

*Summit Public Schools: Tahoma Charter School  
Staff Recommendations*

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**STAFF ANALYSIS AND PROPOSED FINDINGS OF FACT REGARDING REVIEW OF  
SUMMIT PUBLIC SCHOOLS: TAHOMA CHARTER SCHOOL DISTRICT APPEAL RENEWAL PETITION**

December 29, 2020

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Summit Public Schools: Tahoma Charter School (SPS: Tahoma or Tahoma) seeks approval to renew its Santa Clara County independent, district appeal charter school serving students in grades 9-12. SPS: Tahoma was initially approved on December 8, 2010, for a five-year term and opened in August of 2011. SPS: Tahoma was renewed in 2015. Tahoma has requested renewal for a term of five years from July 2021 through June 2026. Summit Tahoma, located within the East Side Union High School District (ESUHSD) boundaries, currently serves approximately 470 students.

**PROCEDURAL STATUS**

The Charter School's Department of the Santa Clara County Office of Education (County Office of Education or SCCOE) received a renewal charter Petition (Petition or Charter), from SPS: Tahoma on October 1, 2020. Education Codes 47607 and 47607.2 determine the length of charter renewal based on high, middle, or low performing categories for charter schools established by AB 1505. Per the California Department of Education's (CDE) AB 1505 charter performance list, SPS: Tahoma falls into the middle performing category and would qualify for a five-year renewal term (see further analysis below). If the charter is renewed by the Santa Clara County Board of Education (SCCBOE or County Board), the new term of the Charter would begin on July 1, 2021, and run through and including June 30, 2026. Renewals and material revisions of district appeal charters are governed by the standards and criteria set forth in Education Code Section 47605, 47607 and 47607.2.

On October 21, 2020, SCCBOE held a public hearing on the Tahoma Renewal Petition in accordance with the requirement to do so within 60 days of receipt of the renewal application. On October 22 and 23, 2020, SCCOE Staff conducted a renewal site visit and held renewal interviews with Tahoma parents, students, staff, board members and representatives of Summit Public Schools (SPS) leadership as the charter management organization or network (SPS or CMO or Network).

Per Education Code Sections 47607, 47607.2 and 47605, the County Board has 90 days from receipt of the renewal application to act, which may be extended by an additional 30 days by mutual agreement. SCCOE and SPS: Tahoma agreed to extend the timeline to January 13, 2021.

In accordance with Board Policy 0420.4, SCCOE, SPS: Tahoma, and SPS developed a Memorandum of Understanding (MOU), which was signed by the Petitioner on December 27, 2020. The MOU governs the respective fiscal, operational, and administrative responsibilities, legal relationships, and other matters not otherwise addressed or resolved by the terms of the Charter, pending any further direction or recommendations by the SCCBOE, including SCCBOE's adoption of the findings and recommendations set forth herein.

The complete renewal Petition the SCCBOE is acting on is attached to the agenda and is also available for review at: <https://www.sccoe.org/supoffice/charter-schools-office/Pending/SPS%20Tahoma%20Charter%20Renewal%202021-26.pdf>

**CRITERIA FOR RENEWAL OF A CHARTER PETITION**

A petition submitted for renewal pursuant to Education Code Sections 47607 and 47607.2 shall be considered by the governing board upon receipt with all the following requirements:

**(1) Standards and Criteria in Education Code Section 47605**

A renewal charter shall be governed by the standards and criteria described in Education Code Section 47605. Education Code Section 47605(c) establishes governing boards are to be aware of “the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that the establishment of charter schools should be encouraged. The [County Board of Education] shall grant a [renewal] charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice and with the interests of the community in which the school is proposed to locate,” though, as described below, the renewal process includes additional considerations and standards.

Education Code Section 47605 specifies the County Board of Education may deny a renewal petition if 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 an affirmation of each of the conditions required by statute
4. The petition does not contain a reasonably comprehensive description of all the required elements
5. The petition does not contain a declaration of whether or not the charter school shall be deemed the exclusive public employer of the employees of the charter school for purposes of the Educational Employment Relations Act (EERA)

**(2) Determination of High, Middle, or Low Performing School Status**

Education Code Sections 47607 and 47607.2, require a determination of whether a charter school seeking renewal is in the High, Middle, or Low Performance category based on academic performance results:

- a. *High Performing: The renewal term may be 5-7 years, based on the chartering authority’s discretion, if either of the following criteria has been met in the two years preceding renewal:*
  - i. *The schoolwide student group is in the two highest performance bands for all indicators on the California Dashboard for the preceding two years prior to renewal, OR*
  - ii. *The schoolwide student group and a majority of the school’s student groups perform the same or higher than the State average in all academic indicators on the California Dashboard for the preceding two years prior to renewal.*
- b. *Low Performing: A school will not be renewed if either of the following criteria has been met in the two years preceding renewal:*

- i. *The schoolwide student group is in the two lowest performance bands for all indicators on the California Dashboard for the preceding two years prior to renewal, OR*
- ii. *The schoolwide student group and a majority of the school's student groups perform at the same level or lower than the State average in all academic indicators on the California Dashboard for the preceding two years prior to renewal.*

*However, the chartering authority may make an exception and renew a low performing school for two years if it makes both of the following written factual findings:*

- i. *The charter school is taking meaningful steps to address the underlying cause or causes of low performance, and those steps are or will be reflected in a written plan adopted by the charter school's governing board, AND*
  - ii. *There is clear and convincing evidence that the charter school has either achieved measurable increases in academic achievement, as defined by at least one year's progress for each year in school, or the charter school has demonstrated strong postsecondary outcomes.*
- c. *Middle Performing: Any school not deemed high or low performing is eligible to be considered for a 5-year renewal term. In determining whether to renew the charter, the chartering authority is to consider:*
- iii. *Performance on the state and local indicators on the Dashboard, giving greater weight to measurements of academic performance*
  - iv. *Clear and convincing evidence based on verified data showing either:*
    - a) *The school achieved measurable increases in academic achievement, defined by at least one year of growth for each year of school, OR*
    - b) *Strong post-secondary outcomes, as defined by college enrollment, persistence, and completion rates equal to similar peers.*

*The chartering authority may deny a middle performing school on these bases only by making written factual findings that the school:*

- i. *Failed to meet or make sufficient progress toward meeting standards that provide a benefit to the pupils of the school;*
- ii. *Closure of the school is in the best interest of pupils; AND*
- iii. *If applicable, that the decision provided greater weight to performance on measurements of academic performance.*

### **State Level Data Availability**

In accordance with the recent standards established by AB 1505 in Education Code Section 47607 and 47607.2, the CDE created a list of all charter schools and ranked their academic performance indicators from the California School Dashboard, specifying whether each school is in the high, middle, or low performance category, or is a Dashboard Alternative School Status (DASS) program. This list was intended to relieve the burden on chartering authorities and provide a starting place for the renewal process. Due to the COVID-19 pandemic, all statewide testing for the 2019-20 school year was cancelled, and the 2020 California Dashboard based on that data was also cancelled. Thus, the data used to create the list is from the 2018 and 2019 California Dashboard, as provided for in Education Code Sections 47607 and 47607.2.

**(3) A Renewal Charter Petition**

The renewal petition shall include a reasonably comprehensive description of any new requirements of charter schools enacted into law after the charter was originally granted or last renewed. (Education Code Section 47607(b)). The charter should also be updated as necessary to reflect the current program offered by the charter school.

**(4) Additional Criteria for Denying a Charter Renewal**

A chartering authority may deny renewal of a charter school (EC Section 47607(e)), in any of the three performance categories if it finds the school is unlikely to successfully implement the program due to:

- a. *Substantial **fiscal factors**,*
- b. *Substantial **governance factors**, or*
- c. *The charter school is **not serving all pupils** who wish to attend.*

In such cases, the authorizer must provide the charter school at least 30 days' notice of the alleged violation(s) and provide the charter school with a reasonable opportunity to cure the violation(s), including a corrective action plan proposed by the charter school. The County Board may then deny renewal on these bases only by making either of the following findings:

- a. *The corrective action proposed by the charter school has been unsuccessful.*
- b. *The violations are sufficiently severe and pervasive as to render a corrective action plan unviable.*

As discussed in detail below, on November 19, 2020, SCCOE issued SPS: Tahoma a notice in accordance with Education Code Section 47607(e) ("Section 47607(e)"), setting forth substantial governance factors that could support a finding that SPS: Tahoma is demonstrably unlikely to successfully implement the program set forth in its renewal Charter ("Notice," a copy of which is attached as Exhibit 1). The Notice and all of the information and evidence contained therein, including in the exhibits thereto, are incorporated herein by this reference as if set forth in full herein.

**DETERMINATION CRITERIA FOR RENEWAL OF SPS: TAHOMA**

In its Charter, Tahoma states it meets the minimum required academic performance standards and its academic performance supports Charter renewal. To assess its academic performance against the criteria for middle-performing charter schools, Tahoma submitted its data from the California Assessment of Student Performance and Progress ("CAASPP") as well as comparison data for the local districts and local district schools which Tahoma students would otherwise have attended. SPS: Tahoma states the data submitted on pages 14 through 19 of the renewal Charter establishes Tahoma meets the criteria for charter renewal. Staff has not reproduced all the information provided by Tahoma in this Staff Analysis and Proposed Findings of Fact but incorporates it and the CAASPP data herein by this reference.

SPS: Tahoma also submitted additional data and information in response to questions which arose during the October 21, 2020, public hearing on the renewal Charter and during SCCOE's October 2020 site visit, which was conducted as part of the consideration of the renewal request.

***High Performing, Middle Performing, or Low Performing per the California Department of Education***

***Chart 1: High Performing, Middle Performing, or Low Performing Criteria Chart for Tahoma***

CRITERIA 2				NO			CRITERIA 4				NO		
	English Language Arts			Mathematics			Language Proficiency			College/Career			
	2018	2019	2020	2018	2019	2020	2018	2019	2020	2018	2019	2020	
Student Group													
School - All students	71.4	43	0	-31.6	-36.6	0	53.3	64.5	0	72	61.6	0	
STATE	-6	-2.5	0	-36.4	-33.5	0	30.6	48.3	0	42	41	0	
School - English Learners	1.5	0	0	-133.2	0	0							
STATE	-47.1	-45.6	0	-69.9	-68.6	0							
School - SED	55.4	10.7	0	-70.6	-59	0							
STATE	-34.7	-30.5	0	-67.4	-63.7	0							
School - SWD	16.4	-33.6	0	-89.4	-122.2	0							
STATE	-95.5	-88.3	0	-125.3	-119.4	0							
School - Hispanic	37	8	0	-100.4	-80	0							
STATE	-31.3	-27.1	0	-65.8	-62.2	0							

Criteria 4: if any color other than red is present, school does not qualify for low performing

Red indicates, does not out perform the State

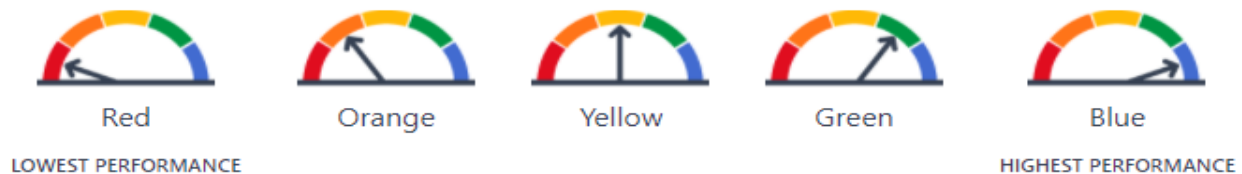
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## School Academics

### California Schools Dashboard Data

In 2017, the State of California instituted the California Dashboard (<https://www.caschooldashboard.org/>) to help parents and educators identify strengths and areas for improvement. The Dashboard reports how districts, schools (including charter and DASS schools), and student groups are performing across state and local measures. For state measures, performance is based on two factors: (1) current year results (Status), and (2) whether results improved or declined from the prior year as compared to themselves (Change). Performance on state measures, using comparable statewide data, is represented by one of five colors with Red being lowest performing and Blue being highest performing (see chart 2 below). A performance level (color) is not provided on the Dashboard when a student group has fewer than 30 students in a student group. However, the Status/Change data will be displayed. Further, when a student group has less than 11 students, the group does not receive a performance level (color) and the group's Status/Change is also not displayed, in order to protect the anonymity of the students. This information is represented by using a grey color gauge with the words "No Performance Color."

**Chart 2: California Dashboard Performance Color Chart**



Due to COVID-19 and the suspension of statewide testing, the California School Dashboard was suspended for 2019-20. Thus, the following data is based on the 2018-19 Dashboard Data which shows the performance status in 2018-19 and the change from 2017-18. In 2018-19, Tahoma was 43 points above standard in ELA and demonstrated a decline of 28.3 points from the prior year, making the performance level for all students Green. The following is a summary of the 2018-19 Dashboard performance levels in ELA for all Tahoma student groups. Students in the SED group were in the Yellow performance level with 10.7 points above standard and a decrease of 44.7 points from the prior year. Students in the Hispanic student group had no performance color with 8 points above standard and a decline of 29 points from the prior year. Students in the SWD group also had no performance color with 33.6 points below standard with a decline of 45.9 points from the prior year. Finally, students in the White group had no performance color with 94.3 points above standard with an increase of 20.8 points from the prior year.

Tahoma was in the Yellow performance level in Math for all students on the 2018-19 Dashboard due to scoring 36.6 points below standard and decreasing 4.9 points from the prior year. The math performance levels for Tahoma's student groups are described in the following summary. Students in the SED student group were in the Green performance level due to scoring 59 points below standard and increasing 11.9 points from the prior year. Students in the Hispanic student group had no performance color but scored 80 points below standard and increased 20.5 points from the prior year. Students in the SWD group also had no performance color with 122.2 points below standard and a decline of 24.3 points from the prior year. Finally, students in the White group had no performance color with 26.6 points above standard with an increase of 37.1 points from the prior year.

No performance colors, status or change results were given for English Learner, Asian, African American, Filipino, Homeless, Two or More Races, or Pacific Islander, as fewer than 11 students were tested in 11<sup>th</sup> grade, and data was not provided to protect student anonymity.

Other indicators on the 2019 Dashboard for Tahoma were Graduation Rate – Green, Suspension Rate – Green, and English Learner Progress Indicator (ELPI) – Low performing with 64.5% making progress. Tahoma does not have a performance color or indicator for Chronic Absenteeism (see Chart 3 below), as this indicator is only collected for grades K-8. The Dashboard performance colors are a measure of Tahoma’s current year performance against its own past performance, and, thus, a measure of Tahoma’s own growth. Comparing the colors on Tahoma’s Dashboard to those of another school or district is not an appropriate comparison of testing outcomes. Comparing Dashboard colors for two schools only shows relative growth or lack of growth (e.g., School A with fewer students scoring at or above standard on CAASPP could have a higher performance level (color) than a School B with more students scoring at or above standard because School A had greater growth from one year to the next).

**Chart 3: 2018 and 2019 California School Dashboard Student Group Report for Tahoma**

	<b>Suspension Rate</b>		<b>Graduation Rate</b>		<b>English Language Arts</b>		<b>Mathematics</b>		<b>College and Career</b>		<b>English Learner Progress</b>	
	<b>2018</b>	<b>2019</b>	<b>2018</b>	<b>2019</b>	<b>2018</b>	<b>2019</b>	<b>2018</b>	<b>2019</b>	<b>2018</b>	<b>2019</b>	<b>2018</b>	<b>2019</b>
<b>All</b>	Orange 4.7%	Green 3.2%	Green 83.6%	Green 90.4%	Green 71.4 DFS	Green 43 DFS	Yellow -31.6 DFS	Yellow -36.6 DFS	Blue 71.6%	Yellow 61.6%	53.3%	Low 64.5%
<b>EL</b>	NPC 11.8%	Green 2.5%	NPC	NPC 100%	NPC 1.5 DFS	NPC	NPC -133.2 DFS	NPC	NPC	NPC		
<b>SED</b>	Orange 7%	Green 5.3%	Orange 81.3%	Green 91.7%	NPC 55.4 DFS	Yellow 10.7 DFS	NPC -70.6 DFS	Green -59 DFS	Yellow 59.4%	Green 57.8%		
<b>SWD</b>	Red 11.3%	Yellow 9.4%	NPC	NPC 81.3%	NPC 16.4 DFS	NPC -33.6 DFS	NPC -89.4 DFS	NPC -122.2 DFS	NPC	NPC 31.3%		
<b>Asian</b>	Orange 2.2%	Yellow 2.1%	NPC	NPC	NPC 106.2 DFS	NPC	NPC 54.5 DFS	NPC	NPC	NPC		
<b>Hispanic</b>	Orange 6%	Green 3.3%	Orange 75%	Green 80.6%	NPC 37 DFS	NPC 8 DFS	NPC -100.4 DFS	NPC -80 DFS	Orange 53.1%	Orange 45.5%		
<b>White</b>	Orange 3.7%	Yellow 3.4%	NPC 80%	NPC 93.3%	NPC 73.5 DFS	NPC 94.3 DFS	NPC -10.5 DFS	NPC 26.6 DFS	NPC 80%	NPC 64.3%		
<b>Two or More Races</b>	Orange 5.9%	Yellow 5.4%	NPC	NPC 95.2%	NPC	NPC	NPC	NPC	NPC	NPC 76.2%		

No performance color (NPC) given for groups of less than 30 students.

While many areas of Tahoma’s Dashboard are “NPC,” or No Performance Color, due to the size of the group which was tested at that grade level, it is still evident that there were mixed results in academic performance. Chart 4 below shows the status and change information from the 2018 and 2019 dashboard academic indicators.



**Chart 4: 2018 and 2019 California School Dashboard Student Status and Change Report for Tahoma**

	<b>English Language Arts</b>		<b>Mathematics</b>		<b>College and Career</b>		<b>English Learner Progress</b>	
	<b>2018</b>	<b>2019</b>	<b>2018</b>	<b>2019</b>	<b>2018</b>	<b>2019</b>	<b>2018</b>	<b>2019</b>
<b>All</b>	<b>Declined</b> 19.9 points	<b>Declined</b> 28.3 points	<b>Declined</b> 7.1 points	<b>Declined</b> 4.9 points	<b>Increased</b> 6.1%	<b>Declined</b> 10.8%	53.3%	Low 64.5%
<b>EL</b>								
<b>SED</b>	<b>Increased</b> 8.1 points	<b>Declined</b> 44.7 points	<b>Increased</b> 27.1 points	<b>Increased</b> 11.6 points	<b>Declined</b> 7.3%	<b>Maintained</b> -1.6 %		
<b>SWD</b>		<b>Declined</b> 45.9 points		<b>Declined</b> 24.3 points				
<b>Asian</b>	<b>Declined</b> 32.1 points		<b>Increased</b> 10.8 points					
<b>Hispanic</b>	<b>Declined</b> 21.9 points	<b>Declined</b> 29 points	<b>Declined</b> 14.4 points	<b>Increased</b> 20.5 points	<b>Declined</b> 11%	<b>Declined</b> 10.4%		
<b>White</b>	No data	<b>Increased</b> 20.8 points	No data	<b>Increased</b> 37.1 points				

No performance color (NPC) given for groups of less than 30 students.

Table 1 and Chart 5, below, show detailed data comparing the suspension indicator by student group for Tahoma and ESUHS in 2016-17, 2017-18, and 2018-19. Suspension data vary by local education agency (LEA) and school type. LEAs and schools receive the appropriate cut scores based on their school type (elementary, middle, and high) or LEA type (elementary, high, and unified). For most of the Dashboard measures, the desired outcome is a high number or percent in the current year as well as an increase from the prior year. A distinguishing feature of the suspension measure is the desired outcome is a low suspension rate, which means a low percent in the current year and a decline from the prior year rate. While ESUHS showed decreases schoolwide and for each student group year over year, Tahoma showed mixed results, increasing for all students and each demographic group from 2016-17 to 2017-18 and then decreasing the following year for the same groups.

**Table 1: Comparison of Tahoma and ESUHS Suspension Data**

		<b>Tahoma</b>	<b>ESUHS</b>
<b>All Students</b>	2017	1.2%	4.4%
	2018	4.7%	3.9%
	2019	3.2%	3.4%
<b>EL</b>	2017	0.0%	6.8%
	2018	11.8%	6.1%
	2019	2.5%	5.0%
<b>SED</b>	2017	2.1%	5.7%
	2018	7.0%	4.9%
	2019	5.3%	4.4%
<b>SWD</b>	2017	6.0%	12.3%
	2018	11.3%	12.0%
	2019	9.4%	10.1%
<b>Hispanic</b>	2017	1.4%	6.8%
	2018	6.0%	5.9%
	2019	3.3%	5.2%

Data retrieved from: [www6.cde.ca.gov/californiamodel/](http://www6.cde.ca.gov/californiamodel/)

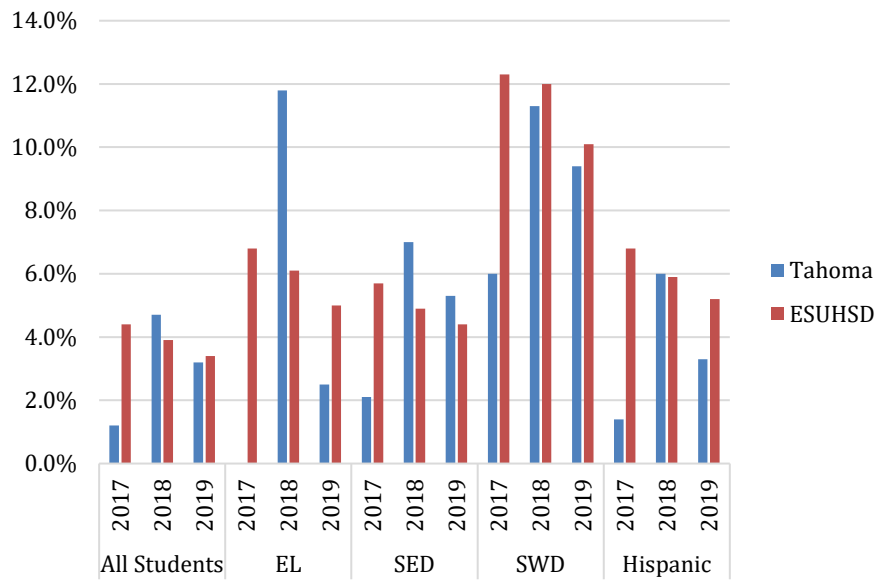
**Chart 5: Comparison of Tahoma and ESUHS Suspension Data**

Table 2 and Chart 6, below, show detailed data comparing the graduation rate indicator by student group for Tahoma and ESUHSD in 2016-17, 2017-18, and 2018-19. For traditional high schools, the graduation rate is based on the number of students who graduate with a regular high school diploma within four or five years of entering grade nine. Graduation rates for Tahoma are roughly comparable to ESUHSD except Tahoma's 2019 English Learners who had a 100% graduation rate.

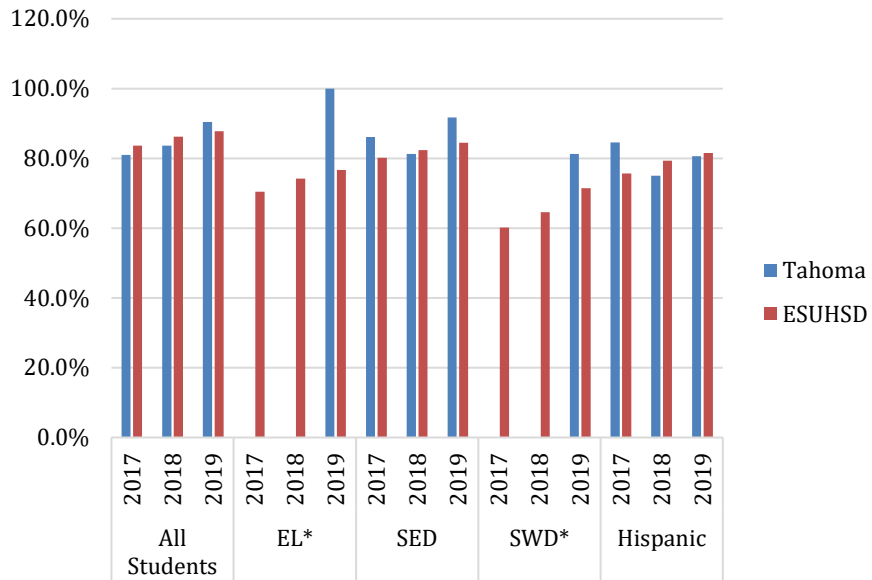
**Table 2: Comparison of Tahoma and ESUHSD Graduation Rate Data**

		<b>Tahoma</b>	<b>ESUHSD</b>
<b>All Students</b>	2017	81.0%	83.6%
	2018	83.6%	86.2%
	2019	90.4%	87.8%
<b>EL*</b>	2017	*	70.4%
	2018	*	74.2%
	2019	100.0%	76.7%
<b>SED</b>	2017	86.1%	80.2%
	2018	81.3%	82.4%
	2019	91.7%	84.5%
<b>SWD*</b>	2017	*	60.2%
	2018	*	64.6%
	2019	81.3%	71.4%
<b>Hispanic</b>	2017	84.6%	75.7%
	2018	75.0%	79.3%
	2019	80.6%	81.5%

Data retrieved from: [www6.cde.ca.gov/californiamodel/](http://www6.cde.ca.gov/californiamodel/)

\* An asterisk indicates there are fewer than 11 students, the minimum size for any reporting

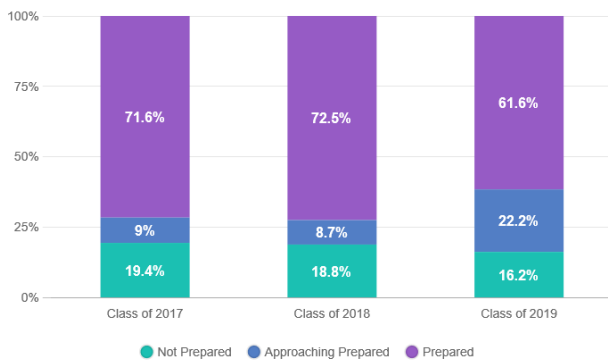
**Chart 6: Comparison of Tahoma and ESUHSD Graduation Rate Data**



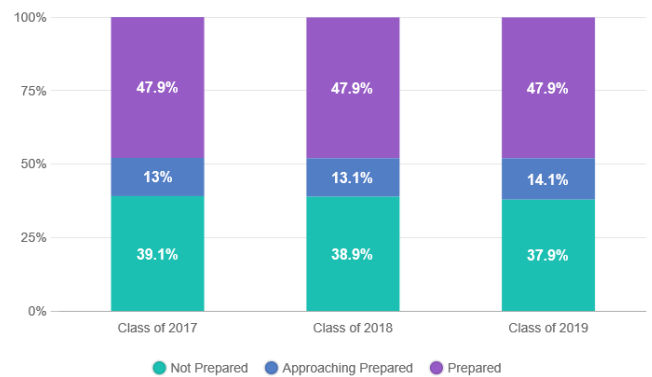
On the California Dashboard, Tahoma students were Yellow in the College and Career indicator. This indicator reviews school data to determine how high school graduates of Tahoma are prepared to enter college. For Tahoma, 61.6% of the graduates were prepared to enter college on the 2019 Dashboard, which was a decrease of 9.9% from the prior year. Students in the Hispanic student group were Orange in this indicator with 45.5% prepared for college, a decrease of 10.4% over the prior year, and students in the SED student group were in the Green performance level, with 57.8% prepared for college which was maintained with a -1.6% change from the prior year. Chart 7 displays the percentage of Tahoma students who qualified as Not Prepared, Approaching Prepared, and Prepared for College/Career Readiness. Chart 8 is a comparison of College/Career Readiness for students attending schools in ESUHSD.

**Chart 7: Tahoma College and Career Readiness Over Time (California Dashboard)****College/Career**

The percent of students per year that qualify as Not Prepared, Approaching Prepared, and Prepared.

**Chart 8: ESUHSD College and Career Readiness Over Time (California Dashboard)****College/Career**

The percent of students per year that qualify as Not Prepared, Approaching Prepared, and Prepared.



Data retrieved from [www.caschooldashboard.org](http://www.caschooldashboard.org)

**CAASPP Data**

The tables below reflect the CAASPP data verified by SCCOE staff, (<https://caaspp-elpac.cde.ca.gov/>) while determining Tahoma's schoolwide student performance and progress relative to the district and schools with the largest student populations enrolled at Tahoma. Due to COVID-19, all statewide testing for 2019-20 was cancelled. The tables below constitute the most recent academic data available for review. Statewide summative testing does not begin until third grade and for high school is only given at eleventh grade; therefore, the charts contain data only for the tested grade levels served by Tahoma.

**Table 3: ALL STUDENTS (percentage at or above standard on CAASPP)**

2018-19 CAASPP (ELA: gr. 11)				2018-19 CAASPP (Math: gr. 11)			
Grade	Tahoma	ESUHSD	State	Grade	Tahoma	ESUHSD	State
<b>11</b>	62.50	62.25	57.27	<b>11</b>	37.93	41.75	32.24
<b>All</b>	62.50	62.25	57.27	<b>All</b>	37.93	41.75	32.24

Table 3, above, reflects the 2018-19 CAASPP results in English Language Arts (ELA) and Math for Tahoma, ESUHSD, and the State. In ELA, Tahoma's outperforms both ESUHSD and the State. In Math, Tahoma performed above the State, but was outperformed by ESUHSD. While the State serves students K-12, the State scores here represent only grade 11 to show comparison to Tahoma and ESUHSD.

**Table 4: ALL STUDENTS (percentage at or above standard on CAASPP)**

Four-Year Trend CAASPP (ELA: gr. 11)						Four-Year Trend CAASPP (Math: gr. 11)					
	16-17	17-18	18-19	19-20	Diff		16-17	17-18	18-19	19-20	Diff
<b>Tahoma</b>	82.46	75.78	62.50	NA	-19.96	<b>Tahoma</b>	45.61	39.58	37.93	NA	-7.68
<b>ESUHSD</b>	65.55	61.29	62.25	NA	-3.05	<b>ESUHSD</b>	41.11	39.96	41.75	NA	+0.64
<b>State</b>	59.76	55.96	57.27	NA	-2.49	<b>State</b>	32.14	31.37	32.24	NA	+0.10

Data for 2019-20 is NA or not available due to cancelation of statewide testing due to COVID-19.

Table 4, above, reflects schoolwide student achievement in ELA and Math across the last four years of CAASPP for Tahoma, ESUHSD, and the State. While the results reflect a rate of progress for Tahoma students comparable to their peers in ESUHSD and the State, Tahoma's scores declined in ELA and Math over each of the three years displayed, resulting in an overall decrease of 19.96 and 7.68 percentage points, respectively.

**Table 5: Tahoma CAASPP (Four-Year Trend, Numerically Significant Student Groups – Grade 11)  
(percentage at or above standard on CAASPP)**

ELA						Math					
	16-17	17-18	18-19	19-20	Diff		16-17	17-18	18-19	19-20	Diff
<b>ALL</b>	82.46	75.78	62.50	NA	-19.96	<b>ALL</b>	45.61	39.58	37.93	NA	-7.68
<b>SWD</b>	*	45.45	23.07	NA	-22.38	<b>SWD</b>	*	27.27	15.38	NA	-11.89
<b>Hispanic</b>	74.07	66.67	48.98	NA	-25.09	<b>Hispanic</b>	22.22	16.66	18.75	NA	-3.47
<b>SED</b>	69.56	63.89	43.33	NA	-26.23	<b>SED</b>	17.40	27.78	17.24	NA	-0.16
<b>EL</b>	*	*	*	NA	*	<b>EL</b>	*	*	*	NA	*

Data for 2019-20 is NA or not available due to cancelation of statewide testing due to COVID-19.

\* No score provided as group had less than 11 students.

Table 5, above, reflects the numerically significant student group data over the last four years. In ELA, there are significant decreases for each student group each year and across the term of the Charter. In Math, other than an increase for students in the Hispanic student group from 2017-18 to 2018-19, all student groups show decreases each year and across the term of the Charter.

**Table 6: Comparison 2019 CAASPP Results (percentage at or above standard on CAASPP)**

2018-19 CAASPP (ELA: gr. 11)						
Group	Tahoma	ESUHSD	Oak Grove	Independence	James Lick	State
<b>ALL</b>	62.50	62.25	56.84	66.88	49.59	57.27
<b>SED</b>	43.33	50.33	50.73	58.27	44.78	47.21
<b>Hispanic</b>	48.98	42.96	50.86	45.40	43.55	48.27
<b>EL</b>	*	7.64	10.34	9.38	7.89	7.83
<b>SWD</b>	23.07	13.48	15.69	17.31	3.57	15.86

\*No data presented for the group due to size of group at those grade levels.

2018-19 CAASPP (Math: gr. 11)						
Group	Tahoma	ESUHSD	Oak Grove	Independence	James Lick	State
<b>ALL</b>	37.93	41.75	31.31	43.63	23.07	32.24
<b>SED</b>	17.24	27.71	26.98	34.38	19.79	20.93
<b>Hispanic</b>	18.75	16.47	19.43	15.86	17.67	20.27
<b>EL</b>	*	9.70	6.78	15.12	5.56	5.01
<b>SWD</b>	15.38	6.04	2.27	11.54	0.00	5.09

\*No data presented for the group due to size of group at those grade levels.

Table 6, above, reflects the 2018-19 CAASPP data as compared to ESUHSD and the ESUHSD schools which Tahoma students would otherwise have attended: Oak Grove, Independence, and James Lick high schools. Overall, Tahoma's ELA scores are comparable to the comparison schools. Students with Disabilities are doing better at Tahoma than at the schools they would otherwise have attended. However, in ELA, students in the SED group at Tahoma are not faring as well as their peers at the comparison schools. The number of students at Tahoma scoring at or above standard in Math is comparable to the comparison schools, and the trend for

students identified as SED and SWD continues with Tahoma's students identified as SED scoring at the bottom and SWD at the top.

In the comparison Table 7 below, the percentage of students at Tahoma scoring at or above standard on the 2018-19 CAASPP in ELA and Math are highlighted blue. The percentages for the comparison schools are highlighted either red or green. If the percentage for a school is red, Tahoma had a greater percentage of students meet or exceed standard. If the percentage for a school is green, the school had a greater percentage of students at or above standard than Tahoma. Fewer than 11 students in the EL student group were tested at 11<sup>th</sup> grade at Tahoma in 2018-19, and no CAASPP scores were provided for that student group to protect student privacy. Thus, no comparison colors are provided for students in the EL student group.

**Table 7: Comparison 2019 CAASPP Results (percentage at or above standard on CAASPP)**

<b>2018-19 CAASPP (ELA: gr. 11)</b>						
<b>Group</b>	<b>Tahoma</b>	<b>ESUHSD</b>	<b>Oak Grove</b>	<b>Independence</b>	<b>James Lick</b>	<b>State</b>
<b>ALL</b>	62.50	62.25	56.84	66.88	49.59	57.27
<b>SED</b>	43.33	50.33	50.73	58.27	44.78	47.21
<b>Hispanic</b>	48.98	42.96	50.86	45.40	43.55	48.27
<b>EL</b>	*	7.64	10.34	9.38	7.89	7.83
<b>SWD</b>	23.07	13.48	15.69	17.31	3.57	15.86

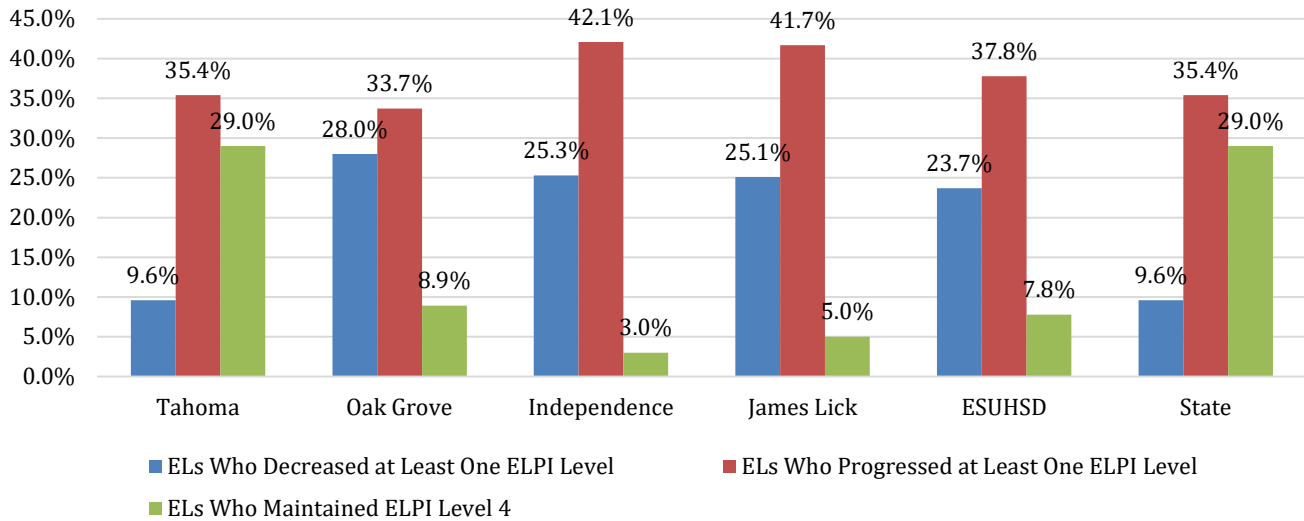
<b>2018-19 CAASPP (Math: gr. 11)</b>						
<b>Group</b>	<b>Tahoma</b>	<b>ESUHSD</b>	<b>Oak Grove</b>	<b>Independence</b>	<b>James Lick</b>	<b>State</b>
<b>ALL</b>	37.93	41.75	31.31	43.63	23.07	32.24
<b>SED</b>	17.24	27.71	26.98	34.38	19.79	20.93
<b>Hispanic</b>	18.75	16.47	19.43	15.86	17.67	20.27
<b>EL</b>	*	9.70	6.78	15.12	5.56	5.01
<b>SWD</b>	15.38	6.04	2.27	11.54	0.00	5.09

\*No data presented for the group due to size of group at those grade levels, therefore no comparison colors are provided.

### **ELPAC Data**

Chart 9 and Table 8, below (from <https://caaspp-elpac.cde.ca.gov/>), reflect the 2018-19 English Language Proficiency Assessment of California (ELPAC) data as compared to the schools in ESUHSD which Tahoma students otherwise would have attended: Oak Grove, Independence, and James Lick high schools. Of the comparison schools, Tahoma had the smallest percentage of students who decreased at least one English Language Progress Indicator (ELPI) level. However, all the schools listed, except Oak Grove, outperformed Tahoma in the percent of students who progressed at least one ELPI level.

**Chart 9: 2019 Comparison of EL Progress  
Measured by ELPAC**



**Table 8: 2019 Comparison of EL Progress Measured by ELPAC**

	<i>Tahoma</i>	<i>Oak Grove</i>	<i>Independence</i>	<i>James Lick</i>	<i>ESUHSD</i>	<i>State</i>
<i>Went up one or more ELPI levels %</i>	35.4%	33.7%	42.1%	41.7%	37.8%	42.9%
<i>Maintained level 4(%)</i>	29%	8.9%	3%	5%	7.8%	5.3%
<i>Total % making progress</i>	64.5%	42.7%	45.2%	46.8%	45.7%	48.3%
<i>Performance Level</i>	<i>Low</i>	<i>Low</i>	<i>Low</i>	<i>Low</i>	<i>Low</i>	<i>Medium</i>
<i>Number of Students</i>	31	246	323	139	2,540	844,257

### **Post-Secondary Preparation Data**

Post-secondary preparation refers to data in the form of three standardized test results which measure high school students' achievement

The Scholastic Aptitude Test (SAT) is a standardized test that assesses critical reading, mathematics, and writing skills that students need to succeed in college. Prior to March 2016, the SAT assessed English Language Arts (ELA), in the form of critical reading, writing, and essay, as well as Mathematics. After March 2016, the SAT began assessing Evidence-Based Reading and Writing (ERW) as well as Mathematics. Table 9, below, shows the four-year trend data for students meeting the SAT benchmark who attend Tahoma as well as ESUHSD and the State. The percentage of Tahoma students meeting the SAT benchmark in ERW and Mathematics increased over the four years while ESUHSD and the State decreased each year. With the State and ESUHSD's declines and Tahoma's increases, these groups are now relatively similar.

**Table 9: Percentage of High School Students Meeting SAT Benchmark  
Four-Year Trend for Grade 12 Students**

ELA/ERW					
	16-17	17-18	18-19	19-20	Diff
<b>Tahoma</b>	68.42%	71.11%	77.78%	NA	+9.36%
<b>ESUHSD</b>	78.66%	76.58%	74.50%	NA	-4.16%
<b>State</b>	72.25%	71.04%	68.36%	NA	-3.89%

Mathematics					
	16-17	17-18	18-19	19-20	Diff
<b>Tahoma</b>	34.21%	53.33%	53.70%	NA	+19.49%
<b>ESUHSD</b>	63.77%	61.75%	58.67%	NA	-5.10%
<b>State</b>	50.76%	50.67%	47.86%	NA	-2.90%

Data retrieved from <https://dq.cde.ca.gov/dataquest/>

The American College Test (ACT) test covers four subject areas: English, mathematics, reading, and science. The composite score is an average of all four subject area test scores. Table 10, below, shows the four-year trend data for students attending Tahoma as well as ESUHSD and the State who scored greater than or equal to 21. The four-year trend shows mixed results for Tahoma and an overall decrease across the four years. Additionally, more students in ESUHSD and in the State than students at Tahoma received a score greater than or equal to 21 on the ACT.

**Table 10: Percentage of High School Students with ACT Scores >=21  
Four-Year Trend for Grade 12 Students**

	16-17	17-18	18-19	19-20	Diff
<b>Tahoma</b>	50.00%	54.84%	48.39%	NA	-1.61%
<b>ESUHSD</b>	57.47%	56.96%	54.44%	NA	-3.03%
<b>State</b>	58.11%	56.55%	55.00%	NA	-3.11%

Data retrieved from <https://dq.cde.ca.gov/dataquest/>

Advanced Placement (AP) courses and examinations spanning multiple subject areas are offered to students at the high school level. AP examinations represent the culmination of college-level work in each discipline. Completed AP examinations are scored on a numeric scale from 1 to 5. Students earning qualifying scores, typically a 4 or higher, on AP examinations may obtain course credit and/or placement from colleges and universities. Tables 11 and 12, below, show four-year AP level trend data for students attending Tahoma and ESUHSD. The AP data available from DataQuest (<https://dq.cde.ca.gov/dataquest/>) combines AP assessment scores across content areas and shows the total number of students scoring at each level each year tested. When reviewing the AP pass rate results for Tahoma, the percentage of student passing has increased, however, only 26.80% of the students taking AP exams at Tahoma are passing, whereas ESUHSD had 64.49% passing.

**Table 11: Tahoma Students' Leveled Advanced Placement (AP) Test Results**

	15-16	16-17	17-18	18-19	Diff
<b>% Level 1</b>	97.73	95.90	57.59	77.12	-20.60
<b>% Level 2</b>	37.88	43.44	50.63	54.90	17.02
<b>% Level 3</b>	19.70	26.23	27.22	29.41	9.71
<b>% Level 4</b>	15.15	10.66	17.72	15.69	0.53
<b>% Level 5</b>	3.79	4.10	6.33	11.11	7.32
<b>% Passing</b>	18.94	14.75	24.05	26.80	7.86
<b>Total Tested</b>	132	122	158	153	21

Data retrieved from <https://dq.cde.ca.gov/dataquest/>

**Table 12: ESUHSD Students' Leveled Advanced Placement (AP) Test Results**

	15-16	16-17	17-18	18-19	Diff
<b>% Level 1</b>	38.61	38.37	35.01	33.44	-5.17
<b>% Level 2</b>	38.95	42.02	39.61	39.25	0.29
<b>% Level 3</b>	40.34	42.84	43.10	42.51	2.17
<b>% Level 4</b>	32.26	32.25	34.74	33.78	1.51
<b>% Level 5</b>	30.91	27.52	29.38	30.72	-0.19
<b>% Passing</b>	63.17	59.77	64.12	64.49	1.32
<b>Total Tested</b>	6066	6359	6304	6472	406



### Post-Secondary Outcome Data

Post-secondary outcomes are determined by the number of graduates who enrolled, attended, and graduated from college. This information is collected by the National Student Clearinghouse (NSC), and the most recent available data on the CDE website (<https://dq.cde.ca.gov/dataquest/>) is from 2017-18 (see Table 13 and 14 below). This data does not include information regarding college persistence or completion, as referenced in AB 1505, for Tahoma graduates. The most recent data shows Tahoma graduates had a college going rate of 88.1% in 2017-18, higher than the rate of ESUHSD, SCCOE and the State.

**Table 13: 2017-18 College-Going Rate for California High School Students**

Name	High School Completers	High School Completers Enrolled in College	College-Going Rate	Enrolled in College (In-State)	Enrolled in College (Out-of-State)	No Record of College Enrollment
<b>Tahoma</b>	59	52	88.1%	84.7%	3.4%	11.9%
<b>ESUHSD</b>	5,324	4,011	75.3%	72.7%	2.6%	24.7%
<b>SCCOE*</b>	330	199	60.3%	55.8%	4.5%	39.7%
<b>State</b>	493,211	282,740	64.4%	57.8%	6.6%	35.6%

\*SCCOE includes the college-going rate for high school students attending schools authorized by SCCOE

**Table 14: 2017-18 College-Going Rate for California High School Students by Postsecondary Institution Type**

Name	High School Completers	High School Completers Enrolled in College	College-Going Rate	Enrolled In-State				Enrolled Out-Of-State	
				University of California	California State University	Community College	Private 2- and 4- Year College	4-Year College (Public/Private)	2-Year College (Public/Private)
<b>Tahoma</b>	59	52	88.1%	12	14	21	3	2	0
<b>ESUHSD</b>	5,324	4,011	75.3%	504	858	2,363	148	126	12
<b>SCCOE*</b>	330	199	60.3%	49	35	89	11	13	2
<b>State</b>	439,211	282,740	64.4%	31,023	52,988	155,852	13,914	26,952	2,011

\*SCCOE includes the college-going rate for high school students attending schools authorized by SCCOE

Another data point used to determine post-secondary outcomes is the percentage of graduates meeting University of California and California State University (UC/CSU) course requirements ("a-g" requirements). During the term of the charter, data for graduate a-g readiness shows 90-96% of Tahoma's graduates were eligible to attend a UC or CSU. On this point, Tahoma outperformed ESUHSD, SCCOE and the State.

**Table 15: Tahoma Cohort Graduates Meeting UC/CSU Course Requirements**

	2015-16	2016-17	2017-18	2018-19	2019-20
<b>Tahoma</b>	N/A	95.7%	92.9%	90.9%	N/A
<b>ESUHSD</b>	N/A	48.6%	52.8%	54.4%	N/A
<b>SCCOE</b>	N/A	74.0%	79.0%	77.6%	N/A
<b>State</b>	N/A	49.9%	49.4%	50.5%	N/A

2019-20 data is pending. Data retrieved from [www.ed-data.org](http://www.ed-data.org)

\*SCCOE includes the college-going rate for high school students attending schools authorized by SCCOE

In the absence of 2019-20 statewide academic data due to COVID-19, SCCOE considered the available data and evidence. SCCOE is concerned with SPS: Tahoma's academic and post-secondary performance as evidenced by the cited data. As part of an addendum to the MOU, SCCOE Staff recommends Tahoma be required to provide SCCOE semi-annual verified academic performance data reports and include in its 2021-



24 Local Control Accountability Plan (LCAP) how it will continue to address the academic performance of Tahoma students – specifically the mixed results and declines in ELA and Math, the suspension indicator for students in the SWD and Asian groups, the college and career indicator, and the low performing English Learner Progress indicator.

The above terms need to be included in an addendum to the MOU and Tahoma needs to continue to address its academic performance declines in order for the performance measures to support renewal under the standards provided in Education Code 47607.2, giving greater weight to academic measures for all groups of pupils and considering increases in academic achievement and post-secondary outcomes.

### ***Finances***

SPS: Tahoma exhibits a healthy financial position. As of June 30, 2019, Tahoma had an audited reserve balance of 34%. Tahoma, the SPS Network, and the SPS Board of Directors have shown strong fiscal oversight. The Independent Auditor’s Report for the Year Ended June 30, 2019, reports an Unmodified Opinion on the financial statements, as well as on State and Federal compliance with various laws and regulations. In addition, there were no identified deficiencies, or material weaknesses, noted regarding internal controls over financial statements and internal control over compliance for fiscal year 2018-19. All fiscal reports as required by law and the SCCOE have been received on a timely basis. SPS maintains and implements sound fiscal policies and procedures, including, but not limited to, internal controls governing all financial and business-related activities. As part of SCCOE’s oversight of the charter school, SCCOE requested a monthly, site-level general ledger or equivalent report(s). Tahoma accommodated the request, and SCCOE began receiving these reports in July 2020 and should continue to receive them on a monthly basis going forward. SCCOE Staff recommends that the addendum to the MOU specify that Tahoma shall continue providing that site-level general ledger or equivalent report to SCCOE on a monthly basis.

Tahoma reported an Average Daily Attendance (ADA) of 324.5 for Fiscal Year (FY) 2019-20 and projects an increase in enrollment to 430.47 ADA for FY 2020-21 due to additional enrollment from Summit Public Schools: Rainier (“SPS: Rainier”). Summit has projected ADA at 95%. Charter Department Fiscal Staff is not aware of any significant financial concerns for Summit.

***Table 16: Fiscal Historical Revenue/Expenditure Data for Tahoma***

	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>
<b>A. Beginning balance</b>	777,998	985,807	1,303,652
<b>B. Revenues</b>	3,579,518	4,176,917	3,829,694
<b>C. Expenditures</b>	3,371,709,	3,859,072	4,139,274
<b>D. Surplus/Deficit (B-C)</b>	207,809	317,845	(309,579)
<b>E. Ending balance (A+D)</b>	985,807	1,303,652	994,073

### ***Demographic Data***

In accordance with Education Code Section 47607(d), SCCOE requested, received from CDE, and reviewed aggregate data reflecting pupil enrollment patterns at Tahoma.

### **REVIEW OF THE CHARTER PETITION**

SCCOE Staff reviewed the renewal Petition using the criteria established in California Education Code Sections 47605(c), 47607, and 47607.2, and County Board Policy 0420.4 (c) and found:

## 1. Sound Education Program

The Tahoma renewal Petition presents a research based educational program that meets all the required elements of a sound educational program. As one of the two Summit schools in Santa Clara County, and 10 schools in the Summit Public Schools portfolio, Tahoma benefits from a network-wide educational program. SPS: Tahoma's educational philosophy is preparing a heterogeneous student population for success in college and to be thoughtful, contributing members of society. The learning community encourages social and professional relationships between students, staff, and community to guide and enhance college and career planning. SPS: Tahoma employs a range of research based pedagogical strategies such as Project-Based Instruction, Socratic Seminars, and core curriculum alignment to California State Standards and Common Core Standards. All core courses meet the University of California a-g requirements and advanced placement courses are College Board approved.

All students are assigned to mentor groups led by one faculty member who serves as the mentor for the group. Each group of students stays with their mentor group and mentor throughout their high school career. The mentor meets daily with the mentees and leads activities and conversations focused on supporting a healthy, balanced, and productive school experience and ensures a successful transition to college in the later years. The mentor works with mentees and families to ensure students are on the right trajectory to meet their short- and long-term goals.

The Expeditions program at SPS: Tahoma develops cognitive and non-cognitive skills through context and content in areas such as the Arts, Technology, Media Studies, Health and Wellness, Leadership and Social Change, and Future Planning. Expedition courses consist of electives, enrichment opportunities, and experiences to prepare students for success in college, career, and life. These courses require students to apply knowledge from core academic classes, experience real-world contexts, solve problems that require a multi-disciplinary mindset, and explore interests in arts, performances, and hands-on activities.

SPS: Tahoma measures student progress towards career and college readiness using students' development in 36 interdisciplinary cognitive skills. For each cognitive skill, students must score a six on a zero through eight-point scale. Students' progress along a continuum demonstrating competency in a skill as appropriate for their level of development and growth. SPS: Tahoma reports a student's score on the Cognitive Skills Rubric contributes more to a student's grade than any other outcome. The seven categories of cognitive skills include: textual analysis, using sources, inquiry, analysis and synthesis, composing/writing, speaking and listening, and products and presentations.

In addition to cognitive skills, students also develop habits of success. Habits of Success are a set of skills, mindsets, dispositions, and behaviors grounded in the social nature of learning. Based on the Building Blocks for Learning framework, students develop skills in categories such as self-awareness, stress-management, agency, social awareness/relationship skills, and self-direction for a balance of skills and content knowledge.

In March of 2020, SPS: Tahoma pivoted to distance learning due to COVID-19. SPS's individualized on-line learning platform helped smooth the transition to distance learning. Tahoma currently provides four hours daily of live, or synchronous, instruction each weekday morning, and afternoons are reserved for asynchronous learning time and small group supports.

### **Students Performing Below Grade Level:**

The Summit Learning Platform is individualized and allows students to move at their own pace. Students have “play books” which include subject matter lessons and assessments to determine mastery. Instructors use the platform to review the student progress and provide additional scaffolding to those who need support. During Personalized Learning Plan (PLP) Meetings among the student, his/her parent or guardian, and his/her mentor, families are informed of the supports available to the student. These supports can consist of daily tutoring by peers or adults, weekly office hours held by each teacher, subject specific workshops to re-teach previously learned concepts or material, and one-on-one and small group sessions with the teacher during the Expedition periods. Each student’s progress is regularly monitored by his/her mentor.

### **Special Education:**

Students at Tahoma who are eligible for special education represent 16% (77 students) of the student population. Students receiving special education services have been identified with the following needs: 59.7% specific learning disability, 15.6% other health impairment, 14.3% Autism, 5.2% emotional disturbance, 2.6% speech and language impairment, 1.3% intellectual disability, and 1.3% vision impairment. The IEP goals for students with special or exception needs are weaved into each student’s PLP, allowing for compliant delivery of service. SPS: Tahoma serves as its own LEA for the purposes of compliance with the Individuals with Disabilities Education Improvement Act (IDEIA) and is a member of the El Dorado County Charter SELPA. SCCOE continues to monitor IDEIA compliance though SPS: Tahoma is solely responsible for compliance with the IDEIA, Section 504 of the Rehabilitation Act of 1973 (“Section 504”), and the Americans with Disabilities Act.

While SPS: Tahoma recognizes its obligation to comply with Section 504, the Petition incorrectly defines qualified individuals with disabilities who are afforded the protections of Section 504. The Petition states, “Any student, who has an objectively identified disability which substantially limits a majority like activity including but not limited to learning, is eligible for accommodation by the School.” However, this definition is not consistent with the requirements of Section 504 and may be susceptible to improperly restrictive application. Under Section 504, individuals with disabilities are defined as persons with a physical or mental impairment which substantially limits one or more major life activities. People who have a history of, or who are regarded as having a physical or mental impairment that substantially limits one or more major life activities, are also covered by Section 504. Additionally, an individual who meets eligibility criteria for Section 504 is not only eligible for “accommodations,” but is also eligible for general education, or special education and supports and services to ensure that the student receives a Free Appropriate Public Education. In an addendum to the MOU, SPS: Tahoma will have to affirm its understanding of and compliance with the application of Section 504.

### **English Learners (EL):**

The student population at SPS: Tahoma includes 8.7% identified as English Learners. SPS: Tahoma has instituted a process to identify English learners and to ensure each student’s educational and language development progress is measured annually to help determine individual growth and schoolwide performance. SPS: Tahoma failed to update the references from the California English Language Development Test or CELDT to the English Language Proficiency Assessments of California (ELPAC) which has been in place since 2018. This update must be addressed as part of the addendum to the MOU. The English Language Development (ELD) Standards are broken down into three parts which allow for (1) interaction with English language, (2) application of English language, and (3) foundational skills for beginning EL students. During SCCOE Staff’s annual visit, informal

observations, and discussions with SPS staff, SPS: Tahoma agreed that although all staff had been trained, more training and follow-through is needed. Members of the SPS Team have been working to improve the quality of instruction for English Learners.

With the addition of students identified as EL from SPS: Rainier, Tahoma will now have more than 21 students identified as EL. This will necessitate the formation of an English Learner Advisory Committee (ELAC) to advise the Executive Director and staff in the development of a site plan for English learners and the submission of the plan to School Site Council for consideration of inclusion in the School Plan for Student Achievement (SPSA) or Local Control and Accountability Plan (LCAP), as appropriate.

During the virtual classroom visits, the SCCOE team did not observe designated or integrated ELD instruction. In response to SCCOE inquiries, Tahoma explained that integrated ELD support is provided in the form of sentence frames, word banks, and scaffolded texts for students. Scaffolded texts are available to all students and can also be assigned by the teacher to specific students. These types of supports are more indicative of reading support in ELA than language supports for integrated ELD. Additionally, Tahoma staff reported designated ELD is currently a work in progress. They anticipate designated ELD can happen during “Habits and Content” as that portion of the day has additional learning structures that can accommodate the scheduling of designated ELD. Charter schools are legally required to provide designated and integrated ELD instruction (per California Code of Regulations, Title 5, Section 11309(c)(1)) to the students at Tahoma as part of a comprehensive delivery plan designed to overcome language barriers and provide access to the core curriculum if there is even one student identified as EL. Therefore, SCCOE recommends that Summit Tahoma provide SCCOE with an updated plan on integrated and designated ELD instruction as a condition for renewal to be included in the addendum to the MOU, and refers Tahoma to resources provided by the California Department of Education to assist in development of this integrated plan (See <https://www.cde.ca.gov/sp/el/er/charterschoolelltr.asp>, <https://www.cde.ca.gov/nr/el/le/yr15ltr0918.asp> and <https://www.cde.ca.gov/nr/el/le/yr19ltr1218.asp>).

### **Educational Leadership**

The Executive Director and Assistant Director are the educational and instructional leaders at Tahoma, in addition to being responsible for teacher supervision and evaluation, and providing input and approval of each faculty and staff member’s Personalized Learning Plan for Professionals. While the current Executive Director and Assistant Director at Tahoma both hold teaching credentials, and the Executive Director has an administrative credential, the employee qualifications identified in the body of the Petition for these positions do not explicitly require a teaching credential, though the Petition specifies that these administrators “should” have at least a master’s degree in education, at least three years successful teaching experience, demonstrated proficiency on the California Interstate School Leader Licensure Consortium’s six Professional Standards, and administrative credential holders are given preference. The sample job description for the Executive Director attached to the Petition does specify that the position requires a teaching credential from California or another U.S. State, so it appears that it is SPS: Tahoma’s intent to require at least some teaching credential, despite its omission from the list of administrator qualifications in the body of the Petition.

The job duties assigned to these positions are consistent with the need for at least a valid teaching credential, if not an administrative credential. This is particularly true in light of the mandate that all charter school teachers now hold the Commission on Teacher Credentialing certificate, permit, or other document required for the teacher’s certificated assignment, and the Executive Director and Assistant Director should also meet at least this requirement applicable to the teachers they

supervise and evaluate. The lack of a teaching credential for a person holding one of these positions could negatively impact the quality of educational services provided to Tahoma students, and requiring teaching credentials is consistent with the County Board's expressed expectations for charter schools under its oversight in order to help ensure a sound educational program. SCCOE Staff recommends that, as a condition of renewal, the minimum qualifications for the positions of Executive Director and Assistant Director be modified to include a requirement of a valid California teaching credential.

The Charter Schools Department Staff concluded the SPS: Tahoma renewal Petition provides sufficient information to substantiate the required elements for a sound educational program provided the academic performance issues, the integrated/designated ELD instructional plan, the development of an ELAC, and the requirement that the Executive Director and Assistant Director employment qualifications include California teaching credentials, are remediated through updates to the 2021-24 LCAP and provisions in an addendum to the MOU.

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

Staff identified a number of concerns/violations that support a determination that SPS: Tahoma is demonstrably unlikely to successfully implement the program set forth in the renewal Petition based on substantial governance factors, which were detailed in the Notice and are discussed more fully below, along with Summit's response thereto, in the "Additional Criteria for Denying a Charter Renewal" Section. Apart from the concerns addressed in that section below, Staff found facts demonstrating the Petitioners are likely to successfully implement the program only if SPS: Tahoma creates and implements plans for addressing academic declines and resolving the other identified concerns and conditions through an addendum to the MOU, as described more fully throughout this Staff Analysis and Findings of Fact.

## **3. Affirmation of each of the conditions required by statute**

SCCOE Staff found the Petition contains most of the required affirmations. However, while the Petition includes multiple anti-discrimination affirmations, the list of protected characteristics in each instance is incomplete and out of compliance with the mandates of Education Code Sections 47605(e) and 220. SCCOE Staff believes that this is an unintentional oversight and failure to update the language in the Charter by Tahoma. SPS: Tahoma will need to rectify these errors in an addendum to the MOU.

Additionally, the Petition does not include an explicit statement that SPS: Tahoma shall provide notice of the requirements of Education Code Section 47605(e) in the form developed by the California Department of Education, which notice shall be posted on SPS: Tahoma's internet website and SPS: Tahoma shall provide a parent or guardian a copy of this notice at all the following times:

- (i) When a parent, guardian, or pupil inquires about enrollment.
- (ii) Before conducting an enrollment lottery.
- (iii) Before disenrollment of a pupil.

SPS: Tahoma has provided this notice on its website but will also need to include this affirmation in the addendum to the MOU as well as in its Student/Parent Handbook.

#### 4. Reasonably comprehensive description of the required elements

For the description of each element to be considered “reasonably comprehensive,” it is not enough for the renewal Petition to include a description, but rather the description should be acceptable to SCCOE and be consistent with and not contrary to SCCOE’s standards and expectations for charter schools under its oversight. SCCOE’s indication that the description of an element is “reasonably comprehensive” should not be interpreted to mean SCCOE does not believe additional or different terms relating to an element would need to be agreed to by the Petitioner through the MOU process. Further, while SCCOE may make recommendations for remediation in an area or specify issues or terms that have been or will need to be clarified or resolved through the MOU or an addendum to the MOU, this does not mean other areas may not need additional correction to be included in the MOU or in an addendum to the MOU. Further, Staff’s determination an element is reasonably comprehensive may be premised on noted issues being remediated through the MOU and addendum process.

The Charter Schools Department Staff found as detailed below, that additional specificity and requirements governing SPS: Tahoma’s educational program, governance and operations, including its compliance with the required charter elements, have been included in the MOU and/or will need to be included in an addendum to the MOU among SPS: Tahoma, its governing entity/CMO, SPS, and the SCCOE.

In preparing the renewal Petition, SPS: Tahoma appears to have overlooked a variety of updates. Examples include continuing to reference outdated law (e.g. continuing to cite to Education Code Section 47605(b) and past requirements for some of the charter elements and failure to update the list of protected characteristics in its anti-discrimination statements), educational program requirements (e.g. references to the obsolete California High School Exit Exam and CELDT), references to the “District” as the authorizer, and failing to update the Summit Board’s current charter term expiration dates. The Petition also includes a “Matrix of Updates” that points out significant changes made to the renewal Petition from the current charter, but not all of the changes identified in the Matrix were actually included in the Charter, though SCCOE interprets the Matrix as a statement of intent and commitment by SPS: Tahoma. This Staff Analysis will not point out each of these concerns, but SPS: Tahoma will need to address and correct these oversights and clarifications through an addendum to the MOU.

##### **A. Element One: Description of the Educational Program/Plan for Student Academic Achievement**

Summit Tahoma’s educational philosophy is preparing a heterogeneous student population for success in college and to be thoughtful, contributing members of society. The learning community encourages social and professional relationships between students/staff and community to guide and enhance college and career planning. Summit Tahoma employs a range of research based pedagogical strategies such as Project-Based Instruction, Socratic Seminars, and core curriculum aligned to Common Core State Standards. All core courses meet the University of California a-g requirements and advanced placement courses are College Board approved. Individual and enrichment support include one-to-one tutoring and the Expeditions Program, which allows for the building of student character and promoting a deep engagement into learning.

SCCOE Staff concluded SPS: Tahoma provided sufficient information in the renewal Petition to substantiate the required elements for a sound education program. However, implementation of all the elements in the Petition needs additional support and practice.

The Charter Schools Department Staff believes this section includes a reasonably comprehensive description provided the declines in academic performance and ELD integrated and designated instruction are addressed, and the development of an ELAC is remediated through an update to the 2021-24 LCAP and provisions in an addendum to the MOU.

## **B. Element Two: Measurable Student Outcomes**

SPS: Tahoma's petition included a 2017-20 LCAP and 2020-21 Learning Continuity and Attendance Plan (LCP) which address state requirements and provide both quantitative and qualitative indicators for determining performance and progress. While the LCAP update was not required for 2020-21 due to COVID-19, the LCP is required by the State. Parent input was solicited through a survey of all SPS: Tahoma parents, followed by a virtual meeting where the required components of the LCAP and LCP were shared. The LCP describes Tahoma's distance learning program, including access to curriculum, professional development, and supports for pupils with unique needs. While the basics of the pupil participation and progress are identified in the LCP, Charter Schools Department Staff recommend more specificity be provided through an addendum to the MOU in accordance with SB 98.

For the LCAP, Charter-wide parental input was considered as SPS: Tahoma parents and staff determined the best way to utilize their Local Control Funding Formula (LCFF) funds. SPS: Tahoma's LCAP sets benchmarks scaffolded across the three-year span, utilizing student proficiency levels on CAASPP in English Language Arts and Math as the academic criteria. However, as only one grade level is assessed on the CAASPP at high school, Tahoma must add additional verifiable assessments to show student academic performance in its assessments and in the LCAP. Additional academic metrics involve student performance and progress on the English Language Proficiency Assessments for California (ELPAC), attendance, absenteeism, suspension, and expulsion rates, with benchmark goals. In the prior Petition, Tahoma included the Measures of Academic Performance (NWEA MAP) as an additional academic assessment but did not include it in this Petition. Staff recommends that Tahoma include additional verifiable assessment data and benchmarks in its 2021-24 LCAP as a condition of approval to address the significant declines in academic performance across the current term and to ensure that it will have verifiable data as defined by the State Board of Education's definition pursuant to Education Code Section 47607.2(c) available at the time of its next renewal.

Parent satisfaction survey results, phone calls, and community meetings help round out additional measurable outcomes in describing SPS: Tahoma's LCAP. SCCOE Staff also notes the law regulating charter school adoption of an LCAP was revised as of July 1, 2019 and SPS: Tahoma is now required to comply with all requirements for adoption and revision of an LCAP, including the holding of at least one public hearing to solicit public input on the LCAP in accordance with Education Code Section 47606.5.

The Charter Schools Department Staff believes this section includes a reasonably comprehensive description only if additional written information to address the causes of, and plans to remediate, academic declines at SPS: Tahoma is provided to SCCOE and

committed to in the addendum to the MOU and SPS: Tahoma updates its 2021-24 LCAP to include how it will address its academic declines.

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

SPS: Tahoma's assessment plan utilizes multiple measures including formative and summative assessments. Formative assessment (teacher-developed rubrics) provides individual and classroom feedback to inform instruction for students and staff. Students, parents, and mentors review each student's individual performance on their semi-annual PLP. Faculty analyzes student and school-wide data each semester to inform teaching and identify students in need of additional support. Summative data (CAASPP, ELPAC, Physical Fitness Testing, and end of year teacher assessments), provide school- and network-wide information relative to student performance and success. The Petition continues to list the California High School Exit Exam ("CAHSEE") among the list of methods by which it measures pupil progress, though administration of the CAHSEE was suspended in 2015 and legally abolished in 2017. SPS: Tahoma removed from the renewal Petition the NWEA MAP assessments as a measure, though those assessments were included in the current SPS: Tahoma charter. SPS: Tahoma uses its cognitive assessments to review student performance. However, these cognitive assessments have not been adopted by the State Board of Education (SBE) as verified assessments as defined by the CDE and no alternative measures have been provided by Tahoma. SPS: Tahoma will need to provide SCCOE with additional verified assessment data to show academic performance for its students. SCCOE suggests that SPS: Tahoma include in its 2021-24 LCAP additional verified data assessments to address the academic declines and which will be used to determine academic growth for students during its next renewal.

The Charter Schools Department Staff believes this section includes a reasonably comprehensive description so long as additional verified data is utilized in assessing SPS: Tahoma's students and these measurements are included in the 2021-24 LCAP and an addendum to the MOU.

**D. Element Four: Governance Structure**

As noted above, Summit was provided the Notice pursuant to Section 47607(e) setting forth substantial governance factors that could support a finding that SPS: that could support a finding that SPS: Tahoma is demonstrably unlikely to successfully implement the program set forth in its renewal Charter. On December 21, 2020, SPS submitted its response and corrective action plan to the Notice, including three "related documents," which is attached as Exhibit 2 ("Response"). The Notice and Response are separately addressed in detail below, so those matters will not be repeated in this section of this analysis, but Staff notes that the governance concerns raised in the Notice each constitute ways in which the governance element of the charter is not reasonably comprehensive.

The Charter states the Board will consist of at least three members and should not exceed fifteen members. Summit has stated that it currently has eight seats on its Board, though one seat is currently vacant. Per the Petition, four of the Board of Directors terms had expired (p. 63) prior to submission of the renewal petition. As part of the renewal visit documents, SPS did provide additional documentation for all directors showing their terms have been extended. SCCOE Staff independently reviewed all SPS Board minutes and verified that all board members are now current, however one was not timely renewed and served for several months on an expired term. Further, one SPS Board member who joined the board in 2012



may not have attended any SPS Board Meetings and has not attended any meetings during the current Tahoma charter term, as verified by the SPS Board Meeting Minutes. The Charter states the Board will comply with all federal, state, and local laws applicable to independent public charter schools and has adopted a Conflict of Interest Code (included in the appendix section). At the time of this writing, SPS's updated Conflict of Interest Code has not yet been finally approved by the Fair Political Practices Commission (FPPC), but is in the approval process.

The Charter specifies Tahoma shall comply with the Brown Act, the Political Reform Act of 1974, and Government Code Section 1090 et seq. SPS adopted revised Bylaws at its December 11, 2020, meeting.

Per the FPPC and the Conflict of Interest Code, all directors and senior SPS staff are required to file a "Form 700" annually disclosing specified interests. During the charter term, SCCOE staff have reviewed the Forms 700 filed on behalf of SPS reporters and found that none of the directors or staff have identified any reportable interests.

SPS: Tahoma has an established Parent Organization (Parents in Volunteer Organized Teams -PIVOT), and parents are strongly encouraged to become actively involved and engaged in meaningful ways in their child's education. However, the Charter petition does not reference the establishment of an appropriately constituted School Site Council for Title I requirements, nor does the Charter indicate that PIVOT serves in the role of a School Site Council.

In accordance with the SCCBOE's previously expressed position on best practices for charter school transparency, SCCOE Staff recommends that SCCBOE require as a condition of renewal that Summit's board of directors and any other legislative bodies for purposes of the Brown Act post the minutes from their meetings on the SPS website and include with their posted agendas links to the backup materials for each agenda item for which there are electronic versions of backup materials that are not excluded from public disclosure. At the later of (1) the posting of the agenda or (2) the time that the staff provides a final copy of agenda item backup materials to all or a majority of all of the members of the legislative body, it shall post a link in the pertinent agenda item to those materials that are not excluded from public disclosure. Staff notes that these requirements are consistent with SPS's general practices, but recommends their inclusion as a commitment through the addendum to the MOU.

SPS has previously indicated that, despite the fact that it currently engages in these practices relative to posting backup materials and minutes, it objects to committing to continue such practices because they are not specifically required by law. However, this is too narrow an interpretation and application of the requirements of the Charter Schools Act and SCCBOE's role in assessing a particular Charter against the standards for approval. The SPS: Tahoma Charter would not be educationally sound nor contain reasonably comprehensive descriptions of each of the required elements if it were limited only to a recitation of practices that are explicitly required by law. Rather, the Charter is the document that controls SPS: Tahoma's operations and SPS is required to provide descriptions that SCCBOE finds establish that approval of the renewal is consistent with sound educational practice and that constitute reasonably comprehensive descriptions of a variety of educational, governance, and operational plans, practices, and commitments consistent with and not contrary to SCCBOE's standards and expectations for charter schools under its oversight.

The corporate bylaws must be updated to be consistent with the requirements of the MOU, including relative to any SCCBOE representative to the SPS Board and procedures for revising the Bylaws.

During the SPS: Tahoma charter term, SCCOE has provided SPS with five letters of concerns, one letter of inquiry, and more than 50 emails requesting information, clarifications, and corrections around governance issues with SPS. Without admitting any wrongdoing, SPS has provided additional information to SCCOE, which in many cases led to more questions than answers.

Substantial concerns regarding SPS: Tahoma's governance are detailed in the Notice and below in the "Additional Criteria for Denying a Charter Renewal" section. The Charter Schools Department Staff believes this section includes a reasonably comprehensive description only if the governance issues described above, in the Notice, and below are addressed and resolved through an addendum to the MOU.

#### **E. Element Five: Employee Qualifications**

SPS: Tahoma recruits qualified personnel for all administrative, instructional, instructional support, and non-instructional support capacities. The staff recruited believe in the instructional philosophy outlined in the vision statement. In accordance with Education Code 47605(c)(5)(e), SPS: Tahoma shall be nonsectarian in its employment practices and all other operations. SPS: Tahoma shall not discriminate against any individual (employee or student) on the basis of the characteristics listed in Education Code Section 220 (actual or perceived disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code, including immigration status, or association with an individual who has any of the aforementioned characteristics). (As noted above, the anti-discrimination statement in this element of the Charter is not actually inclusive of all requisite protected characteristics and will need to be updated through an addendum to the MOU.)

SCCOE Staff notes the SPS: Tahoma's administrator qualifications described in the renewal Charter do not state these positions require a valid California teaching credential. While administrative credentials are not legally required for administrators at charter schools, possession of at least valid California teaching credentials for the Executive Director and Assistant Director positions would allow those administrators to cover classrooms or teach classes as needs arise. Both SPS: Tahoma's Executive Director and Assistant Director hold valid teaching credentials and Tahoma's Executive Director also holds a current administrative credential. SCCOE staff recommends adding the teaching credential requirement to the administrative employee qualifications for at least these two positions as part of the addendum to the MOU.

SPS: Tahoma continues to work with SCCOE Human Resources to ensure the teaching staff are enrolled in Teacher Credentialing Programs and fulfilling all the legal requirements necessary to perform as teachers. While the Petition specifically acknowledges the legal requirement that charter school teachers "hold the Commission on Teacher Credentialing certificate, permit, or other document required for the teacher's certificated assignment," the 2020-2021 teacher job description included in Appendix P to the Petition specifies that teachers are required to hold a teaching credential in California *or another US state*. An out of state credential would not satisfy the requirements of law, so SPS: Tahoma must update this job description and ensure that its hiring practices remain consistent with applicable legal requirements. All SPS special education services are monitored by an experienced teacher who serves as the network's program director and two specialists who support the special education staff at the school sites across the network. As of the time of the SCCOE Staff

renewal visit to SPS: Tahoma, all SPS: Tahoma Staff meet the current credentialing requirements.

The Charter Schools Department Staff believes this section includes a reasonably comprehensive description only if, as a condition of renewal, the addendum to the MOU specifies that the minimum qualifications for the Executive Director and Assistant Director include a valid California teaching credential.

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

SPS: Tahoma provided an overview of Health and Safety Policies and Procedures and the process for employee fingerprinting and background checks. All staff are expected to comply with Ed. Code 47605(c)(5)(f) and legal requirements, and SPS: Tahoma is committed to providing a safe, compliant working environment. While the Petition specifies that all staff will be mandated child abuse reporters, it fails to address mandated reporter training in accordance with Education Code Section 44691, should be added to the addendum to the MOU. SPS: Tahoma submitted its 2021 Comprehensive School Safety Plan, but should explicitly specify that it will review and update the plan by March 1 of every year and that it shall include the required safety topics. SPS: Tahoma should also commit to at least an annual review and update, as appropriate, of its health and safety policies in consultation with its insurance carrier and risk management team.

Tahoma included in its Petition a statement that it has established protocols to ensure the safety of students and staff in alignment with the CDC and local health department guidelines. Tahoma is also required to comply with California Department of Public Health (CDPH) and other applicable state guidelines and requirements. The addendum to the MOU shall include confirmation that Tahoma will comply with all applicable COVID-19 guidance and requirements, including CDPH, state, and local requirements, including but not limited to social distancing protocols, a school preparedness plan, and required data submissions.

The Charter Schools Department Staff believes this section includes a reasonably comprehensive description with the inclusion of updates in the addendum to the MOU.

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

On July 1, 2020, AB 1505 took effect, updating Element G to require schools to provide a reasonably comprehensive description of how the school will achieve a balance of racial and ethnic pupils, special education pupils, and English learner pupils, including redesignated fluent English proficient pupils, reflective of the general population residing within the territorial jurisdiction of the district to which the Tahoma charter was initially submitted, which, as previously established, is ESUHSD. Tahoma's renewal Charter does not explicitly acknowledge this change, though the plan references a special education and English learner balance, and the heading and corresponding Education Code language of this element of the Charter has not been correspondingly updated and should be in the future to convey the correct, inclusive intent.

Table 17, below, shows the Hispanic, white, African American and Two or More Race student groups at Tahoma are reflective of those same populations at ESUHSD. The Asian and Filipino student groups, however, are not reflective of their peer groups at ESUHSD.

Table 18, below, demonstrates that while the Students with Disabilities group is reflective of the population at ESUHSD, the SED and EL populations at Tahoma do not reflect the population at ESUHSD.

**Table 17: Demographic Comparison of Tahoma and Schools and Districts Tahoma Students Would Have Attended for 2019-20**

	Hispanic or Latino	Asian	Filipino	White	African American	Two or More Races
<b>Tahoma</b>	46.5%	12.9%	2.9%	22.6%	2.9%	10.0%
<b>Oak Grove</b>	58.0%	21.2%	4.7%	6.9%	4.2%	3.9%
<b>Independence</b>	32.3%	40.6%	18.0%	3.4%	2.0%	2.1%
<b>James Lick</b>	80.1%	7.9%	6.5%	3.0%	1.4%	0.1%
<b>ESUHSD</b>	51.2%	32.7%	6.5%	4.8%	1.8%	2.3%

Data gathered from Dataquest: <https://data1.cde.ca.gov>

**Table 18: Demographic Comparison of Tahoma and Schools and Districts Tahoma Students Would Have Attended for 2019-20**

	Total # of Students	SED%	EL%	SWD%
<b>Tahoma</b>	340	32.4	9.4	15.9
<b>Oak Grove</b>	1,730	53.9	15.7	13.6
<b>Independence</b>	2,879	51.3	17.7	8.1
<b>James Lick</b>	980	77.3	19.0	14.6
<b>ESUHSD</b>	26,537	54.6	20.1	10.4

Data gathered from Dataquest: <https://data1.cde.ca.gov>

SPS: Tahoma, in its renewal Charter, states the school strives through recruitment and outreach practices, to achieve a balance of racial and ethnic pupils, special education pupils, English learner pupils, and socioeconomically disadvantaged pupils that is reflective of the school age population residing within the “granting agency.” SPS: Tahoma is required to describe the means by which it will achieve a student balance reflective of ESUHSD – the district to which Tahoma initially submitted its charter – not of SCCOE. SPS: Tahoma’s strategy includes, but is not necessarily limited to, (1) an enrollment process scheduled and adopted to include a timeline allowing for a broad-based application process. (2) Outreach efforts via neighborhood groups, family- and youth-serving organizations, religious organizations, and other community organizations. (3) Marketing brochures and TV/radio public service advertisements targeted toward diverse populations and, when needed, in various languages. (4) Annually the school reviews its racial, ethnic, SWD and EL balance and these policies to determine which policies and practices are the most effective in achieving a diverse student population, and, by implication, will update its practices to increase the success of its efforts.

**Table 19: Tahoma Demographic Data from 2015-16 to 2018-19**

	<b>Total # of Students</b>	<b>Hispanic or Latino %</b>	<b>Asian %</b>	<b>Filipino %</b>	<b>White %</b>	<b>African American %</b>	<b>Two or More Races %</b>
<b>2015-16</b>	275	50.5	13.8	4.7	15.3	2.5	4.7
<b>2016-17</b>	301	44.2	13.3	5.3	18.9	2.7	7.0
<b>2017-18</b>	342	42.1	12.9	4.4	22.8	2.6	8.5
<b>2018-19</b>	379	44.3	12.4	3.2	21.6	3.2	12.9
<b>2019-20</b>	340	46.5	12.9	2.9	22.6	2.9	10.0

Data gathered from Dataquest: <https://data1.cde.ca.gov>

**Table 20: Tahoma Student Group Data from 2015-16 to 2018-19**

	<b>Total # of Students</b>	<b>SED%</b>	<b>EL%</b>	<b>SWD%</b>
<b>2015-16</b>	275	49.1	6.5	12.0
<b>2016-17</b>	301	42.9	8.0	15.9
<b>2017-18</b>	342	33.0	9.1	13.4
<b>2018-19</b>	379	35.6	8.7	13.9
<b>2019-20</b>	340	32.4	9.4	15.9

Data gathered from Dataquest: <https://data1.cde.ca.gov>

Tahoma's student demographics do not closely reflect the demographics of ESUHS, as Tahoma has a higher White population and lower Filipino, SED, and EL populations. The School Year 2021 Student Recruitment Plan included in Appendix CC does not include any specific mention of efforts or means of recruitment and outreach specifically targeted towards or established to be effective increasing the racial and ethnic and/or English learner student populations to be reflective of ESUHS. Through the addendum to the MOU, SPS: Tahoma should be required to provide further updates to its plan via an addendum to the MOU, including but not limited to a commitment to audit and expand its efforts as necessary to achieve the requisite balance in accordance with Education Code Section 47605(c)(5)(G).

The Charter Schools Department Staff believes this section does not include a reasonably comprehensive description unless it is updated through an addendum to the MOU.

#### **H. Element Eight: Admissions Policies and Procedures**

SPS: Tahoma has articulated student admission policies and procedures. The school is nonsectarian, tuition free, and does not discriminate against any pupil on the basis of protected characteristics.

In the event of a public random drawing, SPS: Tahoma specifies its intent to implement the following preferences in the following order:

1. Siblings of currently enrolled students or graduates of SPS: Tahoma residing within the boundaries of the District
2. Students who are enrolled in, or reside in the attendance boundaries of the public elementary school where SPS: Tahoma is located (when Tahoma is participating in the Charter School Facility Grant Program)
3. Students residing within the boundaries of the District
4. Siblings of currently enrolled students or graduates of SPS: Tahoma residing outside the boundaries of the District
5. All other students who wish to attend the Charter School

The Petition proposes exempting from the lottery process not only existing students, but also children of current SPS employees and founders of SPS: Tahoma, up to a total of 10% of enrollment. Other than the preference for residents of the ESUHS, whether to permit the proposed preferences is within the discretion of the SCCBOE.

In accordance with Education Code Section 47605(e)(2)(B), and as stated in the Tahoma Petition, if there are more applicants than spaces, other than existing students, attendance must be determined by public random drawing, so rather than an “exemption,” children of SPS employees and Tahoma founders (up to 10% of enrollment) should be the first level of preference. SCCOE Staff recommends the SCCBOE approve this as a revised preference, and deny it as an exemption from the lottery, and that the revised, approved preferences be memorialized as part of an addendum to the MOU.

Admission to the school is not determined by place of residence of pupil, or parent, except in the case of public random drawing. While SCCOE is aware SPS: Tahoma has a formalized procedure for implementing its public random drawing should one become necessary, with changes to the Charter Schools Act since SPS: Tahoma’s most recent renewal, the specifics of the drawing, including the means by which the admissions preferences are implemented, should be included in the Petition. While some basic information about the drawing procedure is identified in the Charter, Charter Schools Office Staff recommends more specificity be provided through an addendum to the MOU. The MOU also includes additional protections to ensure legal and nondiscriminatory admission to SPS: Tahoma.

Education Code Section 47605(e)(4)(B) prohibits a charter school from requesting a pupil’s records or requiring a parent, guardian, or pupil to submit the pupil’s records prior to enrollment. The Petition sets forth a process for students applying to attend Tahoma after the start of their ninth grade year to submit their high school transcript to be individually reviewed by the Executive Director for determination of grade placement, including a determination of placement in the appropriate grade level lottery, prior to admission or enrollment. While Staff understands that this process is intended to determine grade level placement based on the student’s past high school educational experience and performance, to assist in the path to graduation, it runs directly afoul of the Charter Schools Act. As a condition of renewal, this procedure must be deleted, and Tahoma can choose to include a legally compliant placement process in an addendum to the MOU.

The Charter Schools Department Staff believes this section includes a reasonably comprehensive description with the denial of the exemption from the lottery, and revision of the preferences to add a preference for children of SPS employees and Tahoma founders (up to 10% of enrollment), the inclusion of the detailed public random drawing procedures in the addendum to the MOU, and the termination of the “transfer” procedure for students beyond the start of ninth grade that requires the submission of pupil records prior to enrollment.

#### **I. Element Nine: Financial Audit**

Tahoma states in the Petition the audit will be conducted in accordance with Education Code Sections 47605(c)(5)(I) and 47605(m), generally accepted accounting procedures, and with applicable provisions within the California Code of Regulations governing audits of charter schools as published in the State Controller’s K-12 Audit Guide. The Petition also states Tahoma financial audit procedure, which includes how the independent auditor will be selected and retained, the qualifications the independent auditor needs to possess, the

timing of the audit, how any deficiencies will be resolved, and how this will be communicated to the necessary outside parties. The process by which the auditor is selected requires that each spring, the SPS Board will approve the auditor and contract. In the previous petition, an Audit Committee made the selection and recommendation to the board, however, the charter petition renewal states that the SPS Board approves the independent auditor without mention of the Audit Committee's role in the audit selection process. After further communication with SPS team SCCOE fiscal staff learned that, presently, the SPS board has an active audit committee, but does not have an active finance committee. Although the fiduciary responsibilities lie with the entire SPS board, the Charter Schools Department Staff believes with the establishment of an active finance committee, SPS will be best positioned for the prevention, early identification, and management of financial problems, should they arise.

Staff notes that while the Petition states that SPS: Tahoma "anticipates" that the annual audit will be provided to the County Superintendent, CDE, and the State Controller by December 15th each year, submission by that date is legally mandated. (Ed. Code § 47605(m),)

The Charter Schools Department Staff believes this section includes a reasonably comprehensive description.

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

SPS: Tahoma's Charter sets forth its comprehensive suspension and expulsion policies and procedures which have been updated to reflect current law. While SPS: Tahoma's procedures are largely modeled on the Education Code procedures applicable to non-charter schools, the order in which the offenses that could lead to suspension and expulsion are enumerated differs from the order in the corresponding Education Code provisions, which could lead to confusion. As such, Staff encourages Tahoma to consider updating the order to be consistent with the Education Code.

The Matrix of Updates included with the Petition specifies that this element has been "[u]pdated to confirm that expulsion is the only means of involuntary dismissal of a student other than 'no shows' at the beginning of the year," but those revisions were not actually made in the Petition and will need to be included in an addendum to the MOU.

These policies and procedures, with that addition and as clarified through an addendum to the MOU, are consistent with SCCOE's usual practices and will be consistent with the changes to this portion of the Charter Schools Act.

The Charter Schools Department Staff believes this section, as updated through the MOU, includes a reasonably comprehensive description only if the terms are clarified as part of an addendum to the MOU.

**K. Element Eleven: Employee Retirement System**

The Tahoma Charter states all certificated employees of Summit Tahoma shall participate in the State Teachers Retirement System (STRS), and all non-certificated employees will participate in a 401(a) retirement plan. While it appears the intent of this language is that all non-certificated employees participate in a 401(a) plan, it is not clear from the text of the Petition if employees who participate in this plan participate in federal social security and if part-time employees are afforded the opportunity to participate in 401(a) and/or federal social security. After further communication with SPS we learned that because SPS offers a qualified 401(a) plan and applied and was granted federal social security exemption,

SPS is not required to participate in federal social security. Additionally, all non-certificated employees, full-time and part-time alike, are eligible to participate in the 401(a) retirement plan. The Human Resources, Talent and Finance Teams at Summit Public Schools oversee the arrangements, including required contributions and deductions, for retirement coverage for all SPS: Tahoma employees.

The Charter Schools Department Staff believes this section includes a reasonably comprehensive description, and recommends a clarification regarding 401(a) plan participation be included in an addendum to the MOU.

**L. Element Twelve: Public School Attendance Alternatives**

Students who choose not to attend SPS: Tahoma may attend other district schools or pursue an intra- or inter-district transfer in accordance with existing district enrollment and transfer policies. Parents and guardians of each student enrolled in SPS: Tahoma will be informed their students have no right to admission to a particular school of any local education agency as a consequence of enrollment in the Charter School, except to the extent such a right is extended by the local education agency.

The Charter Schools Department Staff believes this section includes a reasonably comprehensive description.

**M. Element Thirteen: Description of the Rights of An Employee of the County Superintendent of Schools, Upon Leaving the Employment of the County Superintendent of Schools, to be Employed by the Charter School**

SPS: Tahoma states that Summit Public Schools is the exclusive employer of all employees at SPS: Tahoma. While Staff notes that the County Superintendent is the exclusive employer of all employees at SCCOE, the discussion in this Element is complete, and provides that such employees have no automatic rights of return and only such rights as the County Superintendent may choose to provide, and that employment at SPS: Tahoma does not provide any rights of employment at any other entity, including in the case of closure of the Charter School. The discussion at the end of this section refers to former employees of any school district, but then goes on to describe the lack of rights conferred on person who leave the employment of any local education agency, which would include employment by the County Superintendent.

The Charter Schools Department Staff believes this section includes a reasonably comprehensive description.

**N. Element Fourteen: Dispute Resolution**

SPS: Tahoma includes a proposed dispute resolution procedure in the Petition which acknowledges SPS: Tahoma cannot bind the County to any dispute resolution process to which it did not agree. SPS: Tahoma has agreed to the terms which are set forth in the MOU and have replaced the language proposed in the Charter.

The Charter Schools Department Staff believes this section, as updated through the MOU, includes a reasonably comprehensive description.



**O. Element Fifteen: Closure Protocol**

SPS: Tahoma outlines a process to be used if the charter school closes. Once documented as official action by SPS Board, there is a process addressing notification of all entities, and to ensure smooth transition of students/records to suitable alternative programs. SPS: Tahoma will provide a Final Audit and plans for disposition of assets and liabilities and transfer of public records. On closure the school shall remain solely responsible for all liabilities arising from the operation of the school. As a non-profit public benefit corporation, the school board will follow the California Corporation Code for any dissolution of the corporation and file all necessary filings with appropriate state and federal agencies. As part of the SCCOE standards of excellence contained in the MOU, SPS: Tahoma has now agreed to supplementary closure procedures described in the MOU, and in the case of a discrepancy between the MOU and Charter closing procedures, the MOU will prevail.

The Charter Schools Department Staff believes this section, as supplemented and updated through the MOU, includes a reasonably comprehensive description.

**Required Supplemental Information**

SCCOE Staff reviewed SPS: Tahoma's Petition, which includes the Budget Narrative and Budget Fiscal Years (FY) 2020-21 through 2022-24 as requested. SCCOE Staff has reviewed additional information from documents and interviews to provide clarification on financial position. This included meeting with the Tahoma Staff and Board as well as conducting annual visits and reviewing Financial Audits, monthly financial statements, mandatory financial reports, and the Fiscal Crisis Management Assessment Team (FCMAT) Local Control Funding Formula (LCFF) Calculator which was re-created by SCCOE Staff to recalculate the LCFF Revenue sources reported on the Petition.

**Enrollment & Average Daily Attendance (ADA)**

Tahoma reported an Average Daily Attendance (ADA) of 324.50 for FY 2019-20. Tahoma projects an increase in enrollment for FY 2020-21 with an ADA of 430.47 due to enrollment of SPS: Rainier students.

It appears Tahoma projects a healthy financial with a reasonable enrollment and ADA increase in FY 2022-23 and thereafter.

***Table 21: Tahoma Historical and Projected Enrollment/ADA Data***

	<b>Historical Data</b>			<b>Enrollment/ADA Projections</b>			
	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>
<b>Actual Enrollment</b>	342	379	340				
<b>Projected Enrollment</b>				458	461	430	435
<b>ADA*</b>	320.27	357.26	324.5	430.47	437.95	408.5	413
<b>ADA%</b>	94%	94%	95%	94%	95%	95%	95%

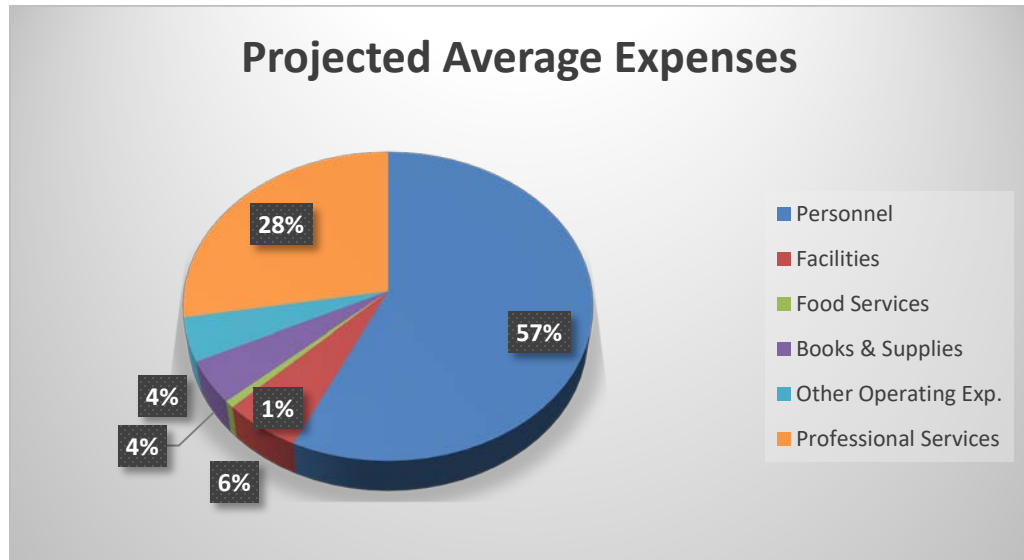
*\*Historical ADA data based on P-Annual*

**Revenues & Expenses*****Table 22: Tahoma Revenue and Expense Projections***

	2020-21	2021-22	2022-23	2023-24
<b>A. Beginning balance</b>	994,073	1,071,539	1,386,187	1,429,141
<b>B. Revenues</b>	5,226,213	5,127,679	4,800,216	4,861,475
<b>C. Expenses</b>	5,148,747	4,813,031	4,757,262	4,813,143
<b>D. Surplus/Deficit (B-C)</b>	77,466	314,648	42,954	48,332
<b>E. Ending balance (A+D)</b>	1,071,539	1,386,187	1,429,141	1,477,473

Tahoma presents a balanced five-year budget for FYs 2020-21 through 2023-24 with detailed reasonable revenue and expense projections addressing major anticipated sources of revenue, including state, federal and local. Expenses include staffing, benefits, professional development, facility costs, materials, equipment, and other operating expenses. Tahoma is conservative in its revenue and expenditure projections. Spending plans align with projected revenues. Staffing financial projections appear to be reasonable. The projected expenditure costs seem to be accurately stated and demonstrate satisfactory ability to meet Tahoma's financial obligations.

Fiscal Staff is not aware of any significant financial concerns for Tahoma

***Chart 10: Tahoma Projected Average Expenses for the Renewal Term Years*****Cash Flow**

Tahoma's cash flow closely aligns with all financial documents including bank statements and reconciliation reports. Tahoma has established a resolution with the SPS Board describing

the SPS Entity's commitment to the school's cash needs, including "providing all necessary funds to any of the schools for which it holds the charter," and through the MOU has committed to adopt a new such resolution in the event that Tahoma reports a deficit. In the event there is an unforeseen financial crisis, Tahoma's reserves along with SPS Central support should suffice during an emergency.

As discussed in the Finances section above, SCCOE Staff recommends that the addendum to the MOU specify that Tahoma shall continue providing a site-level general ledger or equivalent report to SCCOE on a monthly basis.

### **Potential Civil Liability Effects on the School and County Office**

SPS: Tahoma is in compliance with its current MOU, including the insurance and indemnification, defense, and hold harmless provisions, and has agreed through the new MOU to those provisions as required by SCCOE's risk management team. There is no reason to believe SPS: Tahoma will not continue to abide by SCCOE's requirements and the agreed upon MOU and any addendum thereto. Currently there are six pending Public Employment Relation Board (PERB) matters involving Summit Public Schools. While these matters are not specific to SPS: Tahoma, the overall effect of the PERB issues will impact all SPS schools.

#### **5. Exclusive Public Employer**

As required by the Charter Schools Act, the Charter specifies SPS shall be deemed the exclusive public employer of the employees of the Charter School for the purposes of Educational Employment Relations Act ("EERA"), though this statement is mistakenly included as "Element O," in reliance on a past version of the Charter Schools Act.

#### **6. Requirements for Grade-Levels Served, Facility Location, and Students Served**

SPS: Tahoma currently serves 9-12. It is located in ESUHSD and sets forth specific requirements for its facility needs. SPS: Tahoma is located at 285 Blossom Hill Rd., San Jose, California 95123.

The Charter Schools Department Staff found the Petitioners are able to meet the requirements for grade levels served, facility location, and students served.

#### **7. Any Other Criteria Set Forth in the Statute**

Since SPS: Tahoma's Charter was last renewed, several new laws have gone into effect, including AB 1505, AB 1507, AB 1219, SB 126, SB 820, and SB 98, which enact broad changes to the Charter Schools Act. SPS: Tahoma will need to comply with the changes to the law. The Charter, along with the MOU and terms of an addendum to the MOU as described above, indicate that SPS: Tahoma will so comply.

### **ADDITIONAL CRITERIA FOR DENYING A CHARTER RENEWAL**

#### **Background**

In reviewing the renewal Petition, Charter Schools Department Staff identified significant concerns that support a determination that SPS: Tahoma is demonstrably unlikely to successfully implement the program set forth in the Petition due to substantial governance factors. As explained above, these findings are a separate basis on which a renewal Charter may be denied, and impose additional procedural requirements on the SCCOE. Specifically, those requirements are that the SCCOE provide at least 30 days' notice to SPS: Tahoma of the alleged violation(s) and provide SPS: Tahoma with a reasonable opportunity to cure the violation(s), including SPS: Tahoma proposing a corrective action plan. The County Board may then deny

SPS: Tahoma's renewal on the basis of these substantial fiscal and/or governance factors only by making either of the following findings:

- (1) The corrective action plan proposed by SPS: Tahoma has been unsuccessful, OR
- (2) The violations are sufficiently severe and pervasive as to render a corrective action plan unviable.

During its meeting of November 18, 2020, the County Board authorized the Superintendent or designee to issue the Notice in accordance with Section 47607(e), setting forth the substantial governance factors that could support a finding that SPS: Tahoma is demonstrably unlikely to successfully implement the program set forth in its renewal Charter. This Notice provided detailed information to SPS: Tahoma of the concerns and of the reasonable opportunity afforded by Section 47607(e) for SPS: Tahoma to correct these concerns, including the submission and implementation of a corrective action plan.

The SCCOE issued the Notice to SPS: Tahoma via email on November 19, 2020. SPS: Tahoma was required to submit its corrective action plan and cure all violations as soon as possible, but by no later than December 21, 2020, which time constitutes a reasonable opportunity for SPS: Tahoma to remedy the violations.

These additional findings, and the Notice and any corrective action plan, are limited to findings pursuant to 47607(e), in SPS: Tahoma's case of substantial governance factors indicating that SPS: Tahoma is demonstrably unlikely to successfully implement the program set forth in the Charter. These issues and the provision of the Notice specified for these particular areas of concern are in addition to and do not obviate or eliminate the other matters under consideration when reviewing and acting on SPS: Tahoma's request for charter renewal or the other potential causes for denying that renewal request. Rather, this is an additional procedural protection and opportunity afforded to SPS: Tahoma to correct and remediate these particular concerns, which occurs concurrently with the consideration of SPS: Tahoma's renewal Charter and any additional issues related to the Charter, including any other opportunities provided by the SCCOE for SPS: Tahoma to resolve other concerns potentially affecting the renewal Charter.

On December 21, 2020, SPS: Tahoma submitted its written Response, including copies of SPS's recently update Bylaws, Conflict of Interest Code, and a Board item regarding SPS pupil residency. For the reasons detailed below, Staff recommends that the County Board find that SPS: Tahoma has not satisfactorily addressed some of the concerns identified in the Notice and that SPS: Tahoma's corrective action plan has been unsuccessful as to some of the concerns. Staff further recommends that the County Board conditionally approve SPS: Tahoma's renewal, requiring SPS: Tahoma to resolve these concerns through an addendum to the MOU because SPS: Tahoma is demonstrably unlikely to successfully implement the program set forth in the Charter due to the substantial governance factors detailed in the Notice that remain unresolved by SPS: Tahoma's Response.

This Staff Analysis will not repeat all of the information contained in the Notice, or SPS: Tahoma's Response, but will provide an overview and highlights, including the deficiencies and the inadequacies of SPS: Tahoma's Response. As a general matter, SPS: Tahoma has declined to agree to resolve several of the substantial governance factors that led to the issuance of the Notice. While the Response included some appropriate components of cures and corrections for some of the concerns, overall, the Response constitutes placatory statements and claims that the concerns identified are not problems, and does not substantively acknowledge and/or address/resolve some of the concerns.

SPS: Tahoma also incorrectly asserts that because it is a self-proclaimed "great school" and outperforms ESUHS and/or the State on some measures, including some Dashboard measures, the Notice and potential denial process specified in Section 47607(e) for substantial governance factors cannot apply and be used to deny SPS: Tahoma's renewal. This claim ignores the plain meaning of the statute. As detailed above, SPS: Tahoma's performance on a variety of measures, including the Dashboard, is a significant component and

consideration relative to its renewal request, including by determining its placement as a middle tier school and in considering whether to approve or deny renewal on the basis of those performance factors. This Staff Analysis addresses those performance factors and the applicable data in detail, and recommends, on balance, that the renewal not be denied on that basis. However, Section 47607(e) is specific that any charter school – including high, middle, and low performing schools – may be denied based on findings related to substantial fiscal and governance factors. Thus, SPS: Tahoma’s performance on the Dashboard and the other measures cited to by SPS does not foreclose the County Board from issuing the Notice, making the findings, and denying SPS: Tahoma’s renewal Petition pursuant to Section 47607(e), and successful implementation of the program set forth in the charter is not limited only to Dashboard or academic performance.

SCCOE Staff agrees with the statements in SPS’s Response that “[d]enial of a charter’s renewal is very serious,” and that “Tahoma exists for the benefit of [its] students and families.” The substantial governance concerns identified in the Notice and unresolved by the Response are directly related to SPS: Tahoma’s successful implementation of its Charter, including involving parents in governance of the school and operating with transparency and accountability. The Response makes multiple statements about its efforts at “overarching improvements in transparency and communications,” its commitment to continuous improvement, and that “Summit remains a willing partner of SCCOE in making the governance improvements that will best ensure Tahoma’s success . . . .” Staff believes that the identified governance factors are substantial and that the Response and corrective action plan have not yet been successful because SPS has declined to take appropriate steps to correct several of the issues, but that through an addendum to the MOU, the Response and corrective action plan can be supplemented and the concerns corrected if SPS is willing to take additional steps to correct these concerns.

The Notice grouped the governance concerns into the following general categories:<sup>1</sup>

1. Failure to Provide for Parent Involvement in Governance
2. Lack of Transparency and Accessibility in Governance
3. Delegation of Governance Authority
4. Location of Meetings
5. Conflict of Interest Issues

### **Specific Anticipated Components of Corrective Action Plan**

While the Notice specified that it was up to SPS: Tahoma to determine how it would resolve the various governance concerns, including the development, submission, and implementation of a corrective action plan, it also noted that the SCCOE anticipated that SPS: Tahoma’s response and plan would include nine specific items. These nine items were not necessarily the only means by which SPS could correct the concerns or a complete cure in and of themselves, but were suggestions of steps and actions that SCCOE anticipated would be included in SPS: Tahoma’s corrective action plan given the nature of the concerns identified in the Notice. Following a brief discussion of these nine specific items, a more detailed discussion of the concerns raised in the Notice and Response, and Staff’s recommendations, is set forth in the next

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<sup>1</sup> The Notice specified that SCCOE recognizes that SPS, SCCOE, and all public agencies in California are currently operating under the impacts of COVID-19, including the special rules and exceptions to the normal Brown Act requirements provided for by Executive Order. As such, the discussions in the Notice and this Staff Analysis of the application of meeting requirements relate to the usual standards and requirements for Board meetings, not the special rules applicable during the pandemic.

section of this Staff Analysis. Each of these items is quoted below directly from the Notice, followed by a brief description of SPS: Tahoma's response to and/or compliance with each request:

1. Reserve at least two SPS Board seats for parents of current SPS charter school students, and a plan for how these parents will be recruited and selected, with the parent members appointed to the Board by no later than March 31, 2021.

*SPS declined to reserve seats on its Board for parents, at least at this time, but committed to notify all parents of the Board recruitment process and offer them the opportunity to nominate themselves, another parent, or someone else. This notification will include promoting the opportunity through the SPS newsletter beginning after the February 18, 2021, SPS Board meeting, and sharing the information on social media.*

2. A commitment to hold at least half of the regular SPS meetings in the evening, starting at 5:00 p.m. or later.

*SPS declined to change any meeting times, asserting that its morning/daytime meeting times are appropriate. SPS stated, "We are committed to using continuous improvement and evidence-based principles, in addition to State law, to ensure our meetings are scheduled in the best interest of our community," but did not propose any means by which to determine the times that would best serve its community's interests.*

3. Increase the minimum number of regular SPS Board meetings to six per year.

*While SPS declined to increase the number of regularly scheduled meetings, SPS explained that its Board meets as frequently as needed to carry out its role, and provided a historical meeting schedule indicating that throughout SPS: Tahoma's current term, the Board has met more than four times in all years except 2017-18, with the number of annual meetings ranging from five to eight.*

4. Provide a plan to ensure adequate space to accommodate attendance by the public at the location at which the Board physically meets.

*SPS asserted that its current meeting space "accommodates all who wish to attend and the presence of Summit's 8 or more two-way video conference sites throughout the Bay Area ensures public participation." Ms. Tavenner stated that, to the best of her recollection, in SPS's 17-year history, the December 12, 2019, meeting was the only one at which the meeting room was unable to accommodate all of the persons who wished to enter. SPS noted that all interested persons were able to participate from other locations via two-way videoconference, and that several members of the public cycled into and out of the Board room.*

5. Commit that a senior SPS administrator(s) knowledgeable about SPS and SPS-Tahoma operations, governance and finances, in addition to SPS-Tahoma site staff, will attend the SCCOE meeting at which action will be taken on the Renewal Petition and respond to questions as requested. Ms. Tavenner is also encouraged to attend personally.

*SPS stated that it expects the SPS CEO and at least one senior administrator, as well as the Tahoma Executive Director and Assistant Director, to attend the County Board's January 13, 2021, decision meeting.*

6. Confirm compliance with requirement that the SPS Board's in-person meeting location will be in the county in which the greatest number of SPS students reside.

*SPS confirmed that it will continue to comply with the requirements of Education Code Section 47604.1(c)(4) by holding its in-person meetings in the county in which the largest number of SPS students reside, which is currently San Mateo County.*

7. Revise the corporate bylaws to be consistent with the law and the MOU and provide a copy of the updated bylaws and minutes confirming Board approval.

*During its December 11, 2020, Board meeting, the SPS Board approved updated bylaws, and SPS provided a copy of the revised bylaws with its Response.*

8. Provide an update on the FPPC's approval of the Conflict of Interest Code and a plan to take action to address any causes for the delay that are within SPS's control.

*SPS provided an update on the process it has engaged in with the Fair Political Practices Commission ("FPPC") to update SPS's Conflict of Interest Code. SPS is awaiting final certification from the FPPC, as SPS's code reviewing body.*

9. Correct the discrepancy between SPS's stated jurisdiction for the Brown Act and its stated jurisdiction for the Political Reform Act, and require compliance with the jurisdiction requirements of applicable law.

*SPS asserted that the jurisdiction issue is a "Catch-22" and that "[i]t is unclear what Summit could do to make all of the above laws sync," and that it requires compliance with the jurisdictional requirements of each applicable law. SPS noted that the Brown Act does not define "jurisdiction," but SPS is required to accept students from anywhere in the state, so SPS considers the entire state to be its jurisdiction for purposes of the Brown Act. SPS stated that it does not "claim" a jurisdiction for purposes of its Conflict of Interest Code, but defers to the FPPC on what personal financial interests must be reported on Form 700, though SPS did not address the fact that its officials specify on their Forms 700 that SPS's jurisdiction is San Mateo, Santa Clara, and Contra Costa counties, not the entire state. These responses do not acknowledge the fact that neither the Brown Act nor the Political Reform Act define the term "jurisdiction," and that the requirement that SPS accept students from anywhere within California would have the same impact on the definition of "jurisdiction" for purposes of the PRA as for the Brown Act, so SPS can and should apply the concept of its jurisdiction similarly for purposes of both transparency laws, either by expanding the geographic area in which SPS officials must report financial interests or limiting the geographic area in which a quorum of its Board members must be present in order to hold a teleconference meeting.*

### **Governance Factors and SPS: Tahoma's Specific Responses**

As outlined above, the Notice grouped the substantial governance concerns into five general categories. Below, the discussion of the Notice and SPS: Tahoma's Response is organized using these same categories of concern.

#### **1. Failure to Provide for Parent Involvement in Governance**

The Notice described concerns that the SPS: Tahoma renewal Petition and past and current practice do not provide for parental involvement **in governance** of the school. As detailed in the Notice, the legal requirement is not only that the school engage parents in their individual child's education or school activities, but that SPS: Tahoma ensure parental involvement in governance, noting that SPS: Tahoma is governed by the SPS CMO and its Board of Directors. As specified in the Notice, this concern includes, but is

not limited to, inclusion of parents on the SPS Board.<sup>2</sup> The Petition acknowledges the importance of parent involvement, but the opportunities for parent involvement specified in the Petition do not relate to governance and identify only: (1) participation in the development of their child's Personalized Learning Plan ("PLP"); (2) opportunities to attend Parent Education Nights on matters such as college preparation and financial aid; and (3) social functions.

The Response asserts the importance of parent involvement, but again identifies means of involvement that largely do not relate directly to governance. SPS's overarching position seems to be that it views parent involvement in governance "from a broader lens" that includes any and all parent involvement in the school and that the SPS leadership listen to parent views, apparently primarily through informal opportunities to provide input that are not directly linked to specific governance decisions or obligations. Again, SPS identifies such matters as parents being involved in their own children's individual PLP; receiving a weekly email from the Executive Director and the Executive Director engaging with parents 1:1; parent nights that are "essential for collaborating with families in order to support students in developing the mindset and habits needed to achieve Summit's learning outcomes;" the parent group, whose members provide "feedback" to leadership, coordinate volunteer opportunities, and serve as ambassadors to share and increase participation in school events; LCAP input; a Community Engagement Manager to assist with two-way communication with parents; and multiple parent surveys each year which "provide a concrete process for parent experiences and preferences to guide school governance" based on understanding parent needs and experiences. The Response explains that Summit's educational approach is personalized to each student, citing as a recent example that Tahoma asked every parent/caregiver to make a personalized decision for how their individual child would be engaged and graded during distance learning, rather than making a schoolwide decision for all students. Summit specified:

This is literally every single child and parent, working within the program described in our petition, to achieve the educational experience that works best for them. One or two parents cannot be expected to encapsulate or understand all parents' views. Summit successfully implements the program described in the Tahoma charter petition precisely because we incorporate the flexibility to empower every parent as a decision maker to meet the needs of students and families even in moments of great uncertainty.

It is important to note that nothing in the Notice, this Staff Analysis, or any other concerns expressed by SCCOE about the lack of parent involvement in governance can or should be interpreted as discounting the importance and necessity of SPS: Tahoma engaging parents in multiple and varied ways, including the many admirable approaches identified in the Response. Parent involvement and engagement on both a schoolwide and individual student basis are necessary to a successful school and educational program.

Nevertheless, the legal requirement about which the Notice was concerned is not limited to parent engagement with the school or involvement with each parent/caregiver's individual child through even such important matters as parent involvement in their student's PLP, participation in parent nights, or review of newsletters and individual communications with the Executive Director. Rather, the issue is the means by which SPS: Tahoma ensures parent involvement *in governance*. Notwithstanding SPS's various means of engaging parents in educational decisions and school life, "governance" means exercising authority and control, and "the act or process of governing or overseeing the control and direction of something." (See <https://www.dictionary.com/browse/governance?s=t> and <https://www.merriam-webster.com/dictionary/governance>.) Parent involvement in actual governance of SPS: Tahoma is not evidenced in the Petition nor in the various means of involving parents in the educational program and

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<sup>2</sup> The Response implies that SPS interpreted the request to include parents on the SPS Board as requiring parent seats specifically for Tahoma parents. SCCOE wants to clarify that this is not what SCCOE suggested or what the County Board has expected of charter schools under its oversight that are operated by charter management organizations that operate multiple schools. Rather, the request is that seats on the Board be reserved for parents from any of the SPS schools, not each of the SPS schools at any one time.



experience identified in the Response. SPS's own example of allowing parents to decide on an individual student basis how their child will be graded during distance learning is a good example of this distinction. This is an example of SPS doing a good job of engaging and involving parents in their own student's educational experience and decision-making for their child, it is not, however, involving parents in governance. The governance decision in this case was the decision to allow parents to choose from an array of options rather than mandating the means by which all Tahoma students would be graded during distance learning, not the individual decision made by each parent for their child.

With regard to reserving Board seats for parents, SPS first sought to discount that concept by noting that the SBE's template memorandum of understanding for SBE-authorized charter schools does not specify reservation of board seats for parents. SCCOE does not find that argument relevant or convincing for a variety of reasons. First, the Charter Schools Act mandates that a charter include a reasonably comprehensive description of the means by which the charter school will ensure parental involvement in governance, so it should not be necessary to include that requirement in a memorandum of understanding as it should be comprehensively described in the charter. Moreover, the SBE's template has not been updated since 2007, and it is not binding on either SCCOE or SPS. The simple lack of inclusion of a term in a template agreement created more than a decade ago does not mean it is not a good or necessary idea.

SPS did respond directly to the question of reserving seats on the Board for parents. SPS has not committed to reserving any Board seats for parents. SPS indicated its belief that approaching parent representation on its Board should be methodical and thoughtful and done in a way that provides equal access to parents from SPS schools. SPS noted that it currently has one vacancy on its Board, and anticipates having another during 2021. SPS explained:

We are committed to notifying all parents of the recruitment process and offering parents the opportunity to nominate themselves, another parent, or someone else who would serve the best interests of our students. This will include, among other things, promoting the opportunity in parent communications through our parent newsletter, which is distributed every two weeks by email to all Summit parents, teachers, and students. Summit plans to begin sharing the Board recruitment in the first newsletter distributed after the February 18, 2021 meeting of the Board of Directors. Each Summit school will also share the newsletter via social media using Facebook and Instagram. Tahoma has so many parents with diverse backgrounds, experience, and knowledge, (including the expertise gained solely from being a parent); we look forward to welcoming one or more parents to join our Board in the future through the existing nomination process or, if parent feedback supports a change, through the reservation of Board seats.

Thus, SPS has committed to providing greater information to parents to increase parent access to seats on the Board. SPS also said it would reserve seats in the future if "parent feedback" supports such a change, though SPS did not specify when or how it would seek parent feedback on this particular question. Charter Schools Department Staff continues to be concerned that the renewal Petition, SPS's current practices and/or the process identified in the Response that allows parents potentially to gain a seat on the Board through the existing nomination process, without reserving any seats specifically for parent do not, include a means of **ensuring parent involvement in governance**. Staff recommends that as a condition of renewal an addendum to the MOU include a more specific plan by SPS for involving parents in actual governance, which may include reserving seats on the SPS Board for parents. As part of this plan, SPS is encouraged to include development of a plan to increase the capacity and interest of its parents in serving on the SPS Board and engaging in other governance and leadership roles.

## **2. Lack of Transparency and Accessibility in Governance**

The Notice outlined several concerns with the manner in which SPS holds its Board meetings that SCCOE believes limit transparency and accessibility for SPS parents, students, staff, and community. The Notice specified that SCCOE was concerned with both actual and perceived limitations on public access and accountability. These concerns came to SCCOE's particular attention during the controversy around SPS's decision to close SPS: Rainier, with these issues raised through more and less formal concerns and complaints received by SCCOE. SCCOE Staff believes that, while these concerns came to light during a particularly difficult and challenging time and decision for the SPS community, they serve as indicators of areas in which SPS needs to make some systemic improvements to accessibility to and transparency of its Board meetings in order that its stakeholders both have and understand that they have access to SPS's governance and that SPS operates with the required transparency. These concerns and SPS's response to each are discussed below:

### **a. All Board meetings are held in the morning or day, during school and traditional work hours.**

The Notice explained that this timing means, by definition, that Summit staff and Summit students would have to miss work/school in order to attend or participate in a Summit Board meeting, and that undoubtedly many parents cannot participate in the Board meetings because they are at work during the meeting times. Timing **all** Board meetings during these hours has a deleterious effect on the ability of staff, students, and at least some parents/community members to attend and participate in these meetings, with a corresponding negative impact on transparency and access. The Notice also noted the purposes of the Brown Act to provide public access to and control over SPS's operations. The Notice specified that at the time of the SPS: Rainier closure in particular, a number of parents, students, and SPS: Rainier teachers expressed concerns to SCCOE about the timing of SPS Board meetings (as well as the small physical space in which the meetings are held), and that an SPS: Rainier teacher, an SPS: Rainier parent, and an SPS: Rainier student jointly submitted a letter of complaint about these matters, though that complaint letter was not the only complaint/concern expressed to SCCOE at that time.

In the Response, SPS stated that it works hard to ensure that stakeholders have access to its Board and are engaged and involved in decision-making, and that SPS is committed to continuous improvement and evidence-based principles in addressing concerns of this nature. SPS stated:

The Notice points out Summit's Board meetings take place during the morning or day, and not the evening. The Notice assumes that morning or daytime meetings are "inconvenient" for parents, but this assumes all or the majority of parents work "9 to 5" jobs. In reality, Summit parents work in a variety of industries — manufacturing, health care, retail, transportation, hospitality, utilities, educational services, and business services to name a few. Many jobs do not adhere to the perceived norm of a "9 to 5" job nor make evening board meetings the most convenient time.

SPS repeated a concern it had noted previously that County Board meetings frequently run late into the night, which "potentially disrupted work and learning time." SPS sets an end time for its meetings, so holding evening meetings should not entail late nights for SPS Board meetings. SPS also noted that the SBE and Los Angeles Unified School District hold their meetings in the morning and daytime respectively, and stated that SPS has only received a single complaint during the time it has operated schools under SCCOE oversight.

While SPS asserted that it was committed to responding to these concerns based on evidence, SPS did not provide any direct evidence responding to SCCOE's concerns that the current timing of its meetings is limiting access by stakeholders, including those who expressed concerns about this at the time of the SPS: Rainier closure. While SPS noted that it has parents who work in a variety of industries, including some who do not

work “9 to 5” jobs and for whom evening meetings would not be the most convenient time, SPS did not provide evidence, or even an indication, of what proportion of its parents worked alternative shifts thus making morning or daytime meetings more convenient to them. Notably, SPS omitted any response to the concern that its meeting schedule undeniably hampered the ability of its own employees and students to attend SPS Board meetings. If anything, SPS’s statement about the variety of work schedules of its stakeholders would support holding meetings at varied times of day and evening to increase access. Indeed, it does not serve as evidence that the current meeting schedule is for the convenience or meets the needs of SPS stakeholders. Nor does SPS’s example of two entities that hold morning or day meetings resolve the concerns described by SCCOE and SPS’s own stakeholders, or obviate the hundreds of examples of schools, districts, and county offices of education that hold their meetings in the evenings and have substantial public attendance.

The point made in the Notice, however, was not a comparison to other agencies, but a concern that SPS holding all of its Board meetings during the morning or day – when its students are in school, SPS employees are at work (many in the classroom), and a large number of parents are undoubtedly at work – limits those stakeholders’ abilities to access and participate in SPS Board meetings. SPS did not provide facts or evidence contradicting or correcting that concern. Nor did SPS propose any means of gathering information or evidence to determine what timing is best for its stakeholders, such as a survey, holding meetings at varied times to assess participation levels, or other efforts to obtain the evidence that SPS stated it wanted to rely on in making these decisions. SCCOE would not necessarily expect these stakeholders to complain about the meeting times, but, rather, anticipates that the most likely outcome is simply that they do not attend SPS Board meetings. However, that does not mean that the timing of the meetings is not an impediment to public participation and SPS provided no evidence to contradict this concern that was raised by its own stakeholders. Staff recommends that the County Board include as a condition of approval to be included in an addendum to the MOU that SPS will implement a plan over the course of the 2021 calendar year to assess and determine the meeting time or times that best meet the needs of its stakeholders, and modify its meeting schedule as necessary to serve those needs.

**b. The SPS Board schedules only four regular meetings per year.**

The Notice expressed concern that SPS schedules only quarterly regular Board meetings, which could limit both the public’s access to the Board and the Board’s ability to operate its schools. SPS explained that its Board is “committed to meeting as often as needed to accomplish the work of the Board,” it schedules additional meetings as needed, and that it has found that four regularly scheduled meetings per year allows its Board to be “efficient, responsive, and fully engaged” while not committing staff time and resources unnecessarily to preparing for and attending Board meetings. SPS also noted that in the five years of its current charter term, only in 2017-18 did the Board hold only four meetings, with the other four years ranging from five to eight actual meetings, with at least seven meetings scheduled for the current year. Staff believes that SPS’s confirmation of its commitment to schedule additional meetings as needed, and the evidence that it has done so during the current charter term, is an adequate response to this concern.

**c. The SPS Board room provides limited space for in-person public participation.**

The Notice explained that a number of SPS stakeholders complained to SCCOE, again at the time of the SPS: Rainier closure, about the limited space in the SPS Board room for members of the public personally to attend, observe, and participate in the Board’s meetings. At that time there were only six available seats in the Board room for use by members of the public. In its Response, SPS noted that it believes the December 12, 2019, meeting at which the SPS Board acted to close SPS: Rainier was the only meeting, in SPS’s 17 year history, in which the meeting room was unable to accommodate all members of the public who wished to enter. SPS cited to the numerous teleconference locations from which the public can participate, including a conference room near the Board room and at Summit Preparatory Charter School, next door to the Home

Office. SPS also noted that at that December 2019 meeting, several members of the public cycled in and out of the Board room, to speak in person to the Board.

SPS's report that in 17 years only on one occasion have more than a few members of the public attempted to participate in person in an SPS Board meeting may be indicative of a perceived lack of accessibility of the Board meetings, rather than evidence that no greater access is required. With the anticipated addition of two new SPS Board members during the current year, the available seats for public participants will presumably decrease from six to four, thereby further limiting physical access for interested members of the public. As noted in the Notice, while teleconference locations are beneficial, and now legally required of SPS, the Brown Act recognizes the difference between physical, in-person proximity to board members and teleconference or videoconference access, and some of SPS's own stakeholders have expressed that they perceive a substantial difference. Staff recommends that as a condition of approval, SPS develop a plan to address this concern should it again happen in the future that more members of the public desire to address the Board in person than the meeting room can accommodate, to ensure that the public has the personal access to SPS Board meetings and Board members to which it is entitled, rather than being required to address the Board only via videoconference.

### **3. Delegation of Governance Authority**

The Notice described concerns that SPS has interpreted and applied the authority of the SPS Board to delegate authority too broadly. This issue arose specifically relative to SPS's defense of its handling of the closure of SPS: Rainier, including the announcement by the CEO and other administrators that SPS: Rainier was closing and the SPS administration's repeated assertions that the closure was a final decision, though such announcements and comments were made months before the SPS Board considered or acted on the closure issue. SPS asserted that nothing "prohibits the Executive Officers from communicating a closure decision" prior to the SPS Board making the decision. SPS also stated that "[e]ach Authorized Officer has actual authority to speak for the organization in accordance with the Bylaws without pre-approval from the Board." While SPS did not define "Executive Officers" or "Authorized Officers" for this purpose, in context, SPS's statements indicated that administrators were permitted to announce as final and unchangeable a decision to close SPS: Rainier without the SPS Board having to weigh in or act on the decision actually to close that school. SPS provided no evidence that the SPS Board had delegated such authority to its administrators, including in compliance with charter terms requiring Board delegations of authority to be in writing and specify to whom the authority is designated as well as the specific terms of the authority being delegated. The Notice specified:

With this argument, SPS is claiming that through its bylaws, the SPS Board had delegated effectively unlimited and undefined authority to its "Executive Officers" or "Authorized Officers" to operate the SPS charter schools without Board input or approval. If SPS interprets this delegation to encompass a decision to *close* a charter school without Board action, it is difficult to conceive of any action relative to a charter school that these officers cannot take on their own initiative.

The Notice also explained that through SPS's apparent interpretation and application of the delegation of SPS Board authority, the administration was effectively acting as the policy-making and governing body and, as such, SPS's governance decisions were being made outside of public meetings and without public accountability.

In the Response, SPS specified:

The Summit Board has not, and will not, delegate unfettered control over Summit's operations to any Summit employee, or any other person or entity. In accordance with the language in the Notice, Summit agrees and affirms that "[w]hile administrators and

employees necessarily handle the day-to-day operations of the corporation and SPS-Tahoma, it is the corporation's Board of Directors that [governs] SPS-Tahoma. We agree with SCCOE that the Summit Board retains ultimate legal and fiduciary responsibility for Tahoma.

While the Response attempts to describe the prior discussions between SCCOE and SPS about the SPS: Rainer closure and announcements about the closure as being about what the SPS CEO was or was not "entitled to share prior to the Board's final action," SCCOE cannot agree with that characterization. SPS repeatedly stated that the decision that SPS: Rainer was closing as announced by the SPS CEO and other administrators was "final" and that it intended for all stakeholders to understand and act on the basis of that decision being final. If it was only the SPS Board that could act to make a final decision on closing an authorized SPS charter school, as should be the case, then, by definition, the administration could not announce or "share" the "final" decision *before* the Board acted to make that decision.

Nevertheless, the Response further specifies:

Summit commits to complying with the law as well as the language in our Bylaws and the Tahoma charter and MOU regarding the Board's delegation of authority. The renewal petition presented for the County Board of Education's approval provides:

The Board may execute any powers delegated by law to it and shall discharge any duty imposed by law upon it and may delegate to an officer or employee of the Charter School any of those duties with the exception of budget approval or revision, approval of the fiscal audits, and the adoption of Board policies. The Board however, retains ultimate responsibility over the performance of those powers or duties so delegated. Such delegation will:

- A. Be in writing,
- B. Specify the entity designated;
- C. Describe in specific terms the authority of the Board of Directors being delegated, any conditions on the delegated authority or its exercise and the beginning and ending dates of the delegation; and
- D. Require an affirmative vote of a majority of Board members.

Charter Schools Department Staff understands this commitment to confirm that the SPS administration will not purport to or actually exercise the SPS Board's authority in situations in which the SPS Board has not publicly, during an open meeting held in compliance with the Brown Act, delegated in writing specific and defined authority to a specifically identified individual or entity and that the SPS Board will not delegate fundamental governance decisions, such as a decision to close a charter school, to administrators to be made outside of a public meeting and without public input. Staff further understands this to mean that SPS understands and agrees that its administrators cannot announce **decisions** of the SPS Board **prior** to the SPS Board actually considering and acting on such decisions, irrespective of the administration's recommendation on any particular matter. With such understanding and application of SPS's commitment regarding SPS Board authority and delegation included in an addendum to the MOU, Staff believes that SPS has addressed this concern.

#### **4. Location of Meetings**

The Notice described concerns in response to previous statements by SPS indicating that SPS believed that it could continue to have its Board and administration physically meet at its Redwood City headquarters, regardless of where the largest number of its students resided, because SPS offers teleconference meeting locations at each of its school sites. Such an approach would violate the Charter Schools Act, Education Code Section 47604.1(c)(3).

The Response confirmed that Summit will hold its meetings within the county in which the largest number of its students reside – currently San Mateo County – in accordance with the law, and will continue to monitor its enrollment to ensure ongoing compliance. SPS: Tahoma has corrected this concern.

## **5. Conflict of Interest Issues**

The Notice described concerns that SPS's bylaws submitted with the renewal Petition had not been updated to reflect the requirements of the Petition or the requirements of the Charter Schools Act, Government Code Section 1090 *et seq.*, and/or the Political Reform Act of 1974 ("PRA") concerning legal prohibitions against conflicts of interests that are now explicitly applicable to charter schools and charter management organizations, including SPS and SPS: Tahoma. At its meeting of December 11, 2020, the SPS Board of Directors adopted revisions to its bylaws to bring them into compliance with these legal requirements.

The Notice also outlined a discrepancy in SPS's application of the jurisdiction requirements of the Brown Act and the PRA. The Brown Act requires that at least a quorum of the legislative body be present and participate from within the boundaries of the territory over which the agency exercises "jurisdiction." (Gov. Code § 54953(b).) Because all teleconference locations must be open to and accessible by the public, requiring at least a quorum to be within the agency's jurisdiction increases public accessibility to such meetings and the board members. The Brown Act does not define the agency's jurisdiction for these purposes. SPS has taken the position that, because it must accept students from anywhere within California, for purposes of the Brown Act, SPS's jurisdiction is the entirety of California, thus it is in compliance with the Brown Act as long as a quorum of its Board members are anywhere in California.

Pursuant to the PRA, public officials may have a conflict of interest based on and/or may need to report on their Form 700 Statement of Economic Interests an "interest in real property." The PRA defines an interest in real property as relating to "property located in the jurisdiction" of the public official's agency. Again, the PRA does not define "jurisdiction" for these purposes. However, the Forms 700 that have been filed by SPS officials specify that SPS's jurisdiction is San Mateo, Santa Clara, and Contra Costa counties, not the entire State of California. Moreover, even SPS's updated Conflict of Interest Code specifies that persons filing Form 700 must only report interests in real property that are located within a two-mile radius of "any school district that has authorized an SPS charter school," a proposed SPS facility site, or any facility utilized by SPS's charter schools, again, not everywhere within California. As such, SPS has effectively designated as its jurisdiction for purposes of the PRA only those three counties. Thus, SPS's application of the term "jurisdiction" pursuant to the PRA – which defines the extent of public disclosures made by SPS officials – is far more limited than its application pursuant to the Brown Act – which allows SPS Board members to be anywhere in the state during teleconference meetings.

The Notice requested that SPS correct the discrepancy in its application of the term "jurisdiction" for the Brown Act and for the PRA, both of which laws are for the purposes of increasing transparency and accountability to the public, but, as applied by SPS, grant SPS expansive flexibility in holding meetings but limit reports of financial interests. SPS asserted that the jurisdiction issue is a "Catch-22" and that "[i]t is unclear what Summit could do to make all of the above laws sync" and that it requires compliance with the jurisdictional requirements of each applicable law, while at the same time acknowledging that neither of those laws actually defines jurisdiction. SPS's statements that the Brown Act does not define "jurisdiction," but SPS is required to accept students from anywhere in the state, do not explain why SPS believes it must claim the entire state as its "jurisdiction" in which a quorum of its members may be present during teleconferenced Board meetings. This application of jurisdiction has the direct result of reducing accessibility to the locations at which Board members are present for SPS's constituency, which is actually located within San Mateo, Santa Clara, and Contra Costa Counties.

SPS's statement that it does not "claim" a jurisdiction for purposes of its Conflict of Interest Code, but defers to the FPPC on what personal financial interests must be reported on Form 700, does not acknowledge that

its officials specify on their Forms 700 that SPS's jurisdiction is only San Mateo, Santa Clara, and Contra Costa Counties or the fact that the legal requirement is that officials are required to report interests in real property located in their agency's jurisdiction (Gov. Code § 82033). Therefore, if Summit believes that the requirement that it accept students from anywhere in California means that its jurisdiction is the entirety of California (as claimed relative to the Brown Act), it should expand its Form 700 reporting requirements to specify its jurisdiction is statewide and to include real property interests anywhere in California. It would be a simple matter for Summit to resolve its conflicting applications of these two laws in a manner that increases transparency and public access to its governance and operations in either of two ways: (1) for Brown Act purposes require that a quorum of its members be within San Mateo, Santa Clara, and/or Contra Costa Counties for any teleconference Board meeting or (2) expand its Form 700 reporting requirements to the entire State of California. Neither of these laws would prohibit SPS from either imposing more restrictive requirements on the location from which members may participate in a teleconference meeting or expanding the information that is required to be reported on Form 700. Staff recommends that as a condition of approval SPS must adopt a consistent definition of its jurisdiction to be applied pursuant to both the Brown Act and the PRA and that definition be included in an addendum to the MOU.

## **CONCLUSION**

The Charter Schools Department Staff reviewed the renewal Petition for SPS: Tahoma and SPS: Tahoma's Response, including its corrective action plan in response to the Notice, utilizing the criteria for charter renewal set forth in Education Code Sections 47605, 47607, and 47607.2.

The Charter Schools Department Staff recommends the SPS: Tahoma Charter be renewed with the condition that SPS: Tahoma and SPS enter into an Addendum to the MOU on or before May 1, 2021, to address each of Staff's concerns, including those specifically reviewed in the Staff Analysis and Proposed Findings of Fact, including those relative to the Notice and SPS: Tahoma's response thereto, as well as any additional requirements identified by the SCCBOE, and adopt the Board Resolution Conditionally Approving the Charter Renewal for SPS: Tahoma Charter School with the Addition of Conditions Pursuant to Education Code Section 47605, and, Alternatively, Making Written Factual Findings Supporting Denial & Denying the SPS: Tahoma Charter School Charter Renewal if the Requirements Are Not Met, for the period of July 1, 2021, through June 30, 2026.

## **Student Impact**

The Charter School Department provides oversight and monitoring for 22 County Board of Education authorized charter schools. SPS: Tahoma was authorized in 2007 and currently serves approximately 470 students.

EXHIBIT 1

47607(e) NOTICE





## Santa Clara County Office of Education

Mary Ann Dewan, Ph.D.  
County Superintendent of Schools

49

November 19, 2020

VIA EMAIL AND FIRST CLASS U.S. MAIL

Summit Public Schools Board of Directors

Diane Tavenner, CEO

Summit Public Schools

780 Broadway

Redwood City, CA 94063

**Re: Notice in Accordance with Education Code Section 47607(e)**

Dear Members of the Board and Ms. Tavenner:

The Santa Clara County Board of Education, the Santa Clara County Superintendent of Schools, and the Santa Clara County Office of Education are collectively referred to herein as "SCCOE." SCCOE, the chartering authority for Summit Public Schools: Tahoma, is sending this notice ("Notice") pursuant to Education Code Section 47607(e) as notice of SCCOE's determination that Summit Public Schools: Tahoma is demonstrably unlikely to successfully implement the program set forth in its charter renewal petition ("Renewal Petition") due to substantial governance factors, and is providing Summit Public Schools: Tahoma a reasonable opportunity to cure the violations. If Summit Public Schools: Tahoma fails to cure each of the violations set forth in this Notice, including providing all requested information/documentation and providing and implementing a corrective action plan, SCCOE may deny the Renewal Petition in accordance with Education Code Section 47607(e).

SCCOE initially approved Summit Public Schools: Tahoma in or about December 2010, and its current term runs through June 30, 2021. Summit Public Schools: Tahoma is governed by Summit Public Schools, a California nonprofit public benefit corporation. In this Notice, for all purposes, a reference to "Summit Public Schools: Tahoma" or "SPS-Tahoma" or "School" or "Charter School" shall constitute a reference to Summit Public Schools and its Board of Directors, and a reference to "Summit Public Schools" or "SPS" or "Summit" shall constitute a reference to Summit Public Schools: Tahoma; and the school, the corporation, and the corporate Board will be referred to herein collectively and/or individually interchangeably as "SPS-Tahoma" and/or "SPS." Without regard to the terminology used, throughout this Notice, all references are intended to and do apply to the nonprofit corporation, its board of directors, and the school and, to the extent the school and corporation are separate entities, SCCOE holds both responsible for all matters.

## **I. BACKGROUND**

On or about October 1, 2020, SPS-Tahoma submitted its Renewal Petition requesting renewal of its charter. Pursuant to California Education Code Sections 47605 and 47607, the County Board is required to approve or deny the request for charter renewal within ninety (90) days of the Governing Board's receipt of the renewal petition, unless that timeline is extended for up to thirty (30) additional days by mutual agreement of the parties. SPS-Tahoma and SCCOE agreed to an extension of time through and including January 13, 2021, for SCCOE's action on the Renewal Petition. In addition to the other bases for denial of a charter renewal, a chartering authority may deny a renewal upon a finding that the school is demonstrably unlikely to successfully implement the program set forth in the petition due to substantial fiscal or governance factors, or is not serving all pupils who wish to attend. To deny on this basis, SCCOE must first provide SPS-Tahoma with at least 30 days' notice of the violation(s) and a reasonable opportunity to cure the violation(s). (Ed. Code § 47607(e).)

As set forth below, SCCOE has determined that the evidence establishes that SPS-Tahoma is demonstrably unlikely to successfully implement the program set forth in the Renewal Petition due to substantial governance factors. This Notice serves as notice to SPS-Tahoma of the violations and affords SPS-Tahoma a reasonable opportunity to cure the violations, including the submission and implementation of a corrective action plan. SPS-Tahoma should submit its corrective action plan and cure the violations as soon as possible, but the violations must be cured by no later than December 21, 2020, which time constitutes a reasonable opportunity for SPS-Tahoma to remedy the violations.

## **II. FINDINGS**

SCCOE hereby notifies SPS-Tahoma of substantial governance factors that support a determination that SPS-Tahoma is demonstrably unlikely to successfully implement the program set forth in the Petition. Each of these matters constitutes cause for denying SPS-Tahoma's renewal if not remedied in accordance with this Notice. (Ed. Code § 47607(c).) This Notice provides SPS-Tahoma a reasonable opportunity to address each of these deficiencies, as well as information regarding some of the means by which SPS-Tahoma will need to establish that it has remedied these deficiencies, though SPS-Tahoma is ultimately responsible for creating and implementing a corrective action plan to cure all of the violations. SCCOE specifically notes that in an effort to be transparent and provide clear information to SPS-Tahoma about concerns, this Notice may be over-inclusive and include matters that may also constitute other grounds or bases for denial of SPS-Tahoma's Renewal Petition, and the inclusion of concerns herein should not be interpreted to mean that the notice, procedures and/or findings pursuant to Education Code Section 47607(e) are required in order for the Renewal Petition to be denied on any or all of the grounds or bases identified herein.

#### A. Failure to Provide for Parent Involvement in Governance.

From the time of its enactment, the Charter Schools Act has required that each charter include a reasonably comprehensive description of the school's governance structure, including "the process to be followed by the charter school to ensure parental involvement." This requirement is included in the governance charter element and requires a means of ensuring parental involvement in the school's *governance*, not simply involvement in their individual child's education or school social activities. However, SPS-Tahoma's Renewal Petition and past and current practices do not make any provision for parental involvement in school governance. The Renewal Petition acknowledges the importance of parental involvement, but does not include parents in governance at any level. Rather, the Renewal Petition specifies that opportunities for parent involvement include (1) participation in the development of their child's Personalized Learning Plan; (2) opportunities to attend Parent Education Nights on matters such as college preparation and financial aid; and (3) social functions.

The Renewal Petition also refers to an undefined, parent organized "Parent Organization." While it states that the school administration "meets regularly with the leadership of the Parent Organization to discuss parent community questions, concerns, and ideas," such meetings do not constitute a role in governance of the charter school. This is particularly true since this Parent Organization has been developed by SPS-Tahoma parents "based on the needs of the Charter School community;" and thus is not a component of the SPS governance and leadership structure.

SCCOE previously raised concerns about the lack of parental involvement in SPS governance, but SPS failed to remediate those concerns. Most recently, SCCOE raised the issue of parental involvement in SPS-Tahoma governance, and specifically the inclusion of parents of current SPS students on the SPS Board of Directors, during the public hearing on the SPS-Tahoma Renewal Petition on October 21, 2020. SPS-Tahoma provided written responses to a variety of questions raised at the public hearing, including a response to an inquiry that SPS-Tahoma characterized as "Plans to diversify the board; including parent representation on the board." The only portion of SPS-Tahoma's written response related to that inquiry provided in full:

We are committed to a governing body composed of individuals dedicated to supporting the life outcomes of the students we serve. That will always include the consideration of nominations bringing valuable expertise to the Board. We will continue to engage with the SCCOE staff and board through this process.

This response is apparently a rejection of the reservation of one or more seats on the Board for current parents/guardians and does not indicate any intent or plan to ensure parental involvement in the governance of SPS-Tahoma, unless, perhaps, there is a parent who offers some type of specific "expertise" that SPS values beyond being a parent at an

SPS school. In fact, the implication of SPS's response is that parents do not, simply by virtue of being parents of SPS students, have "valuable expertise" of benefit to the Board. SCCOE disagrees with that proposition. Additionally, the Charter Schools Act, by mandating a means of ensuring parental involvement in governance, indicates that parents of charter school students bring unique skills and/or perspective that must necessarily be included in each charter school's governance structure.

SCCOE also notes that SPS-Tahoma's stated desire to limit Board membership only to persons who will bring "valuable expertise" to its Board is somewhat contradicted by SCCOE's understanding that the SPS Board includes one or more directors who have rarely, if ever, attended a meeting. This is not to indicate that SCCOE has any doubt about the substantial expertise and value that any of SPS's Board members has that benefit the SPS Board and community. However, the SPS Board acts only as a Board, and only at open public meetings, so if a member does not attend the meetings, his or her expertise is not being shared with or implemented by the Board. As such, SPS-Tahoma's position that it must reserve its Board seats for "experts" is inconsistent with its practices. Further, the SPS Bylaws provide for a range of three to 15 members, and there are currently only six members, so it would be simple to reserve several seats for current SPS parents while still ensuring that the Board can accommodate other highly qualified members for the benefit of its operations.

SCCOE does not understand SPS-Tahoma's assertion that it "will continue to engage with the SCCOE staff and board through this process." It is unclear what "process" this statement refers to or how SPS-Tahoma has or will continue to engage with SCCOE on the matter at issue, which is parental involvement in governance, and specifically inclusion of parents on the SPS Board. SPS's sole response has been to decline to consider adding parents to the Board, or even to take the matter to the SPS Board for consideration.

On November 16, 2020, SPS's Assistant General Counsel, Nnanna Ogbu, sent correspondence to SCCOE in which he specified:

In the event there was any confusion, Summit is open to a parent representative joining our Board. In January 2020, SCCOE had requested that "...SPS undertake changes to its governance structure specifically to provide for parents of current SPS students to serve on the SPS Board, in order to ensure parent involvement in the governance of the SPS schools, consistent with the Charter Schools Act." While our Board of Directors has not included the parent of a current Summit student since our Chief Executive Officer stepped down from the Board, we welcome parent participation in their preferred manner, including, but not limited to, providing public comment at Board meetings, corresponding with the Executive Director, holding meetings with the Chief Executive Officer and other Summit leadership, or joining the Board.

While the quoted language states that SPS is “open” to a parent on the Board, SPS has taken no steps and indicated no intent to take steps to provide such a representative. In fact, the purpose of Mr. Ogbu’s letter was to respond to SCCOE appointing a representative to the SPS Board in accordance with its rights pursuant to Education Code Section 47604(d), and the quoted language was in the context of SPS questioning why SCCOE did not appoint an SPS parent to that role. SPS is required by law to ensure parental involvement in governance of its schools, and separately SCCOE is entitled to a representative on the SPS Board. SPS does not fulfill its obligation to ensure parental involvement by SCCOE appointing a parent to the SPS Board.

SCCOE also notes that while the SPS CEO may indeed also have been an SPS parent, SCCOE would not consider her involvement as a Board member or otherwise in the governance of SPS to constitute SPS complying with its legal obligation to ensure parental involvement in governance. The CEO was formerly a member of the SPS Board exclusively due to her employment position as the senior administrator of SPS, and in no way because she was an SPS parent. To be clear, it would be SCCOE’s expectation that any “parent representatives” on the Board would not be employees of SPS. This is not to say that SPS employees who happen also to be SPS parents cannot serve on the SPS Board, in compliance with Education Code Section 47604.1, but that persons who are chosen for the Board *as* parent representatives should not also be SPS employees.

Moreover, Mr. Ogbu’s list of ways in which SPS “welcomes parent participation” exacerbates rather than resolves the concern with lack of parent participation in SPS governance. The ability to make public comments during SPS Board meetings is a statutory right, not a privilege or a means of involvement in governance granted by SPS. Nor is the fact that individual parents can, of course, write to Tahoma’s Executive Director or potentially schedule a meeting with the CEO or another Summit administrator *parent participation in governance of the school*.

SCCOE has made clear to the charter schools that it authorizes that inclusion of parents on the governing board of each charter school is essential to sound operations and a reasonably comprehensive description of the governance structure and means of ensuring parental involvement in charter school governance. In the case of SPS-Tahoma, this need is heightened by the Renewal Petition and SPS-Tahoma’s current practices, including as described in the November 16 letter, that omit any form of parent involvement *in governance*. SCCOE’s concern about SPS-Tahoma’s failure to include parents in governance and apparent resistance to changing these practices is further heightened by the other concerns described herein related to lack of transparency in and accessibility for parents/guardians and other stakeholders to SPS’s governance practices.

## B. Lack of Transparency and Accessibility in Governance<sup>1</sup>

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<sup>1</sup> SCCOE recognizes that SPS, SCCOE, and all local public agencies in California are currently operating under the uniquely challenging circumstances of the COVID-19 pandemic, including the special rules and

SCCOE believes that the way in which SPS conducts its Board meetings limits transparency and accessibility for its parents, students, staff, and the broader community. One substantial concern is the fact that the Board meets during the morning or day, during traditional work and school hours, including during SPS-Tahoma's school hours. As a general matter, this schedule inhibits participation in Board meetings by parents/guardians and the broader community, and certainly limits the ability of SPS-Tahoma students and employees to participate. The SPS-Tahoma Executive Director, Jonathan Stewart, stated during the public hearing that SPS-Tahoma makes "allowances" should a teacher desire to attend a Board meeting because the meetings occur during teacher work hours. However, the fact that allowances would have to be made is, itself, indicative of the problem. It is not appropriate to require individual employees to seek permission from their supervisor, and to follow whatever protocols may be necessary or restrictions may apply, in order to avail themselves of the opportunity to participate in the open public meetings of their employing agency. Any such accommodation also means that the employee is missing his or her ordinary work assignment, which could have direct negative consequences for students, such as the need for a substitute teacher rather than the regular classroom teacher.

Even to the extent that employees are able to coordinate attendance, SPS-Tahoma students should not have to, and likely cannot, miss school in order to attend these Board meetings. Undoubtedly many parents are unable to participate in Board meetings because the meetings are held during working hours. Timing all SPS Board meetings during these hours has a clear deleterious effect on SPS-Tahoma parents, students, staff, and broader community members' ability to exercise their right to attend and participate in Board meetings. It has a corresponding negative effect on the transparency of SPS's operations, which is inconsistent with the intent and purposes of the Brown Act and Education Code Section 47604.1.

This lack of access and transparency is exacerbated by the SPS Board's limited meeting schedule. While the Renewal Petition asserts that the Board "will meet on a regular basis," historically, the Board sets only quarterly regular meetings, though occasionally it holds special meetings. With so few meetings, the public and SPS-Tahoma stakeholders' opportunity to attend and participate in Board meetings is quite limited, and it also means that the business of the schools is conducted primarily by the administration with limited input from the Board or the corresponding input from stakeholders to the Board. While the Charter Schools Act permits the operation of charter schools by or as nonprofit public benefit corporations, charter schools are not typical nonprofit corporations and are

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exceptions to the normal Brown Act requirements provided for by Executive Order. This Notice's discussion of the application of the Brown Act and the meeting location requirements of Education Code Section 47604.1 are related to the usual standards and requirements for Board meetings, not the special rules applicable during the pandemic.



explicitly required to comply with public transparency and accountability laws, including the Brown Act. It is important to recall the purpose of the Brown Act, which specifies:

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

The inconvenient timing and infrequency of SPS's Board meetings have the effect of limiting the public's access to and control over SPS's operations. When SCCOE has previously raised these issues, the SPS administration has responded that the Brown Act does not dictate that meetings be held in the evening and indicated that the meetings are scheduled at times that are convenient for the SPS Board members. Given the purpose and mandates of the Brown Act and the Charter Schools Act, the convenience of the public should be a primary consideration in establishing the Board schedule. SPS has further specified that holding meetings in the evening, that may run late, has "negative consequences on students, parents, teachers and school leaders who must decide if their engagement in the public meeting is worth staying up well beyond a reasonable bedtime and compromising their work or schooling the following day." (Jan. 14, 2020, letter from D. Tavenner to M. Johnson.) However, holding SPS meetings when teachers and students are in class and many parents are at work means that, invariably, these stakeholders must choose between their work or schooling and attending the meeting.

SPS also stated that the Board meets only four times a year because it determined that the Board could effectively conduct its business in four regular meetings per year. Part of the SPS Board's business, however, is engaging and consulting with parents and teachers and conducting the business of operating public charter schools at open, public meetings in which the public is able to participate, which purposes indicate a need for more frequent meetings. SCCOE is concerned that this limited meeting schedule would make it challenging for the SPS Board to effectively carry out its functions as the charter network's governing entity, including providing effective oversight to the operations of seven distinct schools with multiple different chartering authorities in California. Moreover, the revised requirements for adoption of the Local Control and Accountability Plan also require at least one additional meeting.

Actual and/or perceived limitations on public access and accountability were also demonstrated relative to SPS's closure of Summit Public Schools: Rainier ("Rainier") last school year. A number of students, parents, and Rainier teachers expressed their concerns to SCCOE that they felt excluded from or not properly involved in or informed about the decision to close Rainier, specifically any SPS Board consideration of this issue. One of the complaints was the timing of the SPS Board's meetings, forcing these stakeholders to miss school and work in order to make their voices heard by the Board. An additional significant source of complaints was the limited space in the Board room for members of the public personally to attend, observe, and participate in the Board's meetings, which is at the heart of the mandates and purpose of the Brown Act and public accountability. There is some disagreement between SPS's account and accounts from members of the public who went to SPS's Redwood City "home office" to attend the Board meeting in person of exactly what occurred during the SPS Board's December 12, 2019 meeting. However, there is no dispute that, at least when the meeting commenced, there were only six seats made available in the Board room for members of the public; SPS has stated that members of the public could and did rotate into those seats during the meeting. Members of the public who could not be accommodated in that room were informed that they could attend via teleconference from another building. It was alleged, and SPS did not specifically deny, that SPS's CEO indicated that permitting more members of the public into the room at one time during the meeting would create an "inappropriate environment" for the Board's work.

During the February 19, 2020 SCCOE meeting, a Rainier teacher, a Rainier parent, and a Rainier student jointly submitted a letter expressing complaints and concerns about SPS, specifically related to the closure of Rainier ("Complaint Letter"). SCCOE asked SPS to respond to the allegations in that letter, and SPS submitted its response via an attachment to a letter to SCCOE dated March 20, 2020 ("Complaint Response"). The Complaint Letter, among other matters, complained about the timing of SPS's December 12, 2019 meeting during the work/school day and the limited space in the Board room to accommodate members of the public. The Complaint Letter specified,

Being shuttled off to a videoconferencing room in the next building and not allowing students, parents, and teachers who were facing a school closure the dignity of speaking directly to the Summit Board was devastating.

Said one teacher: "While Summit claims that this is the exact same as attending in person because there is two way conferencing, this does not feel like the same as students had come a far distance to share their testimonies about the school closing and Summit seemed uninterested in hearing these in person."

SPS's Complaint Response provided in pertinent part (emphasis in original):



The [Complaint] Letter implies, without support[ing] facts or law, that meeting participation through a teleconference system is inherently inferior. This implication does not address the express authority provided by the Brown Act to use two-way teleconference systems. In addition, members of the Board of Directors are able to actively participate in Board meetings in-person and via a two-way teleconference system.

**The [Complaint] Letter cites, without confirming facts or law, a teacher with subjective concerns related to teleconference use and the Brown Act.**

The Brown Act expressly authorizes use of two-way teleconference systems. See Gov. Code section 54953(b)(4) (affirming that nothing in Section 54953 prohibits a local agency from providing the public with additional teleconference locations.)

SPS's response regarding the Brown Act's teleconference authorization and assertion that there are no facts or law validating the claim that in-person interaction with Board members is superior to teleconference is misplaced. The Brown Act specifies that "the legislative body of a local agency may use teleconferencing **for the benefit of the public** and the legislative body . . . ." (Gov. Code § 54953(b), emphasis added.) The Brown Act mandates that each location at which a Board member will participate via teleconference must be accessible to the public and at least a quorum of the Board must be present within the agency's jurisdiction. The body is permitted to provide the public *additional* teleconference locations, and Education Code Section 47604.1 mandates that SPS have such locations at each of its school sites. However, the requirement that every location from which a member of the Board participates must be open to members of the public, and that a quorum must be at locations within the agency's jurisdiction – thus should be readily accessible to the public – regardless of how many additional teleconference locations may be available, makes clear that there is something inherently different and necessary to the Brown Act's purposes in allowing the public to be in the same physical location as the members of the Board.

Taking SPS's responses together, SPS effectively dismissed the SCCOE's inquiries and recommendations and the allegations and concerns in the Complaint Letter about these various transparency and access issues, including timing, frequency, and accommodation of in-person attendance at SPS Board meetings. SPS's response to concerns about the conduct of its meetings, and expressions by its own stakeholders that they felt uninformed, dismissed, and excluded, was limited primarily to technical arguments that its meetings do not violate the Brown Act. Even if SPS is technically correct that its meetings comply with the Brown Act, its overall response fails to address the perception by stakeholders that SPS is, perhaps purposely, creating unnecessary obstacles and limiting access and transparency in its operations and governance. SPS has not indicated

that it is taking account of or endeavoring to address these perceived concerns and/or to ensure that its stakeholders both have and feel that they have access to SPS's Board and decision-making and governance processes.

Limiting access to SPS Board meetings is also contrary to the Charter Schools Act's mandate that charter schools are required, "on a regular basis, [to] consult with their parents, legal guardians, and teachers regarding the charter school's educational programs." While at a lower level SPS-Tahoma site level administrators may engage in some type of such "consultation," that process is not described in the Renewal Petition or built into the governance structure. Instead, the various concerning aspects of the governance structure described herein actually limit and impede the ability of parents/guardians and teachers to consult with the Board.

SPS-Tahoma's senior site administrators attended the public hearing on the Renewal Petition, but no SPS central office administrators or Board members participated in the meeting. SCCOE raised questions that the site-level administrators were unable to answer, and SCCOE expressed a desire that a senior administrator(s) from the SPS corporation be present for the meeting at which action will be taken on the Renewal Petition. Following the public hearing, Mefula Fairley, SCCOE's Charter Schools Department Director, spoke with Diane Tavenner, SPS's Chief Executive Officer. During the conversation, Ms. Tavenner declined to attend the SCCOE meeting. Ms. Tavenner stated that she would be happy to speak to individual County Board members outside of a public meeting, but that she would not attend the meeting because, in her words, she did not wish to "be berated" at a public meeting. It is the Summit Public Schools corporation and Board, not the SPS-Tahoma site administration, that governs SPS-Tahoma and was granted the current Charter and is seeking renewal. Ms. Tavenner is the senior administrator of that governing corporation. While it may be understandable that Ms. Tavenner would desire to avoid what she perceives as potential public criticism, nonetheless, it is concerning that she would decline to attend the SCCOE meeting as SPS-Tahoma's senior administrator, despite her potential discomfort.

The Santa Clara County Board of Education is subject to the Brown Act and acts only as a Board, at open public meetings, not as individuals or in private. While individual County Board members may choose to speak to Ms. Tavenner outside of a meeting, it is appropriate for SCCOE to expect SPS-Tahoma and its representatives, including Ms. Tavenner, to attend a public meeting and answer questions pertinent to SPS-Tahoma's request for renewal in an open public forum. While Ms. Tavenner may be concerned about what she anticipates as criticism of SPS, these are matters of public concern that are appropriate for discussion and consideration with public transparency at an SCCOE meeting.

### C. Delegation of Governance Authority

SCCOE has authorized SPS-Tahoma to be operated by the Summit Public Schools corporation, which corporation is required to govern publicly, in accordance with the Brown Act and other government transparency and accountability laws. SPS-Tahoma's Charter and the MOU required compliance with these laws even prior to the enactment of Education Code Section 47604.1 making their application to SPS-Tahoma explicit. While administrators and employees necessarily handle the day-to-day operations of the corporation and SPS-Tahoma, it is the corporation's Board of Directors that must govern SPS-Tahoma.

The Renewal Petition includes the following provision on delegation of Board authority:

The Board may execute any powers delegated by law to it and shall discharge any duty imposed by law upon it and may delegate to an officer or employee of the Charter School any of those duties with the exception of budget approval or revision, approval of the fiscal audits, and the adoption of Board policies. The Board however, retains ultimate responsibility over the performance of those powers or duties so delegated. Such delegation will:

- Be in writing,
- Specify the entity designated;
- Describe in specific terms the authority of the Board of Directors being delegated, any conditions on the delegated authority or its exercise and the beginning and ending dates of the delegation; and
- Require an affirmative vote of a majority of Board members.

SPS-Tahoma's current charter includes a virtually identical provision, though it provides for delegation to employees and the Governance Council, but not officers. It has become apparent that SPS's interpretation and application of its bylaws – and by extension this charter provision – is too broad. The SPS administration has indicated that it interprets the bylaws as effectively permitting the SPS Board to delegate and/or SPS employees to exercise almost unfettered control over SPS's operations, and permits the administration to make substantial decisions without specific Board delegation or Board action in accordance with the Brown Act's public meeting processes.

At the time during the 2019-20 school year that SPS announced the closure of Rainier and then, several months later, the SPS Board took action at a public meeting on the closure, both SCCOE and Rainier stakeholders raised a number of concerns and allegations about the manner in which SPS handled that decision. Among those concerns were questions about Brown Act compliance and how the decision to close Rainier was made and announced without any open session consideration or action by the SPS Board. SPS's responses to SCCOE's inquiries on these matters were not clear or satisfactory, and instead concentrated on its position that SPS was motivated in announcing its "final" decision to close Rainier as soon as possible in order to allow staff, students, and parents

to plan accordingly. SPS administrators disseminated this information prior to the SPS Board actually taking action to close Rainier. As specified in a February 28, 2020, letter of concern from SCCOE to Ms. Tavenner:

Summit is required to act publicly and transparently and under the authority of its Board of Trustees; the administration is *not* Summit's final decision making authority. As such, your ongoing characterization of the closure of Rainier as a final, unalterable decision as of the time you communicated it to stakeholders and the County in November, approximately two months before the Summit Board actually made the decision, is incorrect. It is inappropriate to describe as "successful" the fact that Summit's stakeholders believed this incorrect information.

SPS did not respond directly to this concern. The Complaint Letter also included concerns about the lack of Board action prior to the announcement that Rainier was closing. It specified, "On November 14, 2019, Summit announced it was closing one of its schools in San Jose, Summit Rainier. This decision occurred without any public action or discussion by the Summit Board." SPS's Complaint Response specified (bolding in original, italics added):

**On November 14, 2019, Superintendent Anson Jackson and Chief Executive Officer Diane Tavenner (each, an "Executive Officer") shared a facility plan with interested parties including students, teachers and other employees of SPS, and each California local education agency that has approved a petition for an SPS school.**

The Authorized Officers sent communications that "...Summit: Rainier at Mt. Pleasant will close at the end of the 2019-20 school year" and "[w]e will be working closely with our families and faculty throughout this transition and we are grateful that we are able to share this information so early in the school year to ensure the best transition possible."

The SPS Bylaws permit the Board to delegate "the management of the Corporation's activities to any person(s)...provided that the activities and affairs of the Corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the Board." (SPS Bylaws Section 1). *Each Authorized Officer has actual authority to speak for the organization in accordance with the Bylaws without pre-approval from the Board.*

The [Complaint] Letter implies, without reference to any law or governance document, that public action or discussion by the Board are required before an Executive Officer could make the November 14, 2019 decision.

*None of the Government Code, Education Code, Bylaws of SPS, Rainier Charter, or MOU between SPS and East Side Union High School District, including Exhibit 8: School Closure Protocol, prohibits the Executive Officers from communicating a closure decision in advance of the governing board's approval.* In any event, the SPS Board approved a Resolution at a special meeting held on January 16, 2020 regarding the closure of SPS: Rainier.

SPS staff have no record of a member of the public submitting a "Request to Speak" card on the topic of SPS: Rainier or its facility use agreements until the regular meeting of the SPS Board on December 12, 2019.

SPS has taken no action to restrict public comment to the SPS Board on any of the matters alleged in the [Complaint] Letter. Accordingly, no issues of law or fact are presented.

To the best of our knowledge, none of the Education Code, Government Code, Brown Act, SPS Bylaws, or Charter (collectively, the "Governance Documents") require Board discussion or public comment before communicating a facility plan or proposal to the public.

This response appears to conflate the announcement of a "facility plan" with a final or definitive decision to close a duly chartered and authorized school, since what SPS communicated to the various stakeholder groups and authorizers was not only a plan to change facility usage, but a specific announcement that Rainier was closing. Moreover, while the above-quoted language several times refers to this as a "facility plan," it also tacitly acknowledges that it was a "closure decision." Most concerning, however, is the claim that nothing "prohibits the Executive Officers from communicating a closure decision" prior to the SPS Board making the decision. Certainly the administration can publicly communicate its recommendation that the SPS Board make a certain decision before the Board acts, but the administration cannot announce Board decisions before the Board actually makes them. Furthermore, SPS's defense that the fact that the Board did not act before the administration apparently finalized the closure of Rainier was irrelevant because two months later the Board approved the action is unconvincing – Board action two months after an announcement of a decision does not eliminate the impact of the administration's initial actions.

With this argument, SPS is claiming that through its bylaws, the SPS Board had delegated effectively unlimited and undefined authority to its "Executive Officers" or "Authorized Officers" to operate the SPS charter schools without Board input or approval. If SPS interprets this delegation to encompass a decision to *close* a charter school without Board action, it is difficult to conceive of any action relative to a charter school that these officers cannot take on their own initiative.

Under this interpretation and application of the delegation of the SPS Board's authority to the administration, instead of the Board exercising authority and acting as a policy-making and governing body, overseeing the SPS schools' strategic direction, it is the administration that exercises this authority and responsibility. As part of the public school system, California charter schools are required to comply with the Brown Act so that their actions are public and transparent, and members of the public can provide input regarding proposed actions. Effectively transferring the Board's power and authority to the CEO and other "Executive Officers," however, eliminates the mandatory public transparency from the process and decision-making over SPS schools and strips the public of its rights and role. The CEO and other administrators are individual employees who do not make decisions or take other actions at agendaized public meetings or otherwise subject to public scrutiny. If this is how the SPS Board and administration view and implement their roles and the Board's delegation of authority, it effectively circumvents the approved governance structure as well as public transparency. These practices are inconsistent with the terms of the SPS-Tahoma Charter, the letter and spirit of the Charter Schools Act, specifically Government Code Section 47604.1, and appropriate means of governing a California public charter school.

To be clear, from SCCOE's perspective as SPS-Tahoma's chartering authority, a decision to close a separately authorized and chartered school is a fundamental governance decision that SCCOE requires be made by the SPS Board in a public meeting, not by an administrator without public knowledge or input. The governance structure needs to be modified to more clearly define the role of the Board of Directors and the limitations and parameters on the administration's role and the Board's ability to delegate its authority.

It is noteworthy that the Complaint Response purports to rely upon a provision in the bylaws about delegated authority, but does not refer to the charter's requirements for delegation of Board authority. While SCCOE does not know definitively whether the Rainier charter's provisions on delegation were identical to those in the SPS-Tahoma charter, it seems likely that they were since the same corporation governs all California SPS schools. In any event, in the case of SPS-Tahoma, any delegation must be in writing, specify to whom the Board is delegating authority, describe the delegation in specific terms, and be approved by a Board majority. As such, the general bylaws language on delegation is not adequate to authorize "Executive Officers" to decide to close SPS-Tahoma or take other actions that would otherwise be within the Board's purview. The Complaint Response did not cite to any such specific delegation of authority to the Executive Officers to close Rainier, or even to reach final agreement on a facility plan. In light of SPS's explanation of its interpretation and application of the delegation authority in the corporate bylaws, more limitations and clarity are necessary in order to constitute a valid and reasonably comprehensive description of the SPS-Tahoma governance structure.

#### D. Location of Meetings

Education Code Section 47604.1(c)(4), applicable to SPS, specifies:

(4) (A) For a governing body of an entity that manages two or more charter schools that are not located in the same county, the governing body of the entity managing the charter schools shall meet within the physical boundaries of the county in which the greatest number of pupils enrolled in those charter schools managed by that entity reside.

(B) A two-way teleconference location shall be established at each schoolsite and each resource center.

(C) The governing body of the entity managing the charter schools shall audio record, video record, or both, all the governing board meetings and post the recordings on each charter school's internet website.

It is clear that a charter operator, such as SPS, that operates multiple charter schools in multiple counties, is required to hold an in-person meeting at a location within the physical boundaries of the county in which the greatest number of students who attend network schools reside. ***In addition to the in-person location within the specified county***, the charter operator must also provide two-way teleconference meeting locations at each schoolsite and resource center. Government Code Section 54953(b)(4) also permits a body subject to the Brown Act to provide the public with additional teleconference locations. However, none of these teleconference locations at which Board members are not present take the place of the mandatory in-person location required by Education Code Section 47604.1(c)(4)(A).

Education Code Section 47604.1(c)(4) includes two separate and distinct requirements for the location of meetings. A charter school operator cannot hold its meeting at which all or most of the Board and administration are physically present in a county other than that in which the largest number of students reside simply because it is offering teleconference locations without Board members within the boundaries of the county in which the greatest number of students reside, which is separately required by this statute.

It appears that SPS is incorrectly interpreting this requirement as permitting all or most of its Board and the administration staffing the meeting to meet physically at its "home office" location in Redwood City, in San Mateo County, irrespective of the county in which the greatest number of SPS students reside. The Matrix of Updates submitted with the Renewal Petition specifies that SPS-Tahoma has updated its submission "to reflect statutory changes to board meeting location" and in compliance with Education Code Section 47604.1. However, the Renewal Petition itself does not specify that SPS will meet in the county in which the greatest number of students reside, but only states, "Summit Public Schools will provide a means and opportunity for members of the public, including the Summit Public Schools community, to attend each board meeting via teleconference

at each school site.” The SPS bylaws are inconsistent with the legal mandates as they specify that SPS Board meetings “shall be held at the principal office of the Corporation. The Board of Directors may designate that a meeting be held at any place within California that has been designated by resolution of the Board of Directors or in the notice of the meeting.” SPS’s Board meetings may only be at the principal office of the corporation when that office is within the county in which the largest number of students reside, and SPS cannot simply meet anywhere it chooses within California, but must meet in accordance with the requirements of Education Code Section 47604.1 and the Brown Act.

Additionally, in response to the Complaint Letter’s allegations and concerns about whether SPS was in compliance with these meeting requirements by holding its January 16, 2020, meeting at its home office location in San Mateo County, SPS indicated this incorrect interpretation and application of these meeting location requirements. SPS specified in the Complaint Response:

The [Complaint] Letter implies that 780 Broadway in Redwood City is the sole “meeting” location. In fact, the Brown Act authorizes the use of teleconferences for meetings. (See Gov. Code Section 54953(b)). The Brown Act defines a “teleconference” to mean “a meeting of individuals in different locations, connected by electronic means, through either audio or video, or both.” Accordingly, the location of the meeting is, collectively, each and every location set forth in the posted agenda for the December Board Meeting. The agenda for the December 2019 Regular Meeting and the January 2020 Special Meeting designated 13 locations and 14 locations, respectively, to facilitate public participation. See Gov. Code section 54953(b)(4) (affirming that nothing in Section 54953 prohibits a local agency from providing the public with additional teleconference locations).

At the time of the January 16, 2020, meeting, according to the information provided by SPS, the greatest number of SPS students resided in San Mateo County, so the meeting within that county was appropriate. However, as explained above, SPS cannot meet in San Mateo County at any time that it is not the county in which the greatest number of SPS students reside. Because the number of SPS students who reside in San Mateo County is quite close to the number who reside in Santa Clara County, SPS will need to remain mindful of its student enrollment numbers to ensure that it continues to meet in the correct county.

#### **E. Conflict of Interest Issues**

The terms of SPS-Tahoma’s current Charter, and, effective January 1, 2020, Education Code Section 47604.1, require SPS to comply with the conflict of interest prohibitions of the Political Reform Act of 1974 and Government Code Section 1090 *et seq.* However, the bylaws submitted with the Renewal Petition are dated November 10, 2016, and have



not been updated to reflect either the requirements of the current Charter or the new requirements of law despite the mandate that renewal charters be updated to reflect changes in the law. These bylaws continue to purport to permit transactions that are prohibited by these conflict laws, and to allow the corporate Board of Directors to authorize prohibited transactions. Specifically, Article VII, Section 4, (Restrictions on Interested Person as Directors); Article IX (Contracts with Directors); and Article X (Contracts with Non-Director Designated Employees), are either inconsistent with these statutory prohibitions, or do not require full compliance with these laws.

The Political Reform Act requires SPS to adopt, update, and maintain a Conflict of Interest Code, and the MOU specifies that SPS must adopt the Fair Political Practices Commission's ("FPPC") Model Conflict of Interest Code. Because SPS operates in multiple counties, the FPPC is its code reviewing body to which SPS must submit its Conflict Code and biennial updates for approval. Apparently the FPPC has provided "preliminary" approval of SPS's Conflict Code at this time. SCCOE requires an update on that status and the cause of any delay in approval. Additionally, inexplicably, the Conflict of Interest Code submitted by SPS-Tahoma with the Renewal Petition is outdated and is not its current Conflict Code.<sup>2</sup>

Furthermore, SPS has taken the position, when SCCOE has raised questions about its compliance with the Brown Act, that its "jurisdiction" is the entire state of California. (SPS asserted that its jurisdiction is statewide so it complies with the requirements for teleconference meetings, in Government Code Section 54953(b), as long as a quorum of Board members are anywhere within California.) However, based on the requirements to disclose interests in real property in its Conflict Code, it appears that SPS is attempting to limit its "jurisdiction" to only those school districts that have authorized an SPS charter school (which language is also fundamentally unclear given the fact that SCCOE, not a school district, has authorized two SPS schools). Designated officials who must report interests in real property are required to report all interests within the agency's jurisdiction, but according to SPS's Conflict Code, reporters are required to report real property interests only in school districts that have authorized an SPS charter, not statewide. Additionally, the Form 700 Statements of Economic Interests that have been filed on behalf of SPS officials indicate SPS's jurisdiction as San Mateo, Santa Clara, and Contra Costa Counties, again, not statewide.

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<sup>2</sup> SCCOE notes that the Renewal Petition includes a number of typographical, organizational, and similar errors and mistakes. For example, the table of contents for the many appendices to the Renewal Petition is incomplete, none of the appendices are marked to correspond to the table of contents, and the appendices were not attached to the Renewal Petition in the order indicated in the table of contents, thereby creating confusion. As noted, SPS-Tahoma submitted an outdated Conflict Code. Additionally, the Renewal Petition, which specifies it was updated to reflect current Board members and their term expiration dates, mistakenly indicates that four of the six Board members' terms are expired, one as long ago as October 2018. These types of errors are unexpected in a document of the importance of the Renewal Petition, and can negatively impact SCCOE's review of the Renewal Petition as well as SCCOE and SPS's mutual understanding of the terms thereof.

SPS cannot claim statewide jurisdiction for purposes of the Brown Act, granting itself substantial flexibility in conducting telephonic meetings, while at the same time claiming much more limited jurisdiction for purposes of the prohibitions against conflicts of interest and the mandate to report personal financial interests on the Form 700. The purposes of both the Brown Act and the Political Reform Act are to increase transparency and protect the public interest; SPS cannot apply these two laws in conflicting manners which have the actual effect of limiting their requirements and the corresponding transparency and protection of the public's interest.

### **III. REMEDIAL/CORRECTIVE ACTION**

Based on the substantial issues and concerns described above, SCCOE is issuing this Notice supporting a determination that SPS-Tahoma is demonstrably unlikely to successfully implement the program set forth in the Renewal Petition due to substantial governance factors. Consistent with Education Code Section 47607(e), SPS-Tahoma shall have a reasonable opportunity to cure the concerns identified in this Notice, including providing a corrective action plan. Should the corrective action plan be found to be unviable or unsuccessful, SCCOE may deny the SPS-Tahoma Renewal Petition on that basis.

It is incumbent on SPS-Tahoma to respond to each of the above-identified concerns with any supporting information, documentation, and evidence and, where applicable, propose and implement a corrective action plan as provided for in Education Code Section 47607(e). SCCOE encourages SPS-Tahoma to commence its cure of these violations as quickly as possible. Given the variety of concerns described in this Notice, and the exigencies of time, SPS-Tahoma may consider responding separately to discrete issues, though SPS-Tahoma will need to take account of the overlap among issues, particularly the overarching concerns with lack of transparency. Any response(s) and corrective action plan(s) will need to be clear and organized and should specify which violation(s) it is attempting to respond to and remediate. (Each document/piece of evidence should be clearly marked and referenced in any narrative response and/or corrective action plan, and SCCOE requests that all documents include page numbering and be otherwise marked and organized for ease of reference and understanding.) SPS-Tahoma's corrective action plan(s) should also include details and explanations of the issue(s) and how the proposal will cure the concern(s), and should not merely list proposed changes or actions. Any corrective action plan should include definitive timelines and specific actions and not consist only of generalized reassurances, affirmations, and/or promises.

SPS-Tahoma must determine how it will resolve the governance concerns, including the development, submission, and implementation of a corrective action plan. SCCOE will not define the specifics of SPS-Tahoma's plan, but expects SPS-Tahoma to ensure that its response and plan address all of the concerns described above. SCCOE does anticipate that the plan and SPS-Tahoma's response will include all of the following, though, again,

this is not intended and should not be interpreted as the scope of what is required in order for SPS-Tahoma to cure and correct these matters, but is merely a notation of some expected components of SPS-Tahoma's response:

1. Reserve at least two SPS Board seats for parents of current SPS charter school students, and a plan for how these parents will be recruited and selected, with the parent members appointed to the Board by no later than March 31, 2021.
2. A commitment to hold at least half of the regular SPS meetings in the evening, starting at 5:00 p.m. or later.
3. Increase the minimum number of regular SPS Board meetings to six per year.
4. Provide a plan to ensure adequate space to accommodate attendance by the public at the location at which the Board physically meets.
5. Commit that a senior SPS administrator(s) knowledgeable about SPS and SPS-Tahoma operations, governance and finances, in addition to SPS-Tahoma site staff, will attend the SCCOE meeting at which action will be taken on the Renewal Petition and respond to questions as requested. Ms. Tavenner is also encouraged to attend personally.
6. Confirm compliance with the requirement that the SPS Board's in-person meeting location will be in the county in which the greatest number of SPS students reside.
7. Revise the corporate bylaws to be consistent with the law and the MOU and provide a copy of the updated bylaws and minutes confirming Board approval.
8. Provide an update on the FPPC's approval of the Conflict of Interest Code and a plan to take action to address any causes for the delay that are within SPS's control.
9. Correct the discrepancy between SPS's stated jurisdiction for the Brown Act and its stated jurisdiction for the Political Reform Act, and require compliance with the jurisdiction requirements of applicable law.

#### **IV. CONCLUSION**

SPS-Tahoma must cure the violations on or before **December 21, 2020**, which affords SPS-Tahoma a reasonable opportunity to cure and provides SCCOE an opportunity to evaluate SPS-Tahoma's corrective action plan and cure prior to its action on the Renewal Petition. SCCOE encourages SPS-Tahoma to commence curing and correcting and providing responsive information and plans to SCCOE as quickly as possible.

SCCOE looks forward to SPS-Tahoma's response to the concerns identified in this Notice. Should you have any questions regarding the foregoing, please do not hesitate to contact me.

Very truly yours,



Mary Ann Dewan, Ph.D.  
County Superintendent of Schools

Cc: Mefula Fairley, Director  
Davina Harden, Esq.

EXHIBIT 2

SPS TAHOMA RESPONSE



Summit Public Schools  
780 Broadway Street  
Redwood City, CA 94063

December 21, 2020

**VIA EMAIL AND US MAIL**

Mary Ann Dewan, Ph.D., County Superintendent  
Santa Clara County Office of Education  
1290 Ridder Park Drive  
San Jose, CA 95131  
MaryAnn\_Dewan@sccoe.org

Re: Response and Corrective Action Plan to Notice of Alleged Violation under  
Education Code Section 47607(e)

Dear Ms. Dewan:

Summit Public Schools: Tahoma ("Tahoma") respectfully provides this response and corrective action plan to the Santa Clara County Office of Education's ("SCCOE") November 19, 2020 correspondence titled, "Notice in Accordance with Education Code Section 47607(e)" (the "Notice").

Education Code section 47607(e) is a new provision of law for charter schools that have a fiscal or governance factor that is so substantial, it would cause the school to be demonstrably unlikely to successfully implement its own charter petition. When a school has that kind of governance problem—a problem so grave that it cannot successfully operate the school program any longer—Education Code section 47607(e) allows the chartering authority to deny charter renewal only after at least 30 days' notice to the school and a reasonable opportunity to cure. Because of the gravity of such decision, a denial of charter renewal under 47607(e) also requires a finding that to the extent there are ongoing violations of law or charter, the school's corrective action plan has been unsuccessful or the violations are so severe and pervasive that a corrective action plan is unviable, among other required findings to deny.

Tahoma is a great school. Denial of a charter's renewal is very serious; in this case, it would mean a decision by SCCOE to close a great public school and send 460 students who attend a school with a 98% A-G completion rate (2019) and an 88% college enrollment rate (2018) to lower-performing schools. Given Tahoma's success on objective measures of school performance, it is increasingly unclear what standards are used by SCCOE to assess whether a school can successfully implement the program described in its petition.



summitps.org

As described below, Summit Public Schools (“Summit”) has made and will continue to make overarching improvements in transparency and communications. As an organization committed to and known for Continuous Improvement. As a data-driven school, we particularly regret any perceived reticence to improve. However, it is also important to contextualize the Notice. Tahoma is not only a great school academically, Tahoma’s governance aligns to the law and aligns to other successful independent public charter schools throughout the State. Our Board of Directors (the “Board”) is not dysfunctional, disengaged, unprofessional, or any of the other hallmarks of an ineffective governing board.

Summit is demonstrably able to successfully implement the Tahoma charter, and has done so for a decade under two consecutive approvals by the County Board of Education, initially in 2010 and again in 2015. The changes to governance requested by SCCOE in the Notice are new expectations of SCCOE, but are not required by the Charter Schools Act or any other law. They do not rise to the level of Education Code section 47607(e), i.e. they do not determine whether Summit is likely or unlikely to successfully implement the Tahoma charter petition. SCCOE’s governance preferences, such as holding evening Board meetings and reserving two parent Board seats, are not supported by other authorizers in the State.

There is no one-size-fits-all approach to successful governance beyond compliance with the law. The Board is eager to make continuous improvements to governance, but best practices for any organization must be evaluated and implemented in a thoughtful, community-oriented way. The Board is committed to collaborating with SCCOE to act in the best interests of current and future students and de-escalate the threat of closing a good school.

Simply put, Tahoma exists for the benefit of our students and families. Good public schools that operate according to the law should not be closed, particularly as we are all doing our best to navigate an extremely complicated, unprecedented year. We take the issues in the Notice seriously and discussed the Notice with the Board on December 11, 2020. Summit remains a willing partner of SCCOE in making the governance improvements that will best ensure Tahoma’s success, and we look forward to continuing our success together.

## **I. BACKGROUND**

Tahoma has consistently outperformed the schools our students would otherwise attend (e.g. the local East Side Union High School District (“District”)) based on Dashboard “Status” scores, including all academic indicators:

- ✓ Tahoma outperformed the District in ELA schoolwide and amongst all numerically significant student groups in each year that Dashboard data was reported (2017, 2018, and 2019).
- ✓ All of Tahoma’s numerically significant student groups outperformed the District in Math DFS in 2018 and 2019, and Tahoma outperformed the District in 2017 and 2018 schoolwide.

- ✓ Tahoma outperformed the District on the Dashboard's English Learner Progress Indicator in each year that data was reported, which means that Tahoma's EL students are progressing toward EL proficiency at a faster rate than their counterparts in the District.
- ✓ Tahoma outperformed the District on the Dashboard's College/Career Indicator in each year that data was reported, which means that Tahoma is preparing students for college or career better than the District.
- ✓ Tahoma's suspension rate was lower than the District's in 2017 and 2019 schoolwide and amongst a majority of numerically significant student groups.
- ✓ Tahoma's graduation rate was higher than the District's in 2019 schoolwide and amongst a majority of numerically significant student groups.

Tahoma had similar results when compared to the State, outperforming the State average in each year that data was reported (2018 and 2019) on the ELA, English Learner Progress, College/Career, and Graduation Rate Indicators, and on the Math and Suspension Rate Indicators in 2019. Tahoma also received a "Standard Met" on all local indicators in each year that data was reported. For more information about the high academic performance of Tahoma students, under the Summit Board's leadership over the charter term, please see pages 13-19 of the renewal charter.

## **II. SCCOE "FINDINGS"**

SCCOE's November 19, 2020 Notice contained five alleged "Findings" and discussion of past events as context for each. Summit is disheartened that the discussion in the Notice only selectively excerpts Summit's previous extensive, good faith responses to those events. It leaves out important context like the fact that there has only ever been a single complaint (that we are aware of) from any stakeholder about Summit's governance, while numerous stakeholders have more recently expressed to SCCOE in writing and public comment their satisfaction with the school and, in particular, its governance. Summit operates with continuous improvement as a core operating value and approach. One component of continuous improvement is a shared understanding of decisionmaking, including the facts and processes. Following that philosophy, Summit promptly requested from SCCOE all of the documentation, complaints, correspondence, and other context underlying the Notice, but was informed by SCCOE that no such documents will be available until February 2021 —more than a month after SCCOE's due date for this response. If a process requires major changes to effectuate improvement, the improvement must be based on more than a single unsubstantiated complaint.

It is also disheartening that the Notice seems to acknowledge Summit and Tahoma may be "technically" in compliance with the law (see e.g. p.9 of the Notice), but nonetheless concludes that there are "violations" based on uncoded perceptions and expectations. Despite these challenges, Summit is committed to working in good faith to put our students first and improve our working relationship with SCCOE staff and the County Board of Education.



In accordance with SCCOE's direction, this Section II of our response and corrective action plan provides further response to SCCOE's five concerns, taking into account SCCOE's notations.

#### **A. Summit Provides for Parent Involvement in Governance.**

The Charter Schools Act requires that a charter petition include a "reasonably comprehensive description" of:

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

(Education Code section 47605(c)(5)(D).)

There is no template in the law, nor any precedent or example statewide, for how charter schools must accomplish this particular requirement. Charter petitions throughout the State have differing descriptions, and use different methods, to ensure parental involvement. We understand and acknowledge that SCCOE's Notice interprets this section to mean that parents must be *in governance positions* at charter schools, specifically that there must be two parents of current students on the Board who are not also employees of the school. (See pp. 5, 19 of the Notice.) That interpretation is not standard. It is also an evolving position at SCCOE. Education Code section 47605(c)(5)(D) has not changed over the years, but SCCOE's interpretation and application of this provision continues to change. These governance preferences do not align with the memorandum of understanding for charter schools used for State-authorized charter schools. The State Board's template memorandum of understanding, which contains almost 80 categories and multiple subcategories to assess charter programs for renewal, does not cite meeting times or the reservation of board seats in its evaluation of parent involvement. It would be an abuse of discretion to deny Tahoma's charter based on a violation of law, where the Notice expands the legal requirement so far beyond the State Legislature's expressed intent and statutory language.

More importantly, Tahoma provides for parental involvement in school governance at a variety of levels, and we are eager to do more. Listening and working with parents is a key part of our leadership's role, including at the Board level. While formal approaches such as the LCAP stakeholder involvement process and Personalized Learning Plan consultations ensure parent voices are heard in the school's decisionmaking process, we believe less formal approaches are also required to ensure all parents are taken into account. The Notice interprets the term "governance structure" to mean solely the Board, but Summit's governance structure includes the school's broader, responsive system of governing and decisionmaking. For example:

1. Tahoma's parent group engages in creating our LCAP, which is the primary guiding strategic plan in the governance of Tahoma. Parents are involved in creating the goals, plan actions, and allocation of resources to meet those goals.
2. Related to that process, the parent group provides input on building our annual budget prior to the Board's approval.

3. Tahoma surveys parents multiple times each year regarding their experiences with the school across a variety of categories, and more recently their experiences and needs for distance learning. The Notice seems to discount this type of parent involvement; however the very purpose of regular parent surveys is to provide a concrete process for parent experiences and preferences to guide school governance. Understanding parent needs and opinions is integral to ensuring good governance. Engaging with parents by surveys provides a valuable opportunity to obtain information on the effectiveness of the school, and can help identify potential issues that might otherwise go undetected. The end result is that all parents are taken into account in decisionmaking—not just a few.
4. The Tahoma parent group is a family-school partnership at Tahoma that provides school leadership with accountability related to student results, school-family communication, and transparency. The parent group provides valuable feedback and works with school leadership to ensure that tough situations can be navigated successfully. It meets monthly to coordinate volunteering opportunities for school events. In addition, members of the parent group serve as ambassadors to other parents to share information and increase participation in school events such as Back to School Nights and Community Forums. The Notice discounts the Tahoma parent group, but parent groups are one of the key mechanisms for creating a parent-friendly school. Through parent groups, Summit encourages open dialogue including with parents who are not otherwise engaged or interested in attending Board meetings.
5. Parents engage in decisionmaking and are empowered as leaders for their student's education through annual Personalized Learning Plan meetings with their student's mentor, and more regularly as needed.
6. Tahoma hosts a series of parent events each year, including a school kick-off, Back to School Night, Community Forums, college nights, and Celebrations of Learning. These are fun events for parents but they are not merely "social activities" as described in the Notice; they are essential for collaborating with families in order to support students in developing the mindsets and habits needed to achieve Summit's learning outcomes. These events are interactive, they lower the barriers for participation through tools such as meeting interpretation, and they include a variety of topics to appeal to the various interests of parents.
7. Tahoma's Executive Director sends a weekly family email and regularly engages 1:1 with parents. Our parents use this "open door" policy, and our school leaders use 1:1 parent feedback to hold the school accountable.
8. Summit has a large and diverse parent body stretching over multiple communities. Tahoma's Community Engagement Manager assists with two-way communication with Tahoma parents using various communication channels and provides additional communication support for families on a 1:1 basis as needed. This mechanism ensures each Summit local community influences the organization's decisionmaking.

We are disappointed that the Notice characterized Summit's previous responses as de-valuing parents. Summit did not say or imply "that parents do not, simply by virtue of being parents of SPS students, have 'valuable expertise' of benefit to the Board." (Notice, p. 4.) In Summit's view, that sort of ad hominem attack serves no useful purpose and unnecessarily charges the issue.

The excerpts from Summit's previous correspondence cited in the Notice say that: (1) Summit is "committed to a governing body that is composed of individuals dedicated to supporting the life outcomes of the students we serve;" (2) Summit considers all nominations who bring "valuable expertise to the Board" (whether such candidates are parents or not); and (3) "Summit is open to a parent representative joining our Board." (Pp. 3-4 of Notice, underline added.) Summit is continually building, growing, and refining through meaningful consultation with the parents of our students at each school. The examples of parent engagement and satisfaction at Tahoma are illustrative of the parent experience across the Summit schools in the Bay Area and Washington. To say that Summit values parents, guardians, and other caregivers is an understatement; our schools exist to serve families.

The substance of SCCOE's alleged "Finding A" is not about whether Summit values parents simply because they are parents (we do), nor whether the Tahoma charter petition is reasonably comprehensive as to parent involvement (it is). Rather, "Finding A" is that Summit has not yet involved parents in the manner SCCOE believes is required under the law: adding two seats to the Summit Board for current parents who are not also employees. While this is one way to involve parents, it is not the only permissible or effective way. Summit is committed to evidence-based decision-making, and it would be helpful to understand the evidence underlying SCCOE's mandate. When Summit is presented with a directive to alter the composition of our effective governing board—a directive that is not grounded in law, is outside the existing Board recruitment and nominating process, and without substantiation for the need to make the change—such directive seems arbitrary. We do not believe that ensuring parent involvement can be reduced to this single issue.

At Summit, we approach parent involvement in governance from a broader lens: communicating meaningfully and regularly with parents, engaging with parents to gather their views, ensuring the school's strategic plans take account of parent views, making it easy for parents to get in touch with the school, ensuring that parents are made aware of any changes taking place at the school, providing tools to encourage parents to help their children learn, considering why parents choose our school, addressing any complaints from parents, and giving parents opportunities to help us achieve our school's mission.

To clarify, Summit maintains zero objections to a parent serving on the Board. We merely ask that the appointment of any member to a governing board - whether the member is a parent or otherwise - be made in a thoughtful and deliberate manner with the best interests of students in mind, and in the context of all the other ways we involve parents in school governance.

The Notice points out on p.7 that Summit is the operator of seven distinct schools with multiple different chartering authorities in California, yet "Finding A" does not acknowledge the challenges and implications of reserving parent seats for a particular school on a multi-school

board which draws diverse students from around the State. Summit's entire approach to education is personalized to each student. Rather than relying on one or two parents from over 4,500 families served to represent or speak on behalf of all families, Summit seeks to directly engage with and include every single family. A good recent example of that is when Tahoma recently asked every parent /caregiver to make a personalized decision for how their child will engage in and be graded during distance learning (Virtual School). While most school district boards across the country made centralized, universal decisions (e.g. all students received an A, all students received passing grades, etc.), Summit actually offered every student and parent the personalized choice for how the child would be held accountable and how their experience would be structured. This is literally every single child and parent, working within the program described in our petition, to achieve the educational experience that works best for them. One or two parents cannot be expected to encapsulate or understand all parents' views. Summit successfully implements the program described in the Tahoma charter petition precisely because we incorporate the flexibility to empower every parent as a decisionmaker to meet the needs of students and families even in moments of great uncertainty.

Summit believes it is reasonable to approach parent representation on the Board methodically and thoughtfully, in a way that provides equal access for parents from our schools. We currently have one Board vacancy and we expect the Board to add at least one Director in calendar year 2021. We are committed to notifying all parents of the recruitment process and offering parents the opportunity to nominate themselves, another parent, or someone else who would serve the best interests of our students. This will include, among other things, promoting the opportunity in parent communications through our parent newsletter, which is distributed every two weeks by email to all Summit parents, teachers, and students. Summit plans to begin sharing the Board recruitment in the first newsletter distributed after the February 18, 2021 meeting of the Board of Directors. Each Summit school will also share the newsletter via social media using Facebook and Instagram. Tahoma has so many parents with diverse backgrounds, experience, and knowledge, (including the expertise gained solely from being a parent); we look forward to welcoming one or more parents to join our Board in the future through the existing nomination process or, if parent feedback supports a change, through the reservation of Board seats.

**B. Summit Conducts Board Meetings Transparently in Alignment with Both the Spirit and Letter of the Ralph M. Brown Act, as well as COVID-19 Executive Orders.**

In this portion of the Notice, Summit is surprised and disappointed that SCCOE acknowledges Summit's "technical" compliance with the Brown Act on one hand, but guesses on the other hand that Summit is "perhaps purposely, creating unnecessary obstacles and limited access and transparency in its operations and governance." (Notice, p.8.) This section of the Notice is factually inaccurate and incomplete.

Summit works hard to ensure stakeholders have access to the Board and are engaged and involved in decision making. Even before the adoption of SB 126 in March 2019, Summit held Board meetings with two-way video conferencing at all school sites (from as far south as Summit Tahoma in Santa Clara County to as far north as Summit Tamalpais in Contra Costa County) and the Home Office in San Mateo County. Prior to the COVID-19 pandemic and the

subsequent Executive Orders and county health orders, any member of the public who wished to attend a Board meeting and speak to the Board could do so from the school that their child attends each day in addition to any location that may be more convenient for them such as the school site convenient to their place of work, home, or commute.

At Summit Board meetings, there is one large conference table where members of the public are invited to sit at the same table with Board members and staff. Rather than look at a governing board who sit at a formal dais, attending a Board meeting at the Home Office provides the opportunity to address the Board from equal footing. Further, there are two large-screen televisions in the Board meeting room with Zoom set up with two-way video from each of the Summit school sites. At each site, the video conference is conducted in a conference room or classroom, all of which likewise have a large-screen television and camera. All members of the public have a two-way interaction with the Board at each location. The Board generally makes additional calls for public comment even when the formal submission period for public comments has ended. Summit is committed to ensuring that every member of the public has an opportunity to speak and be heard and have their perspective shared. The Notice does not set out any violation for Summit to cure in terms of physical access, particularly while all local public agency board meetings are being held remotely pursuant to Executive Orders during COVID-19, and will likely continue to be remote for the foreseeable future.

The Notice points out Summit's Board meetings take place during the morning or day, and not the evening. The Notice assumes that morning or daytime meetings are "inconvenient" for parents, but this assumes all or the majority of parents work "9 to 5" jobs. In reality, Summit parents work in a variety of industries — manufacturing, health care, retail, transportation, hospitality, utilities, educational services, and business services to name a few. Many jobs do not adhere to the perceived norm of a "9 to 5" job nor make evening board meetings the most convenient time.

SCCOE's regular board meetings begin at 5:00 p.m. and frequently run well into the late hours of the night and, at times, close to midnight. This occurs despite SCCOE Board Bylaw 9233 (explaining that late night meetings can discourage public participation, can affect the County Board's decision-making ability, and can constitute an unnecessary burden on staff). Recently, on a school night, Summit students, teachers, and parents were afforded one single minute to provide public comment in support of Tahoma. The late hour at which our community was allowed to comment and the short time they had to do so, potentially disrupted work and learning time. This is particularly concerning given the Notice does not acknowledge their attendance or the perspectives they shared with SCCOE on the very issues in the Notice. As context, the State Board of Education meetings begin at 8:30 a.m. and typically end by late afternoon or early evening. The State's largest operator of public schools, the Los Angeles Unified School District, holds its regular board meetings at 1:00 p.m. and special meetings are often at 9:00 a.m. Any and all of these board meeting times are permissible, common, and utilized by various successful school districts and charter schools in good faith. A morning or daytime board meeting is not "inconsistent with the intent and purposes of the Brown Act and Education Code section 47604.1." (Notice, pp. 6, 7.)

Summit is committed to conducting Board meetings and meetings of any other legislative body (i.e. any standing committee) in accordance with the Brown Act, including the stated intent

of that law that actions be taken openly and deliberations be conducted openly. In addition, Summit is committed to conducting meetings that comply with the Education Code. We are committed to using continuous improvement and evidence-based principles, in addition to State law, to ensure our meetings are scheduled in the best interest of our community.

The Notice asserts that the Board has a “limited meeting schedule [that would] make it challenging for the SPS Board to effectively carry out its functions as the charter network’s governing entity...” (Notice, p. 7) without citing to any minimum meeting requirement under the law. Due to the COVID-19 pandemic, Summit experienced an increased demand for meetings and action, and as a result, the Board effectively met as often as was required to complete the work. At the same time, the Board seeks to be efficient, responsive, and fully engaged. The Board recognizes that preparing for and attending Board meetings takes significant amounts of staff time and resources. These are resources that are otherwise devoted to supporting students, families, and schools. In general, the Summit Board has found four regular Board meetings to be the right balance of these policy considerations. Although the Notice recommends that Summit increase the minimum number of regular Board meetings to six per year, the Notice does not seem to acknowledge that Summit’s Board is committed to meeting as often as needed to accomplish the work of the Board. The following table summarizes the number of meetings held in the last four school years and the meetings scheduled in current school year:

<b>School Year</b>	<b>Number of Meetings</b>
2020-21	7 meetings (including regular meetings scheduled to occur on February 18, 2021, April 15, 2021, and June 17, 2021)
2019-20	7 meetings
2018-19	5 meetings
2017-18	4 meetings
2016-17	8 meetings

We appreciate that the Notice seems to acknowledge that scheduling additional regular meetings is not required by law, but rather a recommendation of SCCOE. However, the recommendation does not appear to address a problem to be solved. The Notice does not cite any instance in which the Board was unable to place a public request for Board consideration in front of the Board in a timely manner or any instance in which the Board failed to act in a timely manner on a pressing issue because of the Board schedule. We are committed to using evidence-based principles to drive the frequency and number of Board meetings.

We appreciate SCCOE’s note about ensuring Summit complies with statutory deadlines and ensures that the dates on which Board meetings are held do not adversely impact our students and our schools. We note that for charter schools, other than the 2020-21 school year due to COVID-19, the revised requirements for adoption of the Local Control Accountability Plan Annual Update do not require an additional board meeting. (Education Code section 47606.5.) The Board is able to consider the Annual Update in a timely manner by following the existing Board schedule.

Based on historical attendance, our existing facility accommodates all who wish to attend and the presence of Summit's 8 or more two-way video conference sites throughout the Bay Area ensures public participation. To the best of my recollection, the December 12, 2019 Board meeting has been the only meeting in the 17-year history of Summit in which the meeting room was, unfortunately, unable to accommodate the full number of public participants who wished to enter. Nevertheless, members of the public who wished to attend the meeting were able to participate from other locations listed on the agenda — a conference room steps away from the Board room that was equipped with a two-way videoconference system or Summit Preparatory Charter School (890 Broadway in Redwood City), which is the building next door to the Home Office (780 Broadway in Redwood City) which was also equipped with a two-way video conference system. Several members of the public, including students and parents, cycled in and took seats in the Board room when other members departed—a common practice at public agency board rooms across the state. In addition, several members of the public, including students and parents, provided public comment both through the two-way videoconference system and in person in the Board room.

Without citing to any evidence or source, the Notice says “it was alleged” that Summit’s CEO told stakeholders that more than six members of the public in a Board meeting room “would create an ‘inappropriate environment’ for the Board’s work.” (Notice, p. 8.) This is not the case, nor did the CEO decline to attend the SCCOE meeting “to avoid what she perceives as potential public criticism.” (Notice, p. 10.) That kind of unsubstantiated allegation and conjecture is divisive, and it does not constitute a “fact” or a “finding.” It is not a permissible basis for a notice of substantial governance factor pursuant to Education Code section 47607(e).

We do not deny there have been tough Summit Board meetings, especially in the context of issues like school closure or unionization. However, again, we note how challenging it is that the Notice devotes several pages to a single complaint received in February in the context of a tough school closure decision. That is the only complaint we are aware of in ten years under SCCOE’s authorization. The Notice fails to acknowledge the direct positive comments of our stakeholders provided to the County Board of Education through public comment at its October 21, 2020 meeting and November 18, 2020 meeting or the nearly 40 letters of support to the County Board of Education from Tahoma stakeholders.

Like many organizations in the State, we look forward to the days in which we can all meet in person again. The Governor’s Executive Orders and applicable County health orders currently restrict public gatherings and advise physical distancing to safeguard public health. Due to the COVID-19 pandemic, State and local health guidance will likely preempt any proposed plan to maintain a public gathering space without giving consideration to the number of occupants, physical distance between occupants, and the length of time in which occupants may be present. Summit is committed to continued compliance with State law when we designate the location of our Board meetings. Going forward, we will continue to consider, among other things, attendance projections, health and safety guidelines, and venue availability.

### **C. The Summit Board of Directors Retains Ultimate Legal and Fiduciary Responsibility for Tahoma.**

The Summit Board has not, and will not, delegate unfettered control over Summit's operations to any Summit employee, or any other person or entity. In accordance with the language in the Notice, Summit agrees and affirms that "[w]hile administrators and employees necessarily handle the day-to-day operations of the corporation and SPS-Tahoma, it is the corporation's Board of Directors that [governs] SPS-Tahoma." We agree with SCCOE that the Summit Board retains ultimate legal and fiduciary responsibility for Tahoma.

We also agree that the Summit Board held the ultimate legal and fiduciary responsibility for the final decision to close the Rainier charter school. We regret that Summit's and SCCOE's previous communications, which we understood were focused on what the CEO was or was not entitled to share prior to the Board's final action, did not resolve this issue from SCCOE's end. While the closure of Rainier was difficult for everyone involved, we request SCCOE recognize Tahoma's success and take into account the words of a former Rainier parent who is now a Tahoma parent:

"Yes, we were all saddened and upset that Rainier was disbanded. As students, and parents we still believe in the "Summit Way". Our students are resilient and look forward to much more success at Tahoma. This is only possible with your support. So all I ask is for your commitment and support again. Please consider Summit, and the families of ESUSHD request to continue with this "Great Option" we find in Summit Tahoma." (Letter from Raul V. Perez to County Board of Education, 11/13/2020)

The Board oversees all facets of Summit's organization to ensure each school is aligned with Summit's mission and vision. While I, as CEO, exercise day to day responsibilities to manage the school, I serve at the pleasure of the Board with duties delegated by the Board pursuant to and in accordance with the law, bylaws, and charter.

Summit commits to complying with the law as well as the language in our Bylaws and the Tahoma charter and MOU regarding the Board's delegation of authority. The renewal petition presented for the County Board of Education's approval provides:

The Board may execute any powers delegated by law to it and shall discharge any duty imposed by law upon it and may delegate to an officer or employee of the Charter School any of those duties with the exception of budget approval or revision, approval of the fiscal audits, and the adoption of Board policies. The Board however, retains ultimate responsibility over the performance of those powers or duties so delegated. Such delegation will:

- A. Be in writing,
- B. Specify the entity designated;
- C. Describe in specific terms the authority of the Board of Directors being delegated, any conditions on the delegated authority or its exercise and the beginning and ending dates of the delegation; and



- D. Require an affirmative vote of a majority of Board members.

**D. Board Meeting Locations are Appropriate.**

There is no violation or “finding” in this section of the Notice. Summit’s Board meetings are currently held remotely in accordance with COVID-19 Executive Orders. Prior to COVID-19, Summit only had one board meeting under the new law (SB 126) that went into effect on January 1, 2020 before Governor Newsom issued his Executive Order concerning the pandemic and the Brown Act. That meeting was held in the County where Summit has the most students, with a two-way video conference to all Summit school sites. The Notice acknowledges this was done properly.

Summit will continue to comply with Education Code section 47604.1(c)(4) regarding the location of Board meetings. As of December 11, 2020, the majority of Summit students reside in San Mateo County, the county in which Summit holds Board meetings at our central offices in Redwood City:

County	Number of Students Residing in the County
1. San Mateo	1,217
2. Santa Clara	1,070
3. Contra Costa	1,057

All Summit Board meetings are currently held virtually pursuant to the Governor’s Executive Orders and local health guidance in light of COVID-19. Summit appreciates the reminder of the Board meeting location requirements in Education Code section 47604.1. Summit will remain mindful of our students and their families and where they reside.

**E. The Notice does not Describe any Violation of Conflicts of Interest**

There is no violation or “finding” in this section of the Notice.

Like many charter schools and charter management organizations, Summit and its schools are required to comply with the Corporations Code, the Education Code including the Charter Schools Act, and the Government Code including the Political Reform Act. By citing the Corporations Code provisions in our Bylaws, we certainly do not wish to create the impression that our Bylaws permit an act that would be prohibited under another law.

The Notice flags several portions of the Bylaws that cite the Corporations Code as inconsistent with Government Code section 1090 or the Political Reform Act, and incorrectly assumes that the Bylaws do not require full compliance with conflicts of interest laws. Summit regrets that provisions in our Bylaws which track the statutory language of the Corporations Code section 5211 may, without context, cause a reader to infer that Summit is not obligated to comply with the other conflict of interest provisions referenced in your letter. The Board

amended Bylaws at its December 11, 2020 meeting to make this clarifying change and, hopefully, eliminate such confusion. Summit complies with all of our statutory obligations, even where there are multiple layers of (sometimes inconsistent) statutory obligations. If an act is prohibited under one law and permitted under another law, our decisionmakers understand their duty to comply with the most rigorous applicable law. It is worth noting that all public agencies face this issue at one time or another; one salient example is the way in which public schools must comply with the many layers of (sometimes inconsistent) applicable COVID-19 public health orders and guidance.

We're happy to engage with SCCOE to better convey our understanding of how we operate when there are multiple laws that apply, and some are stricter than others. If the Notice asked us to explain an event that occurred in violation of conflicts of interest principles, we would be more than happy to review the facts and respond. However, the Notice does not suggest that any impermissible actions have occurred. Instead, the Notice asks Summit to cure a hypothetical situation that by all accounts has not occurred — a Board member or staff member engaging in an action that is permitted by the Corporations Code but prohibited under the Government Code or Education Code. A charter renewal cannot be denied based on speculation and hypotheticals.

Summit has had a conflict of interest code in place, and its designated filers have been filing Form 700s under that code. That is the code Summit submitted with the renewal petition. Summit has been engaged in the process of updating the code with the Fair Political Practices Commission ("FPPC"). Summit received preliminary approval of the updated conflict of interest code from FPPC staff on March 4, 2020, enclosed. Summit concluded its comment period for revisions to the proposed Conflict of Interest Code in May 2020. The FPPC notified Summit that it had concluded the FPPC comment period for Summit's proposed Conflict of Interest Code in October 2020. The Board of Directors ratified the FPPC-approved Conflict of Interest Code in December 2020. Following Board approval, Summit submitted all required documentation to the FPPC in December 2020 and is awaiting final certification from the FPPC as the organization's code-reviewing body. In the meantime, members of the Board and Summit staff will continue to adhere to the applicable conflict of interest requirements outlined in the applicable provisions of the Political Reform Act (which is incorporated by reference into the updated Conflict of Interest Code), Government Code, Education Code, and the Corporations Code as well as recognized conflict of interest principles. In addition, the February 2021 Board meeting will include conflict of interest training and Brown Act training.

As to Summit's jurisdiction, this appears to be a Catch-22. The Brown Act does not define "jurisdiction." Unlike school districts, all Summit charter schools including Tahoma must (and do) accept students from anywhere in the State. (Education Code section 47605(e) ["admission to a charter school shall not be determined according to the place of residence of the pupil, or of that pupil's parent or legal guardian, within this state . . . A charter school shall admit all pupils who wish to attend the charter school].") For purposes of its conflict of interest code, Summit does not "claim" a jurisdiction. Summit defers to its code-reviewing body (the FPPC) as to what personal financial interests of its decisionmakers must be reported on Forms 700. Under the FPPC's disclosure categories for multi-county charter schools, designated officials report in accordance with the following FPPC categories:

### CATEGORY 1

Designated Employees assigned to Category 1 must report:

(A) Interests in real property located in whole or in part within a two-mile radius of:

- any school district that has authorized an SPS charter school, or
- any facility utilized by SPS's charter schools, or
- a proposed site for an SPS facility; and

(B) Investments and business positions in business entities, and sources of income (including receipt of gifts, loans, and travel payments) of the type that engage in the purchase or sale of real property or are engaged in building construction or design.

### CATEGORY 2

Designated Employees assigned to Category 2 must report:

Investments and business positions in business entities and sources of income (including receipt of gifts, loans, and travel payments) that are contractors engaged in the performance of work or services, or sources that manufacture, sell, repair, rent or distribute school supplies, books, materials, school furnishings or equipment of the type to be utilized by SPS.

### CATEGORY 3

Designated Employees assigned to Category 3 must report:

Investments and business positions in business entities or sources of income (including receipt of gifts, loans, and travel payments) that are contractors engaged in the performance of work or services, or sources that manufacture, sell, repair, rent or distribute school supplies, books, materials, school furnishings or equipment of the type to be utilized by the Designated Employee's department.

It is unclear what Summit could do to make all of the above laws sync. Summit requires compliance with the jurisdictional requirements of each applicable law. As to the organization's conflict of interest code, we defer to the FPPC as to disclosure categories for designated filers. As to the Brown Act and when it comes to maximizing public input, accessibility, and stakeholder participation, we defer to the Charter Schools Act requirement that a charter school must serve all students, regardless of their residence within the state.

## **III. ADDITIONAL INFORMATION**

In addition to Tahoma's Executive Director and Assistant Director, Summit expects the CEO and at least one senior administrator to attend the January 13, 2020 decision hearing.

Summit also expects to have the support of multiple members of the Summit community, including teachers, parents, and students, at the meeting and through written correspondence. We hope the County Board of Education is receptive to our community's first-hand impressions of the ways in which Summit successfully implements the program presented in Tahoma's renewal petition.

If you have any questions or would like additional information, please do not hesitate to reach out to me directly. We look forward to renewal of the Tahoma charter in partnership with SCCOE.

Sincerely,

*Diane Tavenner*

Diane Tavenner  
Co-Founder and Chief Executive Officer  
Summit Public Schools

cc: Santa Clara County Board of Education  
Mefula Fairley, Director of Charter Schools Department






# Response and Correction Action Plan re SPS Tahoma (12.21.2020)

Final Audit Report

2020-12-21

Created:	2020-12-21
By:	Valeria Torres (vtorres@summitps.org)
Status:	Signed
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## "Response and Correction Action Plan re SPS Tahoma (12.21.2020)" History

-  Document created by Valeria Torres (vtorres@summitps.org)  
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## **AMENDED AND RESTATED BYLAWS**

### **OF**

## **SUMMIT PUBLIC SCHOOLS**

(A California Nonprofit Public Benefit Corporation)

### **ARTICLE I NAME**

Section 1. NAME. The name of this corporation is Summit Public Schools ("Summit Public Schools" or the "Corporation").

### **ARTICLE II**

#### **PRINCIPAL OFFICE OF THE CORPORATION**

Section 1. PRINCIPAL OFFICE OF THE CORPORATION. The principal office for the transaction of the activities and affairs of this Corporation is 780 Broadway, Redwood City, State of California, or at any such location within the State of California as the Board of Directors (the "Board" or the "Board of Directors") shall designate.

The Board of Directors may change the location of the principal office. Any such change of location must be noted by the Secretary on these bylaws opposite this Section; alternatively, this Section may be amended to state the new location.

Section 2. OTHER OFFICES OF THE CORPORATION. The Board of Directors may at any time establish branch or subordinate offices at any place or places where this Corporation is qualified to conduct its activities.

### **ARTICLE III**

#### **GENERAL AND SPECIFIC PURPOSES; LIMITATIONS**

Section 1. GENERAL AND SPECIFIC PURPOSES. The specific purposes of Summit Public Schools are as follows: (1) to train, consult and advise public school teachers and administrators, and to support, operate, and provide administrative and other services to public schools; (2) to manage, operate, guide, direct and promote one or more California public charter schools (each a "Charter School" and, collectively, the "Charter Schools"); and (3) for other charitable educational purposes as may occur from time to time. Also, in the context of these purposes, the Corporation shall not, except to an insubstantial degree, engage in any other activities or exercise of power that do not further the purposes of the Corporation.

The Corporation shall not carry on any other activities not permitted to be carried on by: (a) a corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code; or (b) a

corporation, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code. No substantial part of the activities of the Corporation shall consist of the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of or in opposition to any candidate for public office.

#### **ARTICLE IV**

##### **CONSTRUCTION AND DEFINITIONS**

Section 1. CONSTRUCTION AND DEFINITIONS. Unless the context indicates otherwise, the general provisions, rules of construction, and definitions in the California Nonprofit Public Benefit Corporation Law (California Corporations Code Section 5110 et. seq.) shall govern the construction of these bylaws. Without limiting the generality of the preceding sentence, the masculine gender includes the feminine and neuter, the singular includes the plural, and the plural includes the singular, and the term "person" includes both a legal entity and a natural person.

#### **ARTICLE V**

##### **DEDICATION OF ASSETS**

Section 1. DEDICATION OF ASSETS. This Corporation's assets are irrevocably dedicated to public benefit purposes as authorized by this Board in accordance with these bylaws including, but not limited to, such purposes as set forth in the Charter Schools' charters. No part of the net earnings, properties, or assets of the Corporation, on dissolution or otherwise, shall inure to the benefit of any private person or individual, or to any director or officer of the Corporation. On liquidation or dissolution, all properties and assets remaining after payment, or provision for payment, of all debts and liabilities of the Corporation shall be distributed to a nonprofit fund, foundation, or Corporation that is organized and operated exclusively for charitable purposes and that has established its exempt status under Internal Revenue Code section 501(c)(3).

#### **ARTICLE VI**

##### **CORPORATIONS WITHOUT MEMBERS**

Section 1. CORPORATIONS WITHOUT MEMBERS. This Corporation shall have no voting members within the meaning of the California Nonprofit Public Benefit Corporation Law. The Board of Directors may, in its discretion, admit individuals to one or more classes of nonvoting members; the class or classes shall have such rights and obligations as the Board of Directors finds appropriate.

## **ARTICLE VII**

### **BOARD OF DIRECTORS**

Section 1. GENERAL POWERS. Subject to the provisions and limitations of the California Nonprofit Public Benefit Corporation Law and any other applicable laws, and subject to any limitations of the articles of incorporation or bylaws, the Corporation's activities and affairs shall be managed, and all corporate powers shall be exercised, by or under the direction of the Board of Directors. The Board may delegate the management of the Corporation's activities to any person(s), including, but not limited to, the President (defined herein) and/or any management company or committees, however composed; provided, however, that the activities and affairs of the Corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the Board.

Section 2. SPECIFIC POWERS. Without prejudice to the general powers set forth in Section 1 of this Article VII, but subject to the same limitations, the Board of Directors shall have the power to:

a. Appoint and remove, at the pleasure of the Board of Directors, all corporate officers, agents, and employees; prescribe powers and duties for them as are consistent with the law, the articles of incorporation, and these bylaws; fix their compensation; and require from them security for faithful service.

b. Change the principal office or the principal business office in California from one location to another; cause the Corporation to be qualified to conduct its activities in or from any other state, territory, dependency, or country; conduct its activities in or outside California; and designate any place in California for holding any meeting of members.

c. Borrow money and incur indebtedness on the Corporation's behalf and cause to be executed and delivered for the Corporation's purposes, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, and other evidences of debt and securities.

d. Adopt and use a corporate seal; prescribe the forms of membership certificates; and alter the forms of the seal and certificates.

Section 3. DESIGNATED DIRECTORS AND TERMS. The number of directors shall be no less than three (3) and no more than fifteen (15), unless changed by amendments to these bylaws. All directors shall be designated by the existing Board of Directors. All directors are to be designated at the Corporation's annual meeting of the Board of Directors.

Section 4. RESERVED.



Section 5. DIRECTORS' TERM. Except for the initial Board of Directors, each director shall hold office unless otherwise removed from office in accordance with these bylaws for three (3) fiscal year(s) (defined herein) and until a successor director has been designated and qualified.

Section 6. NOMINATIONS BY COMMITTEE. The Chairman of the Board of Directors or, if none, the President may either (a) appoint a committee to designate qualified candidates for election to the Board of Directors at least thirty (30) days before the date of any election of directors, or (b) delegate these duties to the Governance Committee, if any, (each, a "Nominating Committee"). The Nominating Committee shall make its report to the Board of Directors at least seven (7) days before the date of the election or at such other time as the Board of Directors may set, and the Secretary shall forward to each Board member, with the notice of meeting required by these bylaws, a list of all candidates nominated by committee.

Section 7. USE OF CORPORATE FUNDS TO SUPPORT NOMINEE. If more people have been nominated for director than can be elected, no Corporation funds may be expended to support a nominee without the Board's authorization.

Section 8. EVENTS CAUSING VACANCIES ON BOARD. A vacancy or vacancies on the Board of Directors shall occur in the event of: (a) the death, resignation, or removal of any director; (b) the declaration by resolution of the Board of Directors of a vacancy in the office of a director who has been convicted of a felony, declared of unsound mind by a final order of court, or been found by final order or judgment of any court to have breached a duty under Article 3 of Chapter 2 of the California Nonprofit Public Benefit Corporation Law; (c) the increase of the authorized number of directors; or (d) the failure of the directors, at any meeting of directors at which any director or directors are to be elected, to elect the number of directors required to be elected at such meeting.

Section 9. RESIGNATION OF DIRECTORS. Except as provided below, any director may resign by giving written notice to the Chairman of the Board, if any, or to the President, or the Secretary, or to the Board. The resignation shall be effective when the notice is given unless the notice specifies a later time for the resignation to become effective. If a director's resignation is effective at a later time, the Board of Directors may elect a successor to take office as of the date when the resignation becomes effective.

Section 10. DIRECTOR MAY NOT RESIGN IF NO DIRECTOR REMAINS.

Except on notice to the California Attorney General, no director may resign if the Corporation would be left without a duly elected director or directors.

Section 11. REMOVAL OF DIRECTORS. Any director may be removed, with or without cause, by the vote of the majority of the directors of the entire Board of Directors at a special meeting called for that purpose, or at a regular meeting, provided that notice of that meeting and of the removal questions are given in compliance with the provisions of the Brown Act (defined herein). Any vacancy caused by the removal of a director shall be filled as provided in Section 12 of this Article VII.

Section 12. VACANCIES FILLED BY BOARD. Vacancies on the Board of Directors may be filled by approval of the Board of Directors or, if the number of directors then in office is less than a quorum, by (1) the unanimous written consent of the directors then in office, (2) the affirmative vote of a majority of the directors then in office at a meeting held pursuant to notice or waivers of notice complying with the Nonprofit Public Benefit Corporation Law, or (3) a sole remaining director.

Section 13. NO VACANCY ON REDUCTION OF NUMBER OF DIRECTORS. Any reduction of the authorized number of directors or any amendment reducing the number of classes of directors shall not result in any director being removed prior to the expiration of such director's term of office.

Section 14. PLACE OF BOARD OF DIRECTORS MEETINGS. Meetings shall be held at the principal office of the Corporation and at such other locations permitted by the Brown Act. The Board of Directors may designate that a meeting be held at any place within California that has been designated by resolution of the Board of Directors or in the notice of the meeting and is permitted by the Brown Act. All meetings of the Board of Directors shall be called, held and conducted in accordance with the terms and provisions of the Brown Act as said chapter may be modified by subsequent legislation.

Section 15. MEETINGS; ANNUAL MEETINGS. All meetings of the Board of Directors and its committees shall be called, noticed, and held in compliance with the provisions of Ralph M. Brown Act, Government Code Section 54950 et. seq., (as amended, from time to time, the "Brown Act").

The Board of Directors shall meet annually for the purpose of organization, appointment of officers, and the transaction of such other business as may properly be brought before the meeting. This meeting shall be held at a time, date, and place as may be specified and noticed by resolution of the Board of Directors.

A member of the public shall not be required, as a condition to attendance at a meeting of the Board of Directors, to register their name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to their attendance.

Section 16. REGULAR MEETINGS. Regular meetings of the Board of Directors, including annual meetings, shall be held at such times and places as may

from time to time be fixed by the Board of Directors in accordance with these bylaws and the Brown Act. The Board of Directors, or its designee shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting at least 72 hours before a regular meeting or as otherwise provided by the Brown Act.

Section 17. SPECIAL MEETINGS. Special meetings of the Board of Directors for any purpose may be called at any time by the Chairman of the Board of Directors, if there is such an officer, or the President, or the Secretary, or any two directors. The party calling a special meeting shall determine the place, date, and time thereof.

Section 18. NOTICE OF SPECIAL MEETINGS. In accordance with the Brown Act, special meetings of the Board of Directors may be held only after twenty-four (24) hours' notice is given to each director and to the public through the posting of an agenda. Pursuant to the Brown Act, the Board of Directors shall adhere to the following notice requirements for special meetings:

a. Any such notice shall be addressed or delivered to each director at the director's address as it is shown on the records of the Corporation, or as may have been given to the Corporation by the director for purposes of notice, or, if an address is not shown on the Corporation's records or is not readily ascertainable, at the place at which the meetings of the Board of Directors are regularly held.

b. Notice by mail shall be deemed received at the time a properly addressed written notice is deposited in the United States mail, postage prepaid. Any other written notice shall be deemed received at the time it is personally delivered to the recipient or is delivered to a common carrier for transmission, or is actually transmitted by the person giving the notice by electronic means to the recipient. Oral notice shall be deemed received at the time it is communicated, in person or by telephone or wireless, to the recipient or to a person at the office of the recipient whom the person giving the notice has reason to believe will promptly communicate it to the receiver.

c. The notice of special meeting shall state the time of the meeting, and the place if the place is other than the principal office of the Corporation, and the general nature of the business proposed to be transacted at the meeting. No business, other than the business the general nature of which was set forth in the notice of the meeting, may be transacted at a special meeting.

Section 19. QUORUM. A majority of the voting directors then in office shall constitute a quorum. If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be a decision of the Board of Directors. Should there be fewer than a majority of the directors present at any meeting, the meeting shall be adjourned. Voting directors may not vote by proxy.

Section 20. TELECONFERENCE MEETINGS. Notwithstanding any other provision of law, the Board of Directors may use teleconferencing for the benefit of the public and the Board of Directors in connection with any meeting or proceeding authorized by law. Teleconferencing, as authorized by the Brown Act, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the Board of Directors. Members of the Board of Directors may participate in teleconference meetings so long as all of the following requirements in the Brown Act are complied with:

- a. During the teleconference, at least a quorum of the members of the Board of Directors shall participate in the teleconference meeting from locations within the boundaries of the territory over which the local agency exercises subject matter jurisdiction.
- b. All votes taken during a teleconference meeting shall be by roll call.
- c. If the Board of Directors elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the Board of Directors.
- d. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public.
- e. Members of the public must be able to hear what is said during the meeting and shall be provided with an opportunity to address the Board of Directors directly at each teleconference location; and

Section 21. ADJOURNMENT. A majority of the directors present, whether or not a quorum is present, may adjourn any Board of Directors meeting to another time or place. If a meeting is adjourned for more than twenty-four (24) hours, notice of such adjournment to another time or place shall be given, prior to the time schedule for the continuation of the meeting, to the directors who were not present at the time of the adjournment, and to the public in the manner prescribed by any applicable public open meeting law.

Section 22. COMPENSATION AND REIMBURSEMENT. Directors may receive such compensation, if any, for their services as directors or officers, and such reimbursement of expenses, as the Board of Directors may establish by resolution to be just and reasonable as to the Corporation at the time that the resolution is adopted.

Section 23. CREATION AND POWERS OF COMMITTEES. The Board, by resolution adopted by a majority of the directors then in office, may create one or more committees, each consisting of two or more voting directors, to serve at the pleasure of the Board.

Appointments to committees of the Board of Directors shall be by majority vote of the authorized number of directors of the Board of Directors. The Board of Directors may appoint one or more directors as alternate members of any such committee, who may replace any absent member at any meeting. Any such committee shall have all the authority of the Board, to the extent provided in the Board of Directors' resolution, except that no committee may:

- a. Take any final action on any matter that, under the California Nonprofit Public Benefit Corporation Law, also requires approval of the members or approval of a majority of all members;
- b. Fill vacancies on the Board of Directors or any committee of the Board;
- c. Fix compensation of the directors for serving on the Board of Directors or on any committee;
- d. Amend or repeal bylaws or adopt new bylaws;
- e. Amend or repeal any resolution of the Board of Directors that by its express terms is not so amendable or subject to repeal;
- f. Create any other committees of the Board of Directors or appoint the members of committees of the Board;
- g. Expend corporate funds to support a nominee for director if more people have been nominated for director than can be elected; or
- h. Approve any contract or transaction to which the Corporation is a party and in which one or more of its directors has a material financial interest.

Section 25. MEETINGS AND ACTION OF COMMITTEES. Meetings and actions of committees of the Board of Directors shall be governed by, held, and taken under the provisions of these bylaws concerning meetings, other Board of Directors' actions, and the Brown Act, if applicable, except that the time for general meetings of such committees and the calling of special meetings of such committees may be set either by Board of Directors' resolution or, if none, by resolution of the committee. Minutes of each meeting shall be kept and shall be filed with the corporate records. The Board of Directors may adopt rules for the governance of any committee as long as the rules are consistent with these bylaws. If the Board of Directors has not adopted rules, the committee may do so.

Section 26. NON-LIABILITY OF DIRECTORS. No director shall be personally liable for the debts, liabilities, or other obligations of this Corporation.

Section 27. COMPLIANCE WITH LAWS GOVERNING STUDENT RECORDS. The Charter School and the Board of Directors shall comply with all

applicable provisions of the Family Education Rights Privacy Act ("FERPA") as set forth in Title 20 of the United States Code Section 1232g and attendant regulations as they may be amended from time to time.

## **ARTICLE VIII**

### **OFFICERS OF THE CORPORATION**

Section 1. OFFICES HELD. The officers of this Corporation shall be a President, a Secretary, and a Chief Financial Officer. The Corporation, at the Board's direction, may also have a Chairman of the Board, one or more Vice-Presidents, one or more assistant secretaries, one or more assistant treasurers, and such other officers as may be appointed under Article VIII, Section 4, of these bylaws. The officers in addition to the corporate duties set forth in this Article VIII shall also have administrative duties as set forth in any applicable contract for employment or job specification.

Section 2. DUPLICATION OF OFFICE HOLDERS. Any number of offices may be held by the same person, except that neither the Secretary nor the Chief Financial Officer may serve concurrently as either the President or the Chairman of the Board.

Section 3. ELECTION OF OFFICERS. The officers of this Corporation shall be chosen annually by the Board of Directors and shall serve at the pleasure of the Board, subject to the rights of any officer under any employment contract.

Section 4. APPOINTMENT OF OTHER OFFICERS. The Board of Directors may appoint and authorize the Chairman of the Board, the President, or another officer to appoint any other officers that the Corporation may require. Each appointed officer shall have the title and authority, hold office for the period, and perform the duties specified in the bylaws or established by the Board.

Section 5. REMOVAL OF OFFICERS. Without prejudice to the rights of any officer under an employment contract, the Board of Directors may remove any officer with or without cause. An officer who was not chosen by the Board of Directors may be removed by any other officer on whom the Board of Directors confers the power of removal.

Section 6. RESIGNATION OF OFFICERS. Any officer may resign at any time by giving written notice to the Board. The resignation shall take effect on the date the notice is received or at any later time specified in the notice. Unless otherwise specified in the notice, the resignation need not be accepted to be effective. Any resignation shall be without prejudice to any rights of the Corporation under any contract to which the officer is a party.

Section 7. VACANCIES IN OFFICE. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the

manner prescribed in these bylaws for normal appointment to that office, provided, however, that vacancies need not be filled on an annual basis.

Section 8. CHAIRMAN OF THE BOARD. If a Chairman of the Board of Directors is elected, he or she shall preside at the Board of Directors' meetings and shall exercise and perform such other powers and duties as the Board of Directors may assign from time to time. If there is no President, the Chairman of the Board of Directors shall also be the chief executive officer and shall have the powers and duties of the President of the Corporation set forth in these bylaws. If a Chairman of the Board of Directors is elected, there shall also be a Vice-Chairman of the Board of Directors. In the absence of the Chairman, the Vice-Chairman shall preside at Board of Directors meetings and shall exercise and perform such other powers and duties as the Board of Directors may assign from time to time.

Section 9. PRESIDENT. Subject to such supervisory powers as the Board of Directors may give to the Chairman of the Board, if any, and subject to the control of the Board, and subject to the contract of employment of the President (the "President"), the President shall be the general manager and chief executive officer of the Corporation. The President shall, among other things, supervise, direct, and control the Corporation's activities, affairs, and officers as fully described in any applicable employment contract, agreement, job specification, resolution, or delegation of authority. The President shall preside at all Board of Directors' meetings. The President shall have such other powers and duties as the Board of Directors or the bylaws may require.

Section 10. VICE-PRESIDENTS. If the President is absent or disabled, the Vice-Presidents, if any, in order of their rank as fixed by the Board, or, if not ranked, a Vice-President designated by the Board, shall perform all duties of the President. When so acting, a Vice-President shall have all powers of and be subject to all restrictions on the President. The Vice-Presidents shall have such other powers and perform such other duties as the Board of Directors or the bylaws may require.

Section 11. SECRETARY. The Secretary shall keep or cause to be kept, at the Corporation's principal office or such other place as the Board of Directors may direct, a book of minutes of all meetings, proceedings, and actions of the Board and of committees of the Board. The minutes of meetings shall include the time and place that the meeting was held; whether the meeting was annual, regular, special, or emergency and, if special or emergency, how authorized; the notice given; and the names of the directors present at Board of Directors and committee meetings.

The Secretary shall keep or cause to be kept, at the principal California office, a copy of the articles of incorporation and bylaws, as amended to date.

The Secretary shall give, or cause to be given, notice of all meetings of the Board and of committees of the Board of Directors that these bylaws require to be given. The Secretary shall keep the corporate seal, if any, in safe custody and shall

have such other powers and perform such other duties as the Board of Directors or the bylaws may require.

Section 12. CHIEF FINANCIAL OFFICER. The Chief Financial Officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and accounts of the Corporation's properties and transactions. The Chief Financial Officer shall send or cause to be given to directors such financial statements and reports as are required to be given by law, by these bylaws, or by the Board. The books of account shall be open to inspection by any director at all reasonable times.

The Chief Financial Officer shall (a) deposit, or cause to be deposited, all money and other valuables in the name and to the credit of the Corporation with such depositories as the Board of Directors may designate; (b) disburse the Corporation's funds as the Board of Directors may order; (c) render to the President, Chairman of the Board, if any, and the Board, when requested, an account of all transactions as Chief Financial Officer and of the financial condition of the Corporation; and (d) have such other powers and perform such other duties as the Board, contract, job specification, or the bylaws may require.

If required by the Board, the Chief Financial Officer shall give the Corporation a bond in the amount and with the surety or sureties specified by the Board of Directors for faithful performance of the duties of the office and for restoration to the Corporation of all of its books, papers, vouchers, money, and other property of every kind in the possession or under the control of the Chief Financial Officer on his or her death, resignation, retirement, or removal from office.

## **ARTICLE IX**

### **CONTRACTS WITH DIRECTORS**

Section 1. CONTRACTS WITH DIRECTORS. The Corporation shall not enter into a contract or transaction with a director that violates any provision of the Nonprofit Public Benefit Corporation Law or any provision of the Government Code applicable to the Corporation, including, but not limited to, the Political Reform Act, or constitutes a conflict of interest in violation of the Corporation's conflict of interest code, as amended. The Corporation shall not enter into a contract or transaction in which a director directly or indirectly has a material financial interest (nor any other corporation, firm, association, or other entity in which one or more of this Corporation's directors are directors have a material financial interest) unless such transaction is permitted or required by the laws of the State of California.

This Section does not apply to a transaction that is part of an educational or charitable program of this Corporation if it (a) is approved or authorized by the Corporation in good faith and without unjustified favoritism and (b) results in a



benefit to one or more directors or their families because they are in the class of persons intended to be benefited by the educational or charitable program of this Corporation.

## **ARTICLE X**

### **CONTRACTS WITH NON-DIRECTOR DESIGNATED EMPLOYEES**

Section 1. **CONTRACTS WITH NON-DIRECTOR DESIGNATED EMPLOYEES.** The Corporation shall not enter into a contract or transaction in which a non-director designated employee (e.g., officers and other key decision-making employees) directly or indirectly has a material financial interest that violates any provision of the Nonprofit Public Benefit Corporation Law or any provision of the Government Code applicable to the Corporation, including, but not limited to, the Political Reform Act, or constitutes a conflict of interest in violation of the Corporation's conflict of interest code, as amended.

## **ARTICLE XI**

### **LOANS TO DIRECTORS AND OFFICERS**

Section 1. **LOANS TO DIRECTORS AND OFFICERS.** This Corporation shall not lend any money or property to or guarantee the obligation of any director or officer without the approval of the California Attorney General; provided, however, that the Corporation may advance money to a director or officer of the Corporation for expenses reasonably anticipated to be incurred in the performance of his or her duties if that director or officer would be entitled to reimbursement for such expenses of the Corporation.

## **ARTICLE XII**

### **INDEMNIFICATION**

Section 1. **INDEMNIFICATION.** To the fullest extent permitted by law, this Corporation shall indemnify its directors, officers, employees, and other persons described in Section 5238(a) of the California Nonprofit Public Benefit Law, including persons formerly occupying any such positions, against all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred by them in connection with any "proceeding," as that term is used in that section, and including an action by or in the right of the Corporation by reason of the fact that the person is or was a person described in that section. "Expenses," as used in this bylaw, shall have the same meaning as in that section of the Corporations Code.

On written request to the Board of Directors by any person seeking indemnification under Corporations Code Section 5238(b) or Section 5238(c), the Board of Directors shall promptly decide under Corporations Code Section 5238(e) whether the applicable standard of conduct set forth in Corporations Code Section

5238 (b) or Section 5238 (c) has been met and, if so, the Board of Directors shall authorize indemnification.

### **ARTICLE XIII**

#### **INSURANCE**

Section 1. **INSURANCE.** This Corporation shall have the right to purchase and maintain insurance to the full extent permitted by law on behalf of its directors, officers, employees, and other agents, to cover any liability asserted against or incurred by any director, officer, employee, or agent in such capacity or arising from the director's, officer's, employee's, or agent's status as such.

### **ARTICLE XIV**

#### **MAINTENANCE OF CORPORATE RECORDS**

Section 1. **MAINTENANCE OF CORPORATE RECORDS.** This Corporation shall keep:

- a. Adequate and correct books and records of account;
- b. Written minutes of the proceedings of the Board and committees of the Board; and
- c. Such reports and records as required by law.

### **ARTICLE XV**

#### **INSPECTION RIGHTS**

Section 1. **DIRECTORS' RIGHT TO INSPECT.** Every director shall have the right at any reasonable time to inspect the Corporation's books, records, documents of every kind, physical properties, and the records of each subsidiary as permitted by California and federal law. The inspection may be made in person or by the director's agent or attorney. The right of inspection includes the right to copy and make extracts of documents as permitted by California and federal law. This right to inspect may be circumscribed in instances where the right to inspect conflicts with California or federal law (e.g., restrictions on the release of educational records under FERPA) pertaining to access to books, records, and documents.

Section 2. **ACCOUNTING RECORDS AND MINUTES.** On written demand on the Corporation, any director may inspect, copy, and make extracts of the accounting books and records and the minutes of the proceedings of the Board of Directors and committees of the Board of Directors at any reasonable time for a purpose reasonably related to the director's interest as a director. Any such

inspection and copying may be made in person or by the director's agent or attorney. This right of inspection extends to the records of any subsidiary of the Corporation.

Section 3. MAINTENANCE AND INSPECTION OF ARTICLES AND BYLAWS. This Corporation shall keep at its principal California office the original or a copy of the articles of incorporation and bylaws, as amended to the current date, which shall be open to inspection by the directors at all reasonable times during office hours. If the Corporation has no business office in California, the Secretary shall, on the written request of any director, furnish to that director a copy of the articles of incorporation and bylaws, as amended to the current date.

## ARTICLE XVI

### REQUIRED REPORTS

Section 1. ANNUAL REPORTS. The Board of Directors shall cause an annual report to be sent or reported to itself (the members of the Board of Directors) within 120 days after the end of the Corporation's fiscal year. That report shall contain the following information, in appropriate detail:

- a. The assets and liabilities, including the trust funds, or the Corporation as of the end of the fiscal year;
- b. The principal changes in assets and liabilities, including trust funds;
- c. The Corporation's revenue or receipts, both unrestricted and restricted to particular purposes;
- d. The Corporation's expenses or disbursement for both general and restricted purposes;
- e. Any information required under these bylaws; and
- f. An independent accountant's report or, if none, the certificate of an authorized officer of the Corporation that such statements were prepared without audit from the Corporation's books and records.

Section 2. ANNUAL STATEMENT OF CERTAIN TRANSACTIONS AND INDEMNIFICATIONS. As part of the annual report to all directors, or as a separate document if no annual report is issued, the Corporation shall, within 120 days after the end of the Corporation's fiscal year, annually prepare and mail or deliver to each director and furnish to each director a statement of any transaction or indemnification of the following kind:

- a. Any transaction (i) in which the Corporation, or its parent or subsidiary, was a party, (ii) in which an "interested person" had a direct or indirect material financial interest, and (iii) which involved more than \$50,000 or was one of

several transactions with the same interested person involving, in the aggregate, more than \$50,000. For this purpose, an “interested person” is either:

(1) Any director or officer of the Corporation, its parent, or subsidiary (but mere common directorship shall not be considered such an interest); or

(2) Any holder of more than 10 percent of the voting power of the Corporation, its parent, or its subsidiary. The statement shall include a brief description of the transaction, the names of interested persons involved, their relationship to the Corporation, the nature of their interest, provided that if the transaction was with a partnership in which the interested person is a partner, only the interest of the partnership need be stated.

## **ARTICLE XVII**

### **BYLAW AMENDMENTS**

Section 1. BYLAW AMENDMENTS. The Board of Directors may adopt, amend or repeal any of these Bylaws by an affirmative vote of two-thirds of the directors present at a meeting duly held at which a quorum is present, except that no amendment shall change any provisions of any of the charters of the Charter Schools operated by the Corporation or make any provisions of these Bylaws inconsistent with those charters, the Corporation’s Articles of Incorporation, or any laws.

## **ARTICLE XVIII**

### **FISCAL YEAR**

Section 1. FISCAL YEAR OF THE CORPORATION. The fiscal year (the “Fiscal Year”) of the Corporation shall begin on July 1 of each calendar year and end on June 30 of the subsequent calendar year.

### CERTIFICATE OF SECRETARY

I certify that I am the duly elected and acting Secretary of Summit Public Schools, a California nonprofit public benefit corporation; that these bylaws, consisting of 16 pages, are the bylaws of this Corporation as adopted by the Board of Directors on December 11, 2020; and that these bylaws have not been amended or modified since that date.

Executed on December 11, 2020 at Redwood City, California.

Blake Warner  
Blake Warner (Dec 21, 2020 08:24 MST)

Blake Warner, Secretary






# Amended and Restated Bylaws - Summit Public Schools (2020) (1) (1)

Final Audit Report

2020-12-21

Created:	2020-12-21
By:	Valeria Torres (vtorres@summitps.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAAtLRGuP8nVAPv__56k4RmtusNuJ12iQ5I

## "Amended and Restated Bylaws - Summit Public Schools (2020) (1) (1)" History

-  Document created by Valeria Torres (vtorres@summitps.org)  
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## BOARD MEMO

SUMMIT PUBLIC SCHOOLS BOARD MEETING  
December 11, 2020



## Recommended Action to Ratify Conflict of Interest Code for Summit Public Schools

### Mission

To prepare a diverse student population for success in a four-year college or university and to be thoughtful, contributing members of society. We leverage our work to have a broader impact on public education in America.

### REQUESTED ACTION

This is an item for action. Staff recommends the Board of Directors ratify the Conflict of Interest Code for Summit Public Schools, which has been approved in form and substance by the Fair Political Practices Commission (the “FPPC”).

### BACKGROUND / HISTORY

The Political Reform Act of 1974, as amended requires local agencies, such as Summit Public Schools, to have a conflict of interest code that identifies all officials, employees, and agents who make or participate in making governmental decisions. As a multi-county agency, the FPPC serves as the code-reviewing body for Summit Public Schools.

Summit Public School's existing Conflict of Interest Code was drafted based on, among other things, a format in which statutory and regulatory language (e.g. reporting requirements and deadlines, designated employees, protocols for disqualification due to actual and apparent conflicts of interest, etc.) were restated in the body of the Conflict of Interest Code. In order to update the Conflict of Interest Code to current statutory and regulatory requirements, Summit staff conferred with outside counsel and FPPC staff, including representatives of FPPC's Legal Division. In order to develop the list of designated positions and disclosure categories set forth in the attached Conflict of Interest Code, Summit staff, outside counsel, and FPPC staff reviewed job descriptions and Summit's policies and procedures. In October 2020, the FPPC informed Summit Public Schools that the notice period for the updated Conflict of Interest Code had concluded.

The attached Conflict of Interest Code includes, pursuant to the requirements and regulations of the FPPC:

- **Incorporation Page:** The incorporation page references Regulation 18730, which, among other things, provides rules for disqualification procedures, reporting financial interests, and lists the current gift limit.

## BOARD MEMO

- **List of Designated Positions:** The list of designated positions sets forth all agency positions that involve making or participation in making decisions that “may foreseeably have a material effect on any financial interest.”
- **Disclosure Categories:** Each disclosure category sets forth a description of the types of financial interests officials must disclose on their Form 700: Statement of Financial Interest.

## ATTACHMENTS

- [Conflict of Interest Code](#)



## SUMMIT PUBLIC SCHOOLS CONFLICT OF INTEREST CODE

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 California Code of Regulations Section 18730) that contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices, designating positions and establishing disclosure categories, shall constitute the conflict of interest code of the **Summit Public Schools ("SPS")**.

Individuals holding designated positions shall file their statements of economic interests with **SPS**, which will make the statements available for public inspection and reproduction. (Gov. Code Sec. 81008.) All statements will be retained by **SPS**.

## APPENDIX A

### DESIGNATED EMPLOYEES

<u>Designated Employees</u>	<u>Disclosure Category</u>
Members of the Governing Board	1, 2
Superintendent	1, 2
Head(s) of Schools	1, 2
Executive Director(s)	1,2
Assistant Director(s)	1, 2
Senior Director of Facilities	1, 2
Chief Operating Officer	2
Chief Program Officer	2
Senior Director of Talent	2
Director of Human Resources	2
Controller	2
Dean of Operations	2
Chief Academic Officer	3
Chief Technology Officer	3
Chief External Officer	3
Chief Information Officer	3
Consultants/New Positions	*

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\* Consultants/New Positions shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation:

The SPS Chief Executive Officer may determine in writing that a particular consultant or new position, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant’s or new position’s duties and, based upon that description, a statement of the extent of disclosure requirements. The Chief Executive Officer’s determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code (Government Code Section 81008).

**Public Officials Who Manage Public Investments:**

The following positions are not covered by the conflict of interest code because they must file a statement of economic interests pursuant to Government Code Section 87200 and, therefore, are listed for informational purposes only:

Chief Financial Officer

Chief Executive Officer

An individual holding one of the above listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by Government Code Section 87200.

## APPENDIX B

### DISCLOSURE CATEGORIES

#### **CATEGORY 1**

Designated Employees assigned to Category 1 ***must report***:

- (A) Interests in real property located in whole or in part within a two-mile radius of:
  - any school district that has authorized an SPS charter school, or
  - any facility utilized by SPS's charter schools, or
  - a proposed site for an SPS facility; and
- (B) Investments and business positions in business entities, and sources of income (including receipt of gifts, loans, and travel payments) of the type that engage in the purchase or sale of real property or are engaged in building construction or design.

#### **CATEGORY 2**

Designated Employees assigned to Category 2 ***must report***:

Investments and business positions in business entities and sources of income (including receipt of gifts, loans, and travel payments) that are contractors engaged in the performance of work or services, or sources that manufacture, sell, repair, rent or distribute school supplies, books, materials, school furnishings or equipment of the type to be utilized by SPS.

#### **CATEGORY 3**

Designated Employees assigned to Category 3 ***must report***:

Investments and business positions in business entities or sources of income (including receipt of gifts, loans, and travel payments) that are contractors engaged in the performance of work or services, or sources that manufacture, sell, repair, rent or distribute school supplies, books, materials, school furnishings or equipment of the type to be utilized by the Designated Employee's department.

## BOARD MEMO

SUMMIT PUBLIC SCHOOLS BOARD MEETING  
December 11, 2020



## Student Residence Update

### Mission

To prepare a diverse student population for success in a four-year college or university and to be thoughtful, contributing members of society. We leverage our work to have a broader impact on public education in America.

### REQUESTED ACTION

This is an item for information.

### BACKGROUND / HISTORY

The Education Code, as amended and updated by Senate Bill 126 (2019), mandates that “[f]or the governing body of an entity that manages two or more charter schools that are not located in the same county, the governing body of the entity managing the charter schools shall meet within the physical boundaries of the county in which the greatest number of pupils enrolled in those charter schools managed by that entity reside.” (Ed. Code Section 47604.1(b)(4)(A))

Based on staff review of student residence information, the county in which the greatest number of pupils enrolled in Summit Public Schools is San Mateo County.

For your reference, the following list presents the three counties in which the greatest number of students reside and the reported number of students therein:

County	Number of Students <sup>(1)</sup>
1. San Mateo	1,217
2. Santa Clara	1,070
3. Contra Costa	1,057

<sup>(1)</sup> The total number of students that reside in a county may not equal the total number of students enrolled in the schools located in such county.

**RESOLUTION CONDITIONALLY APPROVING THE CHARTER RENEWAL FOR  
SUMMIT PUBLIC SCHOOLS: TAHOMA CHARTER SCHOOL, AND,  
ALTERNATIVELY, MAKING WRITTEN FACTUAL FINDINGS SUPPORTING  
DENIAL AND DENYING THE SUMMIT PUBLIC SCHOOLS: TAHOMA CHARTER  
SCHOOL CHARTER RENEWAL IF THE CONDITIONS ARE NOT MET**

**SANTA CLARA COUNTY BOARD OF EDUCATION  
RESOLUTION NO. [REDACTED]**

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 Sections 47605, 47607, and 47607.2, on October 1, 2020, petitioners for the Summit Public Schools: Tahoma Charter School (“SPS: Tahoma” or “Charter School”) presented to the Santa Clara County Office of Education (hereinafter “County Office of Education” or “SCCOE”) a charter (“Charter”) to renew a Santa Clara County Board of Education (“County Board”) authorized, district appeal charter school, to be governed by Summit Public Schools, Inc. (“SPS”). SPS: Tahoma and SPS are referred to herein collectively and interchangeably as “Charter School”; and

WHEREAS, in accordance with Education Code Sections 47605, 47607, and 47607.2, the County Board held a public hearing on the provisions of the renewal Charter on October 21, 2020, at which time the County Board considered the level of support for the Charter by teachers, parents or guardians, and the school district where the Charter School facilities are located; and

WHEREAS, SCCOE and Charter School agreed to an extension through and including January 13, 2021, for County Board action on the renewal request; and

WHEREAS, pursuant to the California Department of Education’s (“CDE”) list of Charter School Performance Categories, determined in accordance with Education Code Sections 47607(c) and 47607.2(a) and (b), the Charter School is a “middle” performance level charter school and shall be considered for renewal in accordance with Education Code Section 47607.2(b); and

WHEREAS, the County Board has considered the Charter School’s Dashboard, measurable increases in academic achievement, and postsecondary outcomes in accordance with Education Code Section 47607.2(b); and

WHEREAS, with the addition of and in compliance with the conditions specified herein, giving greater weight to academic achievement measures for all groups of pupils and considering increases in academic achievement and post-secondary outcomes, the Charter School’s achievement data is consistent with renewal; and

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

WHEREAS, the County Office of Education, SPS: Tahoma, and SPS have developed a Memorandum of Understanding (MOU), which was signed by SPS/SPS: Tahoma on December 27, 2020, outlining agreements among the SCCOE, SPS and SPS: Tahoma and governing their respective fiscal, operational, and administrative responsibilities, their legal relationship, and other matters not otherwise addressed or resolved by the terms of the renewal Charter; and

WHEREAS, Education Code Section 47607(e) authorizes a chartering authority, in addition to the other bases for denial of a charter renewal set forth under Education Code Sections 47605, 47607, and 47607.2, to deny a renewal upon a finding that the charter school is demonstrably unlikely to successfully implement the program set forth in the petition due to substantial fiscal or governance factors, or is not serving all pupils who wish to attend. To deny on this basis, a chartering authority must first provide the charter school with at least 30 days' notice of the violation(s) and a reasonable opportunity to cure the violation(s), and may only deny renewal on this basis by making either a finding that the corrective action plan proposed by the charter school has been unsuccessful, or the violations are sufficiently severe and pervasive as to render a corrective action plan unviable; and

WHEREAS, the SCCOE Staff ("Staff"), in reviewing the renewal Charter, identified concerns and violations that support a determination that the Charter School is demonstrably unlikely to successfully implement the program set forth in the renewal Petition due to substantial governance factors. On November 19, 2020, SCCOE issued the Charter School a "Notice in Accordance with Education Code Section 47607(e)" ("Notice"), informing Charter School of these concerns and of the reasonable opportunity afforded by Education Code Section 47607(e) for Charter School to correct the concerns, including the submission and implementation of a corrective action plan [the Notice is Exhibit 1 to the written Staff Analysis and Proposed Findings of Fact, dated December 29, 2020, (hereafter collectively "Staff Report, Analysis & Findings," attached hereto as Exhibit "A")]; and

WHEREAS, Charter School submitted its response to the Notice ("Response") on December 21, 2020, (the Response is Exhibit 2 to the Staff Report, Analysis & Findings); and

WHEREAS, Staff's analysis of, response to, and recommendations regarding the Response are set forth in the Staff Report, Analysis & Findings; and

WHEREAS, Staff has reviewed and analyzed the information received with respect to the renewal Charter and information related to the operation and potential effects of the proposed Charter School renewal, and, based on that review, has made a recommendation to the County Board of Education to renew the Charter on the conditions set forth below, and Staff prepared the Staff Report, Analysis & Findings setting forth that recommendation and proposed findings of fact addressing issues in need of remediation or supporting denial; and

WHEREAS, all of the issues and concerns noted in the Staff Report, Analysis & Findings must be remediated in order for renewal of the Charter to be consistent with sound educational practice; 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 Notice, the Response, 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.

NOW, 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, having fully considered and evaluated the SPS: Tahoma renewal Charter, including the performance information and data pursuant to Education Code Section 47607.2, hereby finds that compliance with each of the conditions set forth below is necessary to the sound operation of SPS: Tahoma and that approval of the SPS: Tahoma 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 SPS: Tahoma for a period of five years of school operation, commencing on July 1, 2021, and continuing through and including June 30, 2026. The SPS: Tahoma renewal Charter that the Governing Board is hereby conditionally approving is attached hereto as Exhibit "B." This approval is conditional on SPS: Tahoma complying with all of the following conditions:

1. On or before May 1, 2021, or such later deadline as agreed to in writing by the County Superintendent or designee, SPS, SPS: Tahoma, and the SCCOE shall enter into and execute an Addendum to the 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 SPS: Tahoma, and clarify and provide greater specificity regarding SPS: Tahoma'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 requirements as noted by the County Board. The MOU and Addendum to the MOU shall remain in full force and effect throughout the renewal term of the Charter, which runs through June 30, 2026, unless revised by the parties in accordance with applicable law and provisions of the MOU. Further, the term of the MOU and Addendum to the MOU shall continue in full force and effect beyond June 30, 2026, including during the period of any renewal granted by the County Board or during the pendency of any appeal of a denial of a renewal request, unless and until such time as SCCOE, SPS, and SPS: Tahoma agree that a replacement MOU shall supersede the MOU and Addendum to the MOU or SCCOE, SPS, and SPS: Tahoma specifically agree in writing that the MOU and/or Addendum to the MOU is terminated. The MOU and Addendum to the MOU 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 or the Addendum to the MOU, 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 Addendum to the MOU, the MOU, and the approved Charter, the terms of the Addendum to the MOU shall take precedence over the MOU and the Addendum to the MOU and the MOU terms shall control and prevail and shall be interpreted and deemed to be updates and clarifications to the Charter.

2. On or before May 1, 2021, SPS: Tahoma shall update its Executive Director and Assistant Director position job descriptions to include possession of a valid California teaching credential as a requirement for employment.
3. On or before June 30, 2021, SPS: Tahoma shall go through the statutory process to update its 2021-24 Local Control and Accountability Plan (or such other plan required by State law or CDE) to include how it will address the academic performance of Charter School students, as more fully described in the Staff Report, Analysis & Findings.
4. Within 45 days of execution of the Addendum to the MOU, SPS shall revise its corporate bylaws as necessary to make the bylaws consistent with the MOU and the Addendum to the MOU and provide a copy of the revised bylaws to SCCOE.
5. Within 90 days of execution of the Addendum to the MOU, Charter School shall revise its Student/Parent Handbook, any employee handbook, and any other policies and procedures to ensure consistency with the terms of the renewal, including the Charter, MOU, the Addendum to the MOU, and the law.

BE IT FURTHER RESOLVED AND ORDERED that the Santa Clara County Board of Education finds that if the conditions described above are not satisfied to the satisfaction of the

County Superintendent or designee, approval of the renewal Charter is not consistent with sound educational practice, based upon numerous grounds and factual findings including, but not limited to, the following:

1. The Charter School is demonstrably unlikely to successfully implement the program set forth in the petition due to substantial governance factors, and the corrective action plan proposed by the Charter School has been unsuccessful. [Education Code Section 47607(e)]
2. The Charter School presents an unsound educational program for the pupils to be enrolled in the Charter School. [Education Code Section 47605(c)(1)]
3. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition. [Education Code Section 47605(c)(2)]
4. The Charter does not contain reasonably comprehensive descriptions of all of the required elements. [Education Code Section 47605(c)(5)]

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 Charter School is demonstrably unlikely to successfully implement the program set forth in the petition due to substantial governance factors, and the corrective action plan proposed by the Charter School has been unsuccessful.**

The Notice set forth substantial governance factors that, without correction, establish that the Charter School is demonstrably unlikely to successfully implement the program set forth in the Charter, as detailed in the Notice and the Staff Report, Analysis & Findings. Charter School's Response, including any corrective action plan proposed by the Charter School in response to the Notice, did not sufficiently address and correct the concerns outlined in the Notice, and thus, has been unsuccessful, as set forth in the adopted and incorporated Staff Report, Analysis & Findings.

**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 SPS: Tahoma educational program set forth in the adopted and incorporated Staff Report, Analysis & Findings establishing that the Charter School presents an unsound educational program unless it complies with all of the conditions imposed by the County Board are incorporated herein by this reference. These concerns and deficiencies include, but are not necessarily limited to, the fact that implementation of the program to date has had declines in academic achievement in English Language Arts and Math, specifically including the 28.3 point decline in ELA for all students, the 44.7 point decline for students identified as socioeconomically disadvantaged, the 45.9 point decline for students with disabilities, and the 29 point decline for students identified as Hispanic on the 2019 Dashboard in ELA and the 4.9 point decline in Math for all students, and the 24.3 point decline for students with disabilities in Math for the same period and the need for the Charter School to develop and implement an updated plan on integrated and designated English Language Development (“ELD”) instruction as part of a comprehensive delivery plan designed to overcome language barriers and provide access to the core curriculum.

**3. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.**

Staff have noted a number of issues and concerns with the SPS: Tahoma renewal Charter, as specified in the Staff Report, Analysis & Findings. These concerns include, but are not limited to, the low English Learner progress indicator on the SPS: Tahoma California Dashboard where only 35.4% of English Learners increased at least one level toward English Language Proficiency and to address the 9.6% of English Learners who decreased at least one language proficiency level during the 2018-19 school year; the need for the Charter School to develop and implement an updated plan on integrated and designated ELD instruction as part of a comprehensive delivery plan designed to overcome language barriers and provide access to the core curriculum; the declines in academic performance in both ELA and Math for multiple student groups; and inconsistencies between the renewal Charter and/or its implementing documents and the law and/or best practices for operating a charter school. Without compliance with the conditions specified herein, Charter School would be demonstrably unlikely to successfully implement the program set forth in the renewal Charter as it would be operating in violation of law, best practices, and/or would put at risk the academic achievement of its pupils, including specific student groups.

**4. The petition does not contain reasonably comprehensive descriptions of all the required charter elements:**

The concerns and deficiencies set forth in the adopted and incorporated Staff Report, Analysis & Findings related to the need to provide clarifications and corrections via an Addendum to the MOU to establish reasonably comprehensive descriptions of each of the required charter elements are incorporated herein by this reference. Without compliance with the conditions, the Charter does not include a reasonably comprehensive description of the educational program and measurable student outcomes including but not limited to insofar as it fails to address how the progress concerns for English learners will be addressed. Additionally, without compliance with the conditions, the Charter does not include reasonably comprehensive descriptions of a number of other elements, including but not limited to, its measurable student outcomes; governance structure; employee qualifications, and admissions policies and procedures, as set forth in the adopted and incorporated Staff Report, Analysis & Findings.

BE IT FURTHER RESOLVED AND ORDERED that SPS: Tahoma 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 or conditions should the County Superintendent or designee determine that an extension of the timelines is consistent with sound educational practice. The County Superintendent or designee may also set shorter timelines within that overall time limit for SPS: Tahoma to respond to and/or remediate any particular issue(s) regarding the renewal Charter.

BE IT FURTHER RESOLVED AND ORDERED that should SPS: Tahoma not comply with all of the requirements 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 SPS: Tahoma 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 SPS: Tahoma'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 approval is withdrawn and the renewal Charter is denied 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 13th day of January 2021 by the following vote:

AYE:

NO:

ABSTENTION:

ABSENT:

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Claudia Rossi, President  
Santa Clara County Board of Education

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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 SPS: TAHOMA CHARTER**