

# **BERKELEY UNIFIED SCHOOL DISTRICT**

STAFF REPORT: REALM CHARTER HIGH SCHOOL REQUEST FOR  
MATERIAL REVISION

GOVERNING BOARD PUBLIC HEARING DATE:

April 11, 2018

GOVERNING BOARD DETERMINATION MEETING DATE:

April 17, 2018

## **I. INTRODUCTION**

On June 9, 2010, the Berkeley Unified School District (“District”) granted two petitions to form the REALM Charter Middle School and REALM Charter High School for five-year terms, beginning on July 1, 2011 and ending June 30, 2016. The middle school serves grades 6-8, and the high school grades 9-12. On or about December 9, 2015, the Board granted request to renew the REALM charters for additional 5-year terms (2016-2021).

REALM Charter High School now brings a request to make a material revision to its charter to incorporate the middle school program, and consolidate both schools under a single charter, serving grades 6-12. The rationale behind the request for material revision “is largely to address the concerns over the middle school’s negative ending deficit in the past two school years.” (Request for Material Revision, p. 6.)

## **II. REVIEW OF THE REQUEST FOR MATERIAL REVISION**

The Charter Schools Act of 1992 permits school districts, county boards, and the State Board of Education (“SBE”) to grant charters for the operation of charter schools. (Ed. Code § 47600, *et seq.*) Charter schools “are part of the public school system,” but “operate independently from the existing school district structure.” (Ed. Code §§ 47615(a)(1), 47601.) Charter schools are established through submission of a petition by proponents of the charter school to the governing board of a school district, county board or to the SBE. The governing board must grant a charter “if it is satisfied that granting the charter is consistent with sound educational practice.” (Ed. Code §47605(b).) Nevertheless, a governing board may deny a petition for the establishment of a charter school if it finds that the particular petition fails to meet enumerated statutory criteria and adopts written findings in support of its decision to deny the charter. (*Ibid.*) Once a governing board grants a charter petition, the charter school becomes a separate legal entity.

Education Code §47605(b) sets forth the following guidelines for governing boards to consider in reviewing charter petitions and requests for material revision:

- 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 an affirmation of each of the conditions required by statute.
- (4) The petition does not contain reasonably comprehensive descriptions of the required elements of a charter petition.

Under Ed. Code §47607, requests for material revision “are governed by the standards and criteria in [Education Code] Section 47605,” which contain the standards and criteria for evaluation of a new charter petition:

(a)(1) ... A material revision of the provisions of a charter petition may be made only with the approval of the authority that granted the charter. The authority that granted the charter may inspect or observe any part of the charter school at any time.

(2) Renewals and material revisions of charters are governed by the standards and criteria in Section 47605, and shall include, but not be limited to, a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed.

Staff review was also guided in its analysis by the SBE regulations for the evaluation of charter petitions and renewal petitions (hereinafter “regulations”). Where relevant, the content of the Education Code and regulations are stated or paraphrased with respect to each required element of the Petition in italics.

### **III. EVALUATION OF REQUEST FOR MATERIAL REVISION**

Staff’s specific findings with respect to each element are described in numbered paragraphs below with reference to the applicable statutory and regulatory requirements.

#### **1. FIFTEEN REQUIRED CHARTER ELEMENTS SET FORTH IN EDUCATION CODE §47605(B)(5)**

Following is the Charter Review Team’s analysis of each of the 15 elements required by Education Code § 47605(b)(5).

## ELEMENT A: EDUCATIONAL PROGRAM

*Education Code §47605(b)(5)(i) requires a charter petition to contain a reasonably comprehensive description of “the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an ‘educated person’ in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.”*

*The regulations require the educational program description to include a framework for instructional design that is aligned with the needs of the target student population, as well as descriptions of the following: the basic learning environment, and the instructional approach, including the curriculum and teaching methods that will enable the school’s students to master the content standards for the core curriculum areas and to achieve objectives specified in the charter. (Cal. Code Regs., tit. 5, §11967.5.1(f)(1).) The regulations further require an explanation of how the charter school will identify and respond to the needs of students who are not achieving at or above expected grade levels, how the charter school will meet the needs of students with disabilities, English learners, students achieving substantially above, or below grade level expectations, and other special populations, and the charter school’s special education plan. (Ibid.)*

### Analysis:

REALM provides projected enrollment by grade level for Grades 6-8 and 9-12 on page 7 of the Request for Material Revision:

Projected Enrollment by Grade			
	Grade 6	Grade 7	Grade 8
2017-2018	39	56	90
2018-2019	60	70	75
2019-2020	70	75	95
2020-2021	90	90	95

Projected Enrollment by Grade				
	Grade 9	Grade 10	Grade 11	Grade 12
2017-2018	88	84	75	85
2018-2019	100	95	84	75
2019-2020	110	100	90	75
2020-2021	115	110	95	85

REALM believes that its middle school enrollment, currently at 185, will grow again to its 2011 level of 300 due to its new site, and that the high school will grow significantly as well. Following is REALM’s anticipated enrollment for the middle school and high school in the next three year:

Years	2017-2018	2018-2019	2019-2020	2020-2021
Grades 6-8	185	205	240	275
Grades 9-12	332	354	375	405

(Request for Material Revision, p. 7.)

The Material Revision updates the high school petition to include the middle school educational program and curriculum (Request for Material Revision, pp. 23-29), and new State standards (Request for Material Revision, p. 20.) It has also been updated to include new assessment measures, such as the English Language Proficiency Assessments for California (“ELPAC”) (p. 37) and the California Assessment of Student Performance and Progress (CAASPP) test (p. 39). This section meets the reasonably comprehensive standard.

## **ELEMENT B: MEASURABLE PUPIL OUTCOMES**

## **ELEMENT C: METHOD OF MEASURING PUPIL OUTCOMES**

*Regarding the descriptions of Measurable Pupil Outcomes and Measuring Pupil Progress, the Petition must meet the legal requirements of Education Code § 47605, subdivisions (b)(5)(B), (C) and California Code of Regulations, title 5, §11967.5.1, subdivisions (f)(2), (3) regarding the identification of outcomes and assessment tools and plans. Pupil outcomes shall include outcomes that address increases in pupil academic achievement both schoolwide and for all groups of pupils served by the charter school.*

*The student outcomes should, at a minimum:*

*(a) Specify skills, knowledge, and attitudes that reflect the school’s educational objectives and can be assessed by objective means that are frequent and sufficiently detailed enough to determine whether students are making satisfactory progress;*

*(i) The frequency of the objective means of measuring student outcomes should vary according to such factors as grade level, subject matter, the outcome of previous objective measurements, and information that may be collected from anecdotal sources; and*

*(ii) Objective means of measuring student outcomes must be capable of being used readily to evaluate the effectiveness of and to modify instruction for individual students and groups of students ... (Cal. Code Regs., tit. 5, § 11967.5.1(f)(2).)*

*Education Code § 47605(b)(5)(A)(ii) requires the Petition to contain “[t]he specific annual goals” for “each subgroup of pupils identified pursuant to [Education Code] § 52052, to be achieved in the state priorities.”*

*Education Code §47607(b)(5)(B) requires that a charter petition contain measurable pupil outcomes “that address increases in pupil academic achievement both schoolwide and for all groups of pupils served by the charter school, as that term is defined in subparagraph (B) of paragraph (3) of subdivision (a) of § 47607. The pupil outcomes shall align with state priorities, as described in subdivision (d) of § 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school.”*

Analysis:

Elements C and D of the Request for Material Revision describe the Charter School’s measurable pupil outcomes, and means for measuring pupil outcomes. It sets forth the Charter School’s outcome goals under the State priorities, and also describes the assessment tools used to measure pupil progress.

The Charter School’s measurable pupil outcomes and assessment methods are set forth on pp. 48-56, and have been updated with new measures such as the ELPAC and California State Dashboard. This section meets the reasonably comprehensive standard.

## **ELEMENT D: GOVERNANCE STRUCTURE**

Cal. Code Regs., tit. 5, §11967.5.1(f)(4) requires the Petition to contain a reasonably equivalent description of the following:

*The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement in supporting the school's effort on behalf of the school's pupils, as required by Education Code section 47605(b)(5)(D), at a minimum:*

*(A) Includes evidence of the charter school's incorporation as a non-profit public benefit corporation, if applicable.*

*(B) Includes evidence that the organizational and technical designs of the governance structure reflect a seriousness of purpose necessary to ensure that:*

- 1. The charter school will become and remain a viable enterprise.*
- 2. There will be active and effective representation of interested parties, including, but not limited to parents (guardians).*
- 3. The educational program will be successful.*

Analysis:

The governance section of the request for material revision describes REALM’s governance structure, which call for the Charter School to be governed by the REALM

Charter School nonprofit public benefit corporation. (Request for Material Revision, p. 57.) This section also describes board meeting procedures, procedure for the selection and replacement of Board members, and Board responsibilities. (Request for Material Revision, pp. 58-59.)

The governance section has been amended to elaborate upon the Charter School's status as a non-profit public benefit corporation, the composition of the Board of Directors, and meeting procedures. (Request for Material Revision, pp. 58-59.) The District remains concerned that the Charter School's Board does not maintain the minimum number of 7 members due to turnover. Otherwise, this section meets the reasonably comprehensive standard.

#### **ELEMENT E: QUALIFICATIONS TO BE MET BY INDIVIDUALS EMPLOYED AT THE SCHOOL**

Cal. Code Regs., tit. 5, §11967.5.1(f)(5) requires the Petition to contain a reasonably equivalent description of the following:

*The qualifications to be met by individuals to be employed by the school, as required by Education Code section 47605(b)(5)(E), at a minimum:*

*(A) Identify general qualifications for the various categories of employees the school anticipates (e.g., administrative, instructional, instructional support, non-instructional support). The qualifications shall be sufficient to ensure the health, and safety of the school's faculty, staff, and pupils.*

*(B) Identify those positions that the charter school regards as key in each category and specify the additional qualifications expected of individuals assigned to those positions.*

*(C) Specify that all requirements for employment set forth in applicable provisions of law will be met, including, but not limited to credentials as necessary.*

#### Analysis:

This section identifies key positions in the Charter School (teachers, Executive Director and Principal, Student Support personnel, and other support staff. (Request for Material Revision, pp. 61-62.) This section meets the reasonably comprehensive standard.

#### **ELEMENT F: PROCEDURES FOR ENSURING HEALTH & SAFETY OF STUDENTS**

Cal. Code Regs., tit. 5, §11967.5.1(f)(6) requires the Petition to contain a reasonably equivalent description of the following:

*The procedures that the school will follow to ensure the health and safety of pupils and staff, as required by Education Code section 47605(b)(5)(F), at a minimum:*

*(A) Require that each employee of the school furnish the school with a criminal record summary as described in Education Code section 44237.*

*(B) Include the examination of faculty and staff for tuberculosis as described in Education Code section 49406.*

*(C) Require immunization of pupils as a condition of school attendance to the same extent as would apply if the pupils attended a non-charter public school.*

*(D) Provide for the screening of pupils' vision and hearing and the screening of pupils for scoliosis to the same extent as would be required if the pupils attended a non-charter public school.*

Analysis:

This section contains a description of the policies to ensure the health and safety of pupils and employees, including the health, safety and emergency plan; Family Educational Rights & Privacy Act; criminal background check for employees and volunteers; procedure of immunizations, health screenings and medical records; and safe space policies. This section has been updated with new provisions on bloodborne pathogens, facility safety, employee criminal background check, mandated child abuse reporting, Tuberculosis risk assessment, immunization, administration of medication and epinephrine auto-injectors, and safe space policies. (Request for Material Revision, pp. 63-66.) This section meets the reasonably comprehensive standard.

## **ELEMENT G: RACIAL AND ETHNIC BALANCE**

*Education Code § 47605(d)(1) states that charter schools “shall not discriminate against a pupil on the basis of the characteristics listed in [Education Code] Section 220.” Education Code §47605(b)(5)(G) also requires a petition to contain a reasonably comprehensive description of “[t]he means by which the charter school will achieve a racial and ethnic balance among its students that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.”*

Cal. Code Regs., tit. 5, §11967.5.1(f)(7) requires the Petition to contain a reasonably equivalent description of the following:

*Recognizing the limitations on admissions to charter schools imposed by Education Code section 47605(d), the means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted, as*

*required by Education Code section 47605(b)(5)(G), shall be presumed to have been met, absent specific information to the contrary.*

#### Analysis:

This section defines the recruiting steps that the Charter School will take to achieve a racial and ethnic balance reflective of the general population of the District. The Request for Material Revision identifies a number of outreach measures the school will use to recruit students. (Request for Material Revision, p. 67.) This section meets the reasonably comprehensive standard.

### **ELEMENT H: ADMISSION REQUIREMENTS**

*Education Code 47605(d)(2)(B) states that, in the enrollment lottery, “[i]f the number of pupils who wish to attend the charter school exceeds the school’s capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the district except as provided for in Section 47614.5. Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law.” (5 C.C.R. § 11967.5.1(f)(8).)*

*Cal. Code Regs., tit. 5, §11967.5.1(f)(8) requires the Petition to contain a reasonably equivalent description of the following:*

*To the extent admission requirements are included in keeping with Education Code section 47605(b)(5)(H), the requirements shall be in compliance with the requirements of Education Code section 47605(d) and any other applicable provision of law.*

*The following requirements were added to Education Code section 47605(d)(2)(B) as of January 1, 2018:*

*Priority order for any preference shall be determined in the charter petition in accordance with all of the following:*

*(i) Each type of preference shall be approved by the chartering authority at a public hearing.*

*(ii) Preferences shall be consistent with federal law, the California Constitution, and Section 200.*

*(iii) Preferences shall not result in limiting enrollment access for pupils with disabilities, academically low-achieving pupils, English learners, neglected or delinquent pupils, homeless pupils, or pupils who are economically disadvantaged, as determined by eligibility for any free or reduced-price meal program, foster youth, or pupils based on nationality, race, ethnicity, or sexual orientation.*

*(iv) In accordance with Section 49011, preferences shall not require mandatory parental volunteer hours as a criterion for admission or continued enrollment.*

Analysis:

This section describes the procedures by which the Charter School would use to admit and enroll students, including a public random drawing in the event that the number of applicants exceeds the number of available seats. Preference would be given to siblings of students admitted to or currently attending the charter school; students residing within the District; and all other applicants. (Request for Material Revision, p. 68.)

This section has been updated to include the new requirements set forth in recent-enacted Education Code sections 47605(d)(2)(B)(i)-(iv) regarding the admission requirements. The Charter School should clarify that, in the event that the request for material revision is granted, that the admissions procedure shall remain unchanged for middle school students. Otherwise, this section meets the reasonably comprehensive standard. This section meets the reasonably comprehensive standard.

**ELEMENT I: MANNER FOR CONDUCTING ANNUAL, INDEPENDENT AUDITS**

*The Petition must address “[t]he manner in which annual, independent, financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority, as required by Education Code section 47605(b)(5)(I), at a minimum:*

*(A) Specify who is responsible for contracting and overseeing the independent audit.*

*(B) Specify that the auditor will have experience in education finance.*

*(C) Outline the process of providing audit reports to the State Board of Education, California Department of Education, or other agency as the State Board of Education may direct, and specifying the time line in which audit exceptions will typically be addressed.*

*(D) Indicate the process that the charter school will follow to address any audit findings and/or resolve any audit exceptions to the satisfaction of the authorizer. (5 C.C.R. § 11967.5.1(f)(9).)*

Analysis:

This requirement is addressed on p. 70 and is unchanged from the renewal approved by the Board. It sets forth the procedure by which the Charter School would undergo an annual financial audit by an independent and qualified auditor; the submission of the audit report for the previous fiscal year to the District by December 15 each year; and

the procedure for resolving audit exceptions to the satisfaction of the District. This section meets the reasonably comprehensive standard.

## **ELEMENT J: SUSPENSION AND EXPULSION PROCEDURES**

Cal. Code Regs., tit. 5, §11967.5.1(f)(10) requires the Petition to contain a reasonably equivalent description of the following:

*The procedures by which pupils can be suspended or expelled, as required by Education Code section 47605(b)(5)(J), at a minimum:*

*(A) Identify a preliminary list, subject to later revision pursuant to subparagraph (E), of the offenses for which students in the charter school must (where non-discretionary) and may (where discretionary) be suspended and, separately, the offenses for which students in the charter school must (where non-discretionary) or may (where discretionary) be expelled, providing evidence that the petitioners reviewed the offenses for which students must or may be suspended or expelled in non-charter public schools.*

*(B) Identify the procedures by which pupils can be suspended or expelled.*

*(C) Identify the procedures by which parents, guardians, and pupils will be informed about reasons for suspension or expulsion and of their due process rights in regard to suspension or expulsion.*

*(D) Provide evidence that in preparing the lists of offenses specified in subparagraph (A) and the procedures specified in subparagraphs (B) and (C), the petitioners reviewed the lists of offenses and procedures that apply to students attending non-charter public schools, and provide evidence that the charter petitioners believe their proposed lists of offenses and procedures provide adequate safety for students, staff, and visitors to the school and serve the best interests the school's pupils and their parents (guardians).*

*(E) If not otherwise covered under subparagraphs (A), (B), (C), and (D):*

*1. Provide for due process for all pupils and demonstrate an understanding of the rights of pupils with disabilities in regard to suspension and expulsion.*

*2. Outline how detailed policies and procedures regarding suspension and expulsion will be developed and periodically reviewed, including, but not limited to, periodic review and (as necessary) modification of the lists of offenses for which students are subject to suspension or expulsion.*

*Education Code section 47605(b)(5)(J) was amended to require the following elements as of January 1, 2018:*

*These [disciplinary] procedures, at a minimum, shall include an explanation of how the charter school will comply with federal and state constitutional procedural and substantive due process requirements that is consistent with all of the following:*

*(i) For suspensions of fewer than 10 days, provide oral or written notice of the charges against the pupil and, if the pupil denies the charges, an explanation of the evidence that supports the charges and an opportunity for the pupil to present his or her side of the story.*

*(ii) For suspensions of 10 days or more and all other expulsions for disciplinary reasons, both of the following:*

*(I) Provide timely, written notice of the charges against the pupil and an explanation of the pupil's basic rights.*

*(II) Provide a hearing adjudicated by a neutral officer within a reasonable number of days at which the pupil has a fair opportunity to present testimony, evidence, and witnesses and confront and cross-examine adverse witnesses, and at which the pupil has the right to bring legal counsel or an advocate.*

*(iii) Contain a clear statement that no pupil shall be involuntarily removed by the charter school for any reason unless the parent or guardian of the pupil has been provided written notice of intent to remove the pupil no less than five schooldays before the effective date of the action. The written notice shall be in the native language of the pupil or the pupil's parent or guardian or, if the pupil is a foster child or youth or a homeless child or youth, the pupil's educational rights holder, and shall inform him or her of the right to initiate the procedures specified in clause (ii) before the effective date of the action. If the pupil's parent, guardian, or educational rights holder initiates the procedures specified in clause (ii), the pupil shall remain enrolled and shall not be removed until the charter school issues a final decision. For purposes of this clause, "involuntarily removed" includes disenrolled, dismissed, transferred, or terminated, but does not include suspensions specified in clauses (i) and (ii).*

#### Analysis:

This requirement is addressed on pp. 71-91, and contains the grounds for discretionary and mandatory suspension and expulsion of students, and the hearing procedure. This section adds the new requirements set forth in Education Code section 47605(b)(5)(J) regarding students' due process rights. This section meets the reasonably comprehensive standard.

### **ELEMENT K: MANNER FOR COVERING STRS, PERS, OR SOCIAL SECURITY**

*The Petition must describe "[t]he manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security, as required by Education Code section*

*47605(b)(5)(K), at a minimum, specifies the positions to be covered under each system and the staff who will be responsible for ensuring that appropriate arrangements for that coverage have been made.” (5 C.C.R. § 11967.5.1(f)(11).)*

Cal. Code Regs., tit. 5, §11967.5.1(f)(11) requires the Petition to contain a reasonably equivalent description of the following:

*The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security, as required by Education Code section 47605(b)(5)(K), at a minimum, specifies the positions to be covered under each system and the staff who will be responsible for ensuring that appropriate arrangements for that coverage have been made.*

Analysis:

This section states that certificated employees shall participate in STRS, and that other employees shall participate in federal social security. (Request for Material Revision, p. 93.) This section is unchanged from the renewal. This section meets the reasonably comprehensive standard.

## **ELEMENT L: PUBLIC SCHOOL ATTENDANCE ALTERNATIVES**

*This section must address “[t]he public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools, as required by Education Code section 47605(b)(5)(L), at a minimum, specify that the parent or guardian of each pupil enrolled in the charter school shall be informed that the pupils has no right to admission in a particular school of any local education agency (or program of any local education agency) as a consequence of enrollment in the charter school, except to the extent that such a right is extended by the local education agency.” (5 C.C.R. § 11967.5.1(f)(12).)*

Cal. Code Regs., tit. 5, §11967.5.1(f)(12) requires the Petition to contain a reasonably equivalent description of the following:

*The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools, as required by Education Code section 47605(b)(5)(L), at a minimum, specify that the parent or guardian of each pupil enrolled in the charter school shall be informed that the pupils has no right to admission in a particular school of any local education agency (or program of any local education agency) as a consequence of enrollment in the charter school, except to the extent that such a right is extended by the local education agency.*

Analysis:

This section states that students electing not to enroll in the charter school may enroll in their local District school. (Request for Material Revision, p. 94.) This section is unchanged from the renewal. This section meets the reasonably comprehensive standard.

#### **ELEMENT M: EMPLOYEE RIGHTS**

*This section must contain a “description of the rights of any employees of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school, as required by Education Code section 47605(b)(5)(M), at a minimum, specifies that an employee of the charter school shall have the following rights: (A) Any rights upon leaving the employment of a local education agency to work in the charter school that the local education agency may specify. (B) Any rights of return to employment in a local education agency after employment in the charter school as the local education agency may specify. (C) Any other rights upon leaving employment to work in the charter school and any rights to return to a previous employer after working in the charter school that the State Board of Education determines to be reasonable and not in conflict with any provisions of law that apply to the charter school or to the employer from which the employee comes to the charter school or to which the employee returns from the charter school. (5 C.C.R. § 11967.5.1(f)(13).)*

#### Analysis:

This section states that employees who leave the District to work at the Charter School shall have no automatic return rights to the District unless otherwise provided through leave of absence or other requirement. (Request for Material Revision, p. 95) this section is unchanged from the renewal. This section meets the reasonably comprehensive standard.

#### **ELEMENT N: DISPUTE RESOLUTION PROCEDURE**

Cal. Code Regs., tit. 5, §11967.5.1(f)(14) requires the Petition to contain a reasonably equivalent description of the following:

*The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter, as required by Education Code section 47605(b)(5)(N), at a minimum:*

*(A) Include any specific provisions relating to dispute resolution that the State Board of Education determines necessary and appropriate in recognition of the fact that the State Board of Education is not a local education agency.*

*(B) Describe how the costs of the dispute resolution process, if needed, would be funded.*

*(C) Recognize that, because it is not a local education agency, the State Board of Education may choose resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, provided that if the State Board of Education intends to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, it must first hold a public hearing to consider arguments for and against the direct resolution of the dispute instead of pursuing the dispute resolution process specified in the charter.*

*(D) Recognize that if the substance of a dispute is a matter that could result in the taking of appropriate action, including, but not limited to, revocation of the charter in accordance with Education Code section 47604.5, the matter will be addressed at the State Board of Education's discretion in accordance with that provision of law and any regulations pertaining thereto.*

Analysis: The dispute resolution procedures set forth on pp. 96-97 calls for the framing of the dispute in a dispute statement, and then a meeting between the Charter School's Executive Director and the District Superintendent, or their designees. In the event that the dispute is not resolved, they will meet with 2 board members from both sides. The next step would involve referral to a third-party mediator. This section meets the reasonably comprehensive standard.

## **ELEMENT O: CLOSURE PROCEDURES**

Analysis:

The closure procedure involves providing notification to parents and relevant State agencies of the Charter School's closure, as well as the transfer of records and the conduct of a final audit within 60 days. This section meets the reasonably comprehensive standard.

### **IV. LIKELIHOOD OF SUCCESSFULLY IMPLEMENTING THE PROGRAM DESCRIBED IN THE PETITION [EDUCATION CODE §47605 (B)(2)]**

*The regulations require consideration of whether a charter petition has presented a realistic financial and operational plan in determining whether petitioners are likely to be successful in implementing the charter program, including the areas of administrative services, financial administration, insurance and facilities. (Cal. Code Regs., tit. 5, § 11967.5(c))*

All of the findings set forth above are incorporated into this section of the Report. In addition, the Charter Review Team makes the following additional findings.

## A. Financial/Operational Plan

*The Education Code requires a petition to contain cash flow and financial projections for the first three years of operation. (Education Code §47605(g))*

### Analysis:

#### Overall Financial Review

The Multi-Year Financial Statements submitted with the Material Revision reflect the following:

	<b>SACSCode Description</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	
<b>Revenue</b>							
	State	3,562,031	5,854,807	6,518,829	7,370,269	7,659,300	
	Federal	198,833	320,483	330,170	339,673	340,404	
	Local	484,027	739,476	765,540	765,668	765,797	
	<b>Total Revenue</b>	<b>\$ 4,244,891</b>	<b>\$6,914,766</b>	<b>\$7,614,539</b>	<b>\$8,475,609</b>	<b>\$8,765,501</b>	
<b>Expenses</b>							
	1000 Certificated Salaries	1,448,792	2,333,918	2,389,153	2,436,936	2,514,349	
	2000 Classified Salaries	366,647	502,054	512,095	522,337	650,185	
	3000 Benefits	433,920	737,316	801,288	848,145	875,088	
	4000 Books and Supplies	126,008	189,469	195,191	201,359	207,756	
	5000 Services and Other Operating Exp	1,370,592	2,183,067	2,214,578	2,266,242	2,296,223	
	6000 Capital Outlay	162,570	208,068	208,068	208,068	208,068	
	7000 Other Outgoing	4,500	4,000				
	<b>Total Expenses</b>	<b>\$ 3,913,029</b>	<b>\$6,157,891</b>	<b>\$6,320,373</b>	<b>\$6,483,087</b>	<b>\$6,751,669</b>	
	<b>Surplus / (Deficit)</b>	<b>\$ 331,861</b>	<b>\$ 756,875</b>	<b>\$1,294,166</b>	<b>\$1,992,523</b>	<b>\$2,013,832</b>	
	As a % of LCFF revenue	11%	15%	22%	30%	29%	
	<b>Beginning Balance</b>	<b>(178,309)</b>	<b>(1,110,406)</b>	<b>(353,531)</b>	940,635	2,933,158	
	Cash + Net AR/AP						
	<b>Ending Balance</b>	<b>\$ 153,552</b>	<b>\$ (353,531)</b>	<b>\$ 940,635</b>	<b>\$2,933,158</b>	<b>\$4,946,990</b>	
	As a % of expenditures	4%	-6%	15%	45%	73%	
	<b>MS EFB</b>	<b>(1,263,958)</b>					
	<b>TOTAL EFB</b>	<b>\$(1,110,406)</b>					

### Revenue

- The revenue projections are based on the growing enrollment projections discussed below.
- The 2017-18 numbers reflect only the high school charter school, but the multi-year projections beginning in 2018-19 include the middle school operation, as proposed.

- Staff, as part of its due diligence, recalculated the LCFF revenues, and also compared the submitted consolidated revenues to the individual multi-year projections (MYP) that were submitted at Second Interim.
- Increased middle school revenue of \$217,000 SB740 facilities reimbursement funding is included to partially cover the \$420,000 per year new facilities lease.
- Based on staff's calculations and these comparisons, revenues as presented appear to be slightly higher than expected, but not materially different.

### Expenses

- As with revenue, expenses in the submitted budget were based on the enrollment projections discussed below, and reflect:
  - Additional teaching staff each year for growth in the middle school,
  - \$275,000 per year for middle school lease cost increases, and
  - Increased depreciation expense of \$46,000 per year assumed to reflect capital improvements to the newly leased facility.
- It does not appear that the recently-mentioned bus purchase is provided for in the budget.
- While these costs are similar to the combined corporate cost to operate both schools separately, which is the current arrangement, absorbing the middle school costs is obviously a large increase to the high school charter school's operation. Without the material revision, the increased middle school costs would be charged to the middle school charter, and the high school charter would continue to operate as in the past.

### Fund Balances

As submitted, the ending balance for the high school charter school is projected to be \$153,000 in the current year, \$(353,000) in 2018-19, and positive \$943,000 in 2019-20 and positive thereafter.

### ADA and Enrollment

Current and projected enrollment as submitted with the material revision are reflected below:

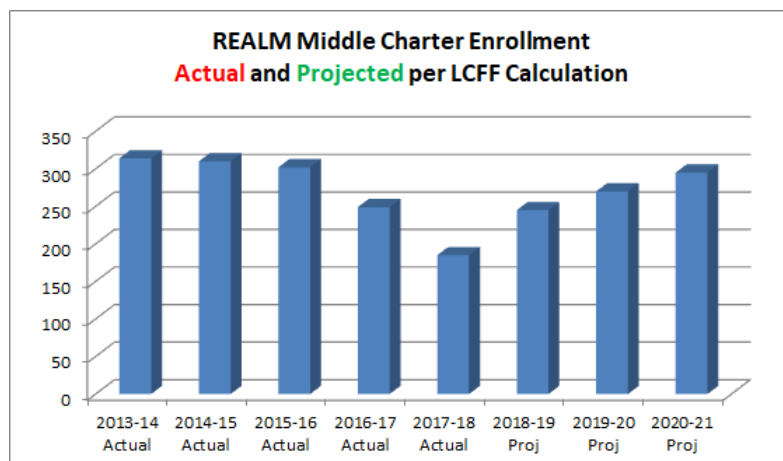
Enrollment	Consolidated per Material Revision						
	2017-18	2018-19	Change	2019-20	Change	2020-21	Change
Grade 6	40	60	20	70	10	90	20
Grade 7	55	70	15	75	5	90	15
Grade 8	90	75	-15	95	20	95	0
Grade 9	88	100	12	110	10	115	5
Grade 10	84	95	11	100	5	110	10
Grade 11	75	84	9	90	6	95	5
Grade 12	85	75	-10	75	0	85	10
	517	559	42	615	56	680	65

- The current year grade split for the middle school is estimated based on a review of ADA reports, but totals 185 at CBEDS.
- The revised petition projects, for example, that today's 40 6<sup>th</sup> graders will grow to 70, then 95, then 115 students over the next three years. No rationale is provided in the petition for this and similar growth assumptions.
- The year-over-year change in enrollment is optimistic, but not substantiated. If the growth is not realized and enrollment remains flat, revenues will be overstated by \$400,000 to \$1.7 million annually as shown below.

Summary of Funding					
	2017-18	2018-19	2019-20	2020-21	2021-22
Total LCFF Entitlement as Submitted	\$ 4,298,658	\$ 5,211,054	\$ 5,850,674	\$ 6,635,175	\$ 6,905,852
Total LCFF Entitlement with Flat Enrollment	\$ 4,298,658	\$ 4,824,644	\$ 4,941,006	\$ 5,079,102	\$ 5,240,165
Revenue Loss Compared to MYP	\$ -	\$ (386,410)	\$ (909,668)	\$ (1,556,073)	\$ (1,665,687)

### Past Enrollment and Financial Projections

Prior enrollment trends for the middle school merit some analysis in light of the above projections and significant revenue impact. REALM Middle School has been in a declining enrollment environment since 2013-14, even when projecting to increase. The chart below reflects the actual enrollment and projections provided by the charter school as of First Interim this year.



In addition to a history of enrollment decline, the middle school also has a history of not meeting its budgeted surpluses by the time the books are closed. The chart below summarizes the last few years' trend of surpluses and deficits from the adopted budget to the unaudited actuals.

REALM Middle School Historical Summary							
	2014-15	2015-16	2015-16	2016-17	2016-17	2017-18	2017-18
	Unaudited	Budget	Unaudited	Corrected	Unaudited	Adopted	First
	Actuals	Adoption	Actuals	Petition	Actuals	Budget	Interim
Beginning Fund Balance	(80,025)	(841,552)	(841,551)	(771,735)	(1,146,107)	(1,319,914)	\$ (1,520,408)
FB adjustment							
<b>Surplus/(Deficit)</b>	<b>(761,526)</b>	<b>(17,705)</b>	<b>(305,359)</b>	<b>301,307</b>	<b>(374,300)</b>	<b>309,363</b>	<b>271,962</b>
Ending Fund Balance	<b>\$ (841,551)</b>	<b>\$ (859,257)</b>	<b>\$ (1,146,910)</b>	<b>\$ (470,428)</b>	<b>\$ (1,520,407)</b>	<b>\$ (1,010,551)</b>	<b>\$ (1,248,446)</b>
Change in Surplus/(Deficit Since Adopted			(287,654)		(536,444)		(37,401)

## Cash Flow

Per a review of the cash flow schedules imbedded in the consolidated, five-year projections workbook, the newly configured charter school is projecting negative monthly cash balances for nine of twelve months in 2018-19 and through the first half of 2019-20. This is a precarious financial position.

## Debt

A review of Charter School Capital's Transactions worksheet is inconclusive as to the actual outstanding cash flow receivables and the amount needed to pay off these loans.

Working Capital Detailed Transactions - Nov-17 to Mar-18												
Receivable Description	Purchase Date	Gross Amount	Face Amount	Purchase Price	Cost to School	Transaction Fees	Program Fees Collected	Redemption Date	Amount Received	FV Outstanding	Deferred Amount	School
June In-Lieu FY17-18	03/12/18	33,310	29,900	28,335	1,565	-	-	-	-	29,900	3,410	REALM Middle
June In-Lieu FY17-18	03/12/18	105,962	95,300	90,311	4,989	-	3,698	-	-	95,300	10,662	REALM High School
May In-Lieu FY17-18	02/22/18	90,670	81,600	77,614	3,986	-	4,379	-	-	81,600	9,070	REALM High School
May In-Lieu FY17-18	02/22/18	24,834	22,300	21,211	1,089	-	-	-	-	22,300	2,534	REALM Middle
April In-Lieu FY17-18	02/05/18	90,670	81,600	77,836	3,764	-	-	-	-	81,600	9,070	REALM High School
April In-Lieu FY17-18	02/05/18	24,834	22,300	21,271	1,029	-	-	-	-	22,300	2,534	REALM Middle
March In-Lieu FY17-18	12/21/17	183,483	165,100	157,054	8,046	-	4,170	03/20/18	165,100	-	18,383	REALM High School
March In-Lieu FY17-18	12/12/17	49,531	44,500	42,225	2,275	-	1,149	03/20/18	44,500	-	5,031	REALM Middle
		<b>603,294.00</b>	<b>542,600.00</b>	<b>515,857.00</b>	<b>26,743.00</b>	-	13,396.00	86,358.00	209,600.00	333,000.00	60,694.00	
										Loan amount		

Per BUSD Schedule

In-Lieu 923,342.00  
Less maintenance (80,000.00)  
**843,342.00**

407,090.00

Purchase Price 515,857.00  
Difference from gross **327,485.00** 3.17%

## Alternative View

The above analysis is based on the financial information and projections submitted by the charter school.

- Based on the charter school's history of declining enrollment at the middle school level, and declines in fiscal position from projections throughout the year, a

separate *pro forma* analysis was created reflecting flat enrollment at the current year level.

- LCFF revenue was adjusted for flat enrollment and the additional 1.5 FTE teachers were removed each year.

Description	FY 2017/18			FY 2018/19			FY 2019/20		
	Unrestricted	Restricted	Total	Unrestricted	Restricted	Total	Unrestricted	Restricted	Total
<i>projected enrollment</i>			521			521			521
Total Revenues	5,412,493	897,858	6,310,351	5,663,623	862,333	6,525,956	5,793,443	898,901	6,692,344
Total Expenditures	4,352,518	1,292,754	5,645,272	4,645,145	1,382,440	6,027,585	4,716,254	1,426,812	6,143,066
Excess (Deficiency) of Revenues Over Expenditures Before Other Sources and Uses	1,059,975	(394,896)	665,079	1,018,478	(520,107)	498,371	1,077,189	(527,911)	549,278
Contribution to Restricted Programs	(394,896)	394,896	-	(520,107)	520,107	-	(527,911)	527,911	-
<b>Net Increase (Decrease) in Fund Balance</b>	<b>665,079</b>	<b>-</b>	<b>665,079</b>	<b>498,371</b>	<b>-</b>	<b>498,371</b>	<b>549,278</b>	<b>-</b>	<b>549,278</b>
Beginning Fund Balance	(1,698,717)	-	(1,698,717)	(1,033,638)	-	-	(535,267)	-	-
Ending Fund Balance, June 30	(1,033,638)	-	(1,033,638)	(535,267)	-	498,371	14,011	-	549,278

Flat enrollment reduces LCFF funding significantly below projected amounts, requires less staffing and leaves the newly configured charter just above zero fund balance after two years. Instead of a stable high school charter school, the new 6-12 charter school would appear to be a fiscally struggling school.

### Summary

Evaluating the REALM High School Charter School as it exists and as it is proposed, solely on the merits of the high school budget and new projections, provides a fiscal conclusion that the resulting charter high school would be in a more tenuous and fiscally unstable position after the material revision.

- However, the new charter school would definitely help the middle school's operation by sharing revenue and cash.
- The assumption of growing enrollment seems unreasonable given the history of not meeting enrollment projections and, in fact, declining enrollment at the middle school level has been a multi-year trend.
- The second *pro forma* MYP above that uses a moderate, flat enrollment assumption indicates continued negative fund balances through the end of the 2019-20 fiscal year.
- The cash flow projections supplied by the Charter, using less conservative and unsubstantiated growth assumptions and related revenue, reflect negative cash balances for most of the next two years.
- It appears that the addition of the struggling middle school operation to the high school financials provides an overall weaker financial picture for the reconfigured charter than if the high school charter school remained intact.

## **B. District Impact Statement**

*Education Code §47605(g) requires that a charter petition “provide information regarding the proposed operation and potential effects of the school ... upon the school district.”*

### Analysis:

This section has been added on pp. 100-101.

## **V. CONCLUSION AND RECOMMENDATION**

Following is a summary of the strengths and weaknesses of the request for material revision:

### Strengths:

The consolidation of the REALM Middle School into the REALM High School charter would result in the high school, which is in a better financial position than the middle school absorbing the expenses of operating the middle school.

### Weaknesses:

Under the proposed material revision, the cash flow projections supplied by the Charter, using less conservative and unsubstantiated growth assumptions and related revenue, reflect negative cash balances for most of the next two years.

The proposed material revision is premised upon significant enrollment increases, which is contrary to the downward trajectory in enrollment over the past 3 years.

Modelling the proposed material revision with the consolidation of the middle and high schools, with no increase in enrollment, would result in negative ending fund balances through the end of the 2019-2020 school year, leaving the charter school in a precarious financial position.

Respectfully Submitted,

Berkeley Unified School District  
Charter Review Team