Santa Clara County Board of Education  
1290 Ridder Park Dr.  
San Jose, CA 95131-2304  

297 N. Frances St.  
Sunnyvale, CA 94086  
September 9, 2014

Dear President Beauchman, Board Members, Superintendent Gundry, and Staff Members:

As an observer of the Sept. 3 public hearing concerning the petition of Spark Charter School, I was struck by a comment from Sunnyvale School District Superintendent Benjamin H. Picard. He told the Board that he wanted to avoid an "adversarial" position toward Spark. This seems counterfactual for at least three reasons:

- At the hearing Dr. Picard asked the Board of Education to disregard Spark's current petition submitted to the County in July, and even the petition Spark revised to accommodate the District's reservations about Spark. Instead, he said the Board should only evaluate the original petition Spark submitted one year ago to the Sunnyvale School Board. Why would someone committed to a fair assessment of Spark's program ask the Board to restrict its judgment to a preliminary document that no longer reflects Spark's intentions nor Spark's accommodation to the District's own concerns?

- Under Dr. Picard's leadership, the Sunnyvale School District has spent more than $1 million tax-payer dollars over the last three years for services provided by a law firm, Dannis Woliver Kelley, that specializes in thwarting charter school petitions. (See attached letter of documentation.) This law firm helped the District craft the possibly extra-legal strategy of giving Spark "conditional approval." This novel status blocked Spark from appealing a denial to the County in time to open as planned in the fall of 2014.

- This spring, after Spark's Board submitted signed forms from parents indicating an interest in enrolling 284 children in Spark should it be approved, the Sunnyvale District embarked on a campaign of intimidation. Parents with children enrolled in District schools were called by their principals and asked if the principal should "disenroll" their student from his or her current school. Spark's Board received scores of inquiries from parents who felt threatened by the phone calls. The District had an appropriate interest in ascertaining whether the forms it received were legitimate, but not to threaten disenrollment.

These represent just a few of the many instances of the District's hostility to Spark.

Respectfully,

John H. McManus (father of a fourth grader attending Fairwood Elementary School)
June 11, 2014

John H. McManus
297 N. Frances Street
Sunnyvale, CA 94086

Re: Public Records Request

Dear Mr. McManus,

This letter is in response to your public records request dated May 30, 2014 and received by Sunnyvale School District June 2, 2014. You requested disclosure of the amount of public funds expended for legal services provided by the firm of Dannis Woliver Kelley for the current fiscal year and the previous fiscal years. The amounts are as follows:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Legal Services Expense</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011-2012</td>
<td>534,968</td>
</tr>
<tr>
<td>2012-2013</td>
<td>198,407</td>
</tr>
<tr>
<td>2013-2014 (to 6/3/14)</td>
<td>298,854</td>
</tr>
</tbody>
</table>

Sincerely,

Benjamin H. Picard, Ed. D.
Superintendent of Schools
this was sent to the board. grace

On Friday, September 12, 2014 5:24 PM, Serge Bonte <sbonte@gmail.com> wrote:

Dear Santa Clara County Superintendent:
Dear Santa Clara County Board of Education:

I read the documents that were made public for the 09/03/2014 public hearing and I was intrigued by the fact that Spark wanted to preserve the results of its Spring lottery.

I will not pretend to understand even half of the legal arguments for or against that request, but I would like to share a suggestion that could be beneficial to all parties,

With any school encouraging high levels of parent participation (and it's certainly seems to be the case in that appeal), there is always a concern that the demographics might be too exclusive and not representative of a community as diverse as Sunnyvale. For a new school, of course, these concerns are a bit speculative ...until the first batch of students gets matriculated.

In this particular case however, that first batch has been identified already ... by the lottery.

Here's my suggestion: perform a demographics study of the lottery results, run a comparison with the SunnyVale School District. That comparison would certainly inform your decision on the lottery request. The comparison would also be beneficial to the school district (possibly assuaging or confirming their valid concerns) and to the applicant (providing great information on how to tune their outreach program).

Sincerely,

Serge Bonte
Santa Clara County Public School Parent
I am disappointed I have not heard from you regarding the many issues of illegal behavior of the charter schools purportedly within your oversight about which I have contact you in the past several months. I do hope that you are working with all due diligence on these and will have answers for me and the public to whom your office serves and is the sole reason for your existence. In the meantime, here is another one for you to investigate and act upon.

The footer of the Bullis Charter School web site makes the bold claim © 2014 Bullis Charter School. However as any competent lawyer would know—and one presumes that includes those who founded and run BCS—works created by government and other public institutions cannot be copyrighted. They are in the public domain; thus anyone may use them for any purpose whatsoever without restriction. The California Appeals Court (with statewide jurisdiction)... ruled that the government may not claim copyright on public records. In further support of this, Bullis Charter School vainly attempted to use a copyright claim to take down their very own 10th Anniversary video. But YouTube restored the video after evidence was presented that it was created by a public school and thus was not subject to copyright. I sent you a letter regarding this back in April, so it is concerning that you haven’t taken a more active position on the issue of public schools and copyrights.

On a quick survey, I found that a substantial portion of the charter schools within your oversight are also illegally claiming copyright of content on the web including (but not limited to) ACE, Alpha, Bachrodt, Castlemont, Cornerstone, Charter School of Morgan Hill, Discovery, Escuela Popular, Gilroy Prep, KIPP, Latino College Prep, Monroe, Rocketship, Rosemary, Sherman Oaks, SJCCCS, Voice and all the many schools using SchoolWires. It looks like a county-wide memo is in order reminding your schools that the works they create are not subject to copyright and that they must remove any such claims from the works they create.

In this news article published in the Los Altos Town Crier on Feb 26, 2014, Grace Mah said, “We don’t have direct oversight of the [BCS]... process. Unfortunately, we only have the bandwidth to work off complaints.” Consider this yet another complaint from the community. Please let me know in an official capacity what actions you take regarding this.

As always, thank you for you time and consideration.

Respectfully,
-Dave Cortright

P.S. Speaking of county-wide charter issue that need to be address, there is another that I do hope your office will take on. I believe your public stance is that California Ed Code 547601 applies to the pool of all charter schools in the state, and that no single school must satisfy all 7 conditions to be a legally-compliant charter school. I disagree, but going with that definition I want to see a report from SCCOE on the topic of 47601(b): expanded learning experiences for pupils who are identified as academically low achieving, detailing how each of your charter schools fares, how all of your schools collectively are faring, and how SCCOE compares with the performance of other charter schools throughout the state. To me, this along with (f) are the most important reasons why we as a public choose to spend public resources on charter schools. Jon, as the new superintendent I think this would be a great way for you to get a better understanding of the state of SCCOE’s charter school system.
This was sent to the board. Grace

On Wednesday, September 17, 2014 10:18 PM, Laura Stuchinsky <laurastuch@gmail.com> wrote:

Dear Chair Beauchman,

Attached is the information you requested about the research Spark cited at your September 3 meeting on the educational benefits of K-8 schools.

The attachment includes testimony about the studies that was presented to the Sunnyvale School District in 2012 by a Spark supporter. The District had refuted the findings of the Harvard and Columbia studies by citing a third study conducted by Stanford and Ed Source. The testimony explains the differences between the studies. Citations to all of the studies are also provided.

Thanks for your interest in this research.

Laura Stuchinsky
Spark board member
September 22, 2014

Via Email and U.S. Mail

Members, Board of Education
Jon R. Gundry, County Superintendent of Schools
Santa Clara County Office of Education
1290 Ridder Park Drive
San Jose, CA 95131

Re: Spark Charter School

Dear Members of the Board of Education and Superintendent Gundry:

The Sunnyvale School District ("District") offers this letter to assist the Santa Clara County Board of Education with its decision to grant or deny the Spark Charter School ("Spark" or "Charter School") charter petition. Specifically, the District would like to emphasize significant issues with Spark's fiscal viability going forward and to express the District's concerns of the potential disruption to student learning and to the District's administrative operations should Spark's unsuccessful implementation of its program result in closure.

The District's review of the Spark petition resulted in a finding that the petitioners are demonstrably unlikely to successfully implement the program as a result of, among other significant deficiencies, the fact that its fiscal plan is unsound. As you may know, petitioners seek to replicate the District's Fairwood Explorer Program into a charter school. However, because the program already exists and operates in the District, the District did not see adequate interest in Spark that would support Spark's enrollment assumptions.

The petition and fiscal plan that Spark submitted reflected this very concern. On April 1, 2014, Spark was required by the District’s Resolution for Conditional Approval to provide documentation verifying Spark's enrollment of at least 250 students, which is the number of students upon which Spark based its educational program in its petition. However, Spark failed to submit this verification or any information as to its projected enrollment. As the District expressed in its written findings supporting its rescission of Spark's conditional approval, submission of enrollment documentation was critical in the District's evaluation of the interest in the charter school, the status of the charter school's financial plan, and, ultimately, the ability to successfully implement the program.

Review of the Spark budget further validated the District's concerns regarding Spark's fiscal viability. Specifically, the proposed Spark budget for the 2014-2015 school year was based upon an enrollment of only 158 and an Average Daily Attendance of 150.1. Due to the small size of the program, any decrease in ADA, however minimal, will have a significant negative repercussion upon Spark and would likely create major problems for its financial operations. The District has recently learned that Spark only has approximately $3,500 in cash on hand. The fact that Spark submitted its initial petition nearly a year ago in September 2013 and currently has only $3,500 of cash confirms the District's concerns about Spark's financial condition and serves as a red flag to the County for Spark's future operations.
The proposed budget also does not support all aspects of Spark’s educational program, which, by definition, renders the program demonstrably unlikely to be successfully implemented. For example, during year 1, Spark will hire 0.5 Full-Time Equivalent English Language Development teachers; 0 foreign language teachers; 0 art music teachers; and 0 special education managers, despite promising to offer these services. Moreover, the budget does not maintain appropriate funding for critical positions. Spark’s budgeted salary for a teacher of $55,000 is significantly below the District’s average teacher salary of approximately $80,000, and even below the average salary of $58,476 for early career hires. Less competitive salaries are also seen in classified employees. The total cost of compensating an attendance clerk and custodian at the District, including salary, retirement benefits, and health and welfare benefits, is $52,853 and $63,425. The total compensation costs of these same positions at Spark are significantly lower at $31,618 and $36,014, respectively. Therefore, these figures raise significant concerns about Spark’s ability to recruit and retain highly qualified staff at low turnover rates to implement its program at the budget it has set for the program.

Due to the lack of funding, the Spark program relies heavily upon parent participation. For example, Spark contemplates that foreign language instruction will be designed with a lead teacher and supported by volunteer parents fluent in each of the offered languages. The petition even contemplates that teaching teams comprised of volunteers will be created and states that parent participation will “enable teachers to more easily offer small group instruction and differentiated learning.” Therefore, the petition makes clear that Spark intends to use family volunteers to assist students in the classroom and with the educational program. However, despite this reliance upon parent participation, Spark does not account for the possibility that not all families have the time and resources to volunteer their services, or that Spark may not obtain an adequate number of volunteers. Significantly, the heavy reliance upon parent participation reflects Spark’s inability to obtain adequate staffing, which is fundamentally a fiscal issue. Accordingly, the parent participation requirement raises concerns both from an educational and fiscal point of view.

Another example of an essential component of Spark’s fiscal plan that the District found to be unsound was in the area of instructional materials, which has a direct impact on the delivery of instruction. Specifically, the petition provides no supporting documentation for books and supplies costs, and the budget provides insufficient information regarding costs for instructional materials. Although the budget provides a line item for “approved textbooks & core curricula material” at $300 per student, the budget allocates no money for the line item of “books & other reference materials.” Neither the petition nor the budget notes provide information or documentation as to the specific instructional materials or textbooks to be used. Accordingly, it is impossible for the District, or any authorizer for that matter, to determine whether the $300 per student allocation is reasonable or sustainable to implement the program, including the English Language Learner component. The budget does not even reflect support for educational programs that Spark seeks to implement. For example, the petition states that Spark may use the Rosetta Stone software for foreign language instruction. However, the budget reflects no allocation of any funds for “Educational Software” for the entire five-year term. Moreover, despite being required to do so by April 1, 2014, Spark failed to provide a Local Control Accountability Plan (“LCAP”), or even a template or draft, and no documentation was submitted to verify that Spark’s budget was prepared in compliance with an LCAP. Notably, the budget was prepared to serve a K-5 student population in year one and does not support serving the new grade span proposed by Spark.
District staff also found some of the budgeted expenses to be unrealistic and understated. For example, in the area of employee benefits, according to the Budget notes, all employees, whether certificated or classified, will cost approximately $7,000 in health and welfare benefits. However, the cost of health and welfare benefits for District teachers is approximately $11,733. Even positions such as a District attendance clerk, accountant, and custodian have higher health and welfare benefits costs – $8,416, $11,733, $9,061, respectively – than the $7,000 per employee provided by Spark. Some of the specific start-up expenses also appear understated, such as $6,000 for computers and $3,000 in legal fees. In addition, there is no estimate for provision of food service for students.

Spark has not demonstrated that it is, or will be, fiscally viable going forward, which increases the likelihood that the charter school will close in the future. As you know, charter school closure creates an administrative burden. More significantly, however, is the fact that the closure of a charter school is incredibly disruptive to those children who enrolled in Spark upon the belief that it would deliver on the promises contained in its proposal. A stable learning environment is dependent upon, among other things, a fiscally sound foundation. However, because Spark demonstrated that it is on loose fiscal footing, Spark will be placing students at great risk of disruption in the future, and it will be the students who will bear the unfair costs of Spark’s demonstrated lack of adequate planning.

We hope that you and the County Board take the above information and potential consequences into consideration in rendering a decision on the Spark petition. Thank you for your consideration, and please do not hesitate to contact me should you require any additional information.

Sincerely,

[Signature]

Benjamin H. Picard, Ed.D
Superintendent
Sunnyvale School District