November 19, 2014

TO: Santa Clara County Board of Education
FROM: Toni Cordova
Chief Strategy Officer
VIA: Jon R. Gundry
County Superintendent of Schools
SUBJECT: Decision on the Charter Petition for Voices College-Bound Language Academy at Morgan Hill School

Associated Goal:
Improve student equity and reduce access discrepancies to high quality education

Background:
The Santa Clara County Office of Education, Office of Innovative Schools (OIS) received a charter petition from Voices College-Bound Language Academy at Morgan Hill School on September 26, 2014. This petition was submitted on appeal from Morgan Hill Unified School District, having been denied by the District’s Board of Education on September 23, 2014.

Within 30 days of receiving a petition, the Board must “hold a public hearing on the provisions of the charter, at which time the governing board of the school district shall consider the level of support for the petition by teachers employed by the district, other employees of the district, and parents.” (Ed. Code, § 47605(b).) A public hearing was held on October 15, 2014. The Board must “either grant or deny the charter within 90 days of receipt of the petition.” (Ed. Code, §47605, subd. (b).)

The Charter Schools Act of 1992 (“Act”) permits school districts to grant charter petitions, authorizing the operation of charter schools within their geographic boundaries. (Ed. Code, §47600, et seq.) In enacting the Act, the California Legislature intended for teachers, parents, and community members to establish charter schools in order to, among other things, increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving, encourage the use of different and innovative teaching methods and programs, and provide new professional opportunities for teachers as well as expanded choice in the types of educational opportunities for parents and students. (Ed. Code, § 47601.)

Charter schools are established through submission of a petition by proponents of the charter school to the governing board of a public educational agency, usually a school district, and approval of the petition by the school district. The governing board must grant a charter “if it is satisfied that granting the charter is consistent with sound educational practice.” (Ed. Code, §47605, subd. (b).) Nevertheless, a governing board may deny a petition for the establishment of a charter school if it finds that the particular petition fails to meet enumerated statutory criteria and it adopts written findings in support of its decision to deny the charter. (Ibid.)
Once authorized, charter schools “are part of the public school system,” but “operate independently from the existing school district structure.” (Ed. Code, §§ 47615(a)(1) and 47601.)

If the Board grants the Petition, Voices College-Bound Language Academy at Morgan Hill School will become a separate legal entity. If SCBOE grants the charter, it becomes the supervisory agency over the charter school. If the County denies the petition, then Petitioners may appeal to the State Board of Education (“SBE”). (Ed. Code, §47605(j)(1).)

Analysis

Staff reviewed the charter petition using the criteria established in California Education Code 47605 (b) and County Board Policy 0420.4 (c) and found:

1. **Required Signatures**
   The petition meets the requirement.

2. **Affirmation that the charter school shall be nonsectarian**
   The petition contained the required affirmation.

3. **Affirmation that the charter school shall not discriminate against pupils**
   The petition contained the required affirmation.

4. **Affirmation that the charter school shall not charge tuition**
   The petition contained the required affirmation.

5. **Reasonably Comprehensive Description**
   Staff found that the petition contained a sufficiently comprehensive description of all of the required elements.

6. **Unsound Educational Program**
   Staff found no indicators of an unsound educational program.

7. **Demonstrably Unlikely to Implement the Program**
   Staff found facts that demonstrate petitioners are unlikely to implement the program.

8. **Grade Level, Location, Students Served**
   The petition meets requirements to serve students in the grade levels offered by Morgan Hill Unified School District.
9. Other Criteria in Statute
   a. Racial and Ethnic Balance
      The Education Code for charter approval addresses racial balance in two separate criteria.
      
      • Education Code Section 47605 (e) (1) states: “In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admissions policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of ethnicity, national origin, gender, or disability.”

      The petition meets this requirement.

      • Education Code 47605 (b) (5) (6) requires that the charter petition contain a reasonably comprehensive description of the “means by which the school will achieve 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.”

      The petition minimally meets this requirement.

   b. Preference for Serving Academically Low Achieving Students
      California Education Code 47605 (h) states: “In reviewing petitions for the establishment of charter schools within the school district, the governing board of the school district shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low achieving pursuant to the standards established by the department under Section 54032.”

      The petition meets the requirement for preference.

Fiscal Implications
There are substantial costs to the County Office of Education for reviewing and overseeing any charter school. Those costs have not been calculated for this petition review nor do those costs constitute a condition for granting or denying a charter petition.

Staff Report and Recommendation to the County Board
Staff reviewed the petition utilizing the criteria for approval set forth in Education Code Section 47605. Through the attached Staff Report, Staff has provided the Board with an assessment of the sufficiency of the charter petition with respect to all criteria for approval. Staff recommends that the Board review staff’s analysis with respect to these criteria and make a finding regarding whether each criterion for approval has been satisfied. Accordingly, staff recommends that the Board adopt the Resolution to Approve with noted requirements or conversely adopt the Resolution to Deny with noted finding.
I. **Summary**

On September 26, 2014, the Santa Clara County Office of Education, Office of Innovative Schools ("OIS") received a petition ("Petition") from Voice College-Board Language Academies (Voices Academies) seeking approval to open Voices College-Bound Language Academy at Morgan Hill Charter School ("Voices MH") within the boundaries of Morgan Hill Unified School District (MHUSD). The proposed opening year of the school is 2015-16, with a first year enrollment of approximately 56 TK/Kindergarten students and 56 first graders. Voices MH plans to serve approximately 504 students in grades Transitional Kindergarten – eighth (8) grades, with full build out in year eight (8). After year one, Voices MH plans to grow by one grade level per year to serve students in grades TK/Kinder to eighth grade. In addition to this Petition, Voices Academies has submitted a petition to Mt. Pleasant School District to open Voices College-Board Language Academy at Mt. Pleasant for the 2015-16 school year.

This petition was submitted on appeal from Morgan Hill Unified School District, having been denied by the District’s Board of Education on September 23, 2014.

Staff reviewed the Petition for Voices MH utilizing the criteria for charter approval set forth in Education Code Section 47605. Through this report, Staff provides the County Board with an assessment of the sufficiency of the Petition with respect to all criteria for approval. This Staff Report contains staff’s analysis of the Petition, and the written findings.

II. **Procedural Requirements**

California Education Code Section 47605 requires that “no later than 60 days after receiving a petition... the county board of education shall hold a public hearing on the provisions of the charter, at which time the governing board of the school district shall consider the level of support for the petition by teachers employed by the district, other employees of the district, and parents.” The Education Code further requires that the governing board of the school district “shall either grant or deny the charter within 60 days of receipt of the petition.”

The County Board held a public hearing on the Petition on October 15, 2014, and will make a decision about whether to grant or deny the Petition at its meeting on November 19, 2014.
III. Criteria for Charter Approval

a. Signatures from Parents or Teachers

Education Code section 47605 (a)(1) provides that a petition for the establishment of a charter school “may be submitted to the governing board of the school district after either of the following conditions are met:

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

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

Education Code section 47605 (a)(1)(3) further provides that

[a] petition shall include a prominent statement indicating that a signature on the petition means that the parent or guardian is meaningfully interested in having his or her child or ward attend the charter school, or in the case of a teacher’s signature, means that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition.

b. Required Factual Findings for Charter Petition Denial

Education Code section 47605 establishes the requirements a petitioner must satisfy in order for his or her petition for a charter school to be approved. “The governing board of the school district shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice. The governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings to support one or more of the following findings:

(1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.
(2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
(3) The petition does not contain the number of signatures required by statute.
(4) The petition does not contain an affirmation of each of the conditions required by statute.
(5) The petition does not contain reasonably comprehensive descriptions of all of the following:

(A) A description of the educational program of the school, designed, among other things, to identify those pupils 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.
(B) The measurable pupil outcomes identified for use by the charter school.

(C) The method by which pupil progress in meeting those pupil outcomes is to be measured.

(D) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.

(E) The qualifications to be met by individuals to be employed by the school.

(F) The procedures that the school will follow to ensure the health and safety of pupils and staff.

(G) 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.

(H) Admissions requirements, if applicable.

(I) The manner in which annual, independent, financial audits shall be conducted, in accordance with regulations established by the State Board of Education, and the manner in which audit exceptions and deficiencies shall be resolved.

(J) The procedures by which pupils can be suspended or expelled.

(K) 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.

(L) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.

(M) A description of the rights of any employee 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.

(N) The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.

(O) A declaration whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act.

(P) A description of the procedures to be used if the charter school closes. The procedures shall ensure a final audit of the school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of pupil records.
IV. **Review of the Petition**

Staff reviewed the Petition for Voices MH utilizing the criteria for charter approval set forth in Education Code Section 47605. Staff’s assessment of the information provided in the Petition with respect to each of the criterion in Education Code Section 47605 is set forth below.

a. **Required signatures**

A charter petition must be signed by either: (1) a number of parents/guardians equivalent to at least one-half of the number of students that the charter school estimates will enroll in the charter school for its first year of operation; or (2) a number of teachers equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the school during its first year of operation. Education Code section 47605(1) provides that “[t]eachers in charter schools shall be required to hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold. . . . It is the intent of the Legislature that charter schools be given flexibility with regard to noncore, noncollege preparatory courses.”

The Petition was signed by 94 parents or legal guardians, who by signing the Petition “certify that they are meaningfully interested in having [their] child or ward attend the charter school....” Staff concludes that the Petition contains the required number of parent signatures.

b. **Required Elements of the Charter Petition**

(1) **Educational Program**

Staff finds that the Petition contains a sufficient description of the educational program.

Staff does note that the Voices Two-Way Dual-Language model is a locally developed model which does not match generally accepted research-based principles for the development of Two-Way Dual Language programs and is not supported by the Association of Two-Way & Dual Language (ATDLE). Staff also notes that the Voices Two-Dual Language model currently lacks data or a system for assessing the effectiveness of its program in developing Spanish language proficiency.

(2) **Ability to Successfully Implement the Program Set Forth in the Petition.**

There are several concerns regarding the Petitioners ability to successfully implement the program.

**Financial:**

With regard to the financials, the petition does not include the total amount of square footage required for Prop 39 facilities. The budgets were developed with the assumption that the district would charge the higher 3% oversight fee rather than a pro-rata share of the facilities costs. Supplemental information provided by the petitioner was insufficient to calculate the estimated rent expense, as it only included the square footage required for classrooms and did not provide an estimated cost per square foot.

In addition, as of the date of the writing of the report, staff is unable to verify if the required number of signatures to quality for Prop. 39 were received by Morgan Hill Unified School District.
NOTE: “Districts are required to provide facilities, if requested, for charter schools that have an in-district ADA of 80 or more.” Charter Schools: A Manual for Governance Teams, CSBA (11/09)

The Petitioner does not address any other options for facilities other than Prop. 39. If the Petitioner does not qualify, staff would be concerned about the Petitioner’s ability to secure a location and the impact on the budget of paying market rates for renting or leasing a facility. Revenue from soft sources (Public Charter School Grant Program (PCSGP) and fundraising) is 27% in year one and 16% in year two of ongoing operational costs. The petitioner has passed the grant peer review process and is likely to be funded at some level; the actual amount of funding will not be determined until the grant award notification is received.

Although the petition identifies anticipated revenue from the PCSGP of $575K, one-time PCSGP grant expenditures totaling $283,732 (or 50 percent of the grant) were not identified in the petition budgets. The petitioner states that the Charter School Management Organization (CMO) fees, which are typically used to pay for the school's support functions, will be waived for the first and second years of operations in order to pay the grant expenditures. Even after reallocating the CMO fee budget to PCSGP expenses, there are $44K additional grant expenditures that have been omitted and must be added to the petition budgets, resulting in a higher negative beginning fund balance of -$85K in the first year of operations.

In addition, the petitioner has stated that they will borrow $50K from the CMO to be used in the startup year, and has listed the CMO as the primary source of cash support in the event the Charter School Revolving Loan or PCSGP grant is not received or funding is delayed. To date, the CMO has received a $250K grant, has grant pledges totaling $554K to be received over the next 3 years, and has secured a $350K line of credit. Additionally, the Voices flagship school has reserves of $1.79M, some of which would be available for inter-company lending.

Voices is planning significant growth in the next year with the opening of Voices–Morgan Hill, Voices–Mt. Pleasant, and building out the CMO. (In their long range plans, they anticipate opening a total of five schools.) The expenditures that the CMO is likely to incur will be substantial. According to the Petition, the CMO is expected to hire seven (7) positions in 2014-15, seven (7) positions in 2015-16, and two (2) positions in 2016-17; 10 of those 16 positions are executive or director level positions. The CMO will also pay the schools’ legal and auditing fees. The level of anticipated growth and the CMO’s ability to financially support the two new schools and a new CMO is a concern, particularly when the CMO fees will have to waived for at least one, and possibly two, of its schools for the next two years.

According to the Petitioner, the CMO would be providing the following services: payroll, audit, student information systems and data tracking system.

Recruitment and Enrollment:
Two non-profit Charter Management Organizations (CMOs) have submitted charter petition appeals to the County Office of Education for TK/K-8 charter schools in the Morgan Hill Unified School District. Both petitioners seek to open their schools in west side Morgan Hill in the fall of 2015.

The Voices Charter plans to open in fall 2015 with 112 students in grades TK/K and 1. Voices plans to grow by one grade per year (56 students per grade), and will reach 224 students in grades TK/K-3 by its third year (2017-18).
Voices plans to “primarily target students within the District from five elementary schools.” Four of the schools are K-6 (Walsh, Barrett, San Martin/Gwinn, El Torro), and one is K-8 (Jackson Academy).

- These five schools had a total 2013-14 K-6 enrollment of 2,642 (2,731 K-8 enrollment).
- Latino students comprised 66% of this enrollment, and 34% were classified as English Learners.

Assuming that most of the TK/K students enrolled in Year 1 are Kindergarten students, it is estimated that Voices would enroll approximately 13% of the students currently enrolled in the district schools.

The 224 students planned for Voices Year 3 would equal roughly 15% of the K-3 enrollment of the five target schools.

By Year 8 (2022-23), the Voices enrollment is projected to be 504 students, roughly 18% of the total enrollment of 5 targeted schools.

Both charter schools seem to be targeting the same community and population, and it raises some questions about the reliability of their enrollment targets.

- In Year 1, Voices plans to enroll approximately 42 kindergarten students and Navigator plans to enroll 60, for a total of 102 kindergarten students, 25% of the total current kindergarten enrollment in the five target schools. The two schools combined plan to enroll 116 First grade students, 35% of the total current First grade enrollment of the five target schools.
- By Year 8, the combined enrollment of the two schools is projected to be 1,044, 38% of the total K-8 enrollment of the five targeted schools.

Two schools opening at the same time, in the same community and targeting the same population could be problematic and raises questions about how they will meet their enrollment targets and about their ability succeed.

(3) **Required Parent or Teacher Signatures**
Staff finds that this requirement is met.

(4) **Required Affirmations**
Staff finds that the Petition contains all of the required affirmations.

(5) **Comprehensive Descriptions**
Staff finds that the Petition contains a reasonably comprehensive description of all required elements.

V. **Conclusion**

Staff reviewed the petition utilizing the criteria for approval set forth in Education Code Section 47605. Based upon its comprehensive review and analysis of the Petition, staff finds that the charter school the petitioners are demonstrably unlikely to successfully implement the program set forth in the petition. Accordingly, staff recommends that the Board adopt the Resolution to Approve with noted requirements or conversely adopt the Resolution to Deny with the identified finding.
RESOLUTION APPROVING THE CHARTER PETITION
OF VOICES COLLEGE-BOUND LANGUAGE ACADEMY
AT MORGAN HILL SCHOOL

SANTA CLARA COUNTY BOARD OF EDUCATION
RESOLUTION NO.__________

RESOLVED by the Santa Clara County Board of Education, County of Santa Clara, State of California, that:

WHEREAS, pursuant to the procedures set forth in Education Code Section 47605 and its implementing regulations, petitioners for the Voices College-Bound Language Academy at Morgan Hill School presented their Petition to establish a charter school to the County Office of Education on September 26, 2014, having been denied by the District’s Board of Education on September 23, 2014; and the County Board of Education held a public hearing on this matter on October 15, 2014; and

WHEREAS, the County Board of Education reviewed the Petition taking into consideration the testimony and documents submitted, including the Voices College-Bound Language Academy at Morgan Hill School Petition to the County Board of Education; the testimony presented at the public hearing; additional materials received from petitioners, the Morgan Hill Unified School District and the public; and the review of County Office of Education staff; and

WHEREAS, the County Board of Education finds that the proposed charter school will offer services to pupils who have performed at an average or below average level, and that such pupils will benefit from those services; and

WHEREAS, the County Board of Education finds that the deficiencies identified by staff review can be addressed by specific action, plans, and information;

NOW, THEREFORE, the County Board of Education does hereby approve the petition, and does hereby grant the charter, with the stipulation that the petitioners meet the following requirements prior to opening the school in fall 2015:

I. By January 1, 2015, the Charter School must provide the following information:

a. State Priority #4 (page 75) Pupil Achievement (Annual Goals and Actions) - This State priority needs to be amended to include a metric (percentage vs. the word ‘all’) in the subcategories: (D ) Percentage of ELs who will make progress toward English language proficiency as measured by the CELDT and in (E ) needs to include an EL reclassification rating.
b. For each numerically significant subgroup identified on page 76 (ELs, FRPM-eligible, foster youth and students with exceptional needs) charter needs to amend language and provide “specific annual actions to achieve these goals for each subgroup” by replacing the word "all students" with each subgroup identified (and list the specific annual goals and actions for each subgroup) in each of the State Priorities that apply for grade levels served or the nature of the program operated by the charter school.

c. State Priority #4- page 84 Student Achievement, the charter needs to amend language to include an "exit outcome for the goal with a percentage" for ELs who make progress toward English language proficiency as measured by the CELDT and for EL reclassification rating.

d. State Priority #5-page 85 Student Engagement. The charter needs to amend language to include Middle School dropout rates [EC 2052.1(a) (3)].

II. Voices College-Bound Language Academy at Morgan Hill School and the County Office of Education shall enter into a Memorandum of Understanding that will govern the County Office of Education’s oversight of Voices College-Bound Language Academy at Morgan Hill School operations (hereinafter “MOU”). Failure to successfully negotiate and execute the Contract by January 1, 2015, shall be considered grounds for revocation of the charter. To the extent that there are any inconsistencies between the MOU and the approved charter, the MOU controls.

The charter is approved for an initial period of five years of school operation, commencing on July 1, 2015, and continuing through June 30, 2020.

Passed and adopted by the Santa Clara County Board of Education at a meeting held on this 19th day of November, 2014 by the following vote:

AYE:

NO:

ABSTENTION:

ABSENT:

Leon F. Beauchman, President
Santa Clara County Board of Education

Jon R. Gundry
County Superintendent of Schools
Santa Clara County Office of Education
RESOLUTION DENYING THE CHARTER PETITION
OF VOICES COLLEGE-BOUND LANGUAGE ACADEMY
AT MORGAN HILL SCHOOL

SANTA CLARA COUNTY BOARD OF EDUCATION
RESOLUTION NO.________

RESOLVED by the Santa Clara County Board of Education, County of Santa Clara, State of California, that:

WHEREAS, pursuant to the procedures set forth in Education Code Section 47605 and its implementing regulations, petitioners for the Voices College-Bound Language Academy at Morgan Hill School presented their Petition to establish a charter school to the County Office of Education on September 26, 2014, having been denied by the District’s Board of Education on September 23, 2014; and the County Board of Education held a public hearing on this matter on October 15, 2014; and

WHEREAS, the County Board of Education reviewed the Petition taking into consideration the testimony and documents submitted, including the Voices College-Bound Language Academy at Morgan Hill School Petition to the County Board of Education; the testimony presented at the public hearing; additional materials received from petitioners, the Morgan Hill Unified School District and the public; and the review of County Office of Education staff; and

WHEREAS, the County Board of Education finds that the proposed charter school does not meet the criteria established by Education Code 47605(b), specifically:

(1) The Petition does not contain reasonably comprehensive descriptions of the required elements.

NOW, THEREFORE, the County Board of Education makes the following findings:

The Petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.

NOW, THEREFORE, for the forgoing reasons, the County Board of Education DENIES the Petition.
Passed and adopted by the Santa Clara County Board of Education at a meeting held on this 19th day of November, 2014 by the following vote:

AYE:

NO:

ABSTENTION:

ABSENT:

Leon F. Beauchman, President
Santa Clara County Board of Education

Jon R. Gundry
County Superintendent of Schools
Santa Clara County Office of Education