Medication in School” policy does not address the administration of non-oral medications, such as insulin and diastat, or the administration of student health plans.

F. The Petition Does Not Include a Reasonably Comprehensive Description of the Procedures by Which Pupils Can Be Suspended or Expelled.

Charter petitions must include a description of the “procedures by which pupils can be suspended or expelled.” (Ed. Code § 47605, subd. (b)(5)(h).) The Charter School’s proposed student discipline policy sets forth the grounds upon which students may be suspended or expelled. (Petition, pages 103-111.) However, there is no discussion of the standard the Charter School Board or Administrative Panel would apply in evaluating a student’s discretionary expulsion. Although not required to adhere to the Education Code’s disciplinary procedures, constitutional due process requires that the Charter School make clear the circumstances under which a student may be eligible for expulsion, as opposed to simply suspension. Further, this fails to provide guidance to administrators with standards in meting out discipline.

**Summary and Staff Recommendation:**

District staff recommends approval of the Petition for a five year term without conditions, commencing with the 2015-2016 school year and expiring on June 30, 2020. In the event the Board approves the Petition, staff recommends that a separate memorandum of understanding that addresses the concerns regarding the Petition, as noted herein, be negotiated between the Petitioners and the Superintendent and/or his designee, for consideration by the Board at its meeting scheduled for January 21, 2015.

Notwithstanding the above, should the Board decide that the concerns raised herein warrant a denial of the Petition, the Board could base its denial 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, subd. (b)(2).)
2. The Petition does not contain reasonably comprehensive descriptions of certain required elements set forth in Education Code section 47605, subdivisions (b)(5)(A-P).

Should the Board decide to deny the Petition, District Staff recommends that the Board adopt these final findings of fact as its own.

**Fiscal Impact:** None at this time.

DISPOSITION BY BOARD OF EDUCATION		
Motion by: _____	Seconded by: _____	
Approved _____	Not Approved _____	Tabled _____

**RESOLUTION OF THE  
BOARD OF EDUCATION  
OF THE WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT**

**RESOLUTION NO. 46-1415**

**A RESOLUTION OF THE GOVERNING BOARD OF THE WEST CONTRA  
COSTA UNIFIED SCHOOL DISTRICT GRANTING THE PETITION TO  
ESTABLISH AMETHOD PUBLIC SCHOOLS: JOHN HENRY HIGH SCHOOL**

WHEREAS, on or about September 5, 2014, the West Contra Costa Unified School District ("District") received a petition ("Petition") proposing the establishment of Amethod Public Schools: John Henry High School ("Charter School");

WHEREAS, consistent with Education Code section 47605 subdivision (b), at a meeting on October 1, 2014, the District's Board of Education ("Board") held a public hearing on the Petition, at which time the Board considered the level of support for the Petition by teachers employed by the District, other employees of the District, and parents and guardians;

WHEREAS, the Board has convened on December 3, 2014, to consider whether to grant or deny the Petition;

WHEREAS, the District's staff and legal counsel reviewed and analyzed the Petition and supporting documents for legal, programmatic and fiscal sufficiency, and has recommended that the Petition be approved;

NOW THEREFORE, BE IT RESOLVED, that the Board of Education of the West Contra Costa Unified School District grants a 5-year charter to establish John Henry High School, commencing with the 2015-2016 school year and expiring June 30, 2020;

BE IT FURTHER RESOLVED, that a separate memorandum of understanding that addresses District staff concerns regarding the Petition, as noted in the staff report, be negotiated between the Petitioners and the Superintendent and/or his designee for consideration by the Board at its meeting scheduled for January 21, 2015;

APPROVED, PASSED AND ADOPTED by the Governing Board of the West Contra Costa Unified School District on this 3rd day of December, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

I hereby certify that the foregoing is a full, true and correct copy of a Resolution adopted, at a regular meeting of the Governing Board of the West Contra Costa Unified School District held on December 3, 2014.

---

Charles T. Ramsey, President  
Board of Education

WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT  
1108 Bissell Avenue  
Richmond, California 94801-3135  
Office of Superintendent of Schools

**ITEM REQUIRING ATTENTION----BOARD OF EDUCATION**

**To:** Board of Education

**Meeting Date:** December 3, 2014

**From:** Sheri Gamba *SG*  
Associate Superintendent Business Services

**Agenda Item:** F.6

**Subject:** Contracts

**Background Information:** Permission is requested of the Board of Education to approve the following contracts as detailed on the attached sheets dated December 3, 2014.

**Recommendation:** Recommend Approval

**Fiscal Impact:** As noted per contracts summary

<b>DISPOSITION BY BOARD OF EDUCATION</b>		
Motion by: _____	Seconded by: _____	
Approved _____	Not Approved _____	Tabled _____

West Contra Costa Unified School District  
December 3, 2014 Board Meeting

CONTRACTS

The following contracts are recommended for approval.

<u>DEPARTMENT</u>	<u>Effective Date</u>	<u>VENDOR NAME</u>	<u>COST &amp; FUNDING</u>	<u>PURPOSE</u>
Curriculum	7/1/14 Thru 6/30/15	Be A Mentor	\$51,800 LCFF	Provide the district with a volunteer management system for the Community Engagement Department. This will increase ease and access of registration process for parents, community members and community based organizations that wish to partner with WCCUSD.
Business Services	10/1/14 Thru 6/30/15	Lozano Smith	\$200,000 General Fund	Increase existing \$30,000 contract to cover additional costs of professional expenses relating to general legal and Charter School matters.
Business Services	10/1/14 Thru 6/30/15	Nixon Peabody LLP	\$145,000 Bond Fund	Representation to cover \$85,000 for Bond MCDC and \$60,000 for IRS Audit.
Special Ed	7/1/14 Thru 6/30/16	Contra Costa County Office of Education	\$84,000 Medi-Cal SMAA	Coordination of School-Based Medi-Cal administrative activities program (SMAA) reimbursement for West Contra Costa Unified School District.
Business Services	11/10/14 Thru 6/30/14	Vavrinek Trine Day & Company	\$142,000 Bond Fund	Perform the required performance audit to ensure that funds have been expended only on the specific projects listed for the period beginning July 1, 2013 and ending June 30, 2014, with options to extend to June 30, 2015, and 2016 in accordance with the compliance requirements of section 1 if article XII A of the California Constitution.
Business Services	10/1/14 Thru 6/30/15	Barg Coffin Lewis & Trapp LLP	\$30,000 General Fund	Increase existing \$20,000 contract to provide representation of Sheri Gamba in the investigation by the Securities and Exchange Commission.
Business Services	10/1/14 Thru 6/30/15	Ramsey & Ehrlich LLP	\$200,000 General Fund	Increase existing \$150,000 contract to cover additional representation of Charles Ramsey, Board President, towards the investigation by the Securities and Exchange Commission.
Business Services	11/12/14 Thru 6/30/15	F1 Discovery	\$16,000 General Fund	Increase existing \$13,750 contract to cover additional costs of professional expenses relating to data gathering, production and extended retention.
Business Services	8/1/14 Thru 6/30/15	Nixon Peabody LLP	\$205,000 General Fund	Increase existing \$30,000 contract to cover additional representation towards the investigation by the Securities and Exchange Commission.

West Contra Costa Unified School District  
1108 Bissell Avenue  
Richmond, California 94801  
Office of the Superintendent

**ITEM REQUIRING ATTENTION---BOARD OF EDUCATION**

**To:** Board of Education **Meeting Date:** December 3, 2014  
**From:** Lisa LeBlanc **Agenda Item:** F.7  
Associate Superintendent of Operations  
**Subject:** Approval of Additional Architectural Services

**Background Information:**

The District has retained WLC Architects (WLC) as the Architect of Record for the Pinole Valley High School Project. Pursuant to Facilities Subcommittee recommendation on November 18<sup>th</sup>, 2014, staff recommends additional services for Board approval. The services include 1.) adjustments for project program, square footage, and scope increases, and 2.) fees for extended project duration for multiple phases of the overall project.

**Recommendation:**

Approve additional Architectural Services for WLC Architects, Inc.

**Fiscal Impact:** Total for this action: \$7,538,881. Funding sources is Bond Fund.

DISPOSITION BY BOARD OF EDUCATION

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_  
Approved \_\_\_\_\_ Not Approved \_\_\_\_\_ Tabled \_\_\_\_\_



ARCHITECTS CLIENT FOCUSED. PASSION DRIVEN.

## ADDITIONAL SERVICES AUTHORIZATION

**PROJECT NAME:** Pinole Valley High School New Campus      **DATE:** September 11, 2014  
**REvised:** November 18, 2014  
**CLIENT:** West Contra Costa Unified School District      **WLC PROJECT No.:** 1019700.06  
**PH. No.:** ( 510 ) 307-4540      **FAX No.:** ( 510 ) 231-2406      **ASA No.:** 6

### ADDITIONAL SERVICES DESCRIPTION:

As construction of the Pinole Valley High School (PVHS) first phases move forward and the main campus is in DSA, it is appropriate at this time to adjust our fees to reflect the extended project schedule. We are also offering the District the option of enhanced construction administration services by proposing to place a WLC project manager on site full time for the main campus construction.

Pursuant to my discussion with Dr. Bruce Harter, Superintendent and Lisa LeBlanc, Associate Superintendent on November 13, 2014, I have revised ASA No. 6 to fall within industry standard percentages of professional service fees for projects of this size, duration and complexity.

#### 1. Extended Project Schedule:

WLC signed this contract in September 2010 and started work November 2010 with an expected completion date of all phases of construction in mid 2016, or approximately **5.5 year project duration** as per Exhibit C of our contract (Attachment 6). This intended schedule is corroborated by the March 10, 2010 Meeting Minutes, Item No. 1, the May 19, 2010 Meeting Minutes Item No. 2, and the October 2010 PVHS Master Plan presentation to the Pinole City Council (all in Attachment 7). All of these meetings were attended by District representatives including Bill Fay, Associate Superintendent, Operations WCCUSD; and the schedule was represented by Bill Savidge, District Engineering Officer. The original contract duration also did not anticipate the Detention Basin or Hillside Stabilization phases nor the current extended nature of the project schedule.

By early 2012 the schedule began to be extended. As per the PVHS schedule dated January 18, 2012 (Attachment 8) the temporary campus was to be occupied by August 26, 2013, and construction on the new buildings was to begin February 17, 2014 and completed July 14, 2016. We are now a year behind the original schedule. At that point the last phase of construction was to be completed by December 2017, or an approximate **seven (7) year project duration**, extending the schedule two years.

Based on the most recent October 2013 schedule (Attachment 9), which we understand was heavily influenced by the bond program cash flow, the temporary campus is scheduled to be occupied by August 2014, and construction on the new buildings is to begin in July 2015 and be completed August 2018. The final Field House and fields phase is not currently scheduled to complete construction until April 2020, for a nearly **ten (10) year project duration**, which no one could have anticipated at the outset of the contract.

Please refer to the PVHS Project Schedule Comparison (Attachment 10) to see the detailed comparison between the original phases and project duration and the current phasing and project duration. What this schedule shows is that the WLC team, including consultants, is involved in multiple phase activities providing services to WCCUSD continuously for ten years to successfully complete the new PVHS project. It also shows the additional phases, subphases, and their durations. This schedule clearly shows the significant additional time and effort necessary to finish this project.

The additional four years of project duration shown in the most recent schedule, with no suspension of continuous services, has had and will continue to have a significant impact on our work effort, our consultants' work effort, and the fee expenditure, which needs to be compensated for. There is also a significant additional cost of living increase over this period of time (3% per year x 10 years = 30%), not accounted for in our contract.

WLC is requesting compensation of \$3,230,327.00 for the four years of the extended project schedule, and we are only including our key staff in the calculation. I have provided a summary fee calculation below.

<b>4-Year Extended Project Duration Calculation Summary</b>	<b>Months</b>	<b>Fees</b>
Phase 1: Detention Basin, Utilities, and Paving	7	\$ 400,410
Phase 2: Interim Campus	7	503,414
Phase 3: Demolition and Hillside Stabilization	10	410,897
Phase 4: Pinole Valley High School New Campus	16	1,441,529
Phase 5: Interim Campus Demolition	2	86,724
Phase 6: Athletic Fields, Fieldhouse, and Bleachers	6	387,353
<b>Additional Fees</b>	<b>48</b>	<b>\$ 3,230,327</b>

**2. Full Time On-Site Construction Administration Services:**

Based on Board precedent of recent projects such as Gompers Continuation and Portola Middle School and the multiphase, very complex and extended nature of the PVHS project, we recommend full time on-site Construction Administration services by a WLC Project Manager for the duration of the main campus, interim campus demolition, and athletic fields phase construction periods. A line item for this additional service has been included for your consideration. The calculation below includes 59 months of full time CA services (based on the current October 2013 Schedule) for three phases of continuous construction, **reduced by 25% to account for CA fees already included in our fee calculation.**

<b>Full Time On-Site Construction Administration Fee Calculation</b>	<b>Subtotal @ 75%</b>
Phase 4: PVHS New Campus	\$ 519,280
Phase 5: Interim Campus Demolition	54,661
Phase 6: Athletic Fields, Field House and Bleachers	232,310
<b>Total</b>	<b>\$ 806,251</b>

Additional Services Authorization 6  
 Pinole Valley High School New Campus  
 Project 1019700.06  
 September 11, 2014  
 Revised November 18, 2014  
 Page 3

**FEE SCHEDULE:**

		<b>Fees</b>
Current Fee Based on Construction Cost of:	\$ 84,641,487	\$ 8,586,140
Current Fee Includes Amendments 1, 2, and 3		
Fee Increase Based on a Construction Cost of:	118,660,000	2,858,621
Construction Cost Agreed to per ASA 3, dated 9/10/2012		
Fee Increase Based on a Construction Cost of:	134,375,168	1,449,933
Construction Cost Confirmed at 2/11/2014 Facilities Subcommittee		
<b>1. Approved ASA #5 Dated March 10, 2014, CA, Bidding, Closeout, and Scope Fee Increase</b>		<b>\$ 4,308,554</b>
<b>Total Revised Base Compensation (Includes Amendments 1, 2, and 3)</b>		<b>12,894,694</b>
<b>2. Extended Project Schedule: 4 Years</b>		<b>\$ 3,230,327</b>
<b>3. Full Time On-Site Construction Administration Fee: 59 Months</b>		<b>806,251</b>
<b>Subtotal Additional Fees</b>		<b>\$ 4,036,578</b>
<b>Total Revised Fee</b>		<b>\$ 16,931,272</b>

**ADDITIONAL SERVICES APPROVAL**

**Please sign and return:**

Acceptance copy of this service authorization **MUST BE** returned prior to commencement of work.

**SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**PRINT NAME:** Lisa LaBlanc **CLIENT P.O./PROJECT No.:** \_\_\_\_\_

**FROM:**  \_\_\_\_\_, WLC Architects, Inc.  
 KEVIN A. MacQUARRIE  
 Architect, AIA  
 Vice President, Principal

**ACKNOWLEDGEMENT COPY – PLEASE SIGN AND RETURN**

cc: Juan L. Garrahan, Deputy Program Manager, SGI Construction Management  
 Keith Holtslander, Director of Facilities and Construction, West Contra Costa Unified School District  
 Nanette K. Piccini, Director, Accounting, Associate, WLC Architects, Inc.  
 Pat Rose-Cluster, Office Manager, WLC Architects, Inc.

KAM:dr / P01019700x6R-asa

West Contra Costa Unified School District  
1108 Bissell Avenue  
Richmond, California 94801  
Office of the Superintendent

**ITEM REQUIRING ATTENTION---BOARD OF EDUCATION**

**To:** Board of Education **Meeting Date:** December 3, 2014  
**From:** Kenneth L. Whittemore,   
Assistant Superintendent Human Resources **Agenda Item:** F.8  
**Subject:** Presentation of the Initial Bargaining Proposal from West Contra Costa Unified School District to the United Teachers of Richmond (UTR)

**Background Information:**

Pursuant to the Educational Employment Relations Act, the initial proposal for negotiations by school districts and labor unions must be submitted at a public meeting of the governing board. The initial proposal of the West Contra Costa Unified School District to the United Teachers of Richmond is presented tonight as an information item. At the next regularly scheduled board meeting this item will come back for public hearing and adoption by the Board of Education.

**Negotiations proposal:**

The current duration for the bargaining unit agreement between the two parties concludes on June 30, 2015. The District shall meet and bargain on all contractual Articles 1-52 with UTR to produce a successor agreement to the current contract.

**Recommendation:** The Board of Education receive the initial bargaining proposal to the United Teachers of Richmond (UTR) as an information item.

**Fiscal Impact:** To be determined

DISPOSITION BY BOARD OF EDUCATION

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_  
Approved \_\_\_\_\_ Not Approved \_\_\_\_\_ Tabled \_\_\_\_\_

West Contra Costa Unified School District  
1108 Bissell Avenue  
Richmond, California 94801  
Office of the Superintendent

**ITEM REQUIRING ATTENTION----BOARD OF EDUCATION**

**To:** Board of Education

**Meeting Date:** December 3, 2014

**From:** Kenneth L. Whittemore *(KW)*  
Assistant Superintendent Human Resources

**Agenda Item:** F.9

**Subject:** Initial Bargaining Proposal from United Teachers of Richmond (UTR) to the West Contra Costa Unified School District

**Background Information:**

Pursuant to the Educational Employment Relations Act, the initial proposal for negotiations by school districts and labor unions must be submitted at a public meeting of the governing board. The initial proposal from the United Teachers of Richmond (UTR) to the West Contra Costa Unified School District is presented tonight as an information item. At the next regularly scheduled board meeting this item will come back for public hearing and adoption by the Board of Education.

**Negotiations proposal:**

The United Teachers of Richmond would like to sunshine the agreement between West Contra Costa Unified School District and the United Teachers of Richmond's CBA Contractual Bargaining Agreement for July 1, 2015 through June 30, 2018 in its' entirety, to meet and negotiate a good faith successor agreement.

**Recommendation:** The Board of Education receive the initial bargaining proposal for labor negotiations with the United Teachers of Richmond.

**Fiscal Impact:** To be determined

**DISPOSITION BY BOARD OF EDUCATION**

Motion by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Approved \_\_\_\_\_

Not Approved \_\_\_\_\_

Tabled \_\_\_\_\_

West Contra Costa Unified School District  
1108 Bissell Avenue  
Richmond, California 94801  
Office of the Superintendent

**ITEM REQUIRING ATTENTION----BOARD OF EDUCATION**

**To:** Board of Education **Meeting Date:** December 3, 2014  
**From:** Kenneth L. Whittemore **Agenda Item:** F.10  
Assistant Superintendent Human Resources  
**Subject:** Joint Initial Bargaining Proposal – with West Contra Costa Unified School District and West Contra Costa Administrators Association (WCCAA)

**Background Information:** Pursuant to the Educational Employment Relations Act, the initial proposal for negotiations by school districts and labor unions must be submitted at a public meeting of the governing board. The joint initial proposal of West Contra Costa Administrators Associate (WCCAA) and West Contra Costa Unified School District is presented tonight as an information item. At the next regularly scheduled board meeting this item will come back for public hearing and adoption by the Board of Education.

**Negotiations Proposal:**

The current duration for the bargaining unit agreement between the two parties concludes on June 30, 2015. The parties through the interest based process agree to negotiate on the following Articles:

- Article 1: Agreement
- Article 2: Recognition
- Article 3: Salary
- Article 8: Leaves
- Article 11: Filling Bargaining Unit Vacancies
- Article 12: Benefits
- Article 13: Transfer
- Article 15: Evaluation
- Article 16: Reduced Work Year
- Article 20: Discipline
- Article 21: Safety
- Article 22: Work Days/Years
- Article 23: End of Year Release/Reassignments of Certificated Administrators
- New Articles
- Article 25: Professional Development
- Article 26: Threshold to Determine Need for Additional Support

**Recommendation:** The Board of Education receive the joint initial bargaining proposal for labor negotiations with the West Contra Costa Administrators Association.

**Fiscal Impact:** To be determined

**DISPOSITION BY BOARD OF EDUCATION**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved \_\_\_\_\_ Not Approved \_\_\_\_\_ Tabled \_\_\_\_\_

West Contra Costa Unified School District  
1108 Bissell Avenue  
Richmond, California 94801  
Office of the Superintendent

**ITEM REQUIRING ATTENTION---BOARD OF EDUCATION**

**To:** Board of Education

**Meeting Date:** December 3, 2014

**From:** Bruce Harter  
Superintendent

**Agenda Item:** F.11

**Subject:** Resolution 42-1415: In Support of Richmond Plan to Keep Doctors Medical Center Open

**Background Information:**

The City of Richmond is seeking support for a plan that would help keep Doctors Medical Center open.

**Recommendation:**

That the Board consider the resolution

**Fiscal Impact:** No Financial Impact for the District

**DISPOSITION BY BOARD OF EDUCATION**

Motion by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Approved \_\_\_\_\_

Not Approved \_\_\_\_\_

Tabled \_\_\_\_\_

RESOLUTION NO. 42-1415

RESOLUTION OF THE WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT IN SUPPORT OF THE PROPOSED "5 by 8" SHARED COMMITMENT PLAN TO KEEP DOCTORS MEDICAL CENTER OPEN AND RESTORE EMERGENCY DEPARTMENT SERVICES AND TO PROVIDE HEALTH CARE SERVICES TO ALL RESIDENTS OF WEST CONTRA COSTA COUNTY

WHEREAS, all residents should have the opportunity to make choices that allow them to live a long, healthy life, regardless of their job, neighborhood of residence, level of education, immigration status, sexual orientation, or ethnic background; and,

WHEREAS, health is not simply the absence of disease, health starts where we live, learn, work and play, and everyday decisions can promote greater health and equity. Good health enhances quality of life, improves workforce productivity, increases the capacity for learning, strengthens families and communities, supports environmental sustainability and helps reduce overall economic and social insecurity; and,

WHEREAS, in developing strategies to address health disparities, it is important to recognize that promoting equity is not just about providing more services. It is also about how services are developed, prioritized and delivered; and,

WHEREAS, West Contra Costa County residents suffer significant health disparities such as cardiovascular disease, asthma, and respiratory illnesses in the county; and,

WHEREAS, access to health care should include hospital care and outpatient care equal to all other areas of the county; and,

WHEREAS, access to health care in West Contra Costa County should be accessible to all; and,

WHEREAS, at the moment, West Contra Costa County is disproportionately lacking in health care providers compared to other areas of Contra Costa County; and,

WHEREAS, Doctors Medical Center (DMC) is the only public, safety-net hospital in West Contra Costa County; and,

WHEREAS, the future of DMC, and its life saving services may soon be terminated; and,

WHEREAS, should DMC close, residents would need to travel to other hospitals in the region to receive medical care, such travel would cause adverse health impacts and financial hardship for many of our residents; and,

WHEREAS, the closure of DMC would put a significant strain on the Kaiser Permanente Richmond Medical Center; the Kaiser facility would be negatively impacted due to the influx of non-Kaiser member patients; and,

WHEREAS, DMC serves thousands of patients from all over the region, and also cares for victims of all industrial accidents within the immediate area; and,

WHEREAS, the DMC Emergency Room serves more than 40,000 people each year, many of whom are residually uninsured and have nowhere else to go for medical care in an emergency; and,

WHEREAS, the proposed "5 by 8" Shared Commitment Plan relies on contributions from other East Bay hospitals, local government, industry, DMC employee groups, and West Contra Costa Healthcare District taxpayers;

NOW, THEREFORE, BE IT RESOLVED that the Board of Education of the West Contra Costa Unified School District supports the "5 by 8" Shared Commitment Plan set forth by DMC to provide full service hospital services to all residents of West Contra Costa County.

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the Board of Education of the West Contra Costa Unified School District at a regular meeting held on December 3, 2014, by the following vote:

AYES

NOES:

ABSTENTIONS:

ABSENT:

---

Todd Groves  
Clerk, Board of Education