

PASO ROBLES JOINT UNIFIED SCHOOL DISTRICT
Paso Robles, California

April 23, 2020

STAFF REPORT

Almond Acres Charter Academy Charter School Petition

I. BACKGROUND

The Petition for the establishment of Almond Acres Academy Charter School ("Petition") under the District's authorization was submitted to the District on March 2, 2020. Pursuant to Education Code section 47605, subdivision (b), on March 24, 2020, the District's Board held a public hearing on the provisions of the Petition, at which time the Board considered the level of support for the Petition by teachers employed by the District, other employees of the District, and parents/guardians.

Per the current version of Education Code section 47605, the Board shall either grant or deny the Petition within 60 days of receipt, or within 90 days if extended with mutual consent of the petitioners. The petitioners and District mutually agreed that the Board's decision whether to grant or deny the Petition will be agendaized for action at the April 28, 2020, meeting.

II. STANDARD FOR REVIEW OF CHARTER PETITION

The current version of Education Code section 47605 (operative through June 30, 2020) sets forth the following guidelines for school district governing boards to consider in determining whether to grant a petition for the establishment of a charter school:

- The district 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 findings, specific to the particular petition, setting forth specific facts to support one or more of the following:
 - (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.

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- (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 California State Board of Education ("SBE") for the SBE's evaluation of charter petitions (Cal. Code Regs, tit. 5, § 11967.5 et seq. ("Regulations")).

III. STAFF REVIEW TEAM

A team of District staff members and legal counsel conducted a comprehensive review of the Petition and documents submitted with the Petition, along with public information regarding the petitioners' current and past history of involvement with the operation of the existing Almond Acres Charter Academy under the authorization of the San Miguel Joint Union School District, and provided input relevant to their areas of expertise in preparation of the findings and recommendation in this Staff Report.

IV. RECOMMENDATION

Based upon its comprehensive review and analysis of the Petition and accompanying documents, District staff recommends that the Petition be **denied**. The following reasons justify denial of the Petition:

- **The petitioners are demonstrably unlikely to successfully implement the program presented in the Petition; and**
- **The Petition fails to provide a reasonably comprehensive description of all 15 required elements of a charter petition.**

Specific findings supporting each basis for denial are described below under Section V in this Staff Report. Should the Board take action to deny the Petition, staff recommends that the Board adopt the Findings in Support of Denial under Section V as its written findings in support of the denial.

The existing Almond Acres Charter Academy operating under the authorization of the San Miguel Joint Union School District has a current renewal charter term running through June 30, 2022, and will be able to continue its operations under that authorization regardless of whether the Board denies the Petition for the establishment of the new Charter School.

V. FINDINGS IN SUPPORT OF DENIAL

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

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

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 timeline 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 of operation, including reasonable estimates of all anticipated revenues and expenditures necessary to operate the school, including, but not limited to, special education, which is 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 Petition, 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.

Based on the following findings, and other deficiencies identified in other portions of this Staff Report, the petitioners are demonstrably unlikely to successfully implement the program set forth in the Petition:

1. Deficient and Unrealistic Financial and Operational Plan.

The Petition does not present a sound and realistic financial and operational plan for reasons including the following:

- (a) Considering the petitioners are currently operating the Almond Acres Charter Academy ("existing AACA") authorized by San Miguel Joint Union School District with a current renewal term running through June 30, 2022, and the Petition proposes establishment of the new Charter School with an initial term starting July 1, 2021 - we presume that the petitioners' plan is for the existing AACA to cease operation at the end of the 2020-21 school year. However, the Petition does not state anything about the transition plan calling into question whether one exists. Without this information, the ability of the District to effectively evaluate the proposed budget and operational plan of the Charter School is hindered.
- (b) The Multi-Year Budget submitted with the Petition contains unsubstantiated assumptions, understated expenses and other deficiencies that materially impact the budget and ability of the proposed Charter School to successfully implement its program, including:
 - (1) Discrepancies in the Multi-Year Budget submitted with the Petition make it impossible for the District to evaluate whether the Charter School has budgeted sufficiently to cover its certificated salaries. Specifically, the multi-year budget indicates in the Revenue detail for FY 2021-22 that "410" enrollment¹ was utilized, but the Expense detail for FY 2021-22 references "350" enrollment. Similarly, FY 2022-23 Revenue is based on "455" enrollment but FY 2022-23 Expenses detail references "375" enrollment. The expenditures calculations for these fiscal years should align with the budgeted revenue.
 - (2) The proposed Charter School intends to commence operations in the 2021-22 fiscal year and the Multi-Year Budget submitted with the Petition states that the Budget is for "Fiscal Years 2021-22, 2022-23, 2023-24." However, the breakdown of projected Revenue and Expenditures under "Budget Line Detail" references Fiscal Years "20/21", "21/22", and "22/23".
 - (3) The Multi-Year Budget includes an expenditure of \$0 for "Operations & Housekeeping" for the first fiscal year but increase that amount to \$100,000 in the following two years. The District questions whether it is realistic to not include any cost for Operations & Housekeeping for the first year of operations. Also, no separate line items are included for grounds keeping, custodial services, or maintenance costs in any years.

¹ The Multi-Year Budget does not specify whether this and other detail is referencing enrollment or Average Daily Attendance ("ADA"). However, the Petition (p. 12) states: "AACA anticipates serving 290 students during its first year of operation" seeming to mean it is referencing enrollment. The multi-year budget detail also references "290" for the first year of operations. Therefore, the District's finding is based on a presumption that petitioners are referencing enrollment and not ADA.

- (4) The Multi-Year Budget includes an expenditure line item for "Repairs, Maintenance to Buildings" but only budgets \$3,000 in the first fiscal year with small increases for the two following years (\$3,150 and \$3,308 respectively). The District questions whether these are realistic budget projections given the number of students the Charter School anticipates enrolling and correlative facility size the Charter School will need to accommodate that enrollment.
- (5) The Multi-Year Budget under Revenue assumes receipt of the following donation amounts:

Year 1: \$72,500	Year 2: \$101,250	Year 3: \$113,750
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Staff presumes that petitioners are basing these donation projections on amounts received in the past by the existing AACAA through its fundraising efforts. However, since this will be a new charter school operating at a new locality, there is concern that these monetary amounts may not be realized. Should the Charter School not receive all or some of this assumed donation funds then it may impact the ability of the Charter School to be able to successfully implement its program.

(c) Facilities Concerns.

- (1) The Petition does not sufficiently identify where the Charter School will locate within the geographic boundaries of the District or describe the facilities to be used by the Charter School.

Per Education Code section 47605, "A petition for the establishment of a charter school shall identify a single charter school that will operate within the geographic boundaries of that school district." Additionally, the petitioners are to provide information regarding the proposed operation and potential effects of the Charter School, including, but not limited to, the facilities to be used by the Charter School, and the description of the facilities to be used by the Charter School shall specify where the Charter School intends to locate.

The Petition states the following regarding the facility/location where the Charter School plans to locate: "The school is in the planning process of building a brand-new facility on Niblick Road in Paso Robles, CA. Construction is anticipated to begin Summer of 2020." (p. 7.) However, no other information regarding the site or the petitioners' plan for purchase/development of the site and the facilities for its proposed Charter School was submitted with the Petition.

Furthermore, the Multi-Year Budget submitted with the Petition does not include a budget line item for capital expenses or building improvement costs in any year. Another area of concern is that the amount budgeted for "Rent" jumps from \$222,002 in fiscal year one to \$1,213,560 in the second fiscal year without explanation for this increase.

As a result, the District is unable to sufficiently evaluate whether the amounts the Charter School has budgeted for facilities rent and other facilities-related costs are reasonable.

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- (2) The proposed Charter School anticipates receipt of Charter School Facilities Grant Program (SB 740) funds as follows:

Year 1: \$46,755	Year 2: \$429,766	Year 3: \$482,823
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The California School Finance Authority ("CSFA") administers the SB 740 Program and allows charter schools to obtain state funding to reimburse facility costs. Under the program, "eligible charter schools shall receive an amount of up to, but not more than, seven hundred fifty dollars (\$750) per unit of average daily attendance, as certified at the second principal apportionment, to provide an amount of up to, but not more than, 75 percent of the annual facilities rent and lease costs for the charter school." (Ed. Code, § 47614.5.)

If funds remain after the reimbursement of rent and lease costs, the remaining funds can be used to reimburse "Other Costs" such as remodeling of buildings, deferred maintenance, built-in equipment, and improving sites. However, if the amount requested for rent and lease costs exceeds available funding, then the rent and lease portion of the award is pro-rated and no awards are made for Other Costs. For the 2019–20 funding round, the CSFA is currently projecting that the Program will be oversubscribed and anticipates that rent and lease costs will be prorated with charter schools receiving approximately 95% of eligible awards and no reimbursements will be provided for Other Costs.

The petitioners do not address whether they have an alternative funding plan in the event the Charter School does not receive this funding or receives less than the amounts assumed. Since the assumed funding amount is significant, should it not be received, the ability of the Charter School to successfully implement its program will be impacted.

- (d) The petitioners' enrollment projections represent enrollment amounts which District staff believes are overinflated/unrealistic. The ability of the Charter School to be able to obtain these enrollment projections may be impacted by the following, but not limited to, circumstances:

- (1) The petitioners' operational plan assumes enrollment of 290 students in Year 1, increasing aggressively to 410 in Year 2, 455 in Year 3, and aggressively to 500 by year 5 (Multi-Year Budget; and Petition p. 12), representing a 72% increase by its 5th year of operation.
- (2) The District offers existing similar services and programs at its schools located within the geographic area of the proposed Charter School. The proposed Charter School will attempt to duplicate services and programs currently offered at District schools with sufficient capacity to accommodate students at locations within reasonable proximity to where the Charter School intends to locate.

Furthermore, while the core curriculum resources to be provided by the Charter School are predominantly represented by strategies and content frameworks rather than comprehensive state adopted curriculum, the District provides a more expansive offering of both core and expanded choices for all students, and provides a far more comprehensive set and wider range of curriculum

options for all grades TK-8 than that proposed to be offered by the Charter School.

For example, all District elementary schools offer access and enrollment in the seven areas identified as a broad course of studies for grades TK-5. District elementary grade students also have access to specialized magnet programs including a visual and performing arts magnet school and a dual immersion magnet school. Both of these District schools provide additional offerings above and beyond the broad range of curriculum and resources provided to all students in the District.

Similarly, 6th grade students in the District have access to an exploration wheel which focuses on college and career exploration while 7th and 8th graders have the opportunity to choose more specific broad range courses.

Examples of programs identified in the Petition that are duplicative of programs currently offered within the District include:

Charter School (pp. 19-20)	District
Personalized Learning Portfolio	Student Goal Setting & collective student efficacy (goals, performance examples, and data)
Visual and Performing Arts	Visual and Performing Arts
Project Based Learning	Project Based Learning
Big Ideas	GATE- GATE Icons (Big Ideas)
Technology	Technology
Physical Education	Physical Education (TK-12) & Co-curricular sports (3-12)
21st Century Learners	21st Century Learners
MTSS	MTSS & PBIS
Enrichment Clubs (pg.37)	Enrichment Clubs
Social Emotional Supports	Social Emotional Supports
ST Math	ST Math & Iready

Additionally, the range of services that will be provided to each subgroup of students at the Charter School does not provide support for the extensive needs of the range of learners within each subgroup of students. Some examples of District educational opportunities not available within the Charter School's

programs include: a newcomers class; a full range of continuum of services for Special Education; and a comprehensive range of curriculum and resources for all students.

- (3) Per California Department of Education ("CDE") Dataquest information, the existing AACA's enrollment for 2018-2019 was 284.² Assuming the existing AACA's enrollment totals in 2020-2021 will be similar to 2018-2019, the Multi-Year Budget submitted with the Petition unreasonably assumes retention of 100% of existing enrollment even though the Charter School will be located in Paso Robles, 11.5 miles away from its current location in San Miguel, and approximately 35% of the existing AACA's current enrollment are from students who reside outside the District's boundaries.

Since the Charter School's budget is premised on these unrealistic enrollment projections, the entire projected budget will be impacted when enrollment amounts are not realized, resulting in a deficit budget jeopardizing the ability of the Charter School to successfully implement and operate the proposed Charter School's education program.

2. Past Unsuccessful History of Involvement with Charter Schools.

In determining whether petitioners are demonstrably likely to successfully implement their proposed educational program, the District may consider the success or failure of petitioners' past history with charter schools. (Regulations § 11967.5.1(c)(1).) The petitioners' past unsuccessful history of involvement with the operation of charter schools is demonstrated by facts including the following:

To apparently highlight that the existing AACA is performing academically better than District schools, under "Comparison to Public Schools that Charter School Pupils Would Otherwise Attend," the Petition includes data from 2019 California Assessment of Student Performance Progress ("CAASPP") results for the existing AACA, two elementary schools from the San Miguel JUSD, and two elementary schools from the District. (p. 7.) The performance data in the Petition is taken from District schools that do not represent similar student population demographics as the existing AACA. Since the petitioners anticipate retaining enrollment from the existing AACA, the comparison data provided in the Petition does not demonstrate that the existing AACA is academically performing better in comparison to similar District schools. See below data taken from the CDE Dataquest enrollment:

[See Next Page.]

² <https://dq.cde.ca.gov/dataquest/dqcensus/enrgrdlevels.aspx?agglevel=School&year=2018-19&cds=40688250125807>

	Enrollment	SED	EL	Foster Youth	Students with Disabilities	Race/ Ethnicity
AACA	284	26.5%	6.7%	0%	13%	71% White 22.2% Hispanic or Latino
Kermit King Elem.	450	33.6%	6.9%	.7%	8.9%	67.3% White 26.2% Hispanic or Latino
Pat Butler Elem.	467	41.8%	12.8%	1.3%	11.6%	52.9% White 39.4 % Hispanic or Latino
Pifer Elem.	462	66%	27.9%	1.7%	13.4	30.5% White 64.1% Hispanic or Latino
Peterson Elem.	453	69.1%	40.8%	.9%	19.2	30.5% White 64.1% Hispanic or Latino

("SED" refers to Socioeconomically Disadvantaged and "EL" refers to English Learners.)

The existing AACA also serves middle school grades 6-8. Below is data taken from the CDE Dataquest enrollment for Daniel Lewis Middle School serving a similar student population to the existing AACA:

	Enrollment	SED	EL	Foster Youth	Students with Disabilities	Race/ Ethnicity
Daniel Lewis Middle	791	47.4	8.6%	.4%	12.4%	44.8% White 51.3% Hispanic or Latino

The below data taken from the CAASPP website compares academic performance of the existing AACA to the District's Kermit King Elementary, Pat Butler Elementary, and Daniel Lewis Middle Schools with similar student demographics to the existing AACA:

Academic Performance: 2019 CAASPP Results Percentage of Students Meeting or Exceeding Standards		
	ELA	Mathematics
AACA	45.45%	39.69%
Kermit King Elem.	59.23%	53.65%
Pat Butler Elem.	57.83%	59.56%
Daniel Lewis Middle	49.93%	40.78%

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The following California Dashboard data represents that existing AACA students demonstrate significantly lower academic performance than similar District elementary schools in both English Language Arts and Mathematics on the CAASPP, and lower performance in Mathematics than Daniel Lewis Middle School serving a similar student population to the existing AACA:

Academic Performance: 2019 CAASPP Results Distance from 3		
	ELA	Mathematics
AACA	10.4 points below standard	30.3 points below standard
Kermit King Elem.	11.4 points above standard	3.9 points above standard
Pat Butler Elem.	15.8 points above standard	10.7 points above standard
Daniel Lewis Middle³	4.2 points below standard	30.8 points below standard

The Petition identifies the measurable pupil outcomes that address student achievement and an MTSS system of support. However, 2019 California Dashboard data indicates that Hispanic or Latino, and Socioeconomically Disadvantaged students are performing significantly below their White peers at the existing AACA. Below is a breakdown of subgroup academic performance data (not all subgroups are listed because the groups are not large enough to provide reliable data):

AACA	All Students	White	Hispanic or Latino	Socioeconomically Disadvantaged
Math	30.3 points below standard	18.4 points below standard	80 points below standard	67.9 points below standard
ELA	10.4 points below standard	2.2 points below standard	48.2 points below standard	41.8 points below standard

³ The far majority of the existing AACA's enrollment is in grades K-5. Per 2018-19 CDE Dataquest information, of the total 284 enrollment, 227 are K-5, and 57 are 6-8. <https://dq.cde.ca.gov/dataquest/dqcensus/enrgdlevels.aspx?agglevel=School&year=2018-19&cds=40688250125807>

B. 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 15 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.

(Regulations § 11967.5.1(g).)

The Petition does not provide reasonably comprehensive descriptions of the following elements for reasons including those identified below.

Element 1 – Educational Program

The Education Code section 47605 (“Statute”) and Regulations require a 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

Element 1 – Educational Program

the charter school will provide or access special education programs and services; the charter 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 reasonably comprehensive description of the Charter School's educational program, based on findings including the following:

(a) **Meeting the Needs of Students with Disabilities.**

The Petition does not sufficiently describe how the Charter School will meet the needs of students with disabilities for reasons including the following:

- (1) The Petition states that the Charter School "will continue to be its own local education agency ("LEA") for purposes of special education through the San Luis Obispo County Special Education Local Plan Area ("SELPA")." While the existing AACA charter school under the authorization of the San Miguel Joint Union School District ("SMJUSD") is a member of the San Luis Obispo County SELPA ("SLO SELPA"), the petitioners have failed to identify any steps it has taken or intends to take to secure the new Charter School's membership within the SLO SELPA.
- (2) While the Petition does include a recitation of the legal requirements for special education and routine statements about compliance with federal and state law and local SELPA policies, it fails to describe in any detail the Charter School's special education program. For instance, under the heading "Special Education Strategies for Instruction and Services" only one paragraph is provided. Also, while the Petition states that it is "a goal of AACA that, to the extent possible, special needs populations will be integrated into the entire student body and participate fully in all aspects of the curriculum" (p. 38), this goal is true of any school, and the Petition should describe how that goal will be accomplished in regard to special education students to be served by the Charter School.
- (3) The Petition also states that it will comply with all requirements mandated in students' IEPs, but describes special education students being served in the general education environment and mainstreaming. The Petition lacks a description of what, if any, learning environments will exist at the Charter School other than general education with accommodations and modifications, or finding a placement in a regional program outside of the Charter School. There is no description of where services would be provided if a student is not appropriate for a full-time general education environment, except that it may be in a regional program "as outlined in the SELPA Local Plan." This seems to indicate that should a special education student require a placement other than general education with accommodations and modifications, such student would be placed outside of the Charter School (in a regional program) as that would be the only other viable option. For example, the Petition does not contain information on learning centers or self-contained classrooms as possible placements at the Charter School. We are left to wonder whether those options exist or not at the existing AACA or will at the proposed Charter School.

- (4) The Petition indicates: "AACA complies with the federal and state mandate of the 'least restrictive environment,' meaning that the school will make every attempt to educate special education students along with their non-disabled peers. The Charter School will mainstream all of its students as much as is appropriate according to each individual IEP and offer a comprehensive inclusion program." (p. 50.) However, the Petition does not describe whether the Charter School will offer more intensive classrooms with specialized support for students with moderate to severe disabilities. If students with moderate to severe disabilities are accepted to the Charter School, the student will be served in the general education environment which may or may not be the least restrictive setting to meet their unique needs and challenges.
- (5) The Petition states for students whose needs are "beyond the continuum of services" at the Charter School, it will work with regional programs for an appropriate placement. Yet, the Petition does not describe any continuum at all, so the District is unable to ascertain what types of services would fall beyond the Charter School's "continuum" of general education with supports, raising questions including: If a student was found to have needs beyond the unstated continuum, what is the process for an Offer of FAPE at a regional program? What if such an Offer of FAPE was made and parents declined?
- (6) Per the Petition, special education services will be delivered by "qualified personnel." (p. 50.) However, the only special education staffing position identified in the Petition is the Special Education Director, and it is unclear whether the Charter School will be staffed with that position in year one of the Charter School's operations (see below under Element 5).
- (7) The Petition states that the Charter School may seek related service providers from the San Luis Obispo County Office of Education ("SLOCOE"), and may also provide services by hiring credentialed or licensed providers through private agencies, independent contractors or regional providers as outlined in the SELPA Local Plan. (p. 46.) However, the petitioners have not provided any evidence of the Charter School's ability/authority to utilize SLOCOE service providers or regional providers. As to the use of independent contractors, California law does not authorize LEAs to contract with a Non-Public Agency ("NPA") to provide Education Specialists for Specialized Academic Instruction. While LEAs may contract with an NPA for related services providers, the Education Code does not allow for Education Specialists through an NPA (Ed. Code, § 56366.1(a)(1) and (2)).
- (8) The Petition fails to describe how Specialized Academic Instruction will be provided for special education students who will be educated in the general education classroom of the Charter School.
- (9) The Petition describes the Charter School's obligations under Section 504 of the Rehabilitation Act ("Section 504"). If an entity employs more than 15 people, the entity must designate a person as a Section 504 Coordinator. (34 C.F.R. §§ 104.7-104.8.) While the Petition references a "504 Coordinator," it is unclear from the Petition whether and how such a position will be designated at the Charter School.

(b) Goals, Actions, Outcomes Regarding Eight State Priorities.

Education Code section 47605 requires the Charter itself to include a reasonably comprehensive description of the Charter School's annual goals, actions, and measurable outcomes, both schoolwide and for each subgroup of pupils, identified pursuant to Section 52052, to be achieved in the state priorities. The Petition inconsistently identifies where the Charter School's annual goals, actions, and measurable outcomes aligned with the eight state priorities are described.

Specifically, on page 39 the Petition states:

Charter School Goals and Actions to Achieve the Eight State Priorities

Please see the section "Goals, Actions and Measurable Outcomes Aligned with the Eight State Priorities" in Element B of the charter for a description of the Charter School's annual goals to be achieved in the Eight State Priorities schoolwide and for all pupil subgroups, as described in Education Code Section 52060(d) and specific annual actions to achieve those goals, in accordance with Education Code Section 47605(b)(5)(A)(ii).

The Petition then contradictorily under Element 2 on page 54 states:

Pursuant to Education Code Sections 47605(b)(5)(A)(ii) and 47605(b)(5)(B), the Charter School's annual goals, actions and measurable outcomes, both schoolwide and for each subgroup of pupils, which address and align with the Eight State Priorities as described in Education Code Section 52060(d), can be found in the Charter School's Local Control Accountability Plan ("LCAP").

Element 4 – Governance
The Statute and Regulations require a 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); Regulations, § 11967.5.1.)

The Petition does not contain a reasonably comprehensive description of the Charter School's governance structure, based on findings including the following:

- (a) Compliance with Transparency Laws. Senate Bill 126 added Education Code section 47604.1, effective January 1, 2020, to expressly make the Charter School, and the non-profit public benefit corporation that operates the Charter School, subject to the following laws: (1) Brown Act; (2) California Public Records Act; (3) Political Reform Act of 1974 (Government Code section 81000 et seq.); and (4) Government Code section 1090 et seq., as set forth in Education Code section 47604.1. Section 47604.1 also requires the non-profit corporation Board to comply with specified Board meeting access requirements depending on the operations of the nonprofit operating the Charter School. Even though these legal requirements were in effect before the Petition was submitted to the District, the Petition does not provide any assurances

regarding compliance with (or any reference to) Section 47604.1, the Political Reform Act, or Government Code section 1090 et seq.

(b) Board Bylaws.

Per the Petition, the Charter School will be operated and governed by the Paso Robles Charter School Project, Inc. non-profit corporation in accordance with the corporation's adopted Bylaws. The petitioners confusingly submitted "Draft" Board Bylaws with the Petition even though the corporation filed Restated Articles of Incorporation changing the name of the corporation with the California Secretary of State on August 21, 2019.

Assuming the Draft Bylaws submitted with the Petition are the current non-profit Board's Bylaws, they are inconsistent with the Petition. For instance, the Petition states that the Board will consist of "at least five, but not more than seven members" (p. 57), but the Bylaws at Article 6, Section 1, states the Board "shall have not more than nine (9) and not less than five (5) directors." Also, the list of Board duties in Bylaws Article 6, Section 6 is inconsistent with the duties listed in the Petition under Element 4.

Additionally, the Bylaws submitted with the Petition allow for practices that may run contrary to Government Code section 1090 et seq. conflict of interest laws made applicable to the Charter School by Education Code section 47604.1.

For instance, the Bylaws Article 6, Section 3 allow up to 49% of the Board to be an "interested person," defined to include "[a]ny person compensated by the corporation for services rendered to it within the previous 12 months, whether as a full-time or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director as director."

Education Code section 47604.1 (effective 1/1/20) allows a charter school employee to serve on the charter school's governing board without violating Section 1090, provided that the board member employee abstains from voting on, or influencing or attempting to influence another member of the governing body regarding all matters uniquely affecting that member's employment. However, since "interested person" as used in the Bylaws includes more than just employees of the corporation (includes independent contractors and compensation paid to director as a director), and since this Bylaws allow directors to be compensated for services rendered as directors, this Bylaw section allows for practices that are inconsistent with Government Code 1090 and Section 47604.1.

Element 5 – Employee Qualifications
The Statute and Regulations require a petition to identify general qualifications for various categories of employees the charter school anticipates, 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, and specify that all employment requirements set forth in applicable provisions of law will be met including, but not limited to, credentials as necessary. (Ed. Code, § 47605, subd. (b)(5)(E); Regulations, § 11967.5.1, subd. (f)(5).)

The Petition does not contain a reasonably comprehensive description of the Charter School's employee qualifications, based on findings including the following:

- (a) The Petition describes actions the Charter School will implement in order to achieve the State Priority "Basic Conditions, State Standards, Pupil Achievement, Course Access, Other Pupil Outcomes." One of those actions includes: "Retain Program Director and 1.5 FTE Teacher on Special Assignments (TOSA) to further develop a school-wide academic programming." (p. 53.) However, the Petition under Element 5 states that the Charter School will employ a Teacher on Special Assignment when the Charter School is "fully staffed," calling into question how the Charter School will implement this action to achieve the referenced State Priority.
- (b) The Petition does not sufficiently identify the qualifications for the various categories of employees the Charter School anticipates employing. For instance, while the "Administrative Assistants," "Office Support Staff" and "Special Education Teachers" positions are identified in the Draft Organizational Chart in Appendix F submitted with the Petition, the qualifications of these positions are not described in the Petition.
- (c) The Petition states the Charter School will have the following positions "when fully staffed": "Assistant Executive Director position, Special Education Director, a Business Office Director, TOSAs (Teachers on Special Assignment), a Physical Education/Recreation Teacher, new teachers for each expanded grade level." (p. 65.) The "Draft" Organizational Chart in Appendix F of the Petition includes positions including the following: "Special Education Director," "Business Service Director," and "TOSA's". These inconsistencies, and the fact that the Organizational Chart is still in "draft" form, makes it unclear which positions will actually be employed at the Charter School for its first year of operations. This deficiency also makes it impossible for the District to evaluate whether the Charter School will be sufficiently staffed in order to successfully implement the proposed education program and carry out all necessary responsibilities related to that program.

Element 6 – Health and Safety

The Statute and Regulations require a 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); Regulations, § 11967.5(f)(6).)

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

- (a) Transportation Safety Plan. Although the Petition states that bus transportation will be made available on a per pupil fee basis (p. 96) and the Multi-Year Budget submitted with the Petition includes a line item expense for "Bus Driver" and Revenue line item for "Transportation Fees from Individuals," the Petition does not include any assurance that the Charter School shall develop a transportation safety plan consistent with Education Code section 39831.3 and Vehicle Code section 28160.
- (b) The Petition does not describe the amounts of insurance coverage that will be maintained by the Charter School preventing the District from being able to ascertain whether such coverage will be sufficient enough to protect the students and staff of the Charter School and the District from potential liability of the Charter School and the acts, errors, and omissions of the Charter School's Board of Directors. This is of particular concern given that no information has been provided to the District by the

petitioners regarding the Charter School's anticipated lease or other obligations regarding operation of the Charter School at the new Niblick Road location.

**Element 7 – Means to Achieve
Racial and Ethnic Balance Comparable to the District**

The Statute and Regulations require a petition to identify means by which the charter 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 petition is submitted. (Ed. Code, § 47605(b)(5)(G)⁴; Regulations, § 11967.5.1(f)(7).)

The Petition does not contain a reasonably comprehensive 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 findings including the following:

- (a) On page 11 under "Whom the Charter School is Attempting to Educate and Target Students Population," the Petition states: "it is the goal that the student body most accurately reflects the racial, ethnic and socioeconomic demographics of northern San Luis Obispo County." The Petition then proceeds to reference statistics from the 2000 census for Paso Robles students and 2018-2019 enrollment data from the District.

However, under Element 7, the Petition states that the Charter School is "committed to maintaining a racially and economically diverse student population reflective of the general population of the territorial jurisdiction of the District." (p. 71.) The Petition then states: "Upon authorization, AACA hopes to retain their current student body which is made up of a diverse group of students." Per CDE Dataquest information for the 2018-19 school year, the existing AACA's enrollment racial and ethnic balance is not reflective of the District (see below).⁵

	Hispanic or Latino	White
AACA	22.2%	71.1%
District	54.4%	39.7%

This calls into question whether the proposed Charter School will be able to effectively achieve a racial and ethnic balance reflective of the District.

⁴ Element 7 in Education Code section 47605, has been revised operative July 1, 2020, to require a charter petition to describe: "The means by which the charter school will achieve a balance of racial and ethnic pupils, special education pupils, and English learner pupils, including redesignated fluent English proficient pupils, as defined by the evaluation rubrics in Section 52064.5, that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted." Even though this revised standard is not operative until July 1, 2020, since it will be applicable for the entire term of the proposed Charter School, we question why the Petition does not reflect the change.

⁵<https://dq.cde.ca.gov/dataquest/dqcensus/enrethlevels.aspx?agglevel=School&year=2018-19&cds=40688250125807>
<https://dq.cde.ca.gov/dataquest/dqcensus/enrethlevels.aspx?agglevel=School&year=2018-19&cds=40754576043160>

Element 8 – Admissions Requirements

The Statute and Regulations require a petition to identify admission policies and procedures 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 reasonably comprehensive description of the Charter School's admissions policies and procedures, based on findings including the following:

- (a) Public Random Drawing Process. While public random drawing procedures are described in the existing AACA 2019-2020 Family Handbook available on the existing AACA website,⁶ the Petition itself does not include a reasonably comprehensive description of the manner in which the Charter School will implement a public random drawing process in the event that applications for enrollment exceed school capacity.
- (b) Non-Discrimination Assurance. The Petition does not sufficiently affirm that the Charter School shall not discriminate against any pupil on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code, *including immigration status*, as required by Education Code section 47605.
- (c) Parent Participation/Involvement Obligations. Related to parental/guardian involvement/volunteering expectations, the Petition states:

"AACA has developed a culture of parent involvement with high expectations of our students' families." (p. 8);

"Parents/guardians are a vital and important resource to AACA. Their participation as instructional partners in the program and their support of the AACA mission are critical." (p. 63);

"AACA provides a variety of on-site and at-home, short-term and ongoing, daytime and evening opportunities to meet the varying schedules of parents/guardians." (p. 63);

"AACA aims to provide primary language support to EL students in the form of teachers, parent volunteers and other students." (p. 42);

"The parent participation component of AACA provides the teacher with the ability, at times, to have students working in small groups or individually with an adult. Under the direction of the teacher, parents/guardians have the opportunity to work with small groups or one-on-one with students to ensure that all students get the individual help and attention they need to succeed.⁷ . . . Parents/guardians who choose to volunteer are trained to facilitate, rather than lead, cooperative learning groups so that students can take on the roles themselves." (p. 43.)

⁶https://www.almondacres.com/wp-content/uploads/2019/12/AACA_Family_Handbook_19_20.pdf

⁷ This seems to mean the Charter School will utilize parents/guardians for student instruction which may violate the Education Code section 47605 requirement regarding use of appropriately credentialed teachers.

The Petition includes the above content regarding parent/guardian volunteering without any assurance or representation in the Petition or description of how parents/guardians will be notified that parental involvement is not a requirement for acceptance to, or continued enrollment at, the Charter School.

As a result, there is concern that the Charter School's parental/guardian participation expectations may result in deterring certain families, e.g., migrant, English Learner, and socioeconomically disadvantaged, from seeking admission to the Charter School potentially resulting in a discriminatory impact on those student subgroups in contravention of Education Code section 47605 and further impacting the ability of the Charter School to achieve a racial and ethnic balance of students reflective of the student population residing within the District.

- (d) Student Uniform Requirement. While the Petition does not address the Charter School's student uniform/dress code policies and requirements, the existing AACA 2019-2020 Family Handbook available on the existing AACA website provides the following:

"AACA has adopted a Dress Code Policy that includes *the requirement of uniforms*. . . . Parents may purchase the embroidered uniform polo shirts, short or long sleeve, from the online retailer Epluno through the school's website. The AACA logo, white lettering and silver shaded circle, *must be embroidered on all student polo shirts*." (Family Handbook, p. 21.)⁸

While the existing AACA (per its website) provides opportunities for families to trade outgrown uniforms with other existing AACA families "in order to save from buying costly new uniform pieces," the existing AACA does not indicate that it provides such logoed uniform shirts to families free of charge. As a result, there is concern that the existing AACA's dress code policy requiring students wear an embroidered logo shirt as a condition of attendance runs contrary to the Constitutional free schools guarantee and Education Code sections 49010-49013 applicable to the existing AACA and proposed Charter School. Specifically, Education Code section 49011(a) provides: "A pupil enrolled in a public school shall not be required to pay a pupil fee for participation in an educational activity"; and "pupil fee" is defined in Education Code section 49010(b)(3) to include: "A purchase that a pupil is required to make to obtain materials, supplies, equipment, *or uniforms associated with an educational activity*."

Since it can reasonably be presumed that the petitioners will implement a similar dress code uniform policy at the new Charter School, the District has similar concerns regarding the proposed Charter School's operations.

⁸ This policy is also reflected on the existing AACA's website:
<https://www.almondacres.com/students-families/>

Element 9 - Financial Audit Procedures

The Statute and Regulations require a petition to identify the manner in which annual, independent, and financial audits will be conducted, which shall employ generally accepted accounting principles, the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority. (Ed. Code, § 47605(b)(5)(I); Regulations, § 11967.5.1(f)(9).).

The Petition does not contain a reasonably comprehensive description of the Charter School's financial audit procedures, based on findings including the following:

- (a) The Petition does not sufficiently specify who from the Charter School is responsible for overseeing the independent audit. While the Petition under Element 4 states that the "Finance Committee" provides oversight of the organization's financial audit, the Petition does not describe the composition of the Finance Committee and how members are selected.
- (b) The Petition does not sufficiently describe the process the Charter School will follow to address any audit findings and/or resolve any audit exceptions. The Petition states that the "Executive Director, along with *audit committee*, will review any audit exceptions or deficiencies and report to the Charter School Board of Directors with recommendations on how to resolve them." However, the Petition does not describe the composition of the audit committee, how members are selected, or the scope of the committee's responsibilities.

Element 10 - Student Suspension and Expulsion Procedures

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

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

- (a) The Petition states that a student may be expelled by the Charter School Board upon the recommendation of "an Administrative Panel to be assigned by the Board." Due process concerns are raised by the fact that the Charter School Board makes a decision to expel a student based on the recommendation of the Administrative Panel that the Board itself appointed to conduct the expulsion hearing. These due process concerns are compounded by the fact that the Charter School does not afford students any appeal rights following a decision to expel.
- (b) The Petition inconsistently specifies whether parents/guardians of a suspended student will be notified of the date the student may return to school following the suspension, and does not describe how and where the Charter School will provide students with meaningful access to education during the term of an out-of-school suspension.
- (c) Grounds for Suspension and Expulsion. Per the Petition, the Charter School will not require suspension from school or recommended expulsion for multiple serious offenses, including causing physical injury to another person; willfully using force or violence upon the person of another; committing robbery or extortion; and sexual assault, calling into question whether the petitioners reviewed the lists of offenses and

procedures that apply to students attending non-charter public schools, and whether the proposed lists of offenses and procedures will provide adequate safety for students, staff and visitors to the Charter School and serve the best interests of the Charter School's students and their parents/guardians.

In addition, the existing AACA charter, and its Discipline Matrix,⁹ Safe School Plan, and Family Handbook inconsistently describe the existing AACA's student discipline policies and procedures calling into question what student discipline policies and procedures are actually being implemented raising due process concerns. Considering the same individuals and Board operating the existing AACA will be operating the proposed Charter School, it can reasonably be presumed that similar/same policies and procedures will be implemented raising similar concerns.

VI. OTHER CONSIDERATIONS

A. The District is Under Qualified Certification Status.

Pursuant to the Fiscal Crisis and Management Assistance Team's ("FCMAT") Fiscal Health Risk Analysis Report dated May 3, 2019, "The district has been deficit spending for the past three years and as of the 2018-19 first interim budget has a reserves of approximately 1.73% of its total annual budget, which is below the statutory minimum of 3% for a district of its size. The multiyear projection at first interim indicates that the district reserves will be negative in the 2020-21 fiscal year. The San Luis Obispo County Office of Education ("SLOCOE") conditionally approved the District's budget and, as a condition of approval, required the District to engage FCMAT's services to perform a fiscal health risk analysis for the district." A qualified certification was assigned to the District because it was determined that, based upon projections, the District may not meet its financial obligations for fiscal years 2018-19, 2019-20, or 2020-21.

The District's second interim for the 2019-20 school year still reflects a qualified status. The District based its LCFF revenue projections on ADA of 6505 at budget development. However, at second interim for the 2019-20 school year, the District saw a decline in ADA and adjusted the ADA for the LCFF revenue projection down to 6453, representing a decline of 52 ADA, or an estimated revenue decline of \$300,000. The District is projecting a further decline in enrollment for the 2021-22 school year of an additional 16 ADA as of second interim and another 65 ADA for the 2022-23 school year.

The SLOCOE has expressed concern that authorization of the proposed Charter School will further impact the financial status of the District. Staff is similarly concerned that the District will be unable to absorb the fiscal impact of the proposed Charter School for reasons discussed below in this Section IV even if the Charter School does not realize the total enrollment numbers it is projecting.

Per the Multi-Year Budget submitted with the Petition, the Charter School projects 290 enrollment for 2020-21 and growing to 410 enrollment for 21-22 school year. If 65% of the existing AACA's enrollment are District resident students (Petition, p. 12), it can reasonably be concluded that the Charter School's projected enrollment increase of 120 in year two of operations will result in a loss of enrollment to the District of 78 additional students (equivalent to 73 ADA). This would represent a loss of revenue of approximately \$665,000

⁹ https://www.almondacres.com/wp-content/uploads/2018/12/AACA_Discipline_Matrix.pdf

for the District already in qualified status and already experiencing declining enrollment. Furthermore, this projection does not take into account the financial impact the state and District will likely experience as a result of the COVID-19 pandemic. The District also confirmed with FCMAT that its 2020-21 "prior-year" ADA will be reduced by the ADA of students who attend a District school in 2020-21, but shift over to the Charter School in 2021-22 (Charter School's anticipated first year of operation).

Staff is also concerned that given the District's tenuous financial circumstances, the anticipated loss of ADA will substantially undermine existing District services and offerings. Specifically, the ADA loss will require the District to look at additional combination classes to ease the stress on an already tight budget and ensure the District is still in compliance with class size limits. If the District's LCFF revenue is reduced with the loss of ADA, this will also impact what programs can be offered due to economy of scale. It will also create additional challenges for adoption of new curriculum with the loss of revenue on an already strained budget.

Recognizing the impact an approved charter school can have on the fiscal viability of a school district, the California Legislature amended Education Code section 47605 by Assembly Bill 1505 with changes operative July 1, 2020,¹⁰ to allow a school district to deny a charter petition if the "school district is not positioned to absorb the fiscal impact of the proposed charter school." A school district is not positioned to absorb the fiscal impact of the proposed charter school if: "it has a qualified interim certification pursuant to Section 1240 and the county superintendent of schools, in consultation with the County Office Fiscal Crisis and Management Assistance Team, certifies that approving the charter school would result in the school district having a negative interim certification pursuant to Section 1240." (Ed. Code, § 47605(c)(8).)

Although the inability of the District to absorb the fiscal impact of the Charter School on the District is an important consideration particularly given the unknown additional fiscal repercussions the District will see as a result of the COVID-19 pandemic, since this fiscal impact ground for denial will not be operative at the time of this Board's decision regarding the Petition, it is recommended that the Board take action to deny the Petition based on findings of fact in support of the grounds under the current/existing version of Section 47605 that are reflected under Sections IV and V of this Staff Report.

VII. CONCLUSION

For the reasons stated above in this Staff Report, it has been determined that the petitioners are demonstrably unlikely to successfully implement the program, and the Petition fails to provide a reasonably comprehensive description of several essential required charter elements.

Accordingly, it is recommended that the Petition be denied, and the Board adopt the Findings in Support of Denial under Section V of this Staff Report as the Board's written findings in support of the denial.

¹⁰ This new ground for denial will be operative one whole year before the proposed Charter School plans to commence operations.