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

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.

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.

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.

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.

“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.


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.

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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.


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).

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,
Deliver 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 where 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, “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 waivered 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
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:

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

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:

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

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.


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.)


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.


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

*C* **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

*C* **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
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.
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 Whittemore, 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 3rd 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, Tomas 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 27th 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.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, C.22 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 rational 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 contacts 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 21st 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
ITEM REQUIRING ATTENTION----BOARD OF EDUCATION

To: Board of Education  
Meeting Date: December 3, 2014

From: Sheri Gamba  
Agenda Item: CI  C.1
Associate Superintendent Business Services

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

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Fiscal Impact: As noted per grants summary.

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<tbody>
<tr>
<td>CPA - Health Sports Medicine Academy (9009) at DAHS</td>
<td>$62,820</td>
<td>California Department of Education - Career and College Transition Division</td>
<td>Funding for the Health Sports Medicine Academy at De Anza High School</td>
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<tr>
<td>Resource # 6385</td>
<td>7/1/14 - 6/30/16</td>
<td>PCA # 25220-01</td>
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<tr>
<td>CPA - Information Technology Academy (ITA) at DAHS</td>
<td>$62,820</td>
<td>California Department of Education - Career and College Transition Division</td>
<td>Funding for the Information Technology Academy (ITA) at De Anza High School</td>
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<tr>
<td>Resource # 6385</td>
<td>7/1/14 - 6/30/16</td>
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<tr>
<td>CPA - Information Technology at ECHS</td>
<td>$62,820</td>
<td>California Department of Education - Career and College Transition Division</td>
<td>Funding for the Information Technology Academy at El Cerrito High School</td>
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<td>CPA - Media Academy at ECH</td>
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<td>Funding for the Media Academy at El Cerrito High School</td>
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<td>CPA - Hospitality and International Tourism Industry at HHS</td>
<td>$62,820</td>
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<td>Funding for the Academy of Hospitality &amp; International Tourism Industry at Hercules H.S.</td>
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<td>7/1/14 - 6/30/16</td>
<td>PCA # 25220-05</td>
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<td>CPA - School Law and Social Justice Academy at KHS</td>
<td>$41,880</td>
<td>California Department of Education - Career and College Transition Division</td>
<td>Funding for the School Law and Social Justice Academy at Kennedy High School</td>
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<td>7/1/14 - 6/30/16</td>
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<tr>
<td>Project Name</td>
<td>Project Amount for Budget Period</td>
<td>Funding Agency</td>
<td>Comments</td>
</tr>
<tr>
<td>--------------------------------------------------</td>
<td>---------------------------------</td>
<td>----------------------------------------------------</td>
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<td>CPA - Information Technology Academy at KHS</td>
<td>$62,820</td>
<td>California Department of Education - Career and College Transition Division</td>
<td>Funding for the Information Technology Academy at Kennedy High School</td>
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<td>CPA - Law and Justice Academy at PVHS</td>
<td>$62,820</td>
<td>California Department of Education - Career and College Transition Division</td>
<td>Funding for the Law and Justice Academy at Pinole Valley High School</td>
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<td>7/1/14 - 6/30/16</td>
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<td>CPA - Visual and Performing Arts Academy at PVHS</td>
<td>$62,820</td>
<td>California Department of Education - Career and College Transition Division</td>
<td>Funding for the Visual and Performing Arts Academy at Pinole Valley High School</td>
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<td>Resource # 6385</td>
<td>7/1/14 - 6/30/16</td>
<td>PCA # 25220-10</td>
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<tr>
<td>CPA - Law Academy at RHS</td>
<td>$62,820</td>
<td>California Department of Education - Career and College Transition Division</td>
<td>Funding for the Law Academy at Richmond High School</td>
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<td>Resource # 6385</td>
<td>7/1/14 - 6/30/16</td>
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<tr>
<td>CPA - Creative and Performing Arts Academy (CAPA) at RHS</td>
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<td>California Department of Education - Career and College Transition Division</td>
<td>Funding for the Creative and Performing Arts Academy at Richmond High School</td>
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<td>Resource # 6385</td>
<td>7/1/14 - 6/30/16</td>
<td>PCA # 25220-12</td>
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<tr>
<td>CPA - Health Academy at PVHS</td>
<td>$62,820</td>
<td>California Department of Education - Career and College Transition Division</td>
<td>Funding for the Health Academy at Pinole Valley High School</td>
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<tr>
<td>Resource # 6385</td>
<td>7/1/14 - 6/30/16</td>
<td>PCA # 25220-13</td>
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</table>
## GRANT / AWARD / AGREEMENT NOTIFICATIONS

<table>
<thead>
<tr>
<th>Project Name</th>
<th>Project Amount for Budget Period</th>
<th>Funding Agency</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apple ConnectEd Program Grant at</td>
<td>$0</td>
<td>Apple Inc.</td>
<td>This is a no cost Grant at Stege</td>
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<tr>
<td>Stege Elementary</td>
<td></td>
<td></td>
<td>Apple will provide a document listing the fair market value after</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>that has been determined.</td>
</tr>
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</table>
ITEM REQUIRING ATTENTION----BOARD OF EDUCATION

To: Board of Education  

Meeting Date: December 3, 2014

From: Sheri Gamba  

Agenda Item: CI C.2

Associate Superintendent Business Services

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

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

*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

From: Sheri Gamba
Associate Superintendent Business Services

Meeting Date: December 3, 2014
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________________________

Précis Form
## APPROVAL OF FUND-RAISERS

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

From: Sheri Gamba
Associate Superintendent Business Services

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
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 11th 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
ITEM REQUIRING ATTENTION----BOARD OF EDUCATION

To: Board of Education

From: Kenneth L. Whittemore, Assistant Superintendent Human Resources

Subject: Routine Personnel Changes – Classified

Meeting Date: December 3, 2014

Agenda Item: CI C.5

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 ____________
### Promotions

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

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<tbody>
<tr>
<td>Melero</td>
<td>Sylvia</td>
<td>Special Education Assistant</td>
<td>Shannon Elementary</td>
<td>10/1/2014</td>
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<tr>
<td>Molden</td>
<td>Kendra</td>
<td>Special Education Assistant</td>
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<td>9/23/2014</td>
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### Resignations

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<th>School</th>
<th>Date</th>
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</thead>
<tbody>
<tr>
<td>Jones</td>
<td>Nichole</td>
<td>Instructional Assistant Special Ed.</td>
<td>North Campus</td>
<td>10/10/2014</td>
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<tr>
<td>Palacios</td>
<td>Jessica</td>
<td>Graduate Tutor</td>
<td>Chavez Elementary</td>
<td>10/24/2014</td>
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<tr>
<td>Wright</td>
<td>Sharon</td>
<td>Instructional Assistant Special Ed.</td>
<td>Peres Elementary</td>
<td>10/15/2014</td>
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### Terminations - Job Abandonment

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<tr>
<th>Name</th>
<th>First Name</th>
<th>Position</th>
<th>School</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Viveros-Gonzalez</td>
<td>Ruben</td>
<td>Instructional Assistant Special Ed.</td>
<td>De Anza High</td>
<td>9/11/2014</td>
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</table>
ITEM REQUIRING ATTENTION-----BOARD OF EDUCATION

To: Board of Education  
From: Bruce Harter  
       Superintendent  

Meeting Date: December 3, 2014  
Agenda Item: CI C.6  

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 .............................

dh
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

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DISPOSITION BY BOARD OF EDUCATION

Motion by: ___________________________  Seconded by: ___________________________

Approved _____________  Not Approved _____________  Tabled ____________

dh
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
ITEM REQUIRING ATTENTION—BOARD OF EDUCATION

To: Board of Education

From: Bruce Harter
Superintendent

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

Meeting Date: December 3, 2014

Agenda Item: D.2

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

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DISPOSITION BY BOARD OF EDUCATION

Motion by: __________________________  Seconded by: __________________________

Approved ____________  Not Approved _______________  Tabled ________

dh
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
ITEM REQUIRING ATTENTION----BOARD OF EDUCATION

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

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DISPOSITION BY BOARD OF EDUCATION

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

From: Bruce Harter
Superintendent

Meeting Date: December 3, 2014

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

Resolution No. 43-1415
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

Resolution No. 43-1415
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.

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

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

Subject: Aspire Richmond Technology Academy Charter School Staff and Counsel Findings of Fact, and Board Decision.

Meeting Date: December 3, 2014
Agenda Item: F.3

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.


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,

[Deliver 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 to 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: 

Resolution No. 47-1415
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

To:     Board of Education                         Meeting Date: December 3, 2014
From:   Wendell C. Greer                              Agenda Item: F.4
         Associate Superintendent, K-Adult Operations

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.


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 remedy 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, § 5494.3, 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,

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

(Gov. Code, § 5496, 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 where 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.

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**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: 

Resolution No 48-1415
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
ITEM REQUIRING ATTENTION----BOARD OF EDUCATION

To:        Board of Education

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

Meeting Date: December 3, 2014

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:

<table>
<thead>
<tr>
<th>Oakland Charter Academy</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>School Year</strong></td>
<td><strong>% of Latino or Hispanic Students of Total Enrollment</strong></td>
</tr>
<tr>
<td>2009-10</td>
<td>91.2</td>
</tr>
<tr>
<td>2010-11</td>
<td>91.0</td>
</tr>
<tr>
<td>2011-12</td>
<td>89.0</td>
</tr>
<tr>
<td>2012-13</td>
<td>68.9</td>
</tr>
<tr>
<td>2013-14</td>
<td>41.1</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Oakland Charter High School</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>School Year</strong></td>
<td><strong>% of Latino or Hispanic Students of Total Enrollment</strong></td>
</tr>
<tr>
<td>2009-10</td>
<td>73.9</td>
</tr>
<tr>
<td>2010-11</td>
<td>70.2</td>
</tr>
<tr>
<td>2011-12</td>
<td>60.8</td>
</tr>
<tr>
<td>2012-13</td>
<td>61.3</td>
</tr>
<tr>
<td>2013-14</td>
<td>50</td>
</tr>
</tbody>
</table>

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:

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

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

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.


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.

{SR147949}
• 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.

<table>
<thead>
<tr>
<th>DISPOSITION BY BOARD OF EDUCATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motion by: ______________________</td>
</tr>
<tr>
<td>Seconded by: ____________________</td>
</tr>
<tr>
<td>Approved _____________</td>
</tr>
</tbody>
</table>

(SR147949)
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: ________

Resolution No. 46-1415
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
ITEM REQUIRING ATTENTION----BOARD OF EDUCATION

To: Board of Education

Meeting Date: December 3, 2014

From: Sheri Gamba
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

DISPOSITION BY BOARD OF EDUCATION

Motion by: ___________________________ Seconded by: ___________________________

Approved ______________ Not Approved ______________ Tabled ______________

PrecisForm
The following contracts are recommended for approval.

<table>
<thead>
<tr>
<th>DEPARTMENT</th>
<th>EFFECTIVE DATE</th>
<th>VENDOR NAME</th>
<th>COST &amp; FUNDING</th>
<th>PURPOSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Curriculum</td>
<td>7/1/14 Thru 6/30/15</td>
<td>Be A Mentor</td>
<td>$51,800 LCFF</td>
<td>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.</td>
</tr>
<tr>
<td>Business Services</td>
<td>10/1/14 Thru 6/30/15</td>
<td>Lozano Smith</td>
<td>$200,000 General Fund</td>
<td>Increase existing $30,000 contract to cover additional costs of professional expenses relating to general legal and Charter School matters.</td>
</tr>
<tr>
<td>Business Services</td>
<td>10/1/14 Thru 6/30/15</td>
<td>Nixon Peabody LLP</td>
<td>$145,000 Bond Fund</td>
<td>Representation to cover $85,000 for Bond MCDC and $60,000 for IRS Audit.</td>
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<tr>
<td>Special Ed</td>
<td>7/1/14 Thru 6/30/16</td>
<td>Contra Costa County Office of Education</td>
<td>$84,000 Medi-Cal SMAA</td>
<td>Coordination of School-Based Medi-Cal administrative activities program (SMAA) reimbursement for West Contra Costa Unified School District.</td>
</tr>
<tr>
<td>Business Services</td>
<td>11/10/14 Thru 6/30/14</td>
<td>Vavrinek Trine Day &amp; Company</td>
<td>$142,000 Bond Fund</td>
<td>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.</td>
</tr>
<tr>
<td>Business Services</td>
<td>10/1/14 Thru 6/30/15</td>
<td>Barg Coffin Lewis &amp; Trapp LLP</td>
<td>$30,000 General Fund</td>
<td>Increase existing $20,000 contract to provide representation of Sheri Gamba in the investigation by the Securities and Exchange Commission.</td>
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<tr>
<td>Business Services</td>
<td>10/1/14 Thru 6/30/15</td>
<td>Ramsey &amp; Ehrlich LLP</td>
<td>$200,000 General Fund</td>
<td>Increase existing $150,000 contract to cover additional representation of Charles Ramsey, Board President, towards the investigation by the Securities and Exchange Commission.</td>
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<tr>
<td>Business Services</td>
<td>11/12/14 Thru 6/30/15</td>
<td>F1 Discovery</td>
<td>$16,000 General Fund</td>
<td>Increase existing $13,750 contract to cover additional costs of professional expenses relating to data gathering, production and extended retention.</td>
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<tr>
<td>Business Services</td>
<td>8/1/14 Thru 6/30/15</td>
<td>Nixon Peabody LLP</td>
<td>$205,000 General Fund</td>
<td>Increase existing $30,000 contract to cover additional representation towards the investigation by the Securities and Exchange Commission.</td>
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</table>
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  
Associate Superintendent of Operations  
Agenda Item: F.7

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 18th, 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 _______________
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.

<table>
<thead>
<tr>
<th>4-Year Extended Project Duration Calculation Summary</th>
<th>Months</th>
<th>Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phase 1: Detention Basin, Utilities, and Paving</td>
<td>7</td>
<td>400,410</td>
</tr>
<tr>
<td>Phase 2: Interim Campus</td>
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<td>503,414</td>
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<tr>
<td>Phase 3: Demolition and Hillside Stabilization</td>
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<td>410,897</td>
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<td>Phase 4: Pinole Valley High School New Campus</td>
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<td>1,441,529</td>
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<tr>
<td>Phase 5: Interim Campus Demolition</td>
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<td>86,724</td>
</tr>
<tr>
<td>Phase 6: Athletic Fields, Fieldhouse, and Bleachers</td>
<td>6</td>
<td>387,353</td>
</tr>
</tbody>
</table>

**Additional Fees**

| 48 | $3,230,327 |

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**.

<table>
<thead>
<tr>
<th>Full Time On-Site Construction Administration Fee Calculation</th>
<th>Subtotal @ 75%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phase 4: PVHS New Campus</td>
<td>$519,280</td>
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<tr>
<td>Phase 5: Interim Campus Demolition</td>
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<tr>
<td>Phase 6: Athletic Fields, Field House and Bleachers</td>
<td>$232,310</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$806,251</strong></td>
</tr>
</tbody>
</table>
Additional Services Authorization 6  
Pinole Valley High School New Campus  
Project 1019700.06  
September 11, 2014  
Revised November 18, 2014  
Page 3

**FEE SCHEDULE:**

<table>
<thead>
<tr>
<th>Current Fee Based on Construction Cost of:</th>
<th>$84,641,487</th>
<th>$8,586,140</th>
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<tbody>
<tr>
<td>Current Fee Includes Amendments 1, 2, and 3</td>
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<tr>
<td>Fee Increase Based on a Construction Cost of:</td>
<td>118,660,000</td>
<td>2,858,621</td>
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<tr>
<td>Construction Cost Agreed to per ASA 3, dated 9/10/2012</td>
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<tr>
<td>Fee Increase Based on a Construction Cost of:</td>
<td>134,375,168</td>
<td>1,449,933</td>
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<tr>
<td>Construction Cost Confirmed at 2/11/2014 Facilities Subcommittee</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Approved ASA #5 Dated March 10, 2014, CA, Bidding, Closeout, and Scope Fee Increase</td>
<td></td>
<td>$4,308,554</td>
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</tbody>
</table>

**Total Revised Base Compensation (Includes Amendments 1, 2, and 3)**  
12,894,694

2. **Extended Project Schedule: 4 Years**  
$3,230,327

3. **Full Time On-Site Construction Administration Fee: 59 Months**  
$40,036,578

**Total Revised Fee**  
$16,931,272

**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:** KEVIN A. MacQUARRIE  **WLC Architects, Inc.**
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
ITEM REQUIRING ATTENTION—BOARD OF EDUCATION

To: Board of Education
From: Kenneth L. Whittemore Assistant Superintendent Human Resources
Subject: Presentation of the Initial Bargaining Proposal from West Contra Costa Unified School District to the United Teachers of Richmond (UTR)

Meeting Date: December 3, 2014
Agenda Item: F.8

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

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ITEM REQUIRING ATTENTION----BOARD OF EDUCATION

To: Board of Education

From: Kenneth L. Whittemore, Assistant Superintendent Human Resources

Meeting Date: December 3, 2014

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 ___________
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.10

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 ________

dh
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

Resolution No. 42-1415