

**RESOLUTION OF THE  
BOARD OF EDUCATION OF THE CHICO UNIFIED SCHOOL DISTRICT  
DENYING REQUEST TO RENEW THE CHARTER OF  
THE BLUE OAK SCHOOL**

WHEREAS, by enacting the Charter Schools Act (Ed. Code §§ 47600, *et seq.*), the Legislature has declared its intent to provide opportunities to teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure for the purposes specified therein; and

WHEREAS, the Legislature has declared its intent that charter schools are and should become an integral part of the California educational system and the establishment of charter schools should be encouraged, and that charter schools are part of and under the jurisdiction of the Public School System and the exclusive control of the officers of the public schools; and

WHEREAS, although charter schools are exempt from many of the laws governing school districts, in return for that flexibility, they are accountable for complying with the terms of their charters and applicable law; and

WHEREAS, Education Code §47605(b) charges school district and governing boards and county boards of education with the responsibility of reviewing charter petitions to determine whether they meet the legal requirements for a successful charter petition; and

WHEREAS, under Ed. Code §47607(a)(2), a school district evaluates a renewal petition under the same standards and criteria used to evaluate an initial petition to establish a charter school, and a renewal petition “shall include, but not be limited to, a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed”; and

WHEREAS, a successful charter petition must contain reasonably comprehensive descriptions of the criteria set forth in Education Code § 47605(b)(5)(A)-(O), as well as the affirmations and other requirements set forth in Education Code §47605; and

WHEREAS, a governing board may deny a petition to renew a charter if it makes written findings to support any of the following under Education Code § 47605(b): “(1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school; (2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition; (3) The petition does not contain an affirmation of each of the conditions described in subdivision [Education Code §§47605] (d); (4) The petition does not contain reasonably comprehensive descriptions of all of the [criteria set forth in Education Code §§47605(b)(5)(A)-(O)]; and (5) The petition does not contain a declaration of whether or not the charter school shall be deemed the exclusive public employer of the employees of the charter school for purposes of [Government Code § 3540 (the Rodda Act, the State’s collective bargaining law for school employees).]”

WHEREAS, under Ed. Code § 47607(b)(4)(A), a charter school is eligible for renewal if “[t]he entity that granted the charter determines that the academic performance of the charter school is at least equal to the academic performance of the public schools that the charter school pupils would otherwise have been required to attend, as well as the academic performance of the

schools in the school district in which the charter school is located, taking into account the composition of the pupil population that is served at the charter school”; and

WHEREAS, Education Code § 47607(a)(3)(A) requires that “[t]he authority that granted the charter shall consider increases in pupil academic achievement for all groups of pupils served by the charter school as the most important factor in determining whether to grant a charter renewal”; and

WHEREAS, 5 C.C.R. 11966.4(b)(1) also states that, “[w]hen considering a petition for renewal, the district governing board shall consider the past performance of the school's academics, finances, and operation in evaluating the likelihood of future success, along with future plans for improvement if any”; and

WHEREAS, under Education Code § 47607(a)(1), if the Board grants a renewal petition, “[e]ach renewal shall be for a period of five years;” and

WHEREAS, on or about January 23, 2013, the Governing Board of the Chico Unified School District granted a Petition to form the Blue Oak School (“Charter School”), for a term starting July 1, 2013 and ending June 30, 2018; and

WHEREAS, on or about January 17, 2018, the District’s Board of Education received a petition to renew the Charter School’s charter for a term beginning July 1, 2018 through June 30, 2018; and

WHEREAS, in compliance with Education Code §47605(b), the Board of Education held a public hearing on February 21, 2018 to determine the level of support for the renewal request; and

WHEREAS, the Board, under Education Code §47605(b), is obligated to take action to grant or deny the Petition within 60 days of its submission; and

WHEREAS, under Education Code §47605(b), the District and Petitioners agreed that the Board may have an additional thirty (30) days to grant or deny the Petition, up to and including April 4, 2018; and

WHEREAS, the Board will take action to grant or deny the request to renew the charter at its April 4, 2018 meeting.

NOW, THEREFORE, BE IT FURTHER RESOLVED AND ORDERED by the Board of Education of Chico Unified School District that the Petition to renew the Blue Oak School’s Charter is hereby DENIED on the following grounds:

1. The Petition Contains an Unsound Educational Program (Education Code § 47605(b)(1)).
2. Petitioners are Demonstrably Unlikely to Successfully Implement the Program Set Forth in the Petition (Education Code § 47605(b)(2)).
3. The Petition Fails to Contain a Reasonably Comprehensive Description of all 15 Required Elements set forth in Education Code § 47605(b). (Education Code § 47605(b)(5)(A)-(O)).

NOW, THEREFORE, BE IT FURTHER RESOLVED AND ORDERED by the Board of Education of the Chico Unified School District that the Board hereby adopts the following factual findings in support of its denial, contained in Appendix 1 to this Resolution.

PASSED AND ADOPTED on April 4, 2018, by the Board of Education of the Chico Unified School District by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENCES:

I declare under penalty of perjury that the foregoing resolution was duly passed and adopted on the date and by the vote stated.

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Secretary of the Board of Education  
CHICO UNIFIED SCHOOL DISTRICT

# APPENDIX 1

Following are the Board of Education's findings in support of its denial of the Petition:

### **RENEWAL-SPECIFIC LEGAL REQUIREMENTS**

Education Code section 47607(a) contains specific requirements applicable to renewal petitions:

(1) A charter may be granted pursuant to Sections 47605, 47605.5, and 47606 for a period not to exceed five years. A charter granted by a school district governing board, a county board of education, or the state board may be granted one or more subsequent renewals by that entity. Each renewal shall be for a period of five years...

... (2) Renewals and material revisions of charters are governed by the standards and criteria in Section 47605, and shall include, but not be limited to, a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed.

(3)(A) The authority that granted the charter shall consider increases in pupil academic achievement for all groups of pupils served by the charter school as the most important factor in determining whether to grant a charter renewal.

(B) For purposes of this section, "all groups of pupils served by the charter school" means a numerically significant pupil subgroup, as defined by paragraph (3) of subdivision (a) of Section 52052, served by the charter school.

*See. e.g.,* 5 C.C.R. 11966.4(b) also contains the following requirements:

(1) When considering a petition for renewal, the district governing board shall consider the past performance of the school's academics, finances, and operation in evaluating the likelihood of future success, along with future plans for improvement if any.

(2) The district governing board may deny a petition for renewal of a charter school only if the district governing board makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the grounds for denial set forth in Education Code section 47605(b) or facts to support a failure to meet one of the criteria set forth in Education Code section 47607(b).

#### **A. Eligibility for Renewal**

Under Ed. Code section 47607(b), a charter school must meet the following performance criteria in order to be eligible for or consideration for renewal:

Commencing on January 1, 2005, or after a charter school has been in operation for four years, whichever date occurs later, a charter school shall meet at least one of the following criteria before receiving a charter renewal pursuant to paragraph (1) of subdivision (a):

... [Obsolete provisions based on Academic Performance Index deleted.]

(4)(A) The entity that granted the charter determines that the academic

performance of the charter school is at least equal to the academic performance of the public schools that the charter school pupils would otherwise have been required to attend, as well as the academic performance of the schools in the school district in which the charter school is located, taking into account the composition of the pupil population that is served at the charter school.

Following is a breakdown of the pupil demographics at the Charter School and the District:

Demographics  
2016-2017

Academic Year	District Name	School Name	% Direct						Total Enrollment
			Cert.	% EL	% FRM	% Foster	Homeless	% Undupl.	
2016-2017	Chico Unified	Bidwell Junior High	24.59	6.5	46.8	1.1	1.6	49.1	976.0
		Blue Oak Charter	25.84	2.8	45.7	0.5	0.0	47.0	387.0
		Chico Junior High	29.06	10.1	50.2	1.0	0.9	52.7	812.0
		Emma Wilson Elementary	26.53	9.0	45.3	0.5	6.1	50.9	554.0
		Hooker Oak Elementary	25.79	0.9	44.3	0.9	0.6	44.7	318.0
		Marsh (Harry M.) Junior H..	16.15	3.9	31.6	0.9	3.0	33.8	867.0
		McManus (John A.) Eleme..	42.03	23.2	75.8	1.4	2.7	78.0	414.0
		Neal Dow Elementary	31.36	5.9	50.6	2.4	0.9	53.3	338.0
		Parkview Elementary	27.25	9.0	43.9	1.1	3.2	45.8	378.0

Data Source: CALPADS Unduplicated Pupil Count (UPC) Report 2016-2017 (Publicly Available)  
Data reflects Fall Census Day reporting.

While the Charter School identifies McManus, Emma Wilson, Rosedale and Bidwell as demographically similar schools (Petition, pp. 9-10), based on the demographic data set forth above, Neal Dow, Emma Wilson, Parkview and Hooker Oak appear to be the more appropriate comparison schools.

The District conducted an analysis of the Charter School’s academic performance, compared to that of District comparison schools, broken down by grade level, by subgroups at each grade level, and by subgroups schoolwide, for both English/Language Arts and Math.

The denominator used in the chart below represents the total number of separate student sub-cohorts for the particular combination of schools, grades and pupil subgroups represented in the cell in question. For example, for Nos. 5 and 6, the total of 24 cohorts is reached by multiplying the number of District comparison schools (4) by the number of pupil subgroups represented at each school (2) by the number of separate grade levels (3).

The numerator used in the chart represents the number of cohorts in which each entity (CUSD v. Charter School) fared better on the CAASPP test. For example, on Line 5 below, the District scored better in 24 of 24 possible cohorts on English/Language Arts, and 22 of 24 cohorts in math.

Across the board, the District scored higher than the Charter School in a higher number of cohorts, when disaggregated by pupil subgroup and grade level. In some areas, such as middle school Mathematics, and middle school English/Language Arts disaggregated by subgroups, the gap between the Charter School’s performance and that of District schools is narrower. However, it cannot be concluded that the Charter School’s performance was at least equal to the District schools with comparable pupil demographics.

Subject/Grade Level	CUSD	Blue Oak
1) ELA/Elementary/by Grade	12/12	0/12
2) Math/Elementary/by Grade	12/12	0/12

3) ELA/Middle School/by Grade	5/9	4/9
4) Math/Middle School/by Grade	5/9	4/9
5) ELA/Elementary/Subgroups by Grade	24/24	0/24
6) Math/Elementary/Subgroups by Grade	22/24	2/24
7) ELA/Middle School/Subgroups by Grade	10/18	8/18
8) Math/Middle School/Subgroups by Grade	14/18	4/18
9) ELA/Elementary/Subgroups Schoolwide	33/35	2/35
10) Math/Elementary/ Subgroups Schoolwide	32/35	3/35

(See, **Exhibit A** for underlying data.)

### **B. Review of Charter School’s Increases in Pupil Performance by Pupil Subgroups**

Using the standard set forth in Education Code section 47607(a)(3)(A), which requires the District to “consider increases in pupil academic achievement for all groups of pupils served by the charter school as the most important factor in determining whether to grant a charter renewal,” the Charter School demonstrated isolated instances of growth, but not sustained, across-the-board growth, when its performance on the CAASPP is disaggregated by applicable pupil subgroups (Hispanic/Latino and Socio-Economically Disadvantaged.) While pupil performance improved between the first and second year, it tended to decline between the second and third year, with the notable exception of Hispanic/Latino English/Language Arts (4<sup>th</sup> and 5<sup>th</sup> Grade)\*, Socio-Economically Disadvantaged Mathematics (5<sup>th</sup> , 6<sup>th</sup> and 7<sup>th</sup> Grades)\*\*, and Socio-Economically Disadvantaged English/Language Arts (6<sup>th</sup> , 7<sup>th</sup> and 8<sup>th</sup> Grades).\*\*\*

#### Hispanic/Latino, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Grades:

English Language Arts – (2015-2017)			
Hispanic/Latino			
	3rd (2015)	4 <sup>th</sup> (2016)	5 <sup>th</sup> (2017)
Standard Exceeded: Level 4	8%	18%	0%
Standard Met: Level 3	8%	9%	35.71%
Standard Nearly Met: Level 2	8%	45%	35.71%
Standard Not Met: Level 1	75%	27%	28.57%
Level 4 + Level 3	<b>16%</b>	<b>27%</b>	<b>35.71%*</b>

Mathematics – (2015-2017)			
Hispanic/Latino			
	3rd (2015)	4 <sup>th</sup> (2016)	5 <sup>th</sup> (2017)
Standard Exceeded: Level 4	0%	17%	7.14%
Standard Met: Level 3	17%	8%	7.14%
Standard Nearly Met: Level 2	25%	58%	42.86%
Standard Not Met: Level 1	58%	17%	42.86%
Level 4 + Level 3	<b>17%</b>	<b>25%</b>	<b>14.28%</b>

Socio-Economically Disadvantaged, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Grades

English Language Arts – (2015-2017)			
Socio-Economically Disadvantaged Students			
	3rd (2015)	4 <sup>th</sup> (2016)	5 <sup>th</sup> (2017)
Standard Exceeded: Level 4	7%	14%	7.69%
Standard Met: Level 3	7%	21%	19.23%
Standard Nearly Met: Level 2	18%	14%	26.92%
Standard Not Met: Level 1	68%	50%	46.15%
Level 4 + Level 3	<b>14%</b>	<b>35%</b>	<b>26.92%</b>

Mathematics – (2015-2017)			
Socio-Economically Disadvantaged Students			
	3rd (2015)	4 <sup>th</sup> (2016)	5 <sup>th</sup> (2017)
Standard Exceeded: Level 4	4%	21%	14.81%
Standard Met: Level 3	14%	10%	3.70%
Standard Nearly Met: Level 2	18%	48%	29.63%
Standard Not Met: Level 1	64%	21%	51.85%
Level 4 + Level 3	<b>18%</b>	<b>31%</b>	<b>18.51%</b>

Socio-Economically Disadvantaged, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Grades

English Language Arts – (2015-2017)			
Socio-Economically Disadvantaged Students			
	4 <sup>th</sup> (2015)	5 <sup>th</sup> (2016)	6 <sup>th</sup> (2017)
Standard Exceeded: Level 4	9%	21%	0%
Standard Met: Level 3	5%	21%	25.00%
Standard Nearly Met: Level 2	27%	16%	33.33%
Standard Not Met: Level 1	59%	42%	41.67%
Level 4 + Level 3	<b>14%</b>	<b>42%</b>	<b>25%</b>

Mathematics – (2015-2017)			
Socio-Economically Disadvantaged Students			
	4 <sup>th</sup> (2015)	5 <sup>th</sup> (2016)	6 <sup>th</sup> (2017)
Standard Exceeded: Level 4	9%	17%	9.09%
Standard Met: Level 3	17%	17%	18.18%
Standard Nearly Met: Level 2	43%	39%	36.36%
Standard Not Met: Level 1	30%	28%	36.36%
Level 4 + Level 3	<b>26%</b>	<b>34%</b>	<b>27.27%</b>



Socio-Economically Disadvantaged, 5<sup>th</sup>, 6<sup>th</sup> and 7th Grades

English Language Arts – (2015-2017)			
Socio-Economically Disadvantaged Students			
	5 <sup>th</sup> (2015)	6 <sup>th</sup> (2016)	7 <sup>th</sup> (2017)
Standard Exceeded: Level 4	9%	9%	8.33%
Standard Met: Level 3	22%	30%	25.00%
Standard Nearly Met: Level 2	13%	26%	25.00%
Standard Not Met: Level 1	57%	35%	41.67%
Level 4 + Level 3	<b>31%</b>	<b>39%</b>	<b>33.33%</b>

Mathematics – (2015-2017)			
Socio-Economically Disadvantaged Students			
	5 <sup>th</sup> (2015)	6 <sup>th</sup> (2016)	7 <sup>th</sup> (2017)
Standard Exceeded: Level 4	4	4	0.00
Standard Met: Level 3	9	9	18.18
Standard Nearly Met: Level 2	22	39	27.27
Standard Not Met: Level 1	65	48	54.55
Level 4 + Level 3	<b>13</b>	<b>13</b>	<b>18.18**</b>

Socio-Economically Disadvantaged, 6<sup>th</sup>, 7<sup>th</sup> and 8th Grades

English Language Arts – (2015-2017)			
Socio-Economically Disadvantaged Students			
	6 <sup>th</sup> (2015)	7 <sup>th</sup> (2016)	8 <sup>th</sup> (2017)
Standard Exceeded: Level 4	3%	7%	6.67%
Standard Met: Level 3	24%	25%	26.67%
Standard Nearly Met: Level 2	42%	36%	40.00%
Standard Not Met: Level 1	30%	32%	26.67%
Level 4 + Level 3	<b>27%</b>	<b>32%</b>	<b>33.33%***</b>

Mathematics – (2015-2017)			
Socio-Economically Disadvantaged Students			
	6 <sup>th</sup> (2015)	7 <sup>th</sup> (2016)	8 <sup>th</sup> (2017)
Standard Exceeded: Level 4	9%	11%	20.00%
Standard Met: Level 3	12%	26%	0.00%
Standard Nearly Met: Level 2	33%	48%	33.33%
Standard Not Met: Level 1	45%	15%	46.67%
Level 4 + Level 3	<b>21%</b>	<b>37%</b>	<b>20%</b>

**ELEMENT A: EDUCATIONAL PROGRAM**

*Education Code §47605(b)(5)(i) requires a charter petition to contain a reasonably comprehensive description of “the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an*

*‘educated person’ in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.”*

*The regulations require the educational program description to include a framework for instructional design that is aligned with the needs of the target student population, as well as descriptions of the following: the basic learning environment, and the instructional approach, including the curriculum and teaching methods that will enable the school’s students to master the content standards for the core curriculum areas and to achieve objectives specified in the charter. (Cal. Code Regs., tit. 5, §11967.5.1(f)(1).) The regulations further require an explanation of how the charter school will identify and respond to the needs of students who are not achieving at or above expected grade levels, how the charter school will meet the needs of students with disabilities, English learners, students achieving substantially above, or below grade level expectations, and other special populations, and the charter school’s special education plan. (Ibid.)*

Analysis:

1. Educational Program of the School

The Renewal Petition contains a description of the Charter School’s Waldorf-inspired educational program on pp. 33-47. The Petition provides an executive summary of the core subject matters of instruction in Kindergarten through Eighth Grade (Renewal Petition, pp. 33-36), as well as of specialty programs in reading, math, foreign language, physical education, engineering, art and music.

2. Target Student Population

Education Code §47605(b)(5)(G) requires a petition to contain a reasonably comprehensive description of “[t]he means by which the charter school will achieve a racial and ethnic balance among its students that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.” The Petition must also describe the “specific educational interests, backgrounds or challenges” of its target student population (5 C.C.R. § 11967.5.1(f)(1)(A).)

The Charter School’s demographic profile is contained on p. 13. According to the data, of the Charter School’s most populous subgroups, its population of Hispanic or Latino and Asian students, falls below District averages, while its percentage of African American and White students exceeds that of the District. (Renewal Petition, p. 13)

The Petition’s description of “Whom the School Intends to Educate” is contained on p. 14.

3. Framework for Instructional Design

The Charter School summarizes the core components of its instructional design on pp. 17-20. It summarizes its age-specific instructional approaches for Kindergarten through Eighth Grade, based upon “the evolution of consciousness of the human being,” on pp. 21-32. For example, children in the early primary grades are “guided by a dreamy sense of wholeness that encircles them,” until Second Grade, when “[t]hey begin to sense a feeling of apartness and individuality.” (Renewal Petition, p. 23.) In the Fourth Grade, students “feel more comfortable with their growing separateness as they crash upon the shores of fourth grade.” (Renewal Petition, p. 25.) By the Sixth Grade, “the adolescent body begins to take shape, leaving behind the soft roundness

of childhood.” (Renewal Petition, p. 27.) Students in the Seventh and Eighth Grade stand on the brink of “budding glimmers of adulthood” and “are able to stand before other as confident individuals with independent thoughts and opinions to offer.” (Renewal Petition, pp. 31-32.)

4. What it Means to be an “Educated Person” in the 21st Century and Enabling Pupils to become Self-Motivated, Competent, and Lifelong Learners

The Renewal Petition addresses the 21<sup>st</sup> Century requirement on pp. 15-16.

5. How Learning Best Occurs

The Renewal Petition explicitly addresses the requirement of How Learning Best Occurs on p. 17.

6. Low-Achieving Students

The Petition addresses this requirement on pp. 48-51, and contains a list of intervention measures for each level of pupil achievement. Because the Charter School’s academic performance is not commensurate with the comparison District schools (*see*, p. 7, above), the Charter School should evaluate more rigorous and comprehensive intervention measures for students not performing at grade-level standards.

7. High-Achieving Students

The Renewal Petition addresses this requirement on p. 52.

8. Education of Specialized Student Populations

a. English Language Learners

The Renewal Petition addresses this requirement on pp. 53-55.

b. Special Education

The Renewal Petition addresses this requirement on pp. 56-62.

**ELEMENT B: MEASURABLE PUPIL OUTCOMES**

**ELEMENT C: METHOD OF MEASURING PUPIL OUTCOMES**

*Regarding the descriptions of Measurable Pupil Outcomes and Measuring Pupil Progress, the Petition must meet the legal requirements of Education Code § 47605, subdivisions (b)(5)(B), (C) and California Code of Regulations, title 5, §11967.5.1, subdivisions (f)(2), (3) regarding the identification of outcomes and assessment tools and plans. Pupil outcomes shall include outcomes that address increases in pupil academic achievement both schoolwide and for all groups of pupils served by the charter school.*

*The student outcomes should, at a minimum:*

*(a) Specify skills, knowledge, and attitudes that reflect the school’s educational objectives and can be assessed by objective means that are frequent and sufficiently detailed enough to determine whether students are making satisfactory progress;*

*(i) The frequency of the objective means of measuring student outcomes should vary according to such factors as grade level, subject matter, the outcome of previous objective measurements, and information that may be collected from anecdotal sources; and*

*(ii) Objective means of measuring student outcomes must be capable of being used readily to evaluate the effectiveness of and to modify instruction for individual students and groups of students ... (Cal. Code Regs., tit. 5, § 11967.5.1(f)(2).)*

*Education Code § 47605(b)(5)(A)(ii) requires the Petition to contain “[t]he specific annual goals” for “each subgroup of pupils identified pursuant to [Education Code] § 52052, to be achieved in the state priorities.”*

*Education Code §47607(b)(5)(B) requires that a charter petition contain measurable pupil outcomes “that address increases in pupil academic achievement both schoolwide and for all groups of pupils served by the charter school, as that term is defined in subparagraph (B) of paragraph (3) of subdivision (a) of § 47607. The pupil outcomes shall align with state priorities, as described in subdivision (d) of § 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school.”*

#### Analysis:

The Renewal Petition states that “[t]he LCAP and any revisions necessary to implement the LCAP shall not be considered a material revision to the charter, and shall be maintained by the Charter School at the school site.” (Renewal Petition, p 65.) However, the Charter Petition cannot unilaterally override the District’s determination of whether a modification constitutes a material revision under Education Code section 47607(a).

The Renewal Petition fails to provide “[t]he specific annual goals” for “each subgroup of pupils identified pursuant to [Education Code] § 52052, to be achieved in the state priorities,” or measurable pupil outcomes “that address increases in pupil academic achievement both schoolwide and for all groups of pupils served by the charter school,” as required by the Education Code.

#### **ELEMENT D: GOVERNANCE STRUCTURE**

Cal. Code Regs., tit. 5, §11967.5.1(f)(4) requires the Petition to contain a reasonably equivalent description of the following:

*The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement in supporting the school's effort on behalf of the school's pupils, as required by Education Code section 47605(b)(5)(D), at a minimum:*

*(A) Includes evidence of the charter school's incorporation as a non-profit public benefit corporation, if applicable.*

*(B) Includes evidence that the organizational and technical designs of the governance structure reflect a seriousness of purpose necessary to ensure that:*

*1. The charter school will become and remain a viable enterprise.*

2. *There will be active and effective representation of interested parties, including, but not limited to parents (guardians).*

3. *The educational program will be successful.*

Analysis:

The Renewal Petition addresses this requirement on pp. 74-78.

**ELEMENT E: QUALIFICATIONS TO BE MET BY INDIVIDUALS EMPLOYED AT THE SCHOOL**

Cal. Code Regs., tit. 5, §11967.5.1(f)(5) requires the Petition to contain a reasonably equivalent description of the following:

*The qualifications to be met by individuals to be employed by the school, as required by Education Code section 47605(b)(5)(E), at a minimum:*

*(A) Identify general qualifications for the various categories of employees the school anticipates (e.g., administrative, instructional, instructional support, non-instructional support). The qualifications shall be sufficient to ensure the health, and safety of the school's faculty, staff, and pupils.*

*(B) Identify those positions that the charter school regards as key in each category and specify the additional qualifications expected of individuals assigned to those positions.*

*(C) Specify that all requirements for employment set forth in applicable provisions of law will be met, including, but not limited to credentials as necessary.*

Analysis:

The Education Code requires this section of the Petition to identify key positions and “specify additional qualifications expected of individuals assigned to those positions.” The Petition addresses this requirement on pp. 79-78. Education Code section 47605(l) states that “charter schools be given flexibility with regard to noncore, noncollege preparatory courses,” though teachers of core, college-preparatory courses must hold the proper credential.

The Renewal Petition states that “[p]rofessional service agreements are used to hire such classified staff to lead specialty classes and activities.” Although the Renewal Petition states that “[n]on-instructional staff possess the necessary experience and skills to meet the requirements of their assorted duties,” the Renewal Petition lacks a reasonably comprehensive description of the qualification for those staff providing instruction in noncore, noncollege preparatory courses. (Renewal Petition, p. 80.)

**ELEMENT F: PROCEDURES FOR ENSURING HEALTH & SAFETY OF STUDENTS**

Cal. Code Regs., tit. 5, §11967.5.1(f)(6) requires the Petition to contain a reasonably equivalent description of the following:

*The procedures that the school will follow to ensure the health and safety of*

*pupils and staff, as required by Education Code section 47605(b)(5)(F), at a minimum:*

*(A) Require that each employee of the school furnish the school with a criminal record summary as described in Education Code section 44237.*

*(B) Include the examination of faculty and staff for tuberculosis as described in Education Code section 49406.*

*(C) Require immunization of pupils as a condition of school attendance to the same extent as would apply if the pupils attended a non-charter public school.*

*(D) Provide for the screening of pupils' vision and hearing and the screening of pupils for scoliosis to the same extent as would be required if the pupils attended a non-charter public school.*

Analysis:

The Renewal Petition addresses this requirement on pp. 81-84.

**ELEMENT G: RACIAL AND ETHNIC BALANCE**

*Education Code § 47605(d)(1) states that charter schools “shall not discriminate against a pupil on the basis of the characteristics listed in [Education Code] Section 220.” Education Code §47605(b)(5)(G) also requires a petition to contain a reasonably comprehensive description of “[t]he means by which the charter school will achieve a racial and ethnic balance among its students that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.”*

Cal. Code Regs., tit. 5, §11967.5.1(f)(7) requires the Petition to contain a reasonably equivalent description of the following:

*Recognizing the limitations on admissions to charter schools imposed by Education Code section 47605(d), the means by which the school 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, as required by Education Code section 47605(b)(5)(G), shall be presumed to have been met, absent specific information to the contrary.*

Analysis:

The Renewal Petition addresses this requirement on pp. 85-86.

**ELEMENT H: ADMISSION REQUIREMENTS**

*Education Code 47605(d)(2)(B) states that, in the enrollment lottery, “[i]f the number of pupils who wish to attend the charter school exceeds the school’s capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the district except as provided for in Section 47614.5. Other preferences may be*

*permitted by the chartering authority on an individual school basis and only if consistent with the law.” (5 C.C.R. § 11967.5.1(f)(8).)*

*Cal. Code Regs., tit. 5, §11967.5.1(f)(8) requires the Petition to contain a reasonably equivalent description of the following:*

*To the extent admission requirements are included in keeping with Education Code section 47605(b)(5)(H), the requirements shall be in compliance with the requirements of Education Code section 47605(d) and any other applicable provision of law.*

*The following requirements were added to Education Code section 47605(d)(2)(B) as of January 1, 2018:*

*Priority order for any preference shall be determined in the charter petition in accordance with all of the following:*

*(i) Each type of preference shall be approved by the chartering authority at a public hearing.*

*(ii) Preferences shall be consistent with federal law, the California Constitution, and Section 200.*

*(iii) Preferences shall not result in limiting enrollment access for pupils with disabilities, academically low-achieving pupils, English learners, neglected or delinquent pupils, homeless pupils, or pupils who are economically disadvantaged, as determined by eligibility for any free or reduced-price meal program, foster youth, or pupils based on nationality, race, ethnicity, or sexual orientation.*

*(iv) In accordance with Section 49011, preferences shall not require mandatory parental volunteer hours as a criterion for admission or continued enrollment.*

#### Analysis:

The Renewal Petition addresses this requirement on pp. 87-89. A passing reference is made to complying with the new requirements under Education Code section 47605(d)(2)(b)<sup>1</sup>, effective January 1, 2018, but it would be more effective if these requirements were explicitly incorporated into the Renewal Petition.

#### **ELEMENT I: MANNER FOR CONDUCTING ANNUAL, INDEPENDENT AUDITS**

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<sup>1</sup> ... Priority order for any preference shall be determined in the charter petition in accordance with all of the following:

(i) Each type of preference shall be approved by the chartering authority at a public hearing.

(ii) Preferences shall be consistent with federal law, the California Constitution, and Section 200.

(iii) Preferences shall not result in limiting enrollment access for pupils with disabilities, academically low-achieving pupils, English learners, neglected or delinquent pupils, homeless pupils, or pupils who are economically disadvantaged, as determined by eligibility for any free or reduced-price meal program, foster youth, or pupils based on nationality, race, ethnicity, or sexual orientation.

(iv) In accordance with Section 49011, preferences shall not require mandatory parental volunteer hours as a criterion for admission or continued enrollment.

*The Petition must address “[t]he manner in which annual, independent, financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority, as required by Education Code section 47605(b)(5)(I), at a minimum:*

*(A) Specify who is responsible for contracting and overseeing the independent audit.*

*(B) Specify that the auditor will have experience in education finance.*

*(C) Outline the process of providing audit reports to the State Board of Education, California Department of Education, or other agency as the State Board of Education may direct, and specifying the time line in which audit exceptions will typically be addressed.*

*(D) Indicate the process that the charter school will follow to address any audit findings and/or resolve any audit exceptions to the satisfaction of the authorizer. (5 C.C.R. § 11967.5.1(f)(9).)*

#### Analysis:

The Renewal Petition addresses this requirement on pp. 90.

#### **ELEMENT J: SUSPENSION AND EXPULSION PROCEDURES**

Cal. Code Regs., tit. 5, §11967.5.1(f)(10) requires the Petition to contain a reasonably equivalent description of the following:

*The procedures by which pupils can be suspended or expelled, as required by Education Code section 47605(b)(5)(J), at a minimum:*

*(A) Identify a preliminary list, subject to later revision pursuant to subparagraph (E), of the offenses for which students in the charter school must (where non-discretionary) and may (where discretionary) be suspended and, separately, the offenses for which students in the charter school must (where non-discretionary) or may (where discretionary) be expelled, providing evidence that the petitioners' reviewed the offenses for which students must or may be suspended or expelled in non-charter public schools.*

*(B) Identify the procedures by which pupils can be suspended or expelled.*

*(C) Identify the procedures by which parents, guardians, and pupils will be informed about reasons for suspension or expulsion and of their due process rights in regard to suspension or expulsion.*

*(D) Provide evidence that in preparing the lists of offenses specified in subparagraph (A) and the procedures specified in subparagraphs (B) and (C), the petitioners reviewed the lists of offenses and procedures that apply to students attending non-charter public schools, and provide evidence that the charter petitioners believe their proposed lists of offenses and procedures provide adequate safety for students, staff, and visitors to the school and serve the best interests the school's pupils and their parents (guardians).*



*(E) If not otherwise covered under subparagraphs (A), (B), (C), and (D):*

*1. Provide for due process for all pupils and demonstrate an understanding of the rights of pupils with disabilities in regard to suspension and expulsion.*

*2. Outline how detailed policies and procedures regarding suspension and expulsion will be developed and periodically reviewed, including, but not limited to, periodic review and (as necessary) modification of the lists of offenses for which students are subject to suspension or expulsion.*

*Education Code section 47605(b)(5)(J) was amended to require the following elements as of January 1, 2018:*

*These [disciplinary] procedures, at a minimum, shall include an explanation of how the charter school will comply with federal and state constitutional procedural and substantive due process requirements that is consistent with all of the following:*

*(i) For suspensions of fewer than 10 days, provide oral or written notice of the charges against the pupil and, if the pupil denies the charges, an explanation of the evidence that supports the charges and an opportunity for the pupil to present his or her side of the story.*

*(ii) For suspensions of 10 days or more and all other expulsions for disciplinary reasons, both of the following:*

*(I) Provide timely, written notice of the charges against the pupil and an explanation of the pupil's basic rights.*

*(II) Provide a hearing adjudicated by a neutral officer within a reasonable number of days at which the pupil has a fair opportunity to present testimony, evidence, and witnesses and confront and cross-examine adverse witnesses, and at which the pupil has the right to bring legal counsel or an advocate.*

*(iii) Contain a clear statement that no pupil shall be involuntarily removed by the charter school for any reason unless the parent or guardian of the pupil has been provided written notice of intent to remove the pupil no less than five schooldays before the effective date of the action. The written notice shall be in the native language of the pupil or the pupil's parent or guardian or, if the pupil is a foster child or youth or a homeless child or youth, the pupil's educational rights holder, and shall inform him or her of the right to initiate the procedures specified in clause (ii) before the effective date of the action. If the pupil's parent, guardian, or educational rights holder initiates the procedures specified in clause (ii), the pupil shall remain enrolled and shall not be removed until the charter school issues a final decision. For purposes of this clause, "involuntarily removed" includes disenrolled, dismissed, transferred, or terminated, but does not include suspensions specified in clauses (i) and (ii).*

Analysis:

The Renewal Petition addresses this requirement on pp. 91-109.

**ELEMENT K: MANNER FOR COVERING STRS, PERS, OR SOCIAL SECURITY**

*The Petition must describe “[t]he manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security, as required by Education Code section 47605(b)(5)(K), at a minimum, specifies the positions to be covered under each system and the staff who will be responsible for ensuring that appropriate arrangements for that coverage have been made.” (5 C.C.R. § 11967.5.1(f)(11).)*

Cal. Code Regs., tit. 5, §11967.5.1(f)(11) requires the Petition to contain a reasonably equivalent description of the following:

*The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security, as required by Education Code section 47605(b)(5)(K), at a minimum, specifies the positions to be covered under each system and the staff who will be responsible for ensuring that appropriate arrangements for that coverage have been made.*

Analysis:

The Renewal Petition addresses this requirement on pp. 110.

**ELEMENT L: PUBLIC SCHOOL ATTENDANCE ALTERNATIVES**

*This section must address “[t]he public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools, as required by Education Code section 47605(b)(5)(L), at a minimum, specify that the parent or guardian of each pupil enrolled in the charter school shall be informed that the pupils has no right to admission in a particular school of any local education agency (or program of any local education agency) as a consequence of enrollment in the charter school, except to the extent that such a right is extended by the local education agency.” (5 C.C.R. § 11967.5.1(f)(12).)*

Cal. Code Regs., tit. 5, §11967.5.1(f)(12) requires the Petition to contain a reasonably equivalent description of the following:

*The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools, as required by Education Code section 47605(b)(5)(L), at a minimum, specify that the parent or guardian of each pupil enrolled in the charter school shall be informed that the pupils has no right to admission in a particular school of any local education agency (or program of any local education agency) as a consequence of enrollment in the charter school, except to the extent that such a right is extended by the local education agency.*

Analysis:

The Renewal Petition addresses this requirement on pp. 111.

**ELEMENT M: EMPLOYEE RIGHTS**

*This section must contain a “description of the rights of any employees of the school district upon leaving the employment of the school district to work in a charter school, and of any rights*

*of return to the school district after employment at a charter school, as required by Education Code section 47605(b)(5)(M), at a minimum, specifies that an employee of the charter school shall have the following rights: (A) Any rights upon leaving the employment of a local education agency to work in the charter school that the local education agency may specify. (B) Any rights of return to employment in a local education agency after employment in the charter school as the local education agency may specify. (C) Any other rights upon leaving employment to work in the charter school and any rights to return to a previous employer after working in the charter school that the State Board of Education determines to be reasonable and not in conflict with any provisions of law that apply to the charter school or to the employer from which the employee comes to the charter school or to which the employee returns from the charter school. (5 C.C.R. § 11967.5.1(f)(13).)*

Analysis:

The Renewal Petition addresses this requirement on p. 112.

**ELEMENT N: DISPUTE RESOLUTION PROCEDURE**

Cal. Code Regs., tit. 5, §11967.5.1(f)(14) requires the Petition to contain a reasonably equivalent description of the following:

*The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter, as required by Education Code section 47605(b)(5)(N), at a minimum:*

*(A) Include any specific provisions relating to dispute resolution that the State Board of Education determines necessary and appropriate in recognition of the fact that the State Board of Education is not a local education agency.*

*(B) Describe how the costs of the dispute resolution process, if needed, would be funded.*

*(C) Recognize that, because it is not a local education agency, the State Board of Education may choose resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, provided that if the State Board of Education intends to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, it must first hold a public hearing to consider arguments for and against the direct resolution of the dispute instead of pursuing the dispute resolution process specified in the charter.*

*(D) Recognize that if the substance of a dispute is a matter that could result in the taking of appropriate action, including, but not limited to, revocation of the charter in accordance with Education Code section 47604.5, the matter will be addressed at the State Board of Education's discretion in accordance with that provision of law and any regulations pertaining thereto.*

Analysis:

The Renewal Petition addresses this requirement on pp. 113-114. This section says that “[t]he District will provide written notification within five (5) days to the Charter Council if observation, monitoring, and oversight activities are assigned or subcontracted to a third party by District.” However, this requirement is not contained in law.

## **ELEMENT O: CLOSURE PROCEDURES**

### Analysis:

The Renewal Petition addresses this requirement on p. 115.

## **DISTRICT/AUTHORIZER IMPACT**

*The petitioners must provide information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be utilized by the school, the manner in which administrative services of the school are to be provided, and potential civil liability effects, if any, upon the school and the school district. The description of the facilities to be used by the charter school shall specify where the school intends to locate. (Education Code §47605(g))*

## **FISCAL/BUDGET**

*Education Code § 47605(g) states that “[t]he petitioner shall also be required to provide financial statements that include a proposed first year operational budget, including startup costs, and cashflow and financial projections for the first three years of operation.”*

The District has a well-documented series of concerns about the Charter School’s financial condition.

On June 28, 2017, the District sent a Notice of Concern to the Charter School expressing concern that the Charter School had only made a partial payment of \$50,000, and still owed the District \$231,669 of its share of special education expenses. (Exhibit 3, Letter 1.)

On January 29, 2018, the District sent a Notice of Concern to the Charter School setting forth the following concerns:

“The District has found that:

- The most current Blue Oak Cash Flow Report (dated Dec. 18, 2017) and the First Interim report, submitted to and currently adopted by the Charter School ... Board, are predicated on Blue Oak’s projected, Average Daily Attendance (ADA) of 363.83;
- Blue Oak’s P-1 report shows that Blue Oak’s P-1 ADA is 354.87;
- Due to this lower ADA, Blue Oak is expected to receive less state Local Control Funding Formula (LCFF) funding between February 2018 and May 2018 ;
- Blue Oak’s current projected monthly cash flow for February 2018 and March 2018 shows a negative cash flow for each month. (*See*, Exhibit A.)

In fact, Blue Oak's ADA has been trending downward towards the past 3 school years. (*See*, Exhibit B.)

Blue Oak has incurred a negative fund balance over the past few fiscal years. (*See*, Exhibit C.) Although it projects a positive ending fund balance in its most recent First Interim report, as noted above, Blue Oak's adopted budget for fiscal year 2017-2018 is based upon an ADA projection that has not materialized at P-1." (Exhibit 3, Letter 2.)

The District continues to have significant concerns about the Charter School's ability to maintain a positive fund balance and to promptly pay its financial obligations, especially since its current-year budget is based upon ADA projections that have not materialized.

## **CONCLUSION AND RECOMMENDATION**

Under Ed. Code section 47607(b)(4)(A), a charter shall not be renewed unless:

The entity that granted the charter determines that the academic performance of the charter school is at least equal to the academic performance of the public schools that the charter school pupils would otherwise have been required to attend, as well as the academic performance of the schools in the school district in which the charter school is located, taking into account the composition of the pupil population that is served at the charter school.

Under Education Code section 47607(a)(3)(A), the District must "consider increases in pupil academic achievement for all groups of pupils served by the charter school as the most important factor in determining whether to grant a charter renewal,"

The District has concluded that the Charter School's academic performance is not "at least equal" to that of the District's comparison schools. (*See*, pp. 5-7, above.) The District also has concluded that the Charter School has not sustained "increases in pupil academic achievement" for all statistically significant subgroups of students (Hispanic or Latino, Socioeconomically Disadvantaged) over the past charter term.

Based on the above, the Charter Review Team recommends that the Board of Education deny the Petition on the following grounds and adopt the above factual findings in support of its denial:

1. The Petition Contains an Unsound Educational Program (Education Code § 47605(b)(1)).
2. Petitioners are Demonstrably Unlikely to Successfully Implement the Program Set Forth in the Petition (Education Code § 47605(b)(2)).
3. The Petition Fails to Contain a Reasonably Comprehensive Description of all 15 Required Elements set forth in Education Code § 47605(b). (Education Code § 47605(b)(5)(A)-(O)).

Respectfully Submitted,

The Charter Review Team