

Santa Clara County  Office of Education

**STAFF ANALYSIS
VOICES COLLEGE-BOUND LANGUAGE ACADEMY AT MORGAN HILL CHARTER SCHOOL
MATERIAL REVISION**

July 20, 2022

The Santa Clara County Office of Education’s (SCCOE) Charter Schools Department Staff reviewed a request for material revision to the charter of Voices College-Bound Language Academy at Morgan Hill (VMH) submitted to the Santa Clara County Board of Education (SCCBOE) on June 3, 2022. Specifically, VMH is seeking approval to change its physical location from its current single site to expand temporarily to three sites within the Morgan Hill Unified School District boundaries. VMH is requesting this revision because the lease for its current facility expires on June 30, 2022, and there have been construction delays on its planned permanent site. VMH has specified this proposed expansion to three sites is for 2022-23 and, if necessary, 2023-24, but thereafter, and in no event later than the 2025-26 school year (which would be the start of VMH’s next charter term), VMH will move to a single identified location to be built for this purpose. As such, VMH is proposing this expansion to three sites for a maximum of three school years. The proposed changes to the VMH charter constitute a material revision, as specified in *Education Code (EC)* section 47605(a)(4).

Material revisions of district appeal charters are governed by the standards and criteria in *EC* sections 47605 and 47607 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.

PROCEDURAL STATUS

The SCCOE Charter Schools Department received a request for material revision to the VMH charter on June 3, 2022.

The Charter Schools Act provides that, “No later than 60 days after receiving a petition,” the SCCBOE must hold a public hearing on the charter provisions, at which it “shall consider the level of support for the petition,” and within 90 days, the SCCBOE shall either grant or deny the requested material revision. Additionally, the SCCOE Charter Schools Department Staff’s recommendations, including the recommended findings, must be published at least 15 days prior to the SCCBOE rendering a decision. On June 15, 2022, in compliance with *Education Code (EC)* section 47605, the SCCBOE held a public hearing, and on July 5, this Staff Analysis of the material revision petition and the corresponding proposed resolution, setting forth Charter Schools Department Staff’s recommendations, including recommended findings, were published by posting to the SCCOE website.

SCCOE, VMH, and its governing entity, Voices College Bound Language Academies (VCBLA) currently have in place a Memorandum of Understanding (MOU), which governs the respective fiscal, operational, and administrative responsibilities, legal relationships, and other matters not otherwise addressed or resolved by the terms of the charter, which MOU will remain in full force and effect whether the SCCBOE grants or denies VMH’s request for material revision. The MOU supplements, corrects, and clarifies the terms of the current charter, and the Charter

Schools Department Staff's review and analysis of the materially revised charter petition was informed by and performed in conjunction with consideration of the terms of the MOU. Consistent with the provisions of County Board Policy 0420.4 and the provisions and recommendations of this Staff Analysis, Charter Schools Department Staff recommends that any SCCBOE approval of the requested material revision be conditional as described herein, including a condition that SCCOE, VMH, and VCBLA enter into an addendum to the current MOU to address the concerns described herein and in the proposed resolution.

BACKGROUND

VMH was initially authorized by the SCCBOE on appeal from Morgan Hill Unified School District (MHUSD) on November 19, 2014, to serve students in grades TK-8. VMH was renewed for five years on December 13, 2017, and, as provided by EC section 47607.4, its current term expires on June 30, 2025. On June 3, 2022, the SCCBOE received a request for material revision from VMH proposing temporarily to move and expand to three facilities within the boundaries of MHUSD while awaiting the completion of construction on its permanent facility. In addition, VMH specified that it had updated the charter to conform to any new laws enacted since the charter was last reviewed.

Prior to VMH submitting the materially revised charter for SCCBOE consideration, Charter Schools Department Staff recommended to VMH that in its materially revised charter VMH address the impact of the proposed move/expansion on VMH and its operations. Charter Schools Department Staff specifically recommended that VMH address the impacts of the proposal on matters including staffing, funding, the dual immersion program, and site leadership, as well as operational concerns that SCCOE Staff had previously raised concerning VCBLA/VMH's operations. Charter Schools Department Staff also recommended that VMH include as much information about the proposal and its impacts as possible in the material revision submission in order for Charter Schools Department Staff to make recommendations and the SCCBOE to act on the request for material revision.

The materially revised charter petition identifies two of the three proposed new sites, and specifies that VMH is pursuing a third site, also to be located within the boundaries of MHUSD. While the cover letter submitted with the materially revised charter, as well as SCCOE Charter Schools Department Staff's communications with VMH, indicate that it is necessary for VMH to expand to three sites, and that VMH could not be accommodated only on the two specifically identified sites, the submitted revision charter itself states that VMH will temporarily relocate to the two identified new sites "with the potential for an additional temporary site in Morgan Hill for the same period" Any site used by VMH must, by law, be located within MHUSD's boundaries.

EDUCATION CODE REQUIREMENTS FOR REVIEW OF A REQUEST FOR MATERIAL REVISIONS TO A CHARTER

EC section 47607(b) states, "Renewals and material revisions of charters are governed by the standards and criteria described 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." As such, the standards for approval/denial of a material revision request are the same as those for a new charter petition, which are set forth in EC 47605. In accordance with this requirement, EC 47605 specifies that the SCCBOE "shall consider the academic needs of the pupils the school proposes to serve" and shall grant the requested material revisions if it is satisfied that the grant "is consistent with sound educational practice and with the interests of the community in which the school is proposing to locate." The SCCBOE shall not deny the request for material revisions unless it makes written factual findings, specific to the materially revised charter petition, setting forth specific facts 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 an affirmation of each of the conditions described in Education Code Section 47605 (e).*
- (4) *The petition does not contain reasonably comprehensive descriptions of all of the charter elements.*
- (5) *The petition does not contain a declaration of whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for purposes of the Educational Employment Relations Act (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code).*
- (6) *The material revision is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate. Analysis of this finding shall include consideration of the fiscal impact of the proposed charter school. A written factual finding under this paragraph shall detail specific facts and circumstances that analyze and consider the following factors:*
 - a. *The extent to which the proposed material revisions would substantially undermine existing services, academic offerings, or programmatic offerings.*
 - b. *Whether the proposed material revisions would duplicate a program currently offered within the school district and the existing program has sufficient capacity for the pupils proposed to be served within reasonable proximity to where the charter school intends to locate.*
- (7) *The school district is not positioned to absorb the fiscal impact of the proposed material revision. A school district satisfies this paragraph if it has a qualified interim certification pursuant to Section 42131 and the county superintendent of schools, in consultation with the County Office Fiscal Crisis and Management Assistance Team, certifies that approving the material revision would result in the school district having a negative interim certification pursuant to Education Code Section 42131, has a negative interim certification pursuant to 42131, or is under state receivership. Charter schools proposed in a school district satisfying one of these conditions shall be subject to a rebuttable presumption of denial.*

REVIEW OF THE PETITION

Charter Schools Department Staff reviewed the petition pursuant to California EC sections 47605 and 47607, and consistent with the SCCBOE's Policy 0420.4 – Charter Schools. The results of the Charter Schools Department Staff's review and analysis, and the Charter Schools Department Staff's recommendations and recommended findings, are presented below and in the corresponding resolution.

1. Sound educational program

VMH states in the cover letter to its request for material revision that there are no proposed changes to VMH's dual immersion program and that only minor revisions to the charter were made to provide a reasonably comprehensive description of how services will be maintained across three sites. The charter identifies only two of the three proposed new sites and provides no information about the third proposed location other than that it will be within Morgan Hill. The VMH cover letter states that each of the three proposed sites are approximately three miles away from the current site. Per the petition, the school day for VMH is still anticipated to be 8:00 a.m. to 4:00 p.m. for all grade levels and at each site; the petition includes no proposed revisions to the current school day schedule. Charter Schools Department Staff does not believe the same start and end time across the three sites is a workable plan given that it would be difficult or impossible for VMH families with students attending multiple VMH sites timely to drop off and/or pick up students from the different sites at the same time.

In response to SCCBOE questions raised during the public hearing, VMH representatives recognized that the school does have families with students at different grade levels who will be at different sites and asserted that VMH is “looking into” measures such as transportation support, staggered start and stop times, and partnerships with afterschool programs to address concerns for VMH families with students attending different sites. However, the charter petition as submitted does not include any such plans or acknowledge the need for such plans and/or any impact that such changes may have on VMH’s program, staffing, and/or budget. Charter Schools Department Staff recommends that VMH be required to propose an alternative, workable and detailed plan, allowing students from families with children attending school at multiple sites all to arrive at and be picked up from their respective sites on time (with seventh and eighth grades beginning no earlier than 8:00 a.m. consistent with *EC 46148*). Charter Schools Department Staff further recommends that VMH be required to submit a plan that is satisfactory to the County Superintendent and/or Designee prior to commencing instruction at multiple sites.

Additionally, while the VMH charter states it will “strive” to keep grade levels together for resource sharing, it also states that the distribution of classes and grade levels is still being worked through and finalized. As such, VMH has not identified how the students and grade levels will be distributed across the three proposed sites and has not guaranteed that grade levels or grade level groupings will be maintained together at a single site. Further, there is no formal staffing plan for the three sites. The charter specifies, “The temporary multi-site staffing model will be developed and approved during the months of June and July 2022 and will be submitted to the County for review.” This statement is not a commitment to obtain Charter Schools Department Staff approval of the plan, but only specifies that the plan will be developed by VMH, after which it will be provided to Charter Schools Department Staff “for review.” Charter Schools Department Staff recommends VMH be required to submit, prior to commencing instruction at multiple sites, a specific and detailed plan that is satisfactory to the County Superintendent and/or Designee for the distribution of grade levels among the three sites as well as a specific and detailed plan for each site including, but not limited to, the number of classrooms at each site; the grade levels assigned to each classroom at each site; the number and position of certificated, non-certificated, and administrative staff required to operate each site safely and in an educationally sound manner; the number and position of certificated, non-certificated, and administrative staff already employed and assigned to each site; as well as a plan and timeline for filling open positions and providing appropriately qualified and credentialed substitute services in case of vacancies and/or absences.

VMH has not updated its enrichment activity plan. Enrichment, which is not counted toward instructional minutes, is described by VMH as a mid-day block (while teachers are engaged in daily professional development or team collaboration) during which Associate Teachers, trained school support staff, or expert consultants direct students in activities such as socio-emotional learning, free play, art, etc. Acknowledging that it “will need to make changes to the support and structure of Enrichment” while it operates at multiple sites, VMH has indicated it is in the process of developing a plan to make those changes and expects to finalize it in July 2022. Charter Schools Department Staff recommends VMH be required to develop and submit plans satisfactory to the County Superintendent and/or Designee prior to commencing instruction at multiple sites, and include, as part of its plan, a bell schedule for full and minimum days indicating the time Enrichment will occur for each grade level and positions of staff responsible for students during Enrichment.

VMH’s revised charter specifies that students will be grouped based on language proficiency levels for designated English Language Development (ELD) instruction. In the material revision request, no further clarity was provided regarding designated ELD instruction other than that VMH will ensure “that it has schedules for proficiency leveled-ELD rosters within each individual site” and will “ensure that there are supplemental ELD materials kits at each site.” Charter Schools Department Staff recommends VMH be required to provide further details on how students will be grouped to receive designated ELD instruction at each site. Charter Schools Department Staff further recommends that VMH be required to provide a

plan that is satisfactory to the County Superintendent and/or Designee prior to commencement of instruction at multiple sites.

In the area of special education, the VMH charter continues to state that “[i]t is the role of the Charter School’s Education Specialist, and the special education associate teacher, to provide academic services within the general education classroom” through various approaches and services. The charter further states that other needed services for students with disabilities are provided within VMH’s Learning Center, “which is the central location for the Special Education department and the Education Specialist.” The charter states that VMH will continue this arrangement – maintaining a single Learning Center while operating at multiple sites – though the charter further states that VMH will provide all special education services onsite at each student’s campus in addition to training and coordinating with the Voices Special Education Department to ensure all Individual Education Plan (IEP) needs and services are met at each school site. VMH states it will create schedules and put together materials and resources for teachers and students at each location; however, no explanation was provided of how a single Learning Center housing the Education Specialist and the use of non-credentialed special education associate teachers will be used to serve students across the three sites. Charter Schools Department Staff recommends VMH be required to explain in detail the role of the Education Specialist, special education associate teachers, and classroom teachers in ensuring IEP services are provided when students and resources are spread across multiple sites and share a schedule of planned professional development with a brief description and intended audience. Further, VMH must provide a detailed plan of the proposed staffing schedule for the students with disabilities, how instructional support staff will be utilized across the three sites, and a detailed explanation of how the single Learning Center will be implemented in the multi-site environment. Charter Schools Department Staff further recommends that VMH be required to provide these plans that are satisfactory to the County Superintendent and/or Designee prior to commencement of instruction at multiple sites.

VMH’s request for material revision includes changes to its writing program, switching from “Writer’s Workshop” to an “English Language Arts (ELA) Block.” However, there is no explanation for the change and only a brief, general description of the ELA block. VMH’s description of its education program also includes updates to its science curriculum, now Interactive Science (formerly Process of Engineer Design) and its social studies curriculum, now Teachers Curriculum Institute (formerly 5 Power Mindsets). While explanations for these changes were not included, more clarity is needed to show how curricular services will be maintained across three sites and whether each site has sufficient textbooks and instructional materials. Charter Schools Department Staff recommends that VMH be required to provide these explanations, satisfactory to the County Superintendent and/or Designee, prior to commencing instruction at multiple sites.

Charter Schools Department Staff finds the petition, as revised, **does not** present a sound educational program. VMH must develop further workable, specific, detailed plans and logistics that describe how the three-site model will be implemented, including, but not limited to, the issues noted above. In order to constitute a sound educational program, Charter Schools Department Staff recommends that VMH be required to provide the actual plans that are satisfactory to the County Superintendent and/or Designee, prior to commencement of instruction at multiple sites, and that such plans must be included in an addendum to the MOU.

2. Ability to successfully implement the program set forth in the Petition

The VMH request for material revision states only minor revisions to the charter were necessary, and that revisions were made “to provide a reasonably comprehensive description of how services will be maintained across three sites.” However, no specifics have been provided as to how services will continue in accordance with the current charter or how services and programs will change in order to be sound and effective while the school is operating at three separate sites. Many of the changes to the charter indicate only that a plan will be forthcoming, but such plans have not yet been developed and are not described

in the request for material revision submitted for review and SCCBOE action. Without reasonably comprehensive descriptions of its plans and given that VMH has indicated that it has not yet developed those plans, Charter Schools Department Staff has strong reservations about VMH's ability to successfully implement the program across three sites and maintain its educational program as currently constituted.

One example of a concern is the lack of a grade level configuration for the three sites. The petition states all grades will attend school from 8:00 a.m. to 4:00 p.m. SCCOE questions how families with children at multiple sites can ensure each child arrives at their respective school site in time for an 8:00 a.m. start. VMH did indicate that it would develop a plan for the grade configuration and, during the public hearing indicated that it was considering options for addressing these impacts on families with students at multiple sites. Similarly, the materially revised charter does not include a multi-site staffing model, but instead specifies that a multi-site staffing model "will be developed and approved" during June-July 2022, and submitted to SCCOE "for review." Nevertheless, the development and content of these plans directly impacts whether VMH can successfully implement the program as set forth in the petition.

Charter Schools Department Staff finds the petitioners **are demonstrably unable** to successfully implement the program set forth in the petition, as revised, without further plans and planning, including, but not limited to, the issues noted above, that constitute a reasonable, workable, and educationally sound means of successfully operating the VMH program, as described in the revised charter, across multiple sites. Charter Schools Department Staff recommends that VMH be required to provide the actual plans for implementation of the program across multiple sites that are satisfactory to the County Superintendent and/or Designee, prior to commencement of instruction at multiple sites, and that such plans must be included in an addendum to the MOU.

3. Affirmation of each of the conditions required by statute 47605(c)(4)

As of January 1, 2018, anti-discrimination provisions in EC sections 200 and 220, as cross-referenced in EC section 47605, now include "immigration status" as a protected characteristic based on which a charter school (or any recipient of state funding) is prohibited from discriminating. VMH's charter has been updated to include this protected characteristic.

As of January 1, 2019, charter schools may encourage parental involvement but may not require involvement as a requirement for acceptance or continued enrollment. VMH's charter now includes said affirmation.

As of January 1, 2020, charter schools shall not discourage students from enrolling or seeking enrollment for any reason, shall not request student records prior to enrollment, shall not encourage students to disenroll or transfer to another school for any reason, and will post a notice of these rights and provide a copy of these rights to the parents and students when students inquire about enrollment, before conducting the lottery, and before disenrollment. VMH's charter now includes said affirmations.

As of January 1, 2020, charter school teachers are required to hold the credentials, certification, permit, or other documents required for the teacher's certificated assignment. VMH's charter now includes said affirmation.

As of January 1, 2020, charter schools must comply with the Ralph M. Brown Act, the Political Reform Act, and Government Code 1090 as set forth in EC 47604.1, and the California Public Records Act. VMH's charter now includes said affirmations.

Affirmations in the VMH petition were updated to conform to the new law.

Charter Schools Department Staff finds the petition, as revised, contains all required affirmations.

4. Reasonably comprehensive description of the required elements

In order for the description of each element to be considered “reasonably comprehensive,” it is not enough that the petition include a description, but rather the description as affected by the requested material revision and/or changes to the law should be acceptable to SCCOE and be consistent with and not contrary to SCCOE’s standards and expectations for charter schools under its oversight. Charter Schools Department Staff found that the materially revised charter **does not** contain a reasonably comprehensive description of all of the required elements unless further plans and specificity, satisfactory to the County Superintendent and/or Designee, are developed prior to commencement of instruction at multiple sites and are specified in detail in an addendum to the MOU. The specific analysis of whether there is a reasonably comprehensive description of each of the 15 required elements (Elements A-O) is set forth below:

A. Element One: *Description of the Educational Program*

As stated above, VMH is requesting a material revision in order temporarily to relocate to three separate sites, beginning with the 2022-23 school year. While a third location has not yet been disclosed, VMH has stated it has identified two potential locations. VMH’s timeline for finalizing a third location is unclear.

VMH stated in its cover letter that there are no proposed changes to VMH’s dual immersion program and included language in the petition indicating all services would be continued; however, the petition does not include specific plans demonstrating how the services will continue to be provided consistent with the charter and a sound educational program across multiple sites. The concerns regarding the educational program described above are incorporated by this reference into this analysis of Element One.

The “Interventions” section of VMH’s plan for students who are academically low achieving has been modified to provide that intervention “pullout lessons,” which appear to occur during the instructional day, are provided by “trained staff,” rather than by teachers who meet the credentialing requirements of the law. These intervention pullout lessons are described as instruction and appear to be part of the instructional minutes for the students receiving the services, as such, the services should be provided by an appropriately credentialed teacher in order to comply with the law and educational best practices.

Charter Schools Department Staff finds this element of the petition, as revised, **does not** include a reasonably comprehensive description without VMH developing and submitting further clarifying plans that are satisfactory to the County Superintendent and/or Designee prior to the commencement of instruction at multiple sites and including those plans in an addendum to the MOU.

B. Element Two: *Measurable Pupil Outcomes*

VMH updated this element to include the English Language Proficiency Assessments for California (ELPAC) instead of the California English Language Development Test (CELDT), which is no longer utilized in California to assess English Learner proficiency. VMH updated the teacher credentialing requirements to align with the law. VMH also included the new diagnostic assessments (ANet Assessments and Illuminate assessments) that are being utilized by VMH.

Charter Schools Department Staff finds this element of the petition, as revised, does include a reasonably comprehensive description.

C. Element Three: *Method by Which Pupil Progress in Meeting Outcomes will be Measured*

VMH updated this section of the petition to include the English Language Proficiency Assessments for California (ELPAC) instead of the California English Language Development Test (CELDT), which is no longer

utilized in California to assess English Learner proficiency. VMH also updated the teacher credentialing requirements to align with the law and included new diagnostic assessments (ANet Assessments and Illuminate assessments).

Charter Schools Department Staff finds this element of the petition, as revised, does include a reasonably comprehensive description.

D. Element Four: Governance Structure

VMH updated this element of the petition to include that the VCBLA corporate Board of Directors “shall include representatives and members of the community and at least two (2) seats shall be reserved for parents of current Voices students.” This language addition mirrors the adjustment made during the Voices Mount Pleasant renewal and aligns the VMH charter to current VCBLA practices. Currently there are two parents on the VCBLA Board. VMH updated the Board member roster and biographical information to align with the current Board membership. VMH additionally updated the Governance element of the petition to include compliance with EC section 47604.1 regarding governance transparency in alignment with the Brown Act, the Political Reform Act of 1974, and Government Code Section 1090 *et seq.*

VMH has eliminated the Schools Advisory Committee, which was one of the formal opportunities for parent involvement in the school and its governance. VMH has transferred some of the duties previously performed by the SAC to the existing Voices Parent Advisory Committee (VPAC).

According to the California Secretary of State’s website, VCBLA’s Statement of Information has been past due since January 31, 2022. VCBLA must timely file the legally required documentation as a nonprofit public benefit corporation.

The materially revised charter petition does not describe how VMH school and site leadership will function across three separate sites. Per the charter, the Principal is the leader of VMH, responsible, among many other duties, to ensure that curriculum is implemented to maximize student-learning experiences, for the orderly operation of the school, and the supervision of all employees. The cover letter transmitting the materially revised charter specifies that VMH “has committed to maintain one member of its site leadership team at each of the temporary locations and will also receive added support, above and beyond what is typical, from Voices’ central office operations and academic teams.” However, the revised charter does not include any such commitment or a plan for implementing this commitment. Notwithstanding this statement of commitment in the cover letter, the revised charter petition does not discuss maintaining a member of the site leadership team at each of the sites, nor does it discuss or describe any additional support from the VCBLA central office. There is no explanation of what positions constitute the “site leadership team” or how their assignment to the various sites will be implemented. There is also no plan or discussion of how site leadership will be implemented across multiple sites, irrespective of the assignment of members of site leadership to each site, including but not limited to how the duties of the Principal will be carried out and/or what duties will be carried out by other members of the site leadership team or VCBLA central office, and how such plans will provide for successful implementation of the charter and its educational and operational plans and programs in a multi-site environment.

The Charter Schools Department Staff finds the governance element of the petition, as revised, **does not** include a reasonably comprehensive description without development of a plan for implementing site level leadership that is satisfactory to the County Superintendent and/or Designee prior to commencing instruction at multiple sites and included in an addendum to the MOU. Further VCBLA must commit in the addendum to the MOU to submit the late Statement of Information by no later than August 15, 2022.

E. Element Five: *Employee Qualifications*

VMH updated this section to comply with the teacher credentialing requirements established by the revisions to EC 47605(l) and 47605.4(a). VMH also included language that indicates that VMH believes that the multi-site model will not impact the professional development or teacher evaluation process. However, concerns still exist regarding having sufficient qualified staff to meet the three-site model. Due to teacher and substitute shortages during the 2021-22 school year, (which shortages are expected to continue in 2022-23 statewide) VCBLA has confirmed that VMH, among other VCBLA schools, has relied on the services of non-credentialed employees to provide “coverage” or “supervision” in classes in the absence of a properly credentialed teacher or substitute. Moreover, SCCOE has received a copy of Voices’ Teacher Absence Protocol Flowchart, which includes the use of non-credentialed personnel as the specified option at multiple steps of the Flowchart when there is a teacher absence or short-term vacancy. Charter Schools Department Staff is concerned that the transition to a multiple site model will exacerbate these staffing shortages and coverage concerns, and the materially revised charter does not include a plan to remediate these concerns.

Additionally, the site leadership concerns implicated by a multi-site model and the lack of a multi-site staffing model, both of which are discussed in detail above, are incorporated herein by this reference and have not been addressed in the Employee Qualifications element.

Charter Schools Department Staff finds the employee qualifications element of the petition, as revised, **does not** include a reasonably comprehensive description without development of plans, satisfactory to the County Superintendent and/or Designee, regarding whether and how VMH will ensure that there will be sufficient staff – including, but not necessarily limited to, teaching and administrative staff – to meet the needs of the three-site model, as well as addressing site leadership and the multi-site staffing model, prior to commencing instruction at multiple sites and included in an addendum to the MOU.

F. Element Six: *Health and Safety Policies and Procedures*

VMH updated this section to comply with the revisions to 47605(c)(5)(F), including the requirements concerning the development of a comprehensive school safety plan, providing type I diabetes information to families, updating the suicide prevention policy, creating a prevention of human trafficking policy, providing menstrual products, updating the bullying prevention procedures, implementing the California Healthy Youth Act, and addressing the provision of universal meals. VMH also included language that indicates the multi-site model will not create a substantive change in the implementation of the health and safety policies and procedures “due to careful planning, scheduling, and internal communication” and specifying that “[a]ll policies will be implemented consistently at all temporary campuses.”

Because some components of the school safety plan are necessarily site-specific, VMH must ensure that its school safety plan(s) account for the differences at different sites, and that staff are trained appropriately relative to these site-specific differences and requirements. Additionally, while the school safety plan must be adopted annually by March 1, because VMH is proposing moving to three new sites (including one that has not yet been identified to SCCOE) after March 1, and only shortly before the commencement of the 2022-23 school year, VMH must commit to developing, adopting, and providing necessary staff training on the school safety plan(s) prior to the first day that students are on campus.

Charter Schools Department Staff finds this element of the petition, as revised, provides a reasonably comprehensive description **only** if VMH commits in the addendum to the MOU to adopt and provide training on site-specific school safety plans that address the above-described concerns prior to the first day of student attendance on campus.

G. Element Seven: Racial, Ethnic, Special Education, and English Learner Pupil Balance

VMH updated this section to comply with the new law enacted as of January 1, 2020. Specifically, *EC* section 47605(c)(5)(G) now requires that a charter petition include a description of the means by which the charter school will achieve a balance of racial and ethnic pupils, special education pupils, and English Learner pupils, including redesignated fluent English pupils, which is reflective of the general population residing within the territorial jurisdiction of the district in which the charter is located. Beginning in 2022-23, annually VPAC will review its outreach actions and provide the VCBLA Board with a report on the efforts to achieve this balance and any recommended changes.

Charter Schools Department Staff finds this element of the petition, as revised, does include a reasonably comprehensive description.

H. Element Eight: Admission Policies and Procedures

VMH has made some revisions to this element to comply with the new laws enacted as of January 1, 2018. Specifically, *EC* section 47605(e)(2)(B) now requires that a charter petition include a reasonably comprehensive description of the public random drawing procedures and preferences.

The charter provides guaranteed enrollment for not only current VMH students, but also siblings of students who are enrolled in or admitted to VMH and children of teachers or staff, not to exceed 10% of enrollment. This appears to be a carry-over from the prior Public Charter Schools Grant Program (PCSGP), but there is now no legal authority for VMH to exempt siblings and children of staff from the open enrollment and public random drawing process. Such exemptions are inconsistent with the requirements of *EC* section 47605(e), which provides: *“If the number of pupils who wish to attend the charter school exceeds the charter school’s capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing.”* As such, this provision should have been revised to provide preferences in admission for siblings of currently enrolled or admitted VMH students as the first level of preference, and children of VMH teachers or staff as the second level of preference, followed by the other listed preferences.

With the changes to the Charter Schools Act since VMH’s most recent renewal, reasonably comprehensive descriptions of the admissions policies and procedures are required to be included in the charter, which procedures include the specifics of the drawing and the means by which the admissions preferences are implemented. While Charter Schools Department Staff is aware that VMH has a formalized procedure for implementing its public random drawing should one become necessary, the basic information about the drawing procedure included in the charter is not a reasonably comprehensive description of the actual procedures. Charter Schools Department Staff recommends that SCCBOE require that VMH include the specific and detailed procedures in the addendum to the MOU.

In accordance with the required affirmations, the revised charter specifies that Voices will post on its website a notice of rights developed by the California Department of Education (CDE) pursuant to *EC* section 47605(e)(4). However, notwithstanding this statement, Charter Schools Department Staff was unable to locate the notice on the website.

Charter Schools Department Staff finds this section of the petition, as revised, **does not** include a reasonably comprehensive description unless through the addendum to the MOU it is revised to provide that siblings and children of staff are not exempt from admissions procedures, but instead are given preference in admission, the detailed public random drawing procedures are included in the addendum to the MOU, and VMH posts the CDE notice of rights on its website in a location that can be readily found by parents and other interested parties.

I. Element Nine: *Financial Audit*

No changes.

J. Element Ten: *Student Suspension/Expulsion Procedures*

VMH updated this section to comply with the new due process requirements in EC section 47605(c)(5)(J), enacted as of January 1, 2018, and January 1, 2020. VMH further updated its student handbook to comply with the new laws.

Charter Schools Department Staff finds this section of the petition, as revised, does include a reasonably comprehensive description.

K. Element Eleven: *Retirement System*

No changes.

L. Element Twelve: *Public School Attendance Alternatives*

No changes.

M. Element Thirteen: *Employee Return Rights*

No changes. However, this provision as written in the revised charter continues to reference rights of return of employees of “the District.” This provision has been updated through the MOU to reflect the SCCBOE as the chartering agency and to refer to return rights of employees of the County Superintendent of Schools, rather than the District, and it is that MOU provision that controls.

N. Element Fourteen: *Dispute Resolution*

No changes. The discussion of internal disputes has been replaced by the terms of the MOU.

O. Element Fifteen: *Closure Procedures*

No changes.

***Required Supplemental Information:**

Financial Planning, Reports, and Accountability

Charter Schools Department Staff reviewed VMH’s materially revised charter petition, which includes the Budget Narrative and Budget for Fiscal Years (FY) 2021-22 through 2024-25. The Charter Schools Department Staff has also reviewed additional information from documents and the public hearing to provide clarification on the financial position of VMH. This included reviewing financial audits, monthly financial statements, state-required financial reports, annual visits, and the Fiscal Crisis Management Assessment Team (FCMAT) Local Control Funding Formula (LCFF) Calculator, which Charter Schools Department Staff re-created to recalculate the LCFF Revenue sources reported on the Petition.

Enrollment and Average Daily Attendance (ADA)

The materially revised charter petition submitted by VMH includes a decline in FY 2021-22 enrollment projections by 5%, from 393 in the board adopted second interim budget to 373 in the VMH material revision budget as reflected in Table 1 below. Table 2 reflects the enrollment projection for FY 2022-23 (year 1) declines by 1%, with an enrollment of 368, and then significantly increases in FY 2023-24 (year 2) by 22%, with an enrollment of 449, and increases in FY 2024-25 (year 3) by 7%, with a total enrollment of 482. Based on historical data analysis, VMH had an average daily attendance of 95%. However, due to recent COVID-19 pandemic-related ADA challenges, VMH has projected a conservative 92% attendance in FY 2022-23, improving slightly to 93% in FY 2023-24, and then returning to the school’s standard of 95% ADA in FY 2024-25. The conservative 92% attendance for FY 2022-23 is in line with the most recently

reported and certified First Principal Apportionment (P-1) of 90% ADA, and the projection of a gradual increase in ADA percentage to 95% in FY 2024-25 is reasonable. However, the enrollment projection of a 22% increase for FY 2023-24 (year 2) is not comparable to VMH’s historical enrollment trend in which the year-over-year rate of percentage change of enrollment has declined at a steady rate. Additionally, based on the VMH material revision budget narrative, supporting the enrollment growth is contingent on the ongoing negotiations to place additional portables at site #1, 17740 Peak Ave, Morgan Hill, California, 95037.

Further, VMH has not provided any verified enrollment information for the multi-site model, including confirmation from the parents of intent to return for the 2022-23 school year in the multi-site environment. Any assumptions/projections based on past enrollment and retention patterns are likely to be impacted by the multi-site model. Given the fact that parents/guardians have not yet been informed of the grade level configuration across the sites or the location of the third site, any information from parents at this point will necessarily be speculative. The change of locations and transition to a multi-site model will likely result in a further decline in enrollment for 2022-23.

Consequently, the material revision budget projection **does not** include sufficient details to support the sudden increase of 22% enrollment for FY 2023-24 and does not fully account for the likely impact of the transition to a multi-site model.

Table 1: VMH FY 2021-22 Materially Revised Charter Petition/Second Interim Budget Projection

	Second Interim Budget	Material Revision Budget
Grade Level	2021-22	2021-22
TK-3	207	202
Grade 4-6	153	146
Grade 7-8	33	25
Total	393	373

Table 2: VMH Historical and Projected Enrollment/ADA Data

	Historical Data				Enrollment Projection			
	2017-18	2018-19	2019-20	2020-21	(Year 0) 2021-22	(Year 1) 2022-23	(Year 2) 2023-24	(Year 3) 2024-25
A. Actual Enrollment	186	247	309	363				
B. Projected Enrollment					373	368	449	482
C. ADA ¹	183	238	295	347	340	339	418	458
D. ADA% ²	98%	96%	96%	96%	91%	92%	93%	95%
E. % +/- in Enrollment ³	35%	33%	25%	17%	3%	-1%	22%	7%
F. % Rate change in Enrollment YOY ⁴		-2%	-8%	-8%	-15%	-4%	23%	-15%
Grade Level Added	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8	None	None

¹Historical ADA data is based on P2

²D. ADA% = Row C/Row A

³E. % +/- in Enrollment = (Current Year – Prior Year)/Current Year

⁴F. % Rate change in Enrollment YOY = Current Year % – Prior Year % (Line E)

Revenues and Expenses

Table 3: VMH Revenue and Expense Projections

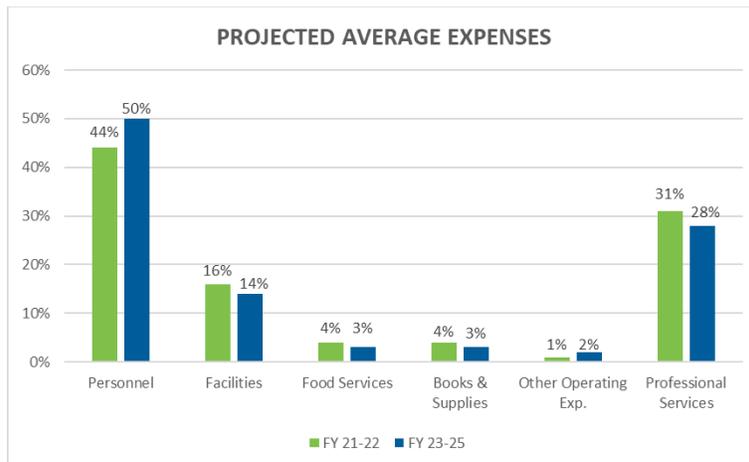
	2021-22	2022-23	2023-24	2024-25
A. Beginning Balance	2,374,134	2,588,358	2,304,234	2,236,227
B. Revenues	5,487,994	5,192,644	6,617,077	7,451,737
C. Expenditure	5,273,770	5,476,768	6,685,084	7,464,278
D. Surplus/Deficit (B-C)	214,224	(284,124)	(68,007)	(12,540)
E. Ending Balance (A+D)	2,588,358	2,304,234	2,236,227	2,223,687
% Fund Balance	49%	42%	33%	30%

VMH presents a four-year material revision budget for FYs 2021-22 through 2024-25 with details addressing anticipated sources of revenue, including state, federal and local. Chart 1 provides a percentage breakdown of the average expenses that includes personnel, facilities, food services, books and supplies, professional services, and other operating expenses for FY 2022-23 through FY 2024-25 in comparison to the current FY 2021-22. VMH is conservative in its revenue and expense projections. However, in addition to a yet to be identified third site, the material revision budget does not include sufficient details regarding the individual cost assumptions for each of the two proposed temporary facilities. Additionally, the material revision petition includes \$200,000 in contingency spending for FY 2022-23 and FY 2023-24 to provide additional support to operate three temporary facilities; however, the budget does not reflect sufficient details regarding the cost impact of staffing the three different sites.

As of the 2020-21 annual financial audit and the 2021-22 second interim report, VMH is in a positive financial status and is projecting a 49% reserve in the 2021-22 fiscal year [Table 3].

Charter Schools Department Staff finds the fiscal section of the petition, as revised, **does not** include a reasonably comprehensive description unless plans are addressed in an addendum to the MOU. Additional information needing to be addressed includes, but is not limited to, (1) confirmation of VMH participation in the California School Finance Authority SB-740 facility reimbursement program based on the three temporary facilities; (2) submission of the three lease agreements and certificates of occupancy for the temporary facilities; (3) a “45-day” budget revised for FY 2022-23 that reflects any material changes from VMH’s 2022-23 adopted budget; (4) evidence of enrollment for the 2022-23 school year based on the multi-site model, including the grade level configurations across the sites and proposed third location; and (5) an alternative budget projection for FY 2023-24 reflecting the financial impact if the 22% projected increase in enrollment does not materialize.

Chart 1: VMH Projected Average Expenses for the Material Revision Term Years



Cash Flow

VMH’s cash flow closely aligns with all financial documents including bank statements and reconciliation reports. In the event there is an unforeseen financial crisis, VMH’s reserves should adequately suffice during an emergency.

VMH’s material revision budget provides reasonable cash flow projections and assumptions pertaining to cash flow timings for major revenue sources required for financial solvency and sustainability. Multiyear cash flow projections show that VMH will be positive. As of June 30, 2021, VMH had an audited cash balance of 20%. In the event there is an unforeseen financial crisis, VCBLA and VMH’s reserves should adequately suffice unfavorable budget variances.

Potential Civil Liability Effects on the School and County Office

The provisions of the charter related to insurance and indemnification, defense, and hold harmless requirements are supplemented and updated by the requirements of the MOU. VMH is in compliance with its current MOU. There is no reason to believe that VMH will not continue to abide by SCCOE’s requirements and the agreed upon MOU and any addendum thereto, including the insurance and indemnification provisions thereof. During the public hearing, VMH stated VCBLA is pursuing litigation against its prior modular company’s bond company regarding issues with the modular company’s bankruptcy and the permanent site construction. SCCOE requests, as per the MOU, that VMH provide SCCOE with further information regarding the litigation.

Charter Schools Department Staff finds this section of the petition, as revised and supplemented with the requirements of the MOU, provides for appropriate insurance coverage and indemnification, defense, and hold harmless of the SCCBOE and SCCOE. However, VMH is required to provide additional information about its current litigation against the bond company in accordance with the MOU.

5. Exclusive Public Employer

No changes

6. Community Impact

As part of its analysis of the requested material revision to expand to multiple sites, SCCBOE is to consider whether the expansion is demonstrably unlikely to serve the interests of the entire community. The VMH material revision rests on the temporary expansion from one existing site to three sites due to VMH’s loss of its current site and construction difficulties related to its single permanent site. VMH will add its final grade level, grade eight, during the 2022-23 school year. VMH is projecting increasing its enrollment and ADA in 2023-24 as reflected in Table 2. MHUSD has not expressed concerns that the material revisions will undermine existing services, academic offerings, or programmatic offerings, nor that the material revision would duplicate a current program offered by MHUSD that has sufficient capacity where the charter school intends to locate, nor any other potential negative impacts on the community.

Charter Schools Department Staff does not find that the material revision is demonstrably unlikely to serve the interests of the entire community in which VMH is located.

7. Fiscal Impact on District

As part of its analysis of the requested material revision to expand to multiple sites, SCCBOE is to consider whether the MHUSD is not positioned to absorb the fiscal impact of the charter school’s requested revision. MHUSD had a positive certification in its Second Interim report on March 15, 2022. MHUSD has not expressed any concerns relative to the potential fiscal impact of the requested material revision.

Charter Schools Department Staff does not find that MHUSD is not in a position to absorb the fiscal impact of the proposed material revision.

8. Requirements for Grade-Levels Served, Facility Location, and Students Served

As stated above, VMH is requesting to expand temporarily from one site to three sites in MHUSD's boundaries due to the termination of its current lease, effective June 30, 2022, and the delay in constructing its long-term facility. However, only two of the three sites have been identified, though the specific location of all three sites, and their proximity to one another as well as VMH's current site, directly impact the proposed material revision and whether and how VMH can successfully implement the proposed revisions in an educationally and operationally sound manner. As such, the revised charter does not comply with the requirements regarding the description of the facilities to be used by VMH. Further, as detailed above, no operational plans for grade level and staffing configurations for the three sites were included in the material revision request. Staff recommends VMH be required to provide SCCOE with comprehensive plans satisfactory to the County Superintendent and/or Designee for the three-site model, as well as lease documents and certificates of occupancy, prior to commencing instruction at multiple sites.

The Charter Schools Department Staff finds the provisions of the petition, as revised, **do not** provide adequate descriptions of the facilities to be used or the grade levels and students to be served, unless plans satisfactory to the County Superintendent and/or Designee are provided prior to commencing instruction at multiple sites and are incorporated into the addendum to the MOU, and copies of the lease documents and certificates of occupancy are provided prior to occupancy by VMH.

CONCLUSION

The Charter Schools Department Staff reviewed the material revision petition utilizing the criteria for approval set forth in *EC* sections 47605 and 47607. Based upon its comprehensive review and analysis of the request for material revision, Charter Schools Department Staff finds that in order for approval of the requested material revision to be consistent with sound educational practice and the standards for approval, it is necessary for VMH to provide further plans and clarity satisfactory to the County Superintendent and/or Designee regarding the temporary move to three sites, including the impact on the educational program and staffing, in conformance with the above analysis, which plans are incorporated into an addendum to the MOU. Failure to remediate the above concerns, including by providing further plans and clarity as described above, including, but not limited to, staffing configurations, grade level configurations, start time configurations across the three sites, and provisions of services to students and families impacted by the temporary move, to the satisfaction of the County Superintendent and/or Designee, and incorporating such matters into an addendum to the MOU, would constitute grounds for denial of the material revision. In no case shall the material revision for this temporary move extend past the current charter term, which expires on June 30, 2025. Should VMH need additional time at the temporary sites, such continued operation on multiple sites would need to be addressed during the renewal process. Accordingly, the Charter Schools Department Staff recommends that the SCCBOE conditionally approve the request for the material revision to the Voices College-Bound Language Academy at Morgan Hill Charter School Petition on the conditions that that VCBLA, VMH, and SCCOE enter into an addendum to the MOU to address Charter Schools Department Staff's concerns, including those specifically reviewed in this Staff Analysis and Proposed Findings of Fact, including VMH's development of specific plans satisfactory to the County Superintendent and/or Designee for implementation of the multi-site model and its impacts on VMH's educational program and operations, and the other conditions specified in the proposed Board Resolution, as well as any additional conditions identified by the SCCBOE, and adopt the proposed Board Resolution Conditionally Approving the Request for Material Revisions to the Charter for Voices College Bound Language Academy at Morgan Hill Charter School, and, Alternatively, Making Factual Findings Supporting Denial and Denying the Request for Material Revisions to the Charter for Voices College Bound Language Academy at Morgan Hill Charter School if the Conditions Are Not Met.