

SAN RAFAEL CITY SCHOOL DISTRICT
San Rafael, California

September 26, 2016

STAFF REPORT
Ipsos Charter High School Charter Petition

I. BACKGROUND

Ipsos Charter High School ("Ipsos" or "Charter School") submitted a petition ("Petition") to the San Rafael City School District ("District") to establish a charter school. The Petition was formally received by the San Rafael City School District Board of Education ("Board") on August 8, 2016. Pursuant to Education Code section 47605, subdivision (b), on August 22, 2016, within 30 days of receiving the Petition, the Board held a public hearing on the provisions of the charter, at which time the Board "consider[ed] the level of support for the petition by teachers employed by the district, other employees of the district, and parents." Education Code section 47605, subdivision (b) requires the Board to "either grant or deny the charter within 60 days of the receipt of the petition." The Board must act on whether to grant or deny the Petition during its September 26, 2016 meeting or hold a special board meeting on or before October 7, 2016.

If the District grants the Petition, the Charter School becomes a legal entity. Under Education Code section 47605, subdivision (j)(1), if the District denies the Petition, the Petitioners may appeal the denial to the Marin County Board of Education ("MCBOE"). If the MCBOE grants the Petition, the MCBOE becomes the supervisory agency over the Charter School. If the MCBOE denies the Petition, then Petitioners may appeal to the State Board of Education ("SBE"). (Ed. Code, § 47605, subd. (j)(1).)

II. STANDARD FOR REVIEW OF CHARTER PETITION

Education Code section 47605, subdivision (b), sets forth the following guidelines for governing boards to consider in reviewing charter petitions:

- The chartering authority shall be guided by the intent of the Legislature that charter schools are, and should become, an integral part of the California educational system and that establishment of charter schools should be encouraged.
- A school district governing board shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice.
- The governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings:
 - (1) *The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.*

- (2) *The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.*
- (3) *The petition does not contain the number of signatures required by statute.*
- (4) *The petition does not contain an affirmation of each of the conditions required by statute.*
- (5) *The petition does not contain reasonably comprehensive descriptions of the required elements of a charter petition.*
- (6) *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 Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.*

In addition to the above considerations, the review and analysis of the Petition was also guided by the regulations promulgated by the SBE for the SBE's evaluation of charter petitions (Cal. Code Regs, tit. 5, §11967.5 et seq. ("Regulations").

III. STAFF TEAM REVIEW

The Petition was thoroughly reviewed by a team of District staff members who each reviewed the Petition, or sections thereof, as relevant to their area of expertise. The following individuals comprised the staff review team ("Staff Team"):

- Michael Watenpaugh, Ed.D., Superintendent
- Mayra Perez, Ed.D. - Deputy Superintendent
- Amy Goodwin – Director, Teaching & Learning K-5
- Kevin Kerr - Director, Teaching & Learning 6-12
- Kathy Frye – Director, English Learner Programs
- Sandy Maynard – Chief Technology Officer
- Mike Gardner – Director of Student Support Services
- Amy Baer – Assistant Superintendent, Human Resources
- Dan Zaich, Ed.D. – Senior Director, Capital Facilities Program
- Christina Perrino – Director, Communications
- Terri Ryland – Interim Chief Business Officer

Legal review was performed by outside counsel Dannis Woliver Kelley.

III. RECOMMENDATION

The options before the Board with regard to the Petition are as follows: (1) Approve the Petition; (2) Approve the Petition subject to conditions; or (3) Deny the Petition.

Based upon a comprehensive review and analysis of the Petition by the Staff Team and legal, **DENIAL** of the Petition is recommended.

The recommendation of denial is based on the following conclusions:

- **The Petition fails to provide a reasonably comprehensive description of all required elements of a charter petition [See Findings, Section IV. (A)]; and**
- **The Petitioners are demonstrably unlikely to successfully implement the program presented in the Petition [See Findings, Section IV. (B)].**

Factual findings regarding the most significant areas of concern with the Petition are described below. This Report *does not exhaustively list every concern, error, omission or deficiency in the Petition*, and focuses on those believed to most greatly impact the Board's decision on whether to grant or deny the Petition. Should the Board take action to deny the Petition, it shall adopt this Report as the written factual findings required to support its denial of the Petition.

IV. FINDINGS IN SUPPORT OF DENIAL

Review and analysis of the Petition resulted in the following findings:

A. The Petition Fails to Set Forth Reasonably Comprehensive Descriptions of All Required Charter Elements (Ed. Code, § 47605, subd. (b)(5).)

Education Code section 47605, subdivision (b)(5)(A)-(O), requires a charter petition to include "reasonably comprehensive" descriptions of fifteen elements of the proposed charter school. The Regulations require the "reasonably comprehensive" descriptions required by Education Code section 47605(b)(5) to include, but not be limited to, information that:

- Is substantive and is not, for example, a listing of topics with little elaboration.
- For elements that have multiple aspects, addresses essentially all aspects of the elements, not just selected aspects.
- Is specific to the charter petition being proposed, not to charter schools or charter petitions generally.
- Describes, as applicable among the different elements, how the charter school will:
 - Improve pupil learning.
 - Increase learning opportunities for its pupils, particularly pupils who have been identified as academically low achieving.
 - Provide parents, guardians, and pupils with expanded educational opportunities.
 - Hold itself accountable for measurable, performance-based pupil outcomes.
 - Provide vigorous competition with other public school options available to parents, guardians, and students. (5 C.C.R. § 11967.5.1(g).)

The Petition fails to provide reasonably comprehensive descriptions of the following elements as described below.

Element 1 – Educational Program

Education Code section 47605 ("Statute") and Regulations require a charter petition to contain a reasonably comprehensive description of the educational program of the school, including, but not limited to, a description of the following: the charter school's target student population, including, at a minimum, grade levels; approximate numbers of pupils, and specific educational interests, backgrounds, or challenges; the charter school's mission statement with which all elements and programs of the school are in alignment and which conveys the Petitioners' definition of an educated person in the 21st century; belief of how learning best occurs; goals consistent with enabling pupils to become or remain self-motivated, competent, and lifelong learners; the instructional approach of the charter school; the basic learning environment or environments; the curriculum and teaching methods that will enable the school's students to meet state standards; how the charter school will identify and respond to the needs of pupils who are not achieving at or above expected levels; how the charter school will meet the needs of student with disabilities, English learners, students achieving substantially above or below grade level expectations; and the Charter School's special education plan, to include the means by which the Charter School will comply with the provisions of Education Code section 47641; the process to be used to identify students who may qualify for special education programs and services; how the school will provide or access special education programs and services; the school's understanding of its responsibilities under law for special education pupils; and how the school intends to meet those responsibilities. (Ed. Code, § 47605(b)(5)(A); Regulations, § 11967.5.1(f)(1).)

The Petition does not contain a sufficient description of the Charter School's educational program based on the following findings:

1. Ability to Implement Core Components of Educational Program

The Petition does not comprehensively describe how the Charter School will implement several core components of its educational program. The core components of Ipso's educational program include blended, project-based learning, 1:1 technology, competency based grading, and small learning communities. (Page 17.) In Year One, Ipso School projects a student enrollment of 132 students (Page 9) and will hire four teachers. This equates to a student to teacher ratio of approximately 33:1. This is not a small learning community, and exceeds the District's student to teacher ratio by approximately 13 students per teacher. Furthermore, based on the classroom depiction, it appears 132 students will utilize the same space, three hours per day, for instruction in all core academic subjects. (Page 44.) Thus, the proposed classroom structure is the exact opposite of a small learning community and the Petition fails to explain or address this inconsistency.

Another key feature of the educational program, as promised by the Petition, is the opportunity for students to spend a significant amount of time networking within the community through various internships and mentorships. (Page 8.) To accomplish this goal, Ipso proposes hiring a Community Liaison whose role is to develop community partnerships and to establish and monitor student internships. (Page 128.) However, the position of Community Liaison is not budgeted until Year Three (part-time), calling into question whether Ipso will actually provide students with the internships and experience in

the community that it promises. Additionally, the Community Liaison is a non-credentialed position. With internships being such an important component of the proposed program, the Petition fails to provide sufficient detail regarding the coordination of internships, development of training agreements, student supervision and development of community or business partnerships that would be required to make this component of the program a reality.

2. Curriculum and Course Offerings

a. Physical Education

Other than indicating that all students will have fitness goals within their individualized plans, the Petition lacks any description as to the physical education program it intends to offer to support its students in meeting their fitness goals. Also, the Petition does not adequately describe how the Charter School intends to administer the required California Physical Fitness Test, nor does it provide a plan to support students who are not able to pass the fitness test.

b. Tutorials

The Petition indicates it will hold tutorial sessions during core time and in the afternoon for students who require more intensive instruction to master the content. (Page 72.) While the tutorials are to be created based on data showing student need, the Petition does not explain or address what data will be considered. Further, once a student is identified as in need of the tutorial, the Petition lacks a process to determine whether/how a student will be able to demonstrate they no longer require tutorial based on their academic achievements. (Page 70.) It is also unclear whether tutorial will be provided during the regular school day, after school, or both, making it impossible to tell whether this service has been appropriately accounted for within the Petition's proposed budget.

3. Independent Study/Foreign Language Instruction

The Charter School intends to implement an independent study program "for at least the first few years of the Charter School's operation" in order to provide students with foreign language instruction, which is a graduation requirement for all students. (Page 51.) Other than a general reference to the Charter School complying with all independent study legal requirements, the Petition does not explain in any meaningful way how or why its independent study program would work or coordinate with the proposed instructional model, or that it understands the requirements necessary for its lawful implementation.

Furthermore, the outsourcing of foreign language to an online program would not provide the level of personal or conversational interactions necessary for mastery of a language. The Petition suggests it will use the "BYU" online high school program for foreign language, but there are significant costs per credit unit that are unaccounted for, and therefore, the budget is inadequate to support the use of that program.

4. Professional Development

Implementation of the Petition's proposed educational program, if viable, must be well supported with professional development programs. Other than brief references to an unspecified amount of professional development over the summer and weekly collaboration

opportunities for its teachers, the Petition is lacking a comprehensive description of its professional development program and content. Therefore, it is impossible for staff to determine whether teachers will receive sufficient professional development and whether the amounts budgeted for professional development are adequate to support the planned program.

5. Plan for Serving Academically Low and High Achieving Students

The Petition's plan for serving academically low achieving students is lacking. The Petition's description of Response to Intervention ("RTI") is vague, indicating the Charter School will use an approach "aligned with RTI" (Page 72), but that approach is never adequately described, nor is any reference made to the specific interventions provided within each tier of RTI. Further, there is no description as to how the RTI process will incorporate support from "other community partners as warranted" (Page 73) or be used to identify students with special needs.

With respect to academically high achieving students, the Petition fails to describe a plan for serving this population that is distinct from the plan for serving the rest of its students, other than a vague reference to teacher-provided opportunities for students to apply their knowledge to more challenging situations. (Page 67) There is little reference, let alone a comprehensive description, as to how the Charter School intends to meet the needs of academically high achieving students.

6. Plan for Serving English Language Learners

The Charter School's plan for serving English Language Learners is wholly inadequate, which is of particular concern given Ipso's target student population.

According to the Petition, English learners will receive specific instruction in English Language Development ("ELD") during the second language period in the afternoon. However, the second period of the afternoon is also allocated to students' participation in the Innovate Lab, where they work on student-drive projects; mini-courses, which are electives based on student interest; and student internships. Given the scheduling conflict, it appears English learners will not have the same opportunity as non-English learners to participate in projects, electives, and internships which may be critical to success in high school. More concerning is the description of the ELD program as an add-on course and not integrated throughout the English learner's day, as required by California's standards and framework for serving English learners.

Further, the Petition fails to describe a realistic plan for serving English learners as it does not include the ELD standards within its description of curriculum; does not identify the assessments and other methods for monitoring student progress toward reclassification; does not describe how it will serve English learners at varying stages in the reclassification process; does not provide evidence that research-based materials will be used to teach English learners; and fails to describe the instructional minutes provided in ELD with any specificity. Finally, the Petition fails to describe the Charter School's plan for transitioning from the use of the CELDT to the ELPAC.

7. Plan for Serving Students with Disabilities

The Petition states the Charter School will be a school of the District for purposes of special education, but reserves the right to become an independent local educational agency and join a SELPA. (Page 80.) This change would constitute a fundamental shift in educational program and how eligible students with disabilities would receive services, thereby constituting an impermissible material revision of the Petition that would require Board approval at the time it occurs. In addition, in the event that the Charter School became its own LEA for special education, its staffing would need to change, and no special education staff appear to be budgeted within the proposed first term of the charter.

In terms of substantive content, the majority of the Petition's proposal for serving students with disabilities is boilerplate language and a restatement of the law. It does not instill confidence that Petitioners understand their obligations to students with disabilities under the Individuals with Disabilities Education Act and corresponding state law, the implementation of which can become very complex for charter schools that must coordinate services with the District.

Further highlighting this concern is the Petition's statement that "as often as possible, our special education teacher will push-in to the classes to support students with special needs." This statement assumes all special education student needs are capable of being met within the general education classroom with the support of a special education teacher "as often as possible." This evidences Petitioners' fundamental misunderstanding regarding the requirement to provide a full continuum of alternative services, placements, and supports to meet the needs of eligible students, as well as disregards the obligation of the Charter School to implement a student's individualized education program with fidelity. Secondly, the reference to "our" special education teacher is confusing given the school's plan to be served by District personnel and the fact that no special education teachers are in the school's budget.

In addition to relying on the support of an unbudgeted special education teacher to serve its special needs population, the Petition also references the use of a single paraprofessional to provide additional support. (Page 68.) This plan ignores research-based studies which indicate the provision of individualized instruction through a paraprofessional lacks effectiveness. Further, the Petition lacks a description of the requisite qualifications and experience for its paraprofessional, leaving the District to wonder whether the paraprofessional will be appropriately trained to work with students with special needs. Finally, it is not clear whether paraprofessional support is adequately budgeted.

8. Plan for Serving Other Student Populations

The Petition lacks any discussion or plan for how Ipso School will address some of the unique needs of other student populations within the San Rafael community, including undocumented students, immigrant students/newcomers, and teenage mothers or pregnant teens. Lack of sensitivity or programming for these students groups suggests a lack of preparation for the needs of a population as diverse as San Rafael.

9. Parent Involvement

In order to receive input from the Charter School's families and to better serve its students' needs, the Petition indicates "parent committees" will be formed on topics such as "school culture and academics, fundraising, facilities, and community partnerships." (Page 15.) However, the Petition makes no mention as to how these parent committees will be assembled to ensure equitable representation of all pupils and each subgroup of pupils, including the target student population of socioeconomically disadvantaged students and English learners.

Element 4 – Governance

The Statute and Regulations provide for a charter petition to identify 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. This includes at a minimum (1) evidence of the Charter School's incorporation as a non-profit public benefit corporation; (2) evidence that the organizational and technical designs of the governance structure reflect a seriousness of purpose necessary to ensure that the Charter School will become and remain a viable enterprise; and (3) evidence there will be active and effective representation of interested parties including parents. (Ed. Code § 47605(b)(5)(D); 5 C.C.R. § 11967.5.1.)

Numerous reports recently released in California have called into question the transparency and accountability structures for charter schools and the opportunity for misconduct created by this lack of adherence to standard public agency protocols. The Petition does not contain a sufficient description of the Charter School's governance structure based on the following findings:

1. Inconsistent Provisions Regarding Board Membership

On Page 124, the Petition states that "[n]ominations from parents, staff, and board members will be selected according to Ipso School's bylaws." However, the Bylaws provide only that "[e]ach Board member, except for the representative appointed by the charter authorizer, shall be appointed by an affirmative vote of a majority of trustees then in office." The Bylaws do not describe any nomination process to allow parents and staff to participate in selecting Board members, as it is implied in the Petition. As such, we are concerned that Ipso will not provide parents with the ability to sit on Ipso's Board or any advisory board.

2. Conflict of Interest Provisions

There is no assurance in the Petition, Bylaws, or Conflict of Interest Code that Ipso and its Board of Trustees will comply with the provisions of Government Code section 1090. While such a structure may be permissible pursuant to the rules governing non-profit public benefit corporations, charter schools are publicly funded entities and part of the public school system. The California Legislative Counsel opined in 2015 that charter schools must comply with prohibitions of Government Code Section 1090 in the same way that all public officials in the regular school system do.

While the Petition indicates that Ipso will adhere to the Political Reform Act, the Ipso Board's Bylaws are inconsistent. For example, the Bylaws do not require Board members to file a Form 700 (Statement of Economic Interest) each year.

3. Brown Act Compliance/Meeting Locations

The Ipso Board Bylaws state "The Board may meet at any place ... within the boundaries of the territory over which Ipso Schools exercises jurisdiction." Because charter schools do not have a formal jurisdiction, the Bylaws would allow the Ipso Board to hold its meetings anywhere, potentially inhibiting parent and student attendance and participation in meetings. The Bylaws also allow the Ipso Board to meet via teleconference without apparent physical presence of a quorum at any location that can be pinpointed. There is no principal office of Ipso Schools Corporation described in the Petition, but the California Secretary of State provides a residential address in Mill Valley, California, as the corporate entity address – which presumably is not a suitable place for a public meeting of the Charter School.

In addition, the Petition does not specify whether the members of the Board are local residents; to the extent that more than one or two are not able to be physically present at Board meetings or school events, there is no assurance that interested parties (staff, parents, students, and other community members) will be able to participate in the meeting and decision making process for the school or directly interact with Board members. This would be directly contrary to the legislative intent of the Charter School's Act.

4. Permissive Education Code Provision

On Page 123, the Petition attempts to grant itself the powers of the permissive education code found at Education Code section 35160:

"The Board may initiate and carry on any program or activity or may otherwise act in a manner which is not in conflict with or inconsistent with or preempted by any law and which are not in conflict with this charter of the purposes for which schools are established."

Charter Schools are exempt from the Education Code, which calls into question their ability to simply adopt the permissive code statute to their benefit. The proposed language could be used to justify actions beyond the scope of the charter and the Charter Schools Act, and it would augment the District's ability to provide meaningful oversight.

5. Delegation of Authority

The Petition allows the Board of Directors to delegate authority to the Officers of the corporation in a broad manner. On Page 123, the Petition states, "The Board may execute any powers delegated by law to it . . . and may delegate to an employee of the Charter School any of those duties with the exception of budget approval or revision, approval of the fiscal audit and performance report, and the adoption of Board policies." Under the Petition's current language, the Board could delegate very large decisions to the employees without Board authority. For example, the Petition language could allow the Board to delegate such matters as selling receivables, taking on a loan, purchasing a facility, and handling student discipline. At a minimum, the Petition should require the Board to ratify any actions taken by employees after the delegation of authority.

The Petition also states on Page 124, "The Board will be responsible for hiring, supporting, and evaluating the Executive Director and will set the compensation for the Executive Director." The evaluation of the Executive Director should be the exclusive domain of the Board and not subject to delegation to another employee. The Petition does not reference this duty as one of the non-delegable duties.

By allowing the Board to delegate broad significant powers to Ipso's officers, the Petition demonstrates the Board will not have a serious role in governance of the Charter School.

6. Board Committees

The Petition on Pages 125-126 lists five Board Committees Ipso plans to create. These include the Governance Committee, Finance Committee, Development Committee, Facilities Committee, and Academic Achievement Committee. Due to the breadth of these committees, it appears that the Ipso Board plans to function primarily through its committees. The Bylaws provide that two Board members will be on each committee; however, it is unclear if parents, staff members, and/or students will have an opportunity to participate by attending such meetings or otherwise. The Petition and the Bylaws also do not clarify whether the Ipso Board's Committees will adhere to the Brown Act to ensure transparency and parental involvement.

7. Administrative Staffing

The Petition suggests Ipso will have both an Executive Director and a Principal, with combined salaries of \$212,000. The Petition does not explain or clearly justify the need for two senior administrators for a school with 132 students. As discussed more fully below, we are also concerned that the Petition budgets to pay the Executive Director and the Principal during the 2016-2017 school year, when the Charter School proposes to open during the 2017-2018 school year.

Element 6 – Health and Safety

The Statute requires the Petition to identify the procedures that the Charter School will follow to ensure the health and safety of students and staff. (Ed. Code, § 47605(b)(5)(F).) The Regulations provide the procedures should, at a minimum, require that each employee of the school provide a criminal records summary as described in Education Code section 44237, include the examination of faculty and staff for tuberculosis as described in Education Code section 49406, require immunization of students as a condition of school attendance to the same extent as would apply if the students attended a non-charter public school, and provide for the screening of students' vision and hearing and the screening of students for scoliosis to the same extent as would be required if the students attended a non-charter public school. (Regulations, § 11967.5(f)(6).)

The Petition does not contain a sufficient description of the Charter School's health and safety procedures based on the following findings:

1. Mandated Reporter Training

The Charter on Page 131 states: "All employees will be mandated child abuse reporters and will follow all applicable reporting laws, the same policies and procedures used by the District." While this provision ties the charter to the District policies and procedures, it does

not provide any indication that the Charter School has read the policies or knows what is involved in mandating reporting.

Charter schools have a responsibility beyond ensuring their employees follow policies and procedures. AB 1432 / Education Code section 44691 requires charter schools to “provide annual training ... to their employees and persons working on their behalf who are mandated reporters.” The CDE provides an online module for such training or, alternatively, the school could provide the training itself or hire an outside consultant.

Element 7 – Means to Achieve Racial and Ethnic Balance Comparable to the District
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The Statute and Regulations provide for the charter petition to identify means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted. (Ed. Code, § 47605(b)(5)(G); Regulations, § 11967.5.1(f)(7).)

The Petition does not contain a sufficient description of the means by which the Charter School will achieve a racial and ethnic balance among its pupils that is reflective of the District, based on the following findings:

1. Socioeconomically Disadvantaged Students

The Petition at Page 135 states:

Ipsos School is committed to serving academically low-achieving and economically disadvantaged students. We will aggressively recruit students from our proposed charter school community as part of our mission driven approach to enrolling students who have been traditionally underserved. We understand that those are the families who are disenfranchised and may not look to participate in a school choice process. We will reach out to those families explicitly, and assist them through printing bilingual forms in addition to digital forms, providing individual assistance to complete forms and provide required enrollment materials, and reaching out to families that begin the process but do not follow through.

The Petition provides a “plan” to recruit socioeconomically disadvantaged students; however, there are no concrete actions Ipsos plans to take to contact these students. The Petition only provides what Ipsos will do once it is contacted by a socioeconomically disadvantaged student. For example, the Petition states that Ipsos will provide bilingual forms or reach out to parents that failed to follow through on signing up. Considering 47% of the District’s students are socioeconomically disadvantaged (see Ed Data, *supra*), Ipsos should have a more concrete plan to recruit these students. While Ipsos does provide a more comprehensive plan to recruit the Hispanic population in the area by holding parent meetings and distributing materials in Spanish, the Petition assumes low income students and Hispanic students are the same population, which is not true in the San Rafael City School District.

Element 8 – Admissions Requirements

The Statute and Regulations provide for the charter petition to identify admission requirements that are in compliance with applicable law. (Ed. Code, § 47605(b)(5)(H); Regulations, § 11967.5.1(f)(8).)

The Petition does not contain a sufficient description of the Charter School’s admissions requirements, based on the following findings:

1. Proof of Residency Requirement

The Petition at Page 137 requires students to prove residency by showing a utility bill as part of registration; however, given the impact on per-student funding based on district of residence of each charter student, as well as the potential need for facilities sufficient to house in-District students, a more robust verification process for residency must be established, similar to the process required by the District.

2. Admission Priorities

The Petition on Page 138 provides admission preferences for siblings of enrolled students and children of Ipso teachers, staff, board members, and founding team members before it provides a preference to residents of the District. It is unclear whether these are weighted preferences for the lottery, or exemptions from the lottery altogether. The Education Code allows charter schools to give preferences and requires they hold open, public lotteries when requests for admission exceed available space. The Charter Schools Act explicitly requires that District resident students be given an admission preference, while other preferences are allowed if agreed upon by the authorizer. Students residing within the District must be given a preference above that of siblings of enrolled students and children of employees, pursuant to Education Code section 47605(d)(2)(B). Under the current list of preferences, District residents are far behind other preferences and will unlikely have the opportunity to be considered for enrollment, if there is a waiting list.

Element 10 - Student Suspension and Expulsion Procedures

The Statute and Regulations require the Petition to describe the procedures by which students can be suspended or expelled. (Ed. Code, § 47605(b)(5)(J); 5 C.C.R. § 11967.5(f)(10).)

The Petition does not contain a sufficient description of the procedures by which students can be suspended or expelled, based on the following findings:

1. Revision of Discipline Policies

The Petition on Page 142 states:

This policy shall serve as the Charter School’s policy and procedures for student suspension and expulsion and it may be amended from time to time without the need to amend the charter so long as the amendments comport with legal requirements.

The Petition authorizes Ipso to make changes to its discipline policy without seeking a material revision to the charter. The methods by which students can be disciplined is

fundamental to the program and operations of the school. Education Code section 47605 requires Petitioners to provide a reasonably comprehensive description of the procedures by which pupils can be suspended or expelled. (See, e.g., Ed. Code, § 47605(b)(5)(J).) Any major change to a required element of a charter petition that substantially affects how the proposed Charter School will operate is a material change. (*Id.*)

2. Notification of Discipline Policies

The Petition on Page 142 states:

“The Charter School administration shall ensure that students and their parents/guardians are notified in writing upon enrollment of all discipline policies and procedures. The notice shall state that this Policy and Procedures are available on request at the Principal’s office.”

The Petition should be clear that discipline policies will be provided to parents upon enrollment, rather than only on request of the parent.

3. Expulsions with an Administrative Panel

The Petition provides that the school may expel students with an Administrative Panel rather than the School Board. Page 152 states, “The Administrative Panel should consist of at least three members who are certificated and neither a teacher of the pupil or a member of the Charter School Board of Trustees.”

Ipsos estimates that it will only employ four certificated teachers during its first year of operation. As written, the proposed expulsion policy could not be implemented in the first year, since Ipsos will not employ enough teachers to create an Administrative Panel of at least three members who have not served the student who is up for expulsion. Even if the Executive Director and the Principal serve as panel members, Ipsos would have to obtain an outside certificated person to create a three member panel. Neither the Petition, nor the Budget anticipate how Ipsos will pay and/or recruit such a member, and what qualifications a panel member must have. This should be detailed to ensure expulsions by the Administrative Panel provide students with due process.

4. Discipline for Students with Disabilities

The Petition at Page 159 enumerates the circumstances of which Ipsos will be deemed to have knowledge that a student had a disability, for the purposes of requiring the District to hold a Manifestation Determination Review:

- The parent/guardian has expressed concern in writing, or orally if the parent/guardian does not know how to write or has a disability that prevents a written statement, to Charter School supervisory or administrative personnel, or to one of the child’s teachers, that the student is in need of special education or related services.
- The parent has requested an evaluation of the child.
- The child’s teacher, or other Charter School personnel, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to

the director of special education or to other Charter School supervisory personnel.

The Petition tracks the language of Title 34 of the Code of Federal Regulations at section 300.534, but does not cite the entire regulation, which exempts charter schools from being deemed to have knowledge if the parent of a child to be evaluated has refused an evaluation or services, or the child has been evaluated and determined to not be a child with a disability. Under the current language, a parent could trigger a Manifestation Determination Review simply by requesting that their child be evaluated, even if the child already was evaluated or the parent refused an evaluation in the past.

5. Student Handbook

Ipsos references a Parent Student Handbook throughout the Petition, but no Handbook was included for review. (See Pages 91, 132, and 142.) At Page 142, the Petition states regarding student discipline, "This Policy and its Procedures will be printed and distributed as part of the Student Handbook and will clearly describe discipline expectations." Because no Handbook was provided, the Staff Team was unable to ascertain whether any additional discipline procedures were legally compliant.

Element 15 – Closure Procedures

The Statute and Regulations require the Petition to describe the procedures to be used if the Charter School closes. The procedures shall ensure a final audit of the Charter School to determine the disposition of all assets and liabilities of the Charter School, including plans for disposing of any net assets and for the maintenance and transfer of pupil records. Procedures means, at a minimum: (1) Designation of a responsible entity for closure-related activities; (2) notifications of closure to stakeholders; (3) transfer and maintenance of pupil and personnel records to the proper authorities; (4) completion of an independent audit within six months of closure; (5) disposal of net assets remaining after all liabilities have been paid; (6) filing of any required annual reports; and (7) assuring adequate funding for closure activities. (See Ed. Code, § 47605(b)(5)(O); 5 C.C.R. § 11962.)

The Petition does not contain a sufficient description of the procedures to be used if the Charter School closes, based on the following findings:

1. Responsible Entity for Closure

The Petition does not designate an entity or individual who is responsible for closure-related activities. Title 5 of the California Code of Regulation at section 11962 makes clear that charter petitions must "[d]esignat[e] . . . a responsible entity to conduct closure-related activities." The Petitioners cannot defer delegation of closure-related activities to another time, especially to the time of closure. The Charter Schools Act and its implementing regulations recognize that, to create a charter school, Petitioners must have a plan in the event of school closure to ensure the Charter School's students will efficiently transition into another placement.

B. The Petitioners are Demonstrably Unlikely to Successfully Implement the Program. (Ed. Code, § 47605, subd. (b)(2).)

The Staff Team further recommends that the Petition be denied on the grounds that the Petitioners are demonstrably unlikely to successfully implement the program described in the Petition.

In determining whether Petitioners are demonstrably unlikely to succeed in implementing their educational program, the Regulations require consideration of, among other items:

- Whether the Petitioners have a past unsuccessful history of involvement in charter schools or other education agencies.
- Whether Petitioners are unfamiliar with the content of the Petition or the requirements of law that would apply to the proposed Charter School.
- Whether the petitioners personally have the necessary background in areas critical to the charter school's success or a plan to secure the services of individuals who have the necessary background in these areas.
- Whether Petitioners have presented an unrealistic financial and operational plan for the proposed Charter School, including:
 - An administrative services structure that reflects an understanding of school business practices and expertise to carry out the necessary administrative services, or a reasonable plan and time line to develop and assemble such practices and expertise.
 - The adequacy and reasonableness of the operational budget, start-up costs, and cash flow, and financial projections for the first three years, including reasonable estimates of all anticipated revenues and expenditures necessary to operate the school, including, but not limited to, special education, based, when possible, on historical data from schools or school districts of a similar type, size, and location.
 - A budget that in its totality appears viable and over a period of no less than two years of operations provides for the amassing of a reserve equivalent to that required by law for a school district of similar size to the proposed Charter School.
 - In the area of facilities, a description of the types and potential locations of facilities needed to operate the size and scope of the educational program proposed in the charter, including evidence of the type and projected cost of the facilities that may be available in the location of the proposed Charter School, as well as reasonable costs for the acquisition or leasing of facilities to house the Charter School, taking into account the facilities the Charter School may be allocated under the provisions of Education Code section 47614.

The Petitioners are demonstrably unlikely to succeed in implementing their proposed program, based on the following findings:

1. Level of Community Support

Community reaction to the Ipso Petition has been mixed at best, with significant opposition expressed to its establishment. Whatever the basis for the negative reaction to the Petition, this causes grave concern about Ipso's ability to attract families and students and to be successful over the longer term.

Ipso collected and submitted signatures from approximately 355 families. However, after reviewing the grade levels of students represented by those parents, we counted only about 67¹ who were of an age to attend the school during its first year of operation (those who just finished seventh grade). Nevertheless, the Petition estimates that it will enroll 132 students in Ipso during the first year, and an additional 132 students every year thereafter. With such a small percentage of the potential first year population expressing meaningful interest in attending the school after extensive outreach by the Petitioners, the Staff Team is concerned about the ability to successfully recruit its first year class and to thereafter sustain the level of growth planned. The entire education program, budget, and governance structure of the Petition is based on an enrollment of 132 students each year, and as further described below, there is no room for error.

Furthermore, communications and testimony from the public taken both at the public hearing as well as individual communications and petitions submitted to the District and to Board members, have been overwhelmingly negative, compounding the concern that the San Rafael community is not sufficiently interested in the program to get it off the ground successfully.²

While the Petition provides letters of support for approval, none of them are from parents who are interested in enrolling in Ipso. Additionally, the letters come from organizations seeking to create partnerships with Ipso, not enrolling in the school. For example, two of the letters of support are from private companies seeking to sell curriculum. Another is from the Dominican University of California, which wants to partner with Ipso to allow students to perform research, participate in professional development, and student teach at Ipso. While we recognize the benefits of Ipso partnering with other educational agencies and contracting with curriculum providers, these relationships should not be the foundation of support for authorizing Ipso as a charter school within the District.

2. Instructional Minutes/Days

The Petition at Appendix 4.6 states that Ipso students will receive 65,370 instructional minutes during a school year of 189 days, exceeding the minimum instructional minutes requirement of 64,800 and offering 9 more instructional days than offered by the District. However, the District is unable to re-create Petitioner's calculation of instructional minutes, and instead believes that not only do minutes not exceed the minimum, but they fall short of minimum requirements by 5 minutes per day, which is short of the minimum of 64,800 minutes by 375 minutes per year. This shortfall would result in the Charter School offering only 64,425 minutes per year, even though the Charter School plans to offer 9 more instructional days than the District. For comparison purposes, Terra Linda High School 315 minutes over the minimum, and San Rafael High School offers 555 minutes over the minimum, despite a shorter year.

In addition, the Charter School's plan for early release days does not meet state law instructional minutes requirements as they offer less than the 240 minute minimum, which

¹ / The Petition itself states on Page 15 that there are 313 total signatures representing 73 students "that would be in our first class of ninth graders." However, some entries were unclear, duplicates, illegible, or incomplete, which could account for the difference.

² / A petition was submitted to the Board of Education indicating opposition to Ipso Charter School which, as of September 16, 2016, had been signed by 434 individuals. Public communications to the Board and District in opposition to the Petition far exceed those in favor.

would require 2-day averaging to ensure compliance. Multiple consecutive early release days, such as those shown in the December schedule, would not comply with such rules.

In a classroom-based program, charter schools receive state apportionment funding, in part, based on satisfying this instructional minute requirement and thus the District is concerned that the program as outlined may be compromised in its funding

3. Concerns About the Master Calendar

Appendix 4.3 provides a master calendar for Ipso schools, which is not aligned with the District's calendar. Ipso's calendar should reflect the District's master calendar, to the fullest extent possible, given that families who have children attending District schools as well as the Charter School find it difficult to manage multiple school calendars. Furthermore, the Marin County Office of Education has led an effort to align all Marin County district calendars, in order to better support families with children in multiple schools.

4. Staffing Concerns

a. Overstaffing

Ipso plans to enroll 132 students during its first year of operation. (See Petition at Page 20.) The Budget Narratives attached to the Petition at Appendix 7.1 provide that Ipso will hire four teachers the first year, and it will add four teachers each year thereafter as it adds new grade levels. With four teachers, Ipso plans to have a pupil-to-teacher ratio of 33-to-1. We obtained summary statistical data from Ed Data, a partnership with the California Department of Education, EdSource, and FCMAT, which indicates that the District had an average pupil-to-teacher ratio of 20.4 students for the 2014-2015 school year.³ (See Ed Data – SRCHSD available at <http://www.ed-data.org/district/Marin/San-Rafael-City-High>.) We have concerns about Ipso's ability to provide its education program with such large class sizes.

In the Budget Narratives, Ipso also proposes to have an Executive Director and a Principal during its first year of operation, and it will add a Vice Principal during its fourth year of operation. This would put Ipso at a ratio of 66 students per administrator, while the District has a ratio of 205.7 students per administrator. (*Ibid.*) The Petition does not provide a justification for why Ipso needs two administrators with such a small student body.

b. Teacher Understaffing, Credentialing

Graduation requirements include 130 units of core classes and 100 units of non-core courses; however, it is not clear how the number of FTE teachers planned for the school could support the elective courses. For example, with four core teachers, one credentialed in science (not clear which specific discipline), one in math, one in social sciences and one in English Language Arts, the four core course needs would be covered, but it is not clear when students would take their elective courses or who would teach them, as no other instructors are budgeted. It also is not clear what the four core teachers would be doing when students were taking elective courses. Though the Budget Narratives propose to hire a half-time electives teacher in year two, which increases to a full-time position in year

³ We do not have data for the 2015-2016 school year at this time, but we believe it to be relatively similar.

three, it is unclear whether students will be able to take electives during year one, or whether core teachers will provide elective instruction in year one.

The program appears to rely on recruitment of teachers with multiple single-subject credentials to fill all the schedule needs described in the Petition. Even without teacher shortages that currently exist, teachers with the requisite multiple credentials will be difficult to find. The District also notes that according to the California Commission on Teacher Credentialing, Ipso's proposed Lead Teacher holds only a preliminary, not clear, single subject teaching credential. As a result, the District is not certain that instructional leaders yet have the depth of expertise necessary to start a charter high school.

c. Lack of School Governance Experience for Executive Director

In Appendix 6.1, the Petition provides a job description for the Executive Director. Under "Ideal Qualifications," it states: "Experience or significant training in education strategic planning, staff development, board relations, operations, and financial management." The Petition at Pages 13–14 provides a summary of the experience and/or significant training of the founders, Board members, and key consultants. The summary indicates that the Executive Director does not have experience in public school governance and law. The Petition also indicates that the Executive Director will be provided "significant training" in this area.

d. Learning Coaches

The Petition indicates that a significant amount of learning will take place during "Advisory Period," under the supervision of "Learning Coaches." According to the proposed Sample School Schedule, on every school day, except Wednesday, Ipso students will attend an Advisory Period from 12:15 p.m. to 1:05 p.m. The curriculum for Advisory Period will include:

Support for learning skills around organization, planning, and/or agency.
Students plan weekly afternoon schedule with guidance from their coach [and] ... [d]irect instruction/curriculum for design thinking, project management, etc. to manage and innovate projects.

The Sample Job Descriptions in Appendix 6.1 indicate that Learning Coaches are not required to hold a Commission on Teacher Credentialing Certificate. Staff members in charter schools are required to hold a Commission on Teacher Credentialing Certificate, in the same manner as is required in traditional public schools. (See Ed. Code, § 47605(l).) For state apportionment purposes, charter school teachers of non-core, non-college courses do not need to hold valid certification documents.⁴

⁴ See <http://www.cde.ca.gov/fg/au/ag/teachercredpenalty.asp>. We consulted with legal counsel about credentialing requirements for charter school teachers teaching non-core, non-college courses. It was our counsel's opinion that a Court would disagree with CDE's interpretation of this requirement. Education Code section 47605 subdivision (l) states, "Teachers in charter schools shall hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold." The statute does not limit this requirement to core classes. CDE relies, instead, on the language "[i]t is the intent of the Legislature that charter schools be given flexibility with regard to non-core, non-college preparatory courses" to hold that a credential is not required to teach all non-core classes. The statute does not create such a requirement and, instead, holds charter schools to the same standards as traditional schools. There are many non-core class teaching positions that require a teaching credential.

While not specifically applicable to charter schools, the credentialing provisions for traditional school teachers provides guidance for what types of educating positions are best served by credentialed and properly trained educators. Any employee who is employed in a position in which 50% percent or more of the duties include “the work of instructors in the instructional programs for pupils” or “educational or vocational counseling, guidance, and placement services” must be credentialed. (See Ed. Code, § 44065.)

The curriculum and activities provided by Learning Coaches during the Advisory Period are services that would require a teaching credential, if Ipso were a traditional public school. Learning Coaches are provided considerable responsibility over the education program of Ipso students. For example, they provide direct instruction, tutoring, personalized learning plan development, and vocational counseling. While the law is unclear whether charter schools must provide a credentialed teacher for this position, we are concerned that Ipso should be and will not operate its core instructional program through credentialed teachers with sufficient training.

We are also concerned that Learning Coaches will not be appropriately qualified because the Petition proposes to compensate them \$18 per hour (\$23,800 per year), as opposed to the \$76,000 per year it pays its four teachers. This deficiency in salary for Learning Coaches will unlikely attract quality staff in Marin County, which has a high cost of living.

e. Food Program and Budget

The Petition contains inconsistent terms when it describes how it will provide food services. On Page 137, the Petition states, “Ipso School will contract with an outside agency for its food service needs.” Additionally, on Page 173 of the Petition, it states, “We plan to make arrangements with a meal provider such as Revolution Foods to provide meals to our students.” However, the Budget Narratives indicate that, for two hours each day, “Ipso will use part time food service workers to help with the lunch program and these positions are projected at \$16 per hour.” The language is also inconsistent with the Budget, which projects that it will pay \$50,000 for food service employees, which is far higher than \$16 per hour for two hours a day. (See Budget at Page 4.)

As written, it is currently unclear the division of labor between Ipso and any outside food service vendors. The Petition and Budget Narratives fail to establish whether a food service provider will take care of just the meals, or both the meals and the food preparation services. The Petition also does not indicate whether Ipso will offer breakfast and/or supper services, which lead to further concerns about the budget being inadequate..

The Budget Narratives also provide that the budget for food services assumes a “97% reimbursement rate across all programs.” We are not confident that Ipso will be able to receive a 97% reimbursement rate across all programs. Public educational agencies are reimbursed for the number and types of meals, or pints of milk served, according to the student’s household eligibility for free, reduced-price, or paid meals or milk. As discussed more fully below, we are concerned about Ipso’s outreach to socioeconomically disadvantaged students.

5. Financial Reporting

The Petition provides contradictory dates for when it will provide the District with financial reports. Education Code section 47604.33 contains specific timelines for charter schools to

submit a preliminary budget, LCAP, interim financial report, second interim financial report, and final unaudited report. While the Petition includes language that tracks Section 47604.33, it also provides its own timeline for providing similar reports. (See Page 168.) For example, the Petition states Ipso will provide a "Provisional Budget" the spring prior to the operating fiscal year, but will provide a "preliminary budget" by July 1st. The Petition also fails to define the reports that it proposes to provide the District. For example, the Petition states it will provide a "Classification Report" and a "Statistical Report," yet does not define what said reports contain.

6. Facility Issues

Education Code section 47605(a) requires charter school petitions to identify a single location within its authorizer's boundaries and to identify the facilities to be used by the school. This requires Petitioners to identify an actual school site the school intends to use, and not a wish list of qualifications. While the Petition at Pages 171-172 identifies several factors Ipso desires for its facility, including the approximate square footage, the availability of an outdoor area, and the number of classrooms, office space, and specialty rooms, it does not specifically identify a facility. The Petition also does not provide information or comparables to demonstrate that such a facility can be found in the area and for the amount budgeted.

7. Fiscal Concerns and Deficiencies

a. Charter School Revolving Loan

The Budget Narratives in the Petition state:

"In the unlikely case that the Charter School does not receive the Revolving Loan, the Charter School could sell receivables to finance operations. Ipso has received a commitment letter from Charter Asset Management for \$800,000 in funding and it is attached to the Petition."

Charter Asset Management is a for-profit company that contracts with charter schools to provide state funds early in exchange for high interest rates. While the commitment letter does not provide the interest rate, receivable contracts typically have high interest rates--around 20%. Considering the current budget accounts for an interest rate of 1.5%, the Budget would need to be completely reworked to account for a receivable contract with Charter Asset Management.

b. Budget Deficiencies

The ability of the Charter School to deliver the program promised in the Petition is one of the most critical aspects of determining the likely success of Ipso and its sustainability over the longer term. The Staff Team has determined that Ipso School's proposed budget significantly overstates revenues and under-estimates expenditures as described below, and concludes that as a result, the school could be insolvent starting in its second year of operation.

- The Budget relies on revenues from grants that have not been obtained or promised after the current year. Until receipt of grants in later years is assured, they should not be used in budget projections.

- The budget states that the LCFF funding rate for the District will be used by the Charter School, the budget uses a per-ADA amount that is greater than the District's rate, resulting in a \$100,000 overstatement of revenue.
- Special education encroachment costs were under-budgeted by almost half (budgeted at \$750 per student whereas the actual cost is \$1,600);
- Costs for instructional materials and equipment, including textbooks, instructional supplies, curriculum software and the kind of specialized equipment for the "Innovate Lab" are under-budgeted by about \$55,000 per year on curriculum and instructional equipment.
- As mentioned earlier in the Report, insufficient information about ongoing professional development for teachers was provided in the Petition, making it impossible to verify whether the amounts budgeted (\$3200 per teacher) are sufficient.
- Costs for the BYU foreign language curriculum for years two and four of the proposed program are not in the budget. The budget estimates a cost of \$300 per student for "Educational Software," but does not explain whether this includes the BYU Program. BYU published tuition rates of \$148 for 0.5 units equals a cost of \$2,960 per student for the proposed foreign language program. The budget falls short in this category by a significant \$350,000 per year.

When a budget is prepared based on more realistic assumptions, including reducing revenues for overstated grants and LCFF funding, and increasing expenses to cover instructional materials, special education and tuition for foreign language classes, the District believes that Ipso will be financially insolvent starting in Year 2. Annual deficit spending of \$460,000, \$750,000 and \$715,000 in years two, three and four result in a negative ending fund balance of almost (\$2,000,000) by the end of four years. Even if the potential additional grant funding is obtained, it would be insufficient to meet expenditure and reserve requirements.

V. CONCLUSION

For the reasons stated above, the Petition, as submitted, fails to provide a reasonably comprehensive description of several essential charter elements and suggests that the Petitioners are demonstrably unlikely to successfully implement the program. Accordingly, denial of the Petition is recommended. Should the Board take action to deny the Petition, it should adopt this Report as the written factual findings required to support its denial of the Petition.