

RESOLUTION CONDITIONALLY APPROVING THE CHARTER RENEWAL FOR ALPHA: JOSÉ HERNÁNDEZ CHARTER SCHOOL, AND, ALTERNATIVELY, MAKING WRITTEN FACTUAL FINDINGS SUPPORTING DENIAL AND DENYING THE ALPHA: JOSÉ HERNÁNDEZ CHARTER SCHOOL CHARTER RENEWAL IF THE CONDITIONS ARE NOT MET

**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, Alpha: José Hernández Charter School is a Santa Clara County Board of Education (“County Board”) authorized district appeal charter school governed and operated by Alpha Public Schools, a California non-profit public benefit corporation, operating within the boundaries of the Alum Rock Union School District (“ARUSD”). The Alpha: José Hernández Charter School serves students in TK-8 and its current charter term runs through and including June 30, 2025. Alpha: José Hernández Charter School and Alpha Public Schools are referred to herein individually, collectively, and interchangeably as “Charter School” and/or “AJH,” and, for purposes of convenience, Alpha Public Schools may be referred to herein as “APS,” and all references to one herein apply with full force and effect to both the school and the corporate entity; and

WHEREAS, on August 1, 2024, petitioners for the Alpha: José Hernández Charter School submitted to the Santa Clara County Office of Education a petition requesting renewal of its charter (“Charter”). For purposes of convenience, the County Board, the Santa Clara County Superintendent of Schools, and the Santa Clara County Office of Education may be collectively or separately referred to herein as “SCCOE”; and

WHEREAS, as specified in Education Code Section 47607(b), charter school renewals are governed by the standards and criteria in Education Code Section 47605. Pursuant to Education Code Section 47607(c), a charter school’s performance on state and local indicators is an “additional criterion for determining whether to grant a charter renewal.” For this purpose, charter schools are divided into high, middle, and low performance categories, plus Dashboard alternative status schools, based on criteria set forth in Education Code Sections 47607(c) and 47607.2(a) & (b). The pertinent renewal standards and the available length of the renewal term are dependent on this categorization. (Ed. Code §§ 47607 and 47607.2.); and

WHEREAS, in accordance with Education Code Sections 47605 and 47607, the County Board held a public hearing on the provisions of the renewal Charter on September 4, 2024, at which time the County Board considered the level of support for the Charter by teachers employed by ARUSD, other employees of ARUSD, and parents/guardians; and

WHEREAS, the California Department of Education’s (“CDE”), on its list of Charter School Performance Categories, has designated the Charter School as a “low” performance level charter school for purposes of this renewal request. As such, the Charter School’s request for renewal was considered and is being acted on in accordance with the standards and requirements in Education Code Section 47607.2(a), applicable to low performance level charter schools; and

WHEREAS, in accordance with Education Code Section 47607(d), SCCOE requested, received from CDE, and reviewed aggregate data reflecting pupil enrollment patterns at the Charter School and reviewed other data from CDE; and

WHEREAS, pursuant to Education Code Section 47607.2(a) for a low performance tier charter, the chartering authority shall consider the following factors and may renew such a charter only if it makes written factual findings specific to the particular charter petition, supporting the following findings: (1) the school is taking meaningful steps to address the underlying cause(s) of low performance, and those steps are or will be reflected in a written plan approved by the charter school board, and (2) there is clear and convincing evidence, demonstrated by verified data, showing the school achieved measurable increases in academic achievement or strong post-secondary outcomes. Because the Charter School offers only TK-8th grades, strong post-secondary outcomes are not applicable to it; and

WHEREAS, the Charter School submitted a School Improvement Plan to address the low academic performance level, which was approved by the Alpha Public Schools Board on July 24, 2024; and

WHEREAS, the Charter School submitted NWEA assessment growth verified data for Charter School students showing positive cohort growth trends across the charter term and one year's growth for one year in school for 2023-24, the last year for which there is available data; and

WHEREAS, the SCCOE and Charter School have entered into a Memorandum of Understanding ("2017 MOU"), which became effective on July 1, 2017, outlining agreements among the parties and governing their respective fiscal, operational, and administrative responsibilities and their legal relationship. By its terms, this 2017 MOU remains in full force and effect during the period of any renewal granted by the SCCBOE unless and until such time as the Parties enter into a replacement MOU or specifically agree in writing that this MOU is terminated; and

WHEREAS, the SCCOE provided the Charter School an updated memorandum of understanding ("2024 MOU") that is consistent with changes to law since entering into the 2017 MOU and reflects SCCOE's current best practices, and Charter School executed the 2024 MOU on _____, 2024; and

WHEREAS, Staff has reviewed and analyzed the renewal Charter pursuant to the standards and requirements of Education Code Section 47605, 47607, and 47607.2, including the factors and findings required for renewal of a low performing charter school. Staff's analysis, recommendations, and recommended findings based on that review and analysis are set forth in the written Staff Analysis and Proposed Findings of Fact, dated October 16, 2024, and published October 1, 2024, (hereinafter "Staff Report, Analysis & Findings," attached hereto as Exhibit "A" and incorporated herein by this reference); and

WHEREAS, for all of the reasons set forth in the Staff Report, Analysis & Findings, Staff has recommended that the County Board of Education conditionally approve the request for renewal of the Charter for a term of two years (July 1, 2025 – June 30, 2027) on the condition that the Charter School and SCCOE enter into a memorandum of understanding and/or addendum to a memorandum of understanding on or before December 6, 2024, or such later deadline as may be agreed to by the County Superintendent or designee, that includes all of the provisions specified in the Staff Report, Analysis & Findings, as well as any additional conditions or requirements identified by the County Board, and has further recommended that the County Board adopt alternative written findings of denial because Staff believes that all of the issues and concerns noted in the Staff Report, Analysis & Findings must be remediated in order to support

the findings required for renewal of the Charter given the Charter School's low performance status and for renewal of the Charter to be consistent with sound educational practice. As detailed in the Staff Report, Analysis & Findings, these conditions include, but are not limited to, the need for the Charter School to revise and supplement the School Improvement Plan and have it adopted by the APS Board, along with increased oversight through quarterly progress meetings with Charter Schools Department Staff and submission of performance assessment data; and

WHEREAS, the County Board has taken into consideration the information and documents submitted, including the renewal Charter, statements and information presented at the public hearing, performance data, the Charter School's School Improvement Plan, and the Staff Report, Analysis & Findings; and

WHEREAS, the County Board reviewed and deliberated on the renewal Charter, pursuant to the standards and procedures set forth in California Education Code Sections 47605, 47607, and 47607.2; and

WHEREAS, the County Board specifically notes that this Resolution No. _____ does not necessarily include findings relative to every defect in the renewal Charter submitted, and that the findings set forth herein are sufficient to support denial of the renewal Charter if the conditions for approval are not met, and it is the findings set forth and adopted herein, including all of those incorporated by reference from the Staff Report, Analysis & Findings, on which the denial findings are based.

THEREFORE, BE IT RESOLVED AND ORDERED that the County Board finds the above listed recitals to be true and correct and incorporates them herein by this reference.

BE IT FURTHER RESOLVED AND ORDERED that the County Board of Education hereby adopts and incorporates herein by this reference as though set forth in full herein the written factual findings and specific facts supporting those findings as contained in the Staff Report, Analysis & Findings.

BE IT FURTHER RESOLVED AND ORDERED that the County Board of Education, having fully considered and evaluated the renewal Charter and the Staff Report, Analysis & Findings, makes the following factual findings, dependent on and only if the Charter School complies with the conditions of renewal set forth herein: The Charter School is taking meaningful steps to address the underlying causes of low performance, and those steps will be reflected in the School Improvement Plan, if it is updated and modified in accordance with the Staff Report, Analysis & Findings as part of the Charter School's compliance with the conditions of renewal specified herein. The County Board further finds that it is necessary and required in order to support these mandatory findings and the renewal of the Charter pursuant to the limited exception in Education Code Section 47607.2(a) for renewal of low performance level charter schools, that the Charter School adopt updates to its School Improvement Plan and immediately commence and continue implementing that Plan throughout the renewal term – including modifications and improvements as necessary to remediate the causes for the Charter School's low performance – as well as including in the Charter School's 2025-26 LCAP, or other state-mandated plan, how it will continue to address the academic performance of Charter School students. There is clear and convincing evidence, demonstrated by verified data, that the Charter School has achieved measurable increases in academic achievement when taking into consideration the impacts of learning loss as a result of the COVID-19 pandemic and the trajectory of the cohort student data, including the most recent NWEA data indicating one year of growth for one year in school.

BE IT FURTHER RESOLVED AND ORDERED that the County Board, having fully considered and evaluated the renewal Charter, including the performance information and verified data pursuant to Education Code

Section 47607.2, hereby finds that compliance with each of the conditions set forth below is necessary to support the findings required for renewal of a low performing charter, including both that the Charter School is taking meaningful steps to address the underlying causes of the Charter School's low performance and the determination that there is clear and convincing evidence, demonstrated by verified data, that the Charter School has achieved measurable increases in academic achievement, and compliance with each of the conditions is further required for the sound operation of the Charter School, and approval of the renewal Charter is consistent with sound educational practice only if the Charter School complies fully with each of these conditions.

BE IT FURTHER RESOLVED AND ORDERED that the County Board of Education hereby conditionally approves the Charter for the renewal of AJH for a period of two years, commencing on July 1, 2025, and continuing through and including June 30, 2027. The renewal Charter that the Governing Board is hereby conditionally approving is attached hereto as Exhibit "B." This approval is conditional on the Charter School complying with all of the following conditions:

1. On or before December 6, 2024, or such later deadline as agreed to in writing by the County Superintendent or designee, the Charter School and the SCCOE shall enter into and execute a memorandum of understanding (MOU) and/or an addendum to an MOU in the form and including the terms satisfactory to the County Superintendent or designee, in their sole discretion, that will govern the SCCOE's oversight of the Charter School, and clarify and provide greater specificity regarding the Charter School's operations pursuant to the renewal Charter, and that will address all of Staff's concerns with the renewal Charter, including but not limited to those specified in the Staff Report, Analysis & Findings, and any additional concerns and conditions as noted by the County Board. The MOU/addendum shall be coextensive with and remain in full force and effect throughout the term of the Charter School's Charter and during the pendency of any appeal of a denial of a renewal request or a revocation of the Charter. Further, the term of the MOU/addendum shall continue in full force and effect beyond the current Charter term during any period when the County Board is the Charter School's chartering authority (whether approved directly or if the County Board is designated by the State Board of Education to serve as the chartering authority) including during the pendency of any appeal of a denial of a renewal request or a revocation of the Charter, unless and until such time as (a) the Parties agree that a replacement MOU/addendum shall supersede and replace the MOU/addendum and that replacement MOU/addendum becomes effective; (b) the parties agree in writing that the MOU/addendum is terminated; or (c) AJH ceases operating and relinquishes/loses its Charter for any reason and complies with all applicable closure procedures and any ongoing requirements of the Charter, the MOU/addendum, and/or the 2017 MOU and 2024 MOU, should those agreements be in effect. The MOU/addendum shall be incorporated into the Charter and made a part thereof as if set forth in full in the Charter itself for all purposes, including for purposes of Education Code Section 47607 controlling charter revocation. In the event of a conflict between the law and the terms of the MOU/addendum, the law shall prevail, and any such conflicting terms shall be revised by mutual agreement of the parties. To the extent that there are any inconsistencies or conflicts between the MOU/addendum, the 2024 MOU and/or the 2017 MOU (to the extent those agreements are in effect), and the approved renewal Charter, the order of precedence shall be as follows: (1) addendum; (2) MOU, (3) 2024 MOU; (4) 2017 MOU (4) renewal Charter, and the terms shall control and prevail in this precedence order, and the terms of the addendum, MOU, 2024 MOU, and 2017 MOU shall be interpreted and deemed to be updates and clarifications to the Charter.

The MOU/addendum shall address all of the following requirements on terms acceptable to the County Superintendent or designee:

- a. The terms of the MOU/addendum address/remediate each of the items identified as requiring remediating/correction/updating and or otherwise identified as a requirement or condition of renewal in the Staff Report, Analysis & Findings, including updates from the 2017 MOU as necessary to reflect current law and best practices.
- b. The Charter School shall update its School Improvement Plan in accordance with the Staff Report, Analysis & Findings, including as necessary to include specific actions for individual student groups to specifically address the group's unique needs, and the APS Board shall approve the updated School Improvement Plan prior to execution of the MOU or in accordance with the timeline specified in the MOU as determined by the County Superintendent or designee.
- c. The Charter School shall submit its local assessment data results to the Charter Schools Department at least twice a year (October and May).
- d. The Charter School shall attend quarterly School Improvement Plan progress meetings with the Charter Schools Department.

The Charter School is also strongly encouraged to work collaboratively with SCCOE to address through the MOU/addendum, the other recommendations noted by SCCOE in the Staff Report, Analysis and Findings.

BE IT FURTHER RESOLVED AND ORDERED that the Santa Clara County Board of Education finds that if the conditions described above are not timely complied with to the satisfaction of the County Superintendent or designee, approval of the renewal Charter is not consistent with the requirements for renewal of a low performing charter school or sound educational practice, based upon numerous grounds and factual findings including, but not limited to, the following:

1. The findings required for renewal of Charter School as a low performance tier school per EC 47607.2(a)(4) cannot be made and supported without compliance with the enumerated conditions [Ed. Code § 47607.2(a)].
2. The Charter School presents an unsound educational program for the pupils to be enrolled in the Charter School [Ed. Code § 47605(c)(1)].
3. The Charter School failed to update its Charter to include a reasonably comprehensive description of all new requirements of charter schools enacted into law since the Charter was last renewed and/or the renewal Charter does not contain a reasonably comprehensive description of all of the required charter elements [Ed. Code §§ 47605(c)(5) and 47607(b)].
4. The Charter School is demonstrably unlikely to successfully implement the program as set forth in the petition [Ed. Code § 47605(c)(2)].

BE IT FURTHER RESOLVED AND ORDERED that the County Board hereby determines that the foregoing findings are supported by specific facts, including the following facts and findings:

1. **The findings required for renewal of Charter School as a low performance tier school per EC 47607.2(a)(4) cannot be made and supported without compliance with the enumerated conditions.**

The Charter School has been deemed a low performance tier school and is presumptively denied pursuant to Education Code Section 47607.2. As a result, pursuant to Education Code Section 47607.2(a), the Charter may only be renewed if the County Board makes written factual findings specific to this renewal Charter, and setting forth specific facts to support the following findings applicable to the Charter School as a TK-8th grade school:

- (A) The charter school is taking meaningful steps to address the underlying cause or causes of low performance, and those steps are reflected, or will be reflected, in a written plan adopted by the governing body of the charter school.
- (B) There is clear and convincing evidence showing ... the following:
 - (i) The school achieved measurable increases in academic achievement, as defined by at least one year's progress for each year in school.

The County Board's adoption of these findings, and the specific facts supporting these findings, are explicitly dependent on the Charter School's full compliance with the conditions of renewal, including, but not limited to, the Charter School agreeing through the MOU/addendum to do all of the following: to update and have the APS Board adopt the updated School Improvement Plan in accordance with the Staff Report, Analysis & Findings; to submit its local assessment data results to the Charter Schools Department at least twice a year (October and May); and to attend quarterly School Improvement Plan progress meetings with the Charter Schools Department. In the absence of Charter School's compliance with the renewal conditions, the County Board does not make the required findings for renewal of the low performing Charter and the renewal is denied in accordance with the presumption of denial.

2. **The Charter School presents an unsound educational program for the pupils to be enrolled in the charter school.**

The concerns and deficiencies regarding the educational program set forth in the adopted and incorporated Staff Report, Analysis & Findings establish that the Charter School presents an unsound educational program unless it is improved and revised in accordance with the conditions, including each of the requirements of the Staff Report, Analysis & Findings and the necessary revisions and updates to the School Improvement Plan. These concerns and deficiencies include, but are not necessarily limited to, the fact that implementation of the program to date has had low academic results for Charter School students.

3. **The Charter School failed to update its Charter to include a reasonably comprehensive description of all new requirements of charter schools enacted into law since the Charter was last renewed and/or the renewal Charter does not contain a reasonably comprehensive description of all of the required charter elements.**

As detailed in the Staff Report, Analysis & Findings, multiple required charter elements in the renewal Charter were not properly updated to include a reasonably comprehensive description,

including to comply with all new requirements of law. These elements include, but are not limited to, the required description of measurable pupil outcomes, the governance structure, health and safety, admissions policies and procedures, and the financial audit, as set forth in the adopted and incorporated Staff Report, Analysis & Findings.

4. **The Charter School is demonstrably unlikely to successfully implement the program as set forth in the petition.**

The concerns and deficiencies regarding implementation of the program set forth in the renewal Charter as described in the adopted and incorporated Staff Report, Analysis & Findings are incorporated herein by this reference. The low academic performance results to date, serve to establish that the petitioners are demonstrably unlikely to successfully implement the program set forth in the renewal Charter unless changes are made and meaningful steps to address the causes of low performance are adopted and implemented, including through compliance with the conditions of renewal.

BE IT FURTHER RESOLVED AND ORDERED that the Charter School shall comply with the conditions by the dates and times specified above. The County Board hereby delegates to the County Superintendent or her designee authority to extend in writing the deadline for compliance with a condition(s) should the County Superintendent or designee determine that an extension of the timelines is consistent with sound educational practice.

BE IT FURTHER RESOLVED AND ORDERED that should the Charter School not comply with all of the conditions to the County Superintendent or designee's sole satisfaction, on or before the dates and times specified above, or such later deadline as agreed to in writing by the County Superintendent or designee, the conditional approval of the renewal Charter is terminated and withdrawn and the renewal Charter is denied based on the written factual findings set forth above and adopted hereby, unless the County Board, in its sole discretion, deletes the requirement or extends the deadline for compliance therewith.

BE IT FURTHER RESOLVED AND ORDERED that the terms of this Resolution, and incorporated Staff Report, Analysis & Findings, setting forth the factual findings supporting denial of the renewal are severable. Should it be determined that one or more of the findings is invalid, the remaining findings, and the conditional approval or denial for failure to comply with the conditions, shall remain in full force and effect. In this regard, the County Board specifically finds that each factual finding is, in and of itself, a sufficient basis for denial.

BE IT FURTHER RESOLVED AND ORDERED that approval of the renewal Charter is explicitly and necessarily based on the Charter School's compliance with the conditions imposed by the County Board pursuant to this Resolution, and should it be determined that a conditional approval of the renewal Charter is not permissible pursuant to the Charter Schools Act of 1992, the written factual findings required for renewal of the low performance tier Charter pursuant to Education Code Section 47607.2 are withdrawn as they are specifically based and contingent on compliance with the conditions, and the approval is withdrawn and the renewal Charter is denied based on its presumptive denial as a low performance tier Charter without the findings required for renewal pursuant to Education Code Section 47607.2(a)(4) and further based on the factual findings specific to the renewal Charter set forth and adopted by the County Board herein.

Passed and adopted by the Santa Clara County Board of Education at a meeting held on this 16th day of October 2024 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Maimona Berta, President
Santa Clara County Board of Education

Mary Ann Dewan, Ph.D.
County Superintendent of Schools
Santa Clara County Office of Education

EXHIBIT A

INSERT STAFF REPORT, ANALYSIS & FINDINGS

EXHIBIT B

INSERT AJH CHARTER