

REVIEW OF PETITION FOR THE ESTABLISHMENT OF WESTERN MANDARIN IMMERSION CHARTER SCHOOL

AND PROPOSED FINDINGS OF FACT

November 5, 2018

BACKGROUND

On September 17, 2018, the Riverside Unified School District (“District”) received a complete petition (“Petition”) for the establishment of Western Mandarin Immersion Charter School (“Charter School”). The District’s Board of Education (“Board”) is required to take action to either grant or deny the Petition within sixty (60) days of receipt, unless a 30-day extension is agreed upon by both parties.

On October 16, 2018, the Board held a public hearing to consider the terms of the proposed charter and the level of support from teachers employed by the District, other employees of the District, and parents. (Educ. Code § 47605(b).) At that meeting, the lead petitioner and associates (“Petitioners”) addressed the Board.

The Petition has been carefully reviewed by the District’s charter review team and legal counsel (“Review Team”). The findings set forth below (“Findings of Fact”) were developed based on that review. If the Board grants the Petition, the Board would become the Charter School’s chartering authority with oversight and supervisory responsibilities. If the Board denies the Petition, the Charter School may submit the Petition to the County Board of Education on appeal.

LEGAL STANDARD

The legal standards and criteria that apply to the Board’s review and action on the Petition are set forth in the Section 47605 of the California Education Code. The Board shall grant a charter petition “if it is satisfied that granting the charter is consistent with sound educational practice.” (Educ. Code § 47605(b).) Conversely, the Board may deny a charter petition if it makes written factual findings, specific to the petition, to support one or more of the following findings:

1. The charter school presents an unsound educational program for the pupils to be enrolled in the charter school;
2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition;
3. The petition does not contain the required number of signatures;
4. The petition does not contain an affirmation of each of the conditions described in [Section 47605(d)]; or

5. The petition does not contain reasonably comprehensive descriptions of all of the following:
 - a. Educational program, including LCAP annual goals and actions for all pupils and each subgroup of pupils
 - b. Measurable pupil outcomes, aligned with State priorities
 - c. Method by which pupil progress in meeting outcomes will be measured
 - d. Governance structure
 - e. Employee qualifications
 - f. Health and safety procedures
 - g. Means to achieve racial and ethnic balance
 - h. Admission policies and procedures
 - i. Fiscal audits
 - j. Suspension, expulsion, and involuntary removal procedures
 - k. Retirement programs
 - l. Public school alternatives in county
 - m. Employee return rights
 - n. Dispute resolution
 - o. Closure procedures

In addition, Petitioners are required to provide information regarding the proposed operation and potential effects of the charter school, including the facilities to be used by the charter school, the manner in which administrative services of the charter school are to be provided, and potential civil liability effects.

RECOMMENDATION

Set forth below are Findings of Fact developed by the Review Team specifying areas of concern and deficiencies in the Petition. Based on those Findings of Fact, District staff recommends that the Board adopt Resolution No. 2018/19-29 of the Board of Education of the Riverside Unified School District Denying the Petition for the Establishment of Western Mandarin Immersion Charter School and Adopting Findings of Fact. The Findings of Fact below are not intended to identify and address every deficiency in the Petition, but are legally sufficient to support denial of the Petition.

FINDINGS OF FACT

1. **The proposed Charter School presents an unsound educational program for the pupils to be enrolled in the Charter School.**
 - a. Special Education. The Petition does not provide a clear, cohesive, viable, and educationally sound plan to serve students with disabilities to be enrolled in the Charter School.

1. The Petition states that the Charter School would comply with all

applicable state and federal laws in serving students with disabilities, and would provide a full continuum services. (Petition, pp. 90-104.) However, it fails to adequately describe how the Charter School would be able to serve the needs of all students who require special education and related services, as required by state and federal law, including students with significant academic, social-emotional, behavioral, gross/fine motor, and other needs.

2. The Petition indicates that the Charter School may join a Special Education Local Plan Area (“SELPA”) and become its own local educational agency (“LEA”) for special education purposes (Petition, p. 90), but Petitioners have not communicated with the District’s SELPA about membership requirements, expectations, and the application process, nor have they identified another SELPA the Charter School intends to join and the status of that application.
 3. The Petition states that, pending membership in a SELPA, the Charter School would be a school of the District for special education purposes, and would work collaboratively with the District. (Petition, pp. 90-91.) However, there has been no discussion with District staff about how Charter School students would be served through that model. The Petition states the District would conduct assessments and IEP team meetings and determine necessary supports, services, and placements (Petition, pp. 91-100), but Petitioners have not discussed with District whether the District is interested in entering into an agreement with the Charter School to provide those services. The Petition does not address how those services will be provided by the Charter School, either directly or through a 3rd party, in the event the District does not enter into an agreement with the Charter School to provide services pending LEA membership. Without a clear plan in place, the Petition does not present a sound educational program for students with disabilities.
- b. English Learners. The Petition does not provide a clear, cohesive, viable, and educationally sound plan to serve English Learner (“EL”) students to be enrolled in the Charter School. (Petition, pp. 85-89.)
1. The Petition indicates that all eligible students will receive EL services, but fails to adequately describe those services, how appropriate policies and practices will be implemented, and how teachers will be qualified and professionally trained to provide the services. The Petition indicates that teachers will have a 3-year window to obtain a CLAD/English Learner or BCLAD/Bilingual authorization, rather than be authorized when they begin to teach. (Petition, p. 87.)
 2. The Petition does not address the process for EL student identification, curriculum, assessments, reporting or redesignation. The Petition does not adequately address how and what assessments would be utilized to

identify and place students. The Petition does not identify the core curriculum or other materials that will be used. The Petition does not provide any detail regarding how the Charter School would provide integrated and designated EL instruction in a Mandarin Immersion program.

3. The Petition fails to adequately describe how the Charter School will be able to support EL students in obtaining English proficiency in a Mandarin immersion program, with instruction being provided at a ratio of 90:10 Mandarin to English during the first three years, with more English instruction introduced gradually. (Petition, pp. 16, 46, 67.)

2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the Petition.

- a. Special Education and English Learners. For the reasons described under Finding No. 1 above, the Petitioners are demonstrably unlikely to successfully implement the special education and ELD programs set forth in the Petition. The Charter does not include a clear and viable plan to serve these student populations.
- b. Parent/Student Interest. The proposed Charter School program, staffing and budget is based on an assumption that 200 students (grades TK, K, 1st and 2nd) would be enrolled during the first year of instruction (Petition, p. 196), with that number increasing to 400 students by Year 5. (Petition, Budget Narrative and Assumptions.) However, those projections do not appear to be supported by demonstrated parent and student interest, either at the public hearing on October 16, 2018 (during which no parents or students addressed the Board) or through signatures on the Petition itself (which is based on teacher signatures). There is no evidence to support a conclusion that a sufficient number of parents and students are meaningfully interested in enrolling their child in the proposed Charter School to make it fiscally and operationally sound.
- c. Racial and Ethnic Balance. The Petition indicates that the Charter School is committed to maintaining a racially diverse student population reflective of the general population residing in the District, as required by law, and sets forth its recruitment plan. (Petition, p. 167; Educ. Code § 47605(b)(5)(G).) The Petition also states that the Charter School aims “to enroll students whose racial and ethnic diversity is representative of the RUSD.” (Petition, p. 19.) However, the Petition describes an admission policy that would negate any efforts to maintain a racial balance reflective of the Riverside community. Specifically, as a prerequisite for admission in 2nd grade and higher, a student would undergo a “Mandarin Language Review” to ensure that the student applicant is “proficient in Mandarin at the grade level to which they are applying.” (Petition, p. 171.) This prerequisite will have a negative impact on racial and ethnic diversity since very few non-Asian students in Riverside County speak Mandarin. In light of this admission prerequisite, Petitioners are demonstrably unlikely to successfully implement the racial and ethnic balance element of the Petition and as required by law.

- d. Nondiscriminatory Admissions. The Petition states that the Charter School shall not discriminate on the basis of the characteristics listed in Education Code § 220, which include actual or perceived nationality, race or ethnicity. (Petition, pp. 8, 146, 170; Educ. Code § 47605(d)(1).) The Charter Schools Act provides that a charter school “shall admit all pupils who wish to attend the charter school,” subject to space limitations and a nondiscriminatory lottery process (Educ. Code § 47605(d)(2).) The Charter Schools Act further provides that lottery preferences “shall not result in limiting enrollment access for ... English Learners ... or pupils based on nationality, race, ethnicity, or sexual orientation.” (Educ. Code § 47605(d)(2)(B)(iii).) In conflict with these laws, the Petition describes an admission process that would require Mandarin proficiency of students seeking admission into the 2nd grade or higher. This requirement would preclude many students from attending the charter school and would have a discriminatory effect on students based on their nationality, race or ethnicity. As such, Petitioners are demonstrably unlikely to successfully implement the requirement to have nondiscriminatory admission practices, and to admit all pupils who wish to attend, space permitting.

3. The Petition does not include the required number signatures of meaningfully interested teachers.

The teacher signatures supporting the Petition do not appear to reflect teachers who are “meaningfully interested” in teaching at the proposed Charter School, as required by law. When a petition is submitted based on teacher (not parent) signatures, the petition must be “signed by a number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the charter school during its first year of operation.” (Educ. Code § 47605(a)(1)(B).) The petition “shall include a prominent statement that “a signature on the petition ... means that the teacher is meaningfully interested in teaching at the charter school.” (Ed. Code § 47605(a)(3).) In this case, the Petition estimates that eight (8) teachers will be employed at the Charter School in Year 1. Although the Petition includes six (6) signatures, none of the listed teachers appear to have BCLAD authorization based on a District check of credentials, and BCLAD authorization would be required of each teacher during Year 1 of instruction at the Mandarin immersion school. Therefore, the signatures appear to be deficient in that the teachers signing the Petition cannot reasonably be considered to be “meaningfully interested” in teaching at the Charter School if they do not hold the required credentials or authorizations.

4. The Petition does not contain reasonably comprehensive descriptions of all the required elements:

- a. Educational Program. As described in Finding 1(a) above, the Petition does not include a reasonably comprehensive description of how the Charter School will serve students with disabilities in compliance with state and federal law and provide a full continuum of services and placement options, regardless of the severity of a student’s disability. The Petition appears to rely exclusively on the

District to operate the Charter School's special education program pending the Charter School's application to and acceptance by a SELPA. In addition, as described in Finding 1(b) above, the Petition does not include a reasonably comprehensive description of how EL students will be supported through ELD while in a Mandarin immersion. The Petition also does not include a reasonably comprehensive description of Annual Goals and Annual Actions (LCAP). The goals and actions in the Petition are stated generally, and are not specific to the following subgroups, as required by law: racial/ethnic group, low income and homeless students, students with disabilities, foster youth. (Educ. Code § 47605(b)(5)(A)(ii).) (Petition, pp. 108-127.)

- b. Measurable Pupil Outcomes. The Petition fails to include a reasonably comprehensive description of the measurable pupil outcomes identified for use by the Charter School. "Measurable Pupil Outcomes" is defined as "the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program," including "outcomes that address increases in pupil academic achievement both schoolwide and *for all groups of pupils served by the charter school*" (i.e., those that are numerically significant per Education Code, section 52052(a)(3). Pupil outcomes must also align with the state priorities that apply for the grade level served or the nature of the program operated by the charter school. (Educ. Code § 47605(b)(5)(B).) The Petition lacks a detailed description of measurable pupil outcomes, schoolwide *and by subgroup*. (Petition, pp. 108-127.) In addition, the Petition uses outdated references, such as to the annual "API Growth Target" as a measurable pupil outcome. (Petition, pp. 108, 112, 114, 115.)
- c. Employee Qualifications. The Petition fails to include a reasonably comprehensive description of how teachers will be qualified to teach in the Mandarin immersion program. (Petition, pp. 157-160.) The Petition does not reflect the requirements in California that every teacher serving English Learners must hold EL authorization (CLAD), and every bilingual teacher must hold bilingual authorization (BCLAD). The Petition provides that teachers hired to teach English will "ideally" or "preferably" hold either an EL authorization (CLAD) or bilingual authorization (BCLAD); however any teacher who serves an EL student must have an EL authorization. (Petition, pp. 109, 158.) The Petition also fails to describe the qualifications for teachers of non-core classes who are not credentialed. (Petition, p. 146.) Finally, the Petition indicates that the Charter School's teachers may include "foreign teachers" but it is unclear whether such teachers would hold the required credentials and authorizations required by the State of California. (Petition, p. 160.)
- d. Student Discipline and Involuntary Removals. The Petition fails to include a reasonably comprehensive description of the procedures by which pupils can be involuntarily removed from the Charter School for any reason. (Educ. Code § 47605(b)(5)(J).) The Petition notes that it will comply with AB 1360 (effective January 1, 2018), regarding "involuntary dismissals" of students. (Petition, pp. 9, 175). However, it provides no detail regarding the procedures that will be

followed to ensure that students receive due process when involuntarily removed for any reason (*e.g.*, disenrolled, dismissed, transferred, or terminated). Instead, the Petition addresses only suspension and expulsion procedures. (Petition, pp. 175-188.) The Petition also does not provide any detail regarding the types of involuntary removals or dismissals that could potentially take place.

These Findings of Fact are not exhaustive, and should not be interpreted to mean that other areas of the Petition not addressed here are legally sufficient and acceptable to the District.

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