

**CHINO VALLEY UNIFIED SCHOOL DISTRICT**  
**SPECIAL MEETING OF THE BOARD OF EDUCATION**  
**5130 Riverside Drive, Chino, CA 91710**  
**District Board Room**  
**5:00 p.m. – Closed Session • 5:05 p.m. – Special Meeting**  
**November 9, 2017**

**AGENDA**

- The public is invited to address the Board of Education regarding items listed on the agenda. Comments on an agenda item will be accepted during consideration of that item, or prior to consideration of the item in the case of a closed session item. Persons wishing to address the Board are requested to complete and submit to the Administrative Secretary, Board of Education, a "Request to Speak" form available at the entrance to the Board room.
- In compliance with the Americans with Disabilities Act, please contact the Administrative Secretary, Board of Education, if you require modification or accommodation due to a disability.
- Agenda documents that have been distributed to members of the Board of Education less than 72 hours prior to the meeting are available for inspection at the Chino Valley Unified School District Administration Center, 5130 Riverside Drive, Chino, California, during the regular business hours of 7:30 a.m. to 4:30 p.m., Monday through Friday.
- Order of business is approximate and subject to change.

**I. OPENING BUSINESS**

**I.A. CALL TO ORDER – 5:00 P.M.**

1. Roll Call
2. Public Comment on Closed Session Items
3. Closed Session

**Discussion and possible action (times are approximate):**

- a. Student Matter, Parent Request to Change Grade (Education Code 35146): I.D. 318040186 (5 minutes)

**I.B. RECONVENE TO SPECIAL MEETING – 5:05 P.M.**

1. Report Closed Session Action
2. Pledge of Allegiance

**II. ACTION**

**II.A. ADMINISTRATION**

**II.A.1. Public Hearing Regarding Allegiance STEAM Academy-Thrive Charter School Petition**

Page 3

Recommend the Board of Education conduct a public hearing regarding the Allegiance STEAM Academy-Thrive charter school petition.

Open Hearing \_\_\_\_\_

Close Hearing \_\_\_\_\_

**II.A.2. Sycamore Preparatory Academy Charter School Petition**

Page 4

Recommend the Board of Education adopt Resolution No. 2017/2018-28 Adopting Findings Regarding the Sycamore Preparatory Academy Charter School Petition pursuant to Education Code section 47605(b).

**Motion** \_\_\_ **Second** \_\_\_  
**Preferential Vote:** \_\_\_  
**Vote: Yes** \_\_\_ **No** \_\_\_

<b>III. ADJOURNMENT</b>
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Prepared by: Patricia Kaylor, Administrative Secretary, Board of Education  
Date posted: November 6, 2017

**CHINO VALLEY UNIFIED SCHOOL DISTRICT**

**Our Motto:**

Student Achievement • Safe Schools • Positive School Climate  
Humility • Civility • Service

**DATE:** November 9, 2017  
**TO:** Members, Board of Education  
**FROM:** Wayne M. Joseph, Superintendent  
**SUBJECT: PUBLIC HEARING REGARDING ALLEGIANCE STEAM  
ACADEMY-THRIVE CHARTER SCHOOL PETITION**

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**BACKGROUND**

On October 16, 2017, Allegiance STEAM Academy-Thrive submitted a charter school petition to the Chino Valley Unified School District.

California Education Code Section 47605 establishes the procedures and timelines for charter school petitions. California Education Code section 47605(b) requires the Board of Education to hold a public hearing no later than 30 days after receiving the petition to consider the level of support for the petition by teachers employed by the District, other employees of the District, and parents.

**RECOMMENDATION**

It is recommended the Board of Education conduct a public hearing regarding the Allegiance STEAM Academy-Thrive charter school petition.

**FISCAL IMPACT**

None.

WMJ

**CHINO VALLEY UNIFIED SCHOOL DISTRICT**

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Student Achievement • Safe Schools • Positive School Climate  
Humility • Civility • Service

**DATE:** November 9, 2017  
**TO:** Members, Board of Education  
**FROM:** Wayne M. Joseph, Superintendent  
**SUBJECT: SYCAMORE PREPARATORY ACADEMY CHARTER SCHOOL PETITION**

=====

**BACKGROUND**

California Education Code section 47605 establishes the procedures and timelines for charter school petitions. Pursuant to section 47605, Sycamore Preparatory Academy submitted a charter school petition on September 14, 2017.

A public hearing was held on October 5, 2017, in accordance with Education Code section 47605(b).

Education Code section 47605(b) further requires that: "Following review of the petition and the public hearing, the governing board of the school district shall either grant or deny the charter within 60 days of receipt of the petition...."

District representatives have carefully reviewed the Sycamore Preparatory Academy Charter School Petition and the Sycamore Preparatory Academy Charter Petition Budget.

**RECOMMENDATION**

It is recommended the Board of Education adopt Resolution No. 2017/2018-28 Adopting Findings Regarding the Sycamore Preparatory Academy Charter School Petition pursuant to Education Code section 47605(b).

**FISCAL IMPACT**

Loss of ADA and categorical funding for the number of District students who enroll in the Sycamore Preparatory Academy.

**PLEASE NOTE:** Although this is a possible fiscal impact, by law, the Board may not base a decision on the potential fiscal impact. Rather, the decision may only be based on the statutory grounds set out in Education Code section 47605.

**CHINO VALLEY UNIFIED SCHOOL DISTRICT  
RESOLUTION NO. 2017/2018-28 ADOPTING RECOMMENDED FINDINGS OF FACT  
REGARDING THE SYCAMORE PREPARATORY ACADEMY CHARTER SCHOOL  
PETITION**

WHEREAS, pursuant to California Education Code section 47605 *et seq.*, the Board of Education of the Chino Valley Unified School District (“CVUSD” or “District”) is required to review charter school petitions submitted to the District and grant or deny the proposed charter.

WHEREAS, the Sycamore Preparatory Academy (“SPA”) charter school petitioners submitted a charter petition to the District on September 14, 2017 for a grades TK-8 charter school.

WHEREAS, California Education Code section 47605 and California Code of Regulations, title 5, section 11967.5.1, require the CVUSD Board of Education to grant or deny a request for a charter petition within sixty (60) days of receipt of the charter petition.

WHEREAS, the California State Board of Education has developed criteria to be used for the review of charter school petitions presented to the State Board pursuant to Education Code section 47605(j)(2). (California Code of Regulations, title 5, section 11960 *et seq.*). Education Code section 47605(j)(2) states, “*The criteria shall address all elements required for charter approval, as identified in subdivision (b) and shall define ‘reasonably comprehensive’ as used in paragraph (5) of subdivision (b) in a way that is consistent with the intent of this part.*” Because the State Board of Education reviews charter petitions that have been denied by school districts, the District reviews charter school petitions for compliance with the State Board of Education regulations.

WHEREAS, the same SPA charter petitioners previously submitted a SPA charter petition to the District on January 19, 2017, which was subsequently denied by the District’s Governing Board by a vote of 5-0 on March 16, 2017 based on the CVUSD Board of Education’s findings that the SPA charter petitioners were demonstrably unlikely to successfully implement the program set forth in the charter petition, that the charter petition failed to contain the required number of signatures, that the charter petition failed to contain an affirmation that the proposed charter school would not charge tuition, that the charter petition failed to contain reasonably comprehensive descriptions of seven of the fifteen required elements of a charter petition, and that the charter petition failed to provide information regarding the proposed operation and potential effects of the charter school.

WHEREAS, during the regularly scheduled meeting of the CVUSD Board of Education on October 5, 2017, a Public Hearing on the SPA charter petition was conducted in accordance with the provisions of Education Code section 47605(b), at which time the CVUSD Board of Education considered the level of public support for the SPA charter petition by teachers employed by the District, other employees of the District, and parents.

WHEREAS, during the October 5, 2017 SPA Public Hearing, California Charter Schools Association representative Fátima Christina Adame spoke in support of the SPA charter petition, SPA charter school lead petitioner Barbara Hale spoke in support of the SPA charter petition, SavantCo Education Chief Development Officer Roy Kim spoke in support of the SPA charter

petition, former Oxford Preparatory Academy parent and current CVUSD parent, Kyle Williams, spoke in support of the SPA charter petition, and CVUSD parent, Derick Dornan, spoke in support of the SPA charter petition. The District notes SavantCo Education is employed by the SPA charter petitioners as the in-house and back office service provider in operating the SPA charter petitioners' existing charter school, Sycamore Academy of Science and Cultural Arts ("SASCA"), at a cost of \$10,000 per month.

WHEREAS, there was no discernible public support at the October 5, 2017 SPA Public Hearing for the SPA charter petition by teachers employed by the District or other employees of the District.

WHEREAS, all of the members of the CVUSD Board of Education have read and fully considered the September 14, 2017 SPA charter petition and supporting documents, including the SPA Budget, the Paul S. Horvat Certified Public Accountant's Review and Analysis of the SPA charter petition and Budget, and this Resolution.

WHEREAS, in reviewing the SPA charter school petition, the CVUSD Board of Education has been cognizant of 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.

WHEREAS, in reviewing the SPA charter petition, District staff, working with Superintendent Wayne M. Joseph, with District legal counsel, and with Certified Public Accountant Paul S. Horvat, have reviewed and analyzed all of the information presented by the SPA charter petition and the SPA Budget, including materials related to the operation and potential effects of the proposed SPA charter school.

Because the District staff's review finds that granting the SPA charter petition is not consistent with sound educational practice, District staff have made a recommendation to the CVUSD Board of Education in the form of this Resolution that the September 14, 2017 SPA charter petition be **denied**.

NOW, THEREFORE, BE IT RESOLVED that the CVUSD Board of Education finds that all of the above recitals are true and correct and incorporates them herein by this reference.

BE IT FURTHER RESOLVED that the CVUSD Board of Education, having fully considered the September 14, 2017 SPA charter petition, hereby **denies** the SPA charter petition pursuant to Education Code section 47605(b) and finds that granting the SPA charter petition is not consistent with sound educational practice based upon the following factual findings specific to the September 14, 2017 SPA charter petition:

- I. The SPA charter petitioners are demonstrably unlikely to successfully implement the program set forth in the SPA charter petition. [Education Code section 47605(b)(2)];**
- II. The SPA charter petition fails to provide all of the legally required affirmations and assurances in compliance with state law. [Education Code section 47605(b)(4)]; and**

**III. The SPA charter petition fails to contain reasonably comprehensive descriptions of seven (7) of the fifteen (15) required elements of a charter petition. [Education Code section 47605(b)(5)].**

BE IT FURTHER RESOLVED that the CVUSD Board of Education hereby finds that all of the foregoing findings are supported by the following specific facts:

**I. THE SPA CHARTER PETITIONERS ARE DEMONSTRABLY UNLIKELY TO SUCCESSFULLY IMPLEMENT THE PROGRAM SET FORTH IN THE SPA CHARTER PETITION. [EDUCATION CODE SECTION 47605(b)(2)]**

Education Code section 47605(b)(2) provides that a charter petition may be denied if specific facts support a finding that “*the petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.*”

**A. The SPA Charter Petitioners Are Demonstrably Unlikely To Successfully Implement The Program Set Forth In The SPA Charter Petition Because The SPA Budget Presents An Unrealistic Financial And Operational Plan For The Proposed SPA Charter School In The Area of Financial Administration.**

California Code of Regulations, title 5, section 11967.5.1(c)(3) states that a factor to be considered in determining whether charter petitioners are “*demonstrably unlikely to successfully implement the program*” set forth in the charter petition is whether the charter petitioners have presented an unrealistic financial and operational plan for the proposed charter school.

California Code of Regulations, title 5, section 11967.5.1(c)(3) provides:

*“An unrealistic financial and operational plan is one to which any or all of the following applies: . . .”*

*“(B) In the area of **financial administration**, the charter or supporting documents do not adequately:*

*1. Include, at a minimum, the first-year operational budget, start-up costs, and cash flow, and financial projections for the first three years.*

*2. Include in the operational budget reasonable estimates of all anticipated revenues and expenditures necessary to operate the school, including, but not limited to, special education, based, when possible, on historical data from schools or school districts of similar type, size, and location.*

3. *Include budget notes that clearly describe assumptions on revenue estimates, including, but not limited to, the basis for average daily attendance estimates and staffing levels.*

4. *Present 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.*

5. *Demonstrate an understanding of the timing of the receipt of various revenues and their relative relationship to timing of expenditures that are within reasonable parameters, based, when possible, on historical data from schools or school districts of similar type, size, and location.”* (Emphasis added.)

Due to discrepancies identified during the CVUSD staff’s review of the SPA charter petition, the District obtained an independent Review and Analysis of the SPA charter school petition, Budget and supporting financial documents from Certified Public Accountant (“CPA”) Paul S. Horvat.

The Paul S. Horvat CPA Review and Analysis (“Paul S. Horvat Review & Analysis”) is attached as Exhibit A hereto and incorporated herein by this reference.

The Paul S. Horvat Review & Analysis of the SPA charter school petition and Budget concludes that the SPA charter petition and Budget present an unrealistic financial and operational plan for the proposed SPA charter school.

The November 2, 2017 Paul S. Horvat CPA Review & Analysis of the SPA charter petition and Budget states at pages 1 through 3:

#### ***EXECUTIVE SUMMARY***

***The September 14, 2017 SPA Charter Petition and Budget fail to present any new information that would alter the conclusions reached in my March 9, 2017 Review and Analysis of the SPA Charter Petition and Budget as submitted on January 19, 2017 which were as follows:***

***“When providing the SPA charter petitioner’s budget as required by Education Code section 47605(g) and California Code of Regulations, Title 5, section 11967.5.1(c)(3)(B), the SPA charter school petitioners should have but failed to provide complete and accurate Budget Notes and Assumptions describing in detail the amounts presented in SPA’s Budget.***

***Detailed Budget Notes and SPA’s documentation supporting SPA’s Budget amounts are a critical component of the basis upon***



*which approval of the SPA charter petition is granted. The SPA charter petitioners failed to provide any historical spending experience or budget analysis comparing Sycamore Preparatory Academy and other start-up charter school budgets in California with the proposed Sycamore Preparatory Academy Budget.*

*The SPA charter petitioners failed to account for \$225,000 of year one Public Charter School Grant Program (PCSGP) start-up costs.*

*The SPA charter petitioners failed to describe in detail how SPA's budgeted special education encroachment costs were sufficient when a comparative analysis of special education costs determines that SPA's special education encroachment costs are understated by \$591,812.*

*The SPA charter petitioners also failed to present any comparative facilities rent expense analysis correlating to the SPA charter petitions required 50,625 square feet of rental space.*

*Material expense omissions in the SPA Budget understate SPA's total expenditures, reduce fund balance to a deficient of (\$577,638) and result in a negative or deficit fund balance reserve of (-7.3%).*

*The SPA Budget also fails to reconcile salaries and benefits to any salary schedule or payroll and benefits schedule.*

*Overall, in my professional opinion, because of the material nature of the SPA charter petitioners' omissions from the SPA Budget and Budget Notes, including SPA's unsubstantiated and understated special education encroachment costs, understated facilities rent expenses, and unbudgeted PCSGP start-up costs, the Sycamore Preparatory Academy charter petition and Budget present an unrealistic financial and operational plan for the proposed SPA charter school."*

*Therefore, even though SPA has had notice of the material failures of the January 19, 2017 SPA Budget to comply with the applicable legal standards since at least March 9, 2017, the SPA charter petitioners continue to present an unrealistic financial and operational plan for the proposed SPA charter school in the September 14, 2017 SPA charter petition and Budget.*

*After a comprehensive review of the Sycamore Preparatory Academy charter petition and Budget(s) as submitted to the Chino Valley Unified School District on September 14, 2017, I conclude that the Sycamore Preparatory Academy*

***charter petition and Budget present an unrealistic financial and operational plan for the proposed Sycamore Preparatory Academy charter school.***

***My findings regarding the September 14, 2017 SPA charter petition and Budget can be summarized as follows:***

- 1) The SPA charter petitioners have submitted two different budgets with the September 14, 2017 SPA charter petition. The SPA charter petitioners failed to provide any explanation in their Budget Notes, Budget Narrative or Budget Assumptions regarding which of the two budgets the SPA charter petitioners intend to implement or why two conflicting Budgets were submitted.***
- 2) The SPA charter petitioners continue to fail to present any comparative historical data from charter schools or school districts of similar type, size, and location as the proposed SPA charter school to support the SPA charter petition's projected enrollment of 440 students for the 2018-19 school year.***
- 3) The SPA charter petitioners again failed to account for \$225,000 of Year 1 Public Charter School Grant Program (PCSGP) start-up costs.***
- 4) The SPA charter petition's Budget fails to present sufficient detailed Budget Notes or Budget Assumptions that clearly describe SPA's financial Budget projections pursuant to California Code of Regulations, Title 5, section 11967.5.1(c)(3)(B).***

***The SPA charter petitioners failed to provide supplementary information describing how the proposed SPA charter school's revenues, costs, and cash flows were projected, either through historical data or comparative analytics from other charter schools or school districts of similar type, size and location.***

- 5) The SPA charter petitioners included in their Financial Documents 3.1 Budget at Other Sources, \$250,000 of an undocumented alleged Community Bank line of credit commitment of \$500,000. The use of the \$250,000 Community Bank commitment means the SPA 2018-19 Year 1 budget fund balance and cash flow are overstated by \$250,000.***
- 6) The California Municipal Finance Authority (CMFA) charter school bond issue listing identifies the Sycamore Academy of Sciences and Cultural Arts, the SPA charter petitioner's existing charter school, as receiving \$9.405 million in CMFA bonds in September 2014. The SPA September 14, 2017 charter petitioners failed to identify if SPA is responsible in any way through rental or lease payments or other debt service options for the \$9.405 million in bonds.***

- 7) *The SPA charter petitioners wrote in their Financial Documents 3.1 Budget Narrative at section 3.2 Books and Supplies:*

*“SPA also budgeted for classroom furniture at \$200 per student”.*

*SPA’s classroom furniture amount is calculated as \$88,000 (440 enrollment x \$200 per student = \$88,000 for furniture).*

*The SPA 2018-19 Year 1 Budget fails to present any account line item or category for furniture costs and no amount in the SPA Budget corresponds to \$88,000 in furniture costs as described by SPA.*

*The SPA charter petitioner’s failure to present detailed Budget Notes and Assumptions clearly identifying \$88,000 in furniture costs in the SPA Budget results in the SPA charter petitioners having submitted an unrealistic financial and operational plan for the proposed SPA charter school.*

- 8) *The SPA charter petition’s Financial Documents 3.1 Budget fails to identify how the SPA charter petitioners determined SPA’s zero special education encroachment costs in the SPA Financial Documents 3.1 Budget or to explain why the proposed SPA charter school would not experience any special education encroachment costs.*

- 9) *The SPA charter petition’s Budget fails to present any staffing or medical and retirement benefits supporting schedules corresponding with the types of staffing position classifications presented in SPA’s Budget Narratives, Budget Notes, or Budget assumptions.*

- 10) *The SPA charter petition’s Budget fails to identify how the SPA charter petitioners determined SPA’s facilities rental costs in the SPA Budget.*

*The SPA charter petition’s Budget fails to explain how the amount of rent presented in the SPA Budget is sufficient and comparable to other similar types of schools or charter schools and why SPA’s annual rent expense has increased from \$188,511.26 in the January 19, 2017 SPA Budget to \$540,000 in the September 14, 2017 SPA Budget.*

- 11) *Because of the expenditure and financing sources omissions in the proposed SPA charter petition Budget, SPA’s total expenditures have increased by \$575,987 while other financing sources have decreased by \$250,000 resulting in the SPA charter school Budget having an ending 2018-19 Year 1 deficit fund balance of (\$80,557) and a deficit fund balance reserve of (1.8%).*

The CVUSD Board of Education hereby specifically adopts the findings of the Paul S. Horvat Review & Analysis of the SPA charter petition and Budget and finds that the SPA charter petitioners are demonstrably unlikely to successfully implement the proposed SPA educational

program because the SPA charter petition and Budget present an unrealistic financial and operational plan for the proposed SPA charter school in the area of financial administration.

## **II. THE SPA CHARTER PETITION FAILS TO PROVIDE ALL OF THE LEGALLY REQUIRED AFFIRMATIONS AND ASSURANCES IN COMPLIANCE WITH STATE LAW. [EDUCATION CODE SECTION 47605(b)(4)]**

Education Code section 47605(b)(4) requires that the SPA charter petition contain “*an affirmation of each of the conditions described in subdivision (d).*”

Section 47605(d) provides in pertinent part:

*“(1) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of the characteristics listed in Section 220. Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or legal guardian, within this state, except that an existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preferences to pupils who reside within the former attendance area of that public school.”* (Emphasis added.)

For purposes of Education Code section 47605(b)(4), California Code of Regulations, title 5, section 11967.5.1(e) states:

*“a charter petition that ‘does not contain an affirmation of each of the conditions described in subdivision (d)’ of Education Code section 47605 shall be a petition that fails to include a clear, unequivocal affirmation of each such condition, not a general statement of intention to comply. Neither the charter nor any of the supporting documents shall include any evidence that the charter will fail to comply with the conditions described in Education Code section 47605(d).”* (Emphasis added.)

The SPA charter petition fails to include all of the legally required affirmations under Education Code section 47605(b)(4) because the SPA charter petition and supporting documents include evidence that the proposed SPA charter school will fail to comply with Education Code 220.

Although the SPA charter petition states at page 3 under “*Affirmations/Assurances*” that “[t]he Charter School will not discriminate on the basis of the characteristics listed in Education Code Section 220,” evidence exists within the SPA charter petition that this is merely a **general statement of intention to comply** with Education Code section 220.

Education Code section 220 states:

*“No person shall be subjected to discrimination 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 in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid.”* (Emphasis added.)

The SPA charter petition states at page 101 that SPA *“will not discriminate against any staff member on the basis of affiliations, political or religious acts or opinions [sic], race, national origin, ancestry, gender, gender identity, marital status, physical disability, mental disability, medical condition, or age.”*

However, the SPA charter petition’s anti-discrimination policy as stated at page 101 is inconsistent with Education Code section 47605(b)(4) and Education Code section 220’s requirement that the proposed SPA charter school explicitly prohibit discrimination against any employee on the basis of *“gender expression”* and *“sexual orientation.”*

The SPA charter petition also states at page 105 that SPA *“will not discriminate against any employee on the basis of race, color, creed, age, sex, religion, national origin, disability, sexual orientation, or marital/partnership status.”*

However, SPA’s Employee Qualifications policy stated at page 105 fails to comply with Education Code section 220 because it omits *“gender identity”* and *“gender expression.”*

Not only does the SPA charter petition contain evidence that the proposed SPA charter school will fail to comply with Education Code section 220, but SPA’s anti-discrimination policy stated at page 105 of the SPA charter petition is inconsistent with SPA’s anti-discrimination policy articulated at page 101 by including *“color,” “creed,”* and *“sex.”*

The SPA charter petition states at page 120:

*“No student will be denied admittance to the school based on race, sexual orientation, religion, ethnicity, national origin, gender, gender identity, disability, or any other protected classification under local, state, and federal laws; including any other characteristics outlined in the definition for hate crimes under Section 422.55 of the Penal Code.”*

SPA’s Open Enrollment anti-discrimination policy above also fails to comply with Education Code section 220 because it omits *“gender expression.”* It also conflicts with the SPA charter petition’s affirmation and assurance at page 3 that the proposed SPA charter school will prohibit discrimination on the basis of gender expression, thereby evidencing *“that the charter will*

*fail to comply with the conditions described in Education Code section 47605(d).* (California Code of Regulations, title 5, section 11967.5.1(e).)

The SPA charter petition’s anti-discrimination policy at page 120 is also inconsistent with “SPA Public Random Drawing/Lottery” section at page 125, which states admission to SPA is open to all students regardless of “*ethnicity, creed, national origin, gender or disability.*” The SPA charter petitioners fail to prohibit discrimination based on “*gender expression,*” “*sexual orientation,*” and “*race*” in the “SPA Public Random Drawing/Lottery” procedures.

Further, the SPA charter school petitioners fail to protect SPA pupils from “*gender identity*” and “*gender expression*” discrimination in the SPA charter petition’s proposed “*Nondiscriminatory Harassment Policy*” at page 140.

It is therefore unclear which of the SPA charter petition’s anti-discrimination policies will be applied in any given situation and whether the proposed SPA charter school will discriminate against any pupil or employee on the basis of the characteristics listed in Section 220, especially because four of the SPA charter petition’s anti-discrimination policies fail to prohibit discrimination based on “*gender expression.*”

The CVUSD Board of Education therefore finds that the SPA charter petition fails to provide a clear, unequivocal affirmation, as required by Education Code section 47605(b)(4), because the SPA charter petition contains evidence that the proposed SPA charter school will fail to comply with Education Code section 220.

### **III. THE SPA CHARTER PETITION FAILS TO CONTAIN REASONABLY COMPREHENSIVE DESCRIPTIONS OF SEVEN (7) OF THE FIFTEEN (15) REQUIRED ELEMENTS OF A CHARTER PETITION. [EDUCATION CODE SECTION 47605(b)(5)]**

Education Code section 47605(b)(5) requires that the SPA charter petition contain **reasonably comprehensive descriptions of all fifteen** of the required elements of a charter petition listed at Education Code subsections 47605(b)(5)(A)-(O).

California Code of Regulations, title 5 section 11967.5.1, provides:

*“A ‘reasonably comprehensive’ description, within the meaning subdivision (f) of this section and Education Code section 47605(b)(5) shall include, but not be limited to, information that:*

*(1) Is substantive and is not, for example, a listing of topics with little elaboration.*

*(2) For elements that have multiple aspects, addresses essentially all aspects the elements, not just selected aspects.*

*(3) Is specific to the charter petition being proposed, not to charter schools or charter petitions generally.”*

Education Code section 47605 permits denial of a charter petition if “*one or more of the [statutory] findings*” are supported by specific facts. Therefore, the SPA charter petition’s failure to provide a reasonably comprehensive description of even **one statutorily required element** is a legal basis for denial of the SPA charter petition.

The CVUSD Board of Education hereby finds that the SPA charter petition fails to provide reasonably comprehensive descriptions of **seven of the fifteen** required elements as shown by the following specific facts:

**A. The SPA Charter Petition Fails To Contain A Reasonably Comprehensive Description Of The Educational Program Of The Proposed SPA Charter School. [Education Code section 47605(b)(5)(A)]**

Education Code section 47605(b)(5)(A) requires that the SPA charter petition contain a reasonably comprehensive description of the proposed SPA charter school’s educational program, including:

*“(i) A 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 21<sup>st</sup> 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.*

*(ii) A description, for the charter school, of annual goals, for all pupils and for each subgroup of pupils identified pursuant to Section 52052, to be achieved in the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school, and specific annual actions to achieve those goals. A charter petition may identify additional school priorities, the goals for the school priorities, and the specific annual actions to achieve those goals.”*

The SPA charter petition fails to contain a reasonably comprehensive description of the educational program of the proposed SPA charter school because:

**1. The SPA charter petition fails to provide a reasonably comprehensive description of the proposed SPA charter school’s instructional approaches. [California Code of Regulations, title 5, section 11967.5.1(f)(1)(E)]**

California Code of Regulations, title 5, section 11967.5.1(f)(1) states that a factor to be considered in determining whether a charter petition contains a “*reasonably comprehensive*

*description*” of the proposed charter school’s educational program, is if the charter petition, at a minimum:

*“(E) Indicates the instructional approach or approaches the charter school will utilize, including, but not limited to, the curriculum and teaching methods (or a process for developing the curriculum and teaching methods) that will enable the school’s pupils to master the content standards for the four core curriculum areas adopted by the SBE pursuant to Education Code section 60605 and to achieve the objectives specified in the charter.”*

The SPA charter petition states at pages 8, 96, 98, and 108 that the proposed SPA charter school will apply a constructivist theory of learning.

The SPA charter petition at 8 page states:

*“[t]he vision of Sycamore Preparatory Academy (SPA) is to establish a learning community that promotes the pursuit of wisdom through the use of constructivist theory of learning.”*

At pages 96 and 98, the SPA charter petition requires that the members of the RRCSA Board “*have knowledge of constructivist theory and practices*” and that the Executive Director “*have knowledge, understanding and experience in constructivist education.*” The SPA charter petition further states at page 108 that there will be “*[o]ngoing constructivist training by professional consultants*” for SPA teachers.

**However, the SPA charter petition fails to state how constructivist theory will be applied in classroom instruction or used to measure pupil outcomes.**

The District notes that recent published educational research states “*[t]he implementation of constructivism is not easy and takes time.*” (Baştürk, *Primary Pre-Service Teachers’ Perspectives on Constructivism and its Implementation in the Schools* (2016) 4 Universal J. of Educational Research 904, 905.)

For the proposed SPA charter school to adequately implement constructivist teaching, “*considerable time will be required for responding to the individual constructions of students*” because student constructions “*have two important properties: 1) they are complex in form, and 2) they differ from student to student.*” (Airasian & Walsh, *Constructivist Cautions*, (1977) Phi Delta Kappan, 444, 448.) Implicit in the need for more time in teaching with constructivism, is that teachers will have “*to cover a smaller amount of content in great depth.*” (*Id.*)

Because of the time-consuming nature of implementing constructivism, it is not clear whether and how the SPA charter petition’s many educational theories and instructional approaches (Multiple Intelligences, the Visible Learning method, Thinking Routines, growth and fixed mindset theory, Kagan Cooperative Learning, Service Learning, and Backwards Design) will



be sufficiently or successfully implemented into the proposed SPA charter school’s complex educational program.

Further, although the SPA charter petition identifies STEAM as one of the proposed SPA charter school’s instructional approaches for its educational program; the entire SPA charter petition includes only one short paragraph describing the proposed SPA charter school’s STEAM program at page 67:

*“SPA will focus on Science, Technology, Engineering, Arts, and Mathematics as an integrated unit. The skills and knowledge in each of these disciplines are essential for students’ academic success as these fields are deeply interdependent in the real world and in how students learn most efficiently. STEAM is both an interdisciplinary and applied approach that is coupled with hands-on, problem-based teaming.”*

California State Superintendent of Public Instruction Tom Torlakson released a report titled *“INNOVATE: A Blueprint for Science, Technology, Engineering, and Mathematics in California Public Education”* in May 2014, detailing the multiple years of proper training, materials, and implementation necessary to successfully operate a grade TK-8 STEM program. (<https://www.cde.ca.gov/pd/ca/sc/documents/innovate.pdf>.)

Notably, the SPA charter petition fails to describe how the proposed SPA charter school’s STEAM (STEM + Arts) program will be implemented, how administrators and teachers will be trained and certified in implementing the STEAM educational model, and/or how SPA’s STEAM program will meet the needs of socioeconomically-disadvantaged students.

Because the SPA petition states at page 74 that *“SPA will focus on Science, Technology, Engineering, Arts, and Mathematics as an integrated unit [STEAM],”* which emphasizes instruction in Math, and because the proposed SPA educational program includes an *“ELA/Literary curriculum,”* the District reviewed the existing SASCA charter school’s schoolwide California Assessment of Student Performance and Progress (“CAASPP”) results in English Language Arts (“ELA”) and Math for 2016 and 2017.

Chart 1 below shows SASCA students’ 2016 and 2017 CAASPP assessments in ELA and Math.

Chart 1: Comparing 2016 and 2017 CAASPP Assessments in ELA and Math for All SASCA Students									
Year	Group	ELA				Math			
		% Standard Not Met	% Standard Nearly Met	% Standard Met	% Exceeds Standards	% Standard Not Met	% Standard Nearly Met	% Standard Met	% Exceeds Standards
2017	All SASCA Students	29.7%	26.1%	28.8%	15.4%	<b>39.3%</b>	31.9%	18.8%	10.1%
2016	All SASCA Students	32%	25%	29%	14%	32%	39%	18%	11%

Source: CAASPP

Chart 1 demonstrates that the percentage of SASCA students failing to meet state standards in Math **increased** by 7.3 points from 2016 to 2017.

In 2016, **32%** of SASCA students failed to meet the CAASPP assessment standard in Math, and, in 2017, the percentage of SASCA students failing to meet the CAASPP assessment standard in Math **increased** to **39.3%**.

In fact, the SPA charter petitioners concede SASCA's performance gap for all SASCA students in Math in the 2017-2018 Local Control Accountability Plan and Annual Update ("LCAP") for the SASCA charter school.

The SASCA LCAP states 2017-2018 LCAP at page 4:

*"Sycamore Academy has decided to **recognize the performance gap for all students in math** . . . To address this performance gap, the school has done the following: [i]ncreased the amount of in class support the students receive with mentors, [i]ncreased the ratio of computers to students for students in grades 3-8, to reach 1:1, [a]rranged math proficiency blocks to be four times a week, ability based and with a student teacher ratio of 15:1, [a]dded Jump Math as the approved math curriculum, [a]dminister end of unit Jump Math assessments on EADMS to give the students practice with an on-line assessment program that is similar to the SBAC assessments."* (Emphasis added)

Because the existing SASCA charter school has failed to maintain or decrease the performance gap for all students in math, it is unclear how the proposed SPA charter school's STEAM program will meet the needs of SPA pupils.

The District further notes that Chart 1 above evidences that the SPA charter petitioners have failed to implement an educational program at their existing charter school whereby the majority of students meet or exceed state standards.

In 2016, 71% of SASCA students failed to meet state standards in Math (Standard Not Met or Standard Nearly Met). That percentage increased to 71.2% in 2017. Even in ELA, 57% of SASCA students failed to meet state standards 2016 (Standard Not Met or Standard Nearly Met). That percentage only decreased to 55.8% in 2017.

Moreover, the SPA charter petition also fails to contain a reasonably comprehensive description of "*the instructional approach or approaches the charter school will utilize, including, but not limited to, the curriculum and teaching methods*" with regards to the proposed SPA charter school's independent study program.

Education Code section 47612.5 requires that a charter school providing independent study shall comply with Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 of the Education Code and implementing regulations adopted thereunder.

Education Code section 51746 states:

*“It is the intent of the Legislature that school districts . . . offering independent study shall provide . . . [t]he services of qualified personnel to assess the achievement, abilities, interests, aptitudes, and needs of participating pupils to determine . . . [w]hether full-time independent study is the most appropriate alternative for the pupil.”* (Emphasis added.)

Because a school district means a school district or a charter school for the purposes of Education Code section 51746, the proposed SPA charter school’s independent study program must determine “[w]hether full-time independent study is the most appropriate alternative for the pupil.” (5 C.C.R. § 11700.1(c); Cal. Educ. Code § 51746.)

However, neither the SPA charter petition nor RRCSA Board Policy 4.7, “*Independent Study Policy*,” provide for the critical assessment **prior to** a child’s enrollment in the SPA independent study program, pursuant to Education Code section 51746. Thus, the SPA charter petition and RRCSA Board Policy 4.7 fail to ascertain whether a child is **capable of independent study** prior to enrollment in the SPA “*Home Study Program (Independent Study)*.”

That the proposed SPA charter school fails to ascertain whether a prospective independent study pupil is capable of successfully completing SPA’s proposed “*Home Study Program*” or whether full-time independent study is the most appropriate alternative for the pupil is evidence that the SPA charter petition fails to contain a reasonably comprehensive description of the proposed SPA charter school’s educational program concerning independent study.

The proposed SPA charter school’s failure to adequately support its independent study students once enrolled in the SPA charter school’s “*Home Study Program*” also demonstrates that the SPA charter petition fails to identify the “*instructional approach or approaches the charter school will utilize . . . that will enable the school’s pupils to master the content standards[.]*” (5 C.C.R. 11967.5.1(f)(1)(E).)

Although RRCSA Board Policy 4.7, “*Independent Study*” states at page 2 that “*Parents/guardians and students are expected to . . . Meet with the credentialed teacher once every 5 school days as determined by the teacher and noted on the Work Assignment Record or Master Agreement and not to exceed 20 school days*”, and at page 4 that “*Independent study teachers shall . . . Meet with the student and parent every 5 school days as appropriate but not to exceed 20 school days*”, the SPA charter petition states at page 57 that SPA’s independent study pupils will only meet with credentialed teachers “*at least [once] every twenty (20) school days.*” (Emphasis added.)

**This is in direct violation of Education Code section 51749.5(a)(7)(A)’s requirement that “Certificated employees and each pupil shall communicate in person, by telephone, or by any other live visual or audio connection no less than twice per calendar month to assess whether each pupil is making satisfactory educational progress.”** (Emphasis added.)

The District notes that there were only 41 school days between September 14, 2017, the SPA charter petition's submission date and November 9, 2017, the SPA charter petition's grant/deny hearing. Under the SPA charter petition's "*Home Study Program*" requirements, a SPA independent study pupil possibly would have only been required to meet with a credentialed teacher **twice** in the past two months.

California Code of Regulations, title 5, section 11701.5(a) also requires that a charter school's "*independent study option . . . be substantially equivalent in quality and in quantity to classroom instruction.*"

The SPA charter petition's proposed SPA independent study program, however, fails to satisfy this requirement.

The SPA charter petition states at page 57 that the SPA "*Home Study Program*" will include:

*"regular scheduled meetings (at least one every twenty (20) school days) to go over assignments, standards, and assign net materials. Parents are provided with materials for lessons that reinforce concepts through these monthly meetings with the teachers."*

The SPA charter petition fails to demonstrate how the parents/guardians of SPA's independent study pupils will have sufficient subject matter competency, knowledge of instructional methodology, or time available to adequately support their student(s) in all of the legally mandated California TK-8 curriculum content areas.

With untrained parents/guardians largely responsible for their student(s) instruction, the SPA charter petition fails to explain how the proposed SPA "*Home Study Program (Independent Study)*" will be equal in quality and quantity to the proposed SPA charter school's classroom instruction when, according to the SPA charter petition, SPA independent study students and their parents/guardians only meet with credentialed teachers "*at least once every twenty (20) school days.*"

The District notes again that in the 41 school days since the SPA charter petition was submitted, a SPA independent study pupil would have only been required to meet with a credentialed teacher twice.

Not only does the SPA charter petition's independent study program violate Education Code section 51749.5(a)(7)(A)'s requirement that "*Certificated employees and each pupil shall communicate in person, by telephone, or by any other live visual or audio connection no less than twice per calendar month to assess whether each pupil is making satisfactory educational progress,*" but **meeting with a credentialed teacher only once a calendar month fails to satisfy California Code of Regulation, title 5, section 11701.5(a)'s requirement that "*the independent study option . . . be substantially equivalent in quality and in quantity to classroom instruction.*"** (Emphasis added.)

The CVUSD Board of Education therefore finds that the SPA charter petition fails to contain a reasonably comprehensive description of the proposed SPA charter school’s educational program because the SPA charter petition fails to demonstrate an educationally sound “*instructional approach or approaches [that] the charter school will utilize,*” as required by California Code of Regulations, title 5, section 11967.5.1(f)(1)(E).

**2. The SPA charter petition’s description of the proposed educational program fails to adequately indicate how the proposed SPA charter school will meet the needs of special student populations. [California Code of Regulations, title 5, section 11967.5.1(f)(1)(G)]**

California Code of Regulations, title 5, section 11967.5.1(f)(1) states that a factor to be considered in determining whether a charter petition contains a “*reasonably comprehensive description*” of the proposed educational program, is if the charter petition, at a minimum:

*“(G) Indicates 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 student populations.”*

The SPA charter petition states at page 89:

*“SPA will work to close the achievement gap for subgroups by determining the subgroups which exhibit the greatest differential in performance according to the CAASPP data. Then the following strategies and actions will be taken to decrease any potential achievement gap between subgroups: Staff will participate in professional development to enhance instructional practices and methods.”* (Emphasis added.)

However, from the District’s review of the existing SASCA charter school’s CAASPP data, it is clear that the SPA charter petitioners are unlikely to “*close the achievement gap for subgroups*” at the proposed SPA charter school, especially for students with disabilities, socioeconomically disadvantaged students, and English Learners.

Chart 2 below demonstrates the SPA charter petitioners’ poor record in serving students with disabilities by comparing the 2017 and 2016 CAASPP scores of SASCA students with disabilities and scores of SASCA students with no reported disability:

Chart 2: Comparing 2016 and 2017 CAASPP Results SASCA Students with Disability v. SASCA Students with No Reported Disability								
Student Subgroup	2017 CAASPP				2016 CAASPP			
	% Exceeding state standards	% Meeting state standards	% Nearly met state standard	% State standard not met	% Exceeding state standards	% Meeting state standards	% Nearly met state standard	% State standard not met
Students with Disability (ELA)	0%	6.4%	27.7%	66%	0%	5%	29%	66%
Students with No Reported Disability (ELA)	17.9%	32.4%	25.9 %	23.8%	16%	32%	25%	27%
Difference	17.9%	26%	1.8%	- 42.2%	16%	27%	- 4%	- 39%
Students with Disability (Math)	0%	6.5%	15.2 %	78.3%	3%	5%	18%	74%
Students with No Reported Disability (Math)	11.7%	20.7%	34.5 %	33.1%	12%	20%	42%	26%
Difference	11.7%	14.2%	19.3 %	- 45.2%	9%	15%	24%	- 48%

Source: CAASPP, Smarter Balanced Assessment Test Results for Sycamore Academy of Science and Cultural Arts

Chart 2 above shows that in both the 2016 and 2017 CAASPP assessment in ELA, the percentage of SASCA students with disabilities that did not meet state standards is **more than twice** the percentage of SASCA students with no reported disability.

Chart 2 also shows that in the 2017 CAASPP assessment in Math, the percentage of SASCA students with disabilities that did not meet state standards for Math is **more than twice** the percentage of SASCA students with no reported disability.

Notably, the percentage of SASCA students with disabilities that did not meet state standards in Math **increased** from 74% in 2016 to 78.26% in 2017.

The District further notes that **zero (0)** SASCA students with disabilities exceeded state standards in ELA or Math in 2017.

The achievement gap between economically disadvantaged SASCA students and non-economically disadvantaged SASCA students experienced a similar increase in number of students failing to meet state standards in the 2016 and 2017 CAASPP assessments, as shown by Chart 3 below:

Chart 3: Comparing 2016 and 2017 CAASPP Results Economically Disadvantaged SASCA Students v. Not Economically Disadvantaged SASCA Students								
Student Subgroup	2017 CAASPP				2016 CAASPP			
	% Exceeding state standards	% Meeting state standards	% Nearly met state standard	% State standard not met	% Exceeding state standards	% Meeting state standards	% Nearly met state standard	% State standard not met
Students with Disability (ELA)	8.26%	24.79%	30.58%	36.36%	8%	27%	30%	35%
Students with No Reported Disability (ELA)	19.44%	31.02%	23.61%	25.93%	17%	30%	23%	30%
Difference	11.18%	6.23%	-6.97%	-10.43%	9%	3%	-7%	-5%
Students with Disability (Math)	1.65%	14.05%	37.19%	47.11%	3%	17%	42%	38%
Students with No Reported Disability (Math)	14.88%	21.40%	28.84%	34.88%	15%	19%	38%	29%
Difference	13.23%	7.35%	-8.35%	-12.23%	12%	2%	-4%	-9%

Source: CAASPP, Smarter Balanced Assessment Test Results for Sycamore Academy of Science and Cultural Arts

Chart 3 above demonstrates that the disparity between the percentage of socioeconomically disadvantaged SASCA students and SASCA students that are not socioeconomically disadvantaged that did not meet state standards **increased** for Math by 5 points, and for ELA, by 3 points.

Chart 3 also shows that the percentage of socioeconomically disadvantaged SASCA students that did not meet state standards for Math and ELA **increased**:

- For Math, it **increased** from **38%** in 2016 to **47.11%** in 2017.
- For ELA, it **increased** from **35%** in 2016 to **36.36%** in 2017.

Further, the percentage of socioeconomically disadvantaged SASCA students meeting or exceed state standards **decreased** from 2016 to 2017 in Math.

Given SASCA’s proven history as shown by the above CAASPP scores, and because the proposed SPA charter school will be operated by the same administration as the existing SASCA charter school, it is unlikely that the proposed SPA administration can, as the SPA charter petition states at page 89, “*close the achievement gap*” for disabled students and socioeconomically disadvantaged students in ELA and Math at the proposed SPA charter school.

The District also notes that the SPA charter petition and Budget fail to provide free or reduced price meals for all eligible SPA students, despite the SPA charter petition’s statement at page 40 that the proposed SPA charter school will implement a “*Free and/or Reduced meal program for qualified students.*”

While the California Department of Education’s 2016-2017 Data for Free or Reduced Price Meals indicates that 45.5% of CVUSD students are eligible for free or reduced price meals, the SPA Budget only assumes and budgets for free or reduced price meals for 32.3% of SPA students.

Notably, the SPA Budget fails to explain why the SPA charter petitioners assume the proposed SPA charter school will enroll significantly less students eligible for free or reduced price meals than other CVUSD schools.

It is particularly concerning that SASCA’s CAASPP scores show that the SPA charter petitioners have historically failed to adequately serve students with disabilities and socioeconomically disadvantaged students when the SPA charter petition claims at page 36 that “*SPA will make it a priority to recruit a diverse student population, including low-income and academically low achieving students, reflective of similar racial and ethnic backgrounds of those residing in the District, while maintaining the legal requirements for a random public lottery.*”

Moreover, the existing SASCA charter school also fails to adequately serve English Learners, as shown by Chart 4 below:

Chart 4: 2016 and 2017 Comparing CAASPP Results SASCA Students Classified as English Learners								
Student Subgroup	2017 CAASPP				2016 CAASPP			
	% Exceeding state standards	% Meeting state standards	% Nearly met state standard	% State standard not met	% Exceeding state standards	% Meeting state standards	% Nearly met state standard	% State standard not met
English Learner (ELA)	3.45%	3.45%	31.03%	62.07%	0%	6%	29%	65%
English Learner (Math)	0%	7.14%	35.71%	57.14%	0%	6%	41%	53%

Source: CAASPP, Smarter Balanced Assessment Test Results for Sycamore Academy of Science and Cultural Arts

Chart 4 above shows that the percentage of SASCA English Learner students that did not meet state standards for Math **increased** from **53%** in 2016 to **57.14%** in 2017.

Further, the SPA charter petition states at page 77 that the proposed SPA charter school “*will maintain a growth pattern schoolwide and for numerically significant student subgroups that places its achievement outcomes on state tests at least equal to those of the schools of residence for attending students.*”

The District notes that the legislative intent behind the California Charter Schools Act is not for charter schools to be achieving “*outcomes on state tests at least equal to those of the schools of residence for attending students,*” as stated in the SPA charter petition at page 77; rather, the intent of the Legislature is that charter schools are a method to “[*i*]mprove pupil learning” and



“[i]ncrease learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving.” (Cal. Educ. Code § 47601(a),(b).)

The SPA charter petitioners have failed to achieve outcomes on state tests at the existing SASCA charter school at least equal to those of the schools of residence for SASCA students. The District is therefore concerned about the SPA charter petitioners’ ability to “[i]mprove pupil learning” and “[i]ncrease learning opportunities for all pupils” within the Chino Valley Unified School District, as intended by the California Legislature in enacting the California Charter Schools Act.

Chart 5 below shows the 2017 CAASPP results for ELA and Math for the existing SASCA charter school as compared to two Lake Elsinore Unified School District (“LEUSD”) schools of residence: Tuscany Hills Elementary School and Canyon Lake Middle School.

Chart 5: Comparison of 2017 CAASPP scores LEUSD schools of residence v. SASCA						
	Tuscany Hills Elementary		Canyon Lake Middle		Sycamore Academy of Science and Cultural Art	
	ELA	Math	ELA	Math	ELA	Math
Standard Exceeded	30.43%	25.82%	17.34%	15.13%	15.43%	10.12%
Standard Met	30.43%	32.07%	36.21%	19.54%	28.78%	18.75%
<b>Total Passed</b> (Standard Exceeded + Standard Met)	<b>60.86%</b>	<b>57.89%</b>	<b>53.55%</b>	<b>34.67%</b>	<b>44.21%</b>	<b>28.87%</b>
Standard Nearly Met	22.01%	25.54%	29.50%	33.52%	26.11%	31.85%
Standard Not Met	17.12%	16.58%	16.95%	31.80%	29.67%	39.29%
<b>Total Failed</b> (Standard Nearly Met + Standard Not Met)	<b>39.13%</b>	<b>42.12%</b>	<b>46.45%</b>	<b>65.32%</b>	<b>55.78%</b>	<b>71.14%</b>

Source: CAASPP

Although the SPA charter petition pledges at page 77 to achieve “outcomes on state tests at least equal to those of the schools of residence for attending students,” Chart 5 above demonstrates that the SPA charter petitioners have failed to meet that goal at the existing SASCA charter school.

Whereas 60.86% of Tuscany Hills Elementary students and 53.55% of Canyon Lake Middle students achieved CAASPP scores at least meeting state standards in ELA in 2017 (Standard Exceed or Standard Met), only **44.21% of SASCA students met state standards.**

Conversely, **55.78% of SASCA students failed to meet the CAASPP state standards** in ELA in 2017 (Standard Nearly Met or Standard Not Met), while only 46.45% of Canyon Lake Middle students and 39.13% of Tuscany Hills Elementary students were unable to meet states standards.

The existing SASCA charter school also fails to achieve “outcomes on state tests at least equal” to LEUSD schools of residence in Math. In 2017, 57.89% of Tuscany Hills Elementary students and 34.67% of Canyon Lake Middle students achieved CAASPP scores at least meeting

state standards in Math (Standard Exceed or Standard Met), whereas only **28.87% of SASCA students met state standards.**

Evidence exists that, based on the existing SASCA charter school's CAASPP scores, the SPA charter petitioners will be unable to achieve the proposed SPA charter school's measurable pupil outcome goals as stated in the SPA charter petition at pages 77-78.

Charts 2-5 demonstrate that the SPA charter petitioners (SASCA administration) failed to "close the achievement gap" for all student subgroups at the existing SASCA charter school, despite California Charter Schools Association representative Fátima Adame's contention during the October 5, 2017 SPA Public Hearing that the existing SASCA charter school is providing "high quality programming" and is increasing "student achievement." The publicly available CAASPP scores for the existing SASCA charter school plainly demonstrate otherwise.

The District further notes that based on the data from California School Dashboard Detailed Reports, in Spring 2017, only **6%** of SASCA students were classified as English Learners, whereas Lake Elsinore Unified School District enrolled **14%**, more than twice the percentage of English Learners. (SASCA Equity Report (Spring 2017), <https://www.caschooldashboard.org/#/Details/33751760120204/1/EquityReport>.)

The CVUSD Board of Education therefore finds that the SPA charter petition fails to contain a reasonably comprehensive description of the proposed SPA charter school's educational program with regards to how the proposed SPA charter school will meet the needs of special student populations, as required by Education Code section 47605(b)(5)(A).

**3. The SPA charter petition fails to provide a reasonably comprehensive description of the proposed SPA charter school's special education plan. [California Code of Regulations, title 5, section 11967.5.1(f)(1)(H).]**

California Code of Regulations, title 5, section 11967.5.1(f)(1) states that a factor to be considered in determining whether a charter petition contains a "reasonably comprehensive description" of the proposed educational program, is if the charter petition, at a minimum:

*"(H) Specifies the charter school's special education plan, including, but not limited to, 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 qualify for special education programs and services, how the school will provide or access special education programs and services, the school's understanding of its responsibilities under law for special education pupils, and how the school intends to meet those responsibilities."*

The SPA charter petition states at Page 51:

*"SPA shall comply with all applicable state and federal laws in serving students with disabilities, including, but not limited to,*

*Section 504 of the Rehabilitation Act of 1973 . . . , the Americans with Disabilities Act . . . , and the Individuals with Disabilities Education Act.”*

Although the SPA petitioners explicitly affirm and assure at page 3 of the SPA charter petition that the proposed SPA charter school will “*adhere to all provisions of federal law related to students with disabilities, including but not limited to, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and the Individuals with Disabilities in Education Improvement Act of 2004,*” the SPA charter petition fails to demonstrate “*the process to be used to identify students . . . , how the school will provide . . . special education programs and services, the school’s understanding of its responsibilities under law for special education pupils, and how the school intends to meet those responsibilities*” as required by California Code of Regulations, title 5, section 11967.5.1(f)(1)(H).

The SPA charter petitioners fail to demonstrate how they intend to meet their responsibilities of providing adequate special education programs and services when their existing SASCA charter school students with disabilities’ recent CAASPP assessment results in Math indicate poor performance. The District notes that the 2016 and 2017 CAASPP assessments in Math show that the percentage of **SASCA students with disabilities that did not meet state standards in Math increased by 4.26%** (See Chart 2.)

The SPA charter petition extensively fails to comply with provisions of the Individuals with Disabilities Education Act (“IDEA”), IDEA’s implementing regulations, and applicable state laws because:

***a. The SPA Charter Petition’s Special Educational Provisions Fail to State the Legally Required Timelines for Pupil Assessment***

The SPA charter petition fails to comply with the primary timeline requirements for pupil assessments and Individual Education Program (“IEP”) development under Education Code section 56043.

Education Code 56043 requires:

***“(a) A proposed assessment plan shall be developed within 15 calendar days of referral for assessment, . . . unless the parent or guardian agrees in writing to an extension . . . .***

***(b) A parent or guardian shall have at least 15 calendar days from the receipt of the proposed assessment plan to arrive at a decision.***

***(c) Once a child has been referred . . . to determine whether the child is an individual with exceptional needs and to determine the educational needs of the child, these determinations shall be made, and an [IEP] team meeting shall occur within 60 days of receiving parental consent for the assessment . . . .”*** (Emphasis added.)

*“(f) (1) An [IEP] . . . shall be developed within a total time not to exceed 60 calendar days, . . . from the date of receipt of the parent’s or guardian’s written consent . . . .*

*(2) A meeting to develop an initial [IEP] for the pupil shall be conducted within 30 days of a determination that the child needs special education and related services . . . .” (Emphasis added.)*

*“(k) A reassessment of a pupil shall occur not more frequently than once a year, unless the parent and the [LEA] agree otherwise in writing, and shall occur at least once every three years, unless the parent and the local educational agency agree, in writing, that a reassessment is unnecessary . . . .” (Emphasis added.)*

However, the SPA charter petition only states at page 53 that the proposed SPA charter school “[s]hall implement policies and procedures of the SELPA in which it is a member to ensure timely identification and referral of students suspected of having a disability.”

Education Code section 56043 further provides:

*“(m) If an individual with exceptional needs transfers from district to district within the state, the following are applicable . . . :*

*(1) If the child has an [IEP] and transfers into a district from a district not operating programs under the same local plan in which he or she was last enrolled in a special education program within the same academic year, the [LEA] shall provide the pupil with a free appropriate public education, . . . for a period not to exceed 30 days, by which time the [LEA] shall adopt the previously approved [IEP] or shall develop, adopt, and implement a new [IEP] . . . .*

*(2) If the child has an [IEP] and transfers into a district from a district operating programs under the same special education local plan area of the district in which he or she was last enrolled in a special education program within the same academic year, the new district shall continue, without delay, to provide services comparable to those described in the existing approved [IEP], unless the parent and the [LEA] agree to develop, adopt, and implement a new [IEP] . . . .*

*(3) If the child has an [IEP] and transfers from an educational agency located outside the state to a district within the state within the same academic year, the [LEA] shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously*

*approved [IEP] program, . . . until the [LEA] conducts an assessment as specified in paragraph (3) of subdivision (a) of Section 56325.*

*(4) In order to facilitate the transition . . . described in paragraphs (1) to (3), inclusive, **the new school in which the pupil enrolls shall take reasonable steps to promptly obtain the pupil's records . . . .***

*(n) **The parent or guardian shall have the right and opportunity to examine all school records of the child and to receive complete copies within five business days after a request is made . . . and before any meeting regarding an [IEP] of his or her child or any hearing or resolution session . . . .***

*(o) **Upon receipt of a request from a [LEA] where an individual with exceptional needs has enrolled, a former educational agency shall send the pupil's special education records, or a copy of those records, to the new [LEA] within five working days. . . .*** (Emphasis added.)

The SPA charter petition fails to comply with the above Education Code subsections 56043(m)-(o) because the SPA charter petition only requires:

*“Parents/guardians of a **student with an IEP** at SPA must give written consent for the evaluation and placement of their child, be included in the decision-making process when there is a change of placement under consideration, and be invited, along with teachers, to conferences and meetings to develop their child's IEP.”* (SPA Charter Petition, page 54, emphasis added.)

Although the SPA charter petition addresses the written consent requirement for students with IEPs, the SPA charter petition **fails to contain any information regarding** what services the proposed SPA charter school shall provide for **transferring students with IEPs** or any information regarding the proposed SPA charter school's process or timeline for obtaining, examining, sending or copying special education records, in violation of the majority of Education Code section 56043.

Therefore, the SPA charter petition fails contain a special education plan that demonstrates *“**the process** to be used to identify students [and] . . . **how** the school will provide . . . special education programs and services”* under California Code of Regulations, title 5, section 11967.5.1(f)(1)(H).

***b. The SPA Charter Petition’s Special Educational Provisions Fail to Demonstrate that the SPA Charter Petitioners Will Conduct Assessments in Compliance with State and Federal Laws***

The SPA charter petition fails to state the proposed SPA charter school’s procedures for conducting assessments of pupils with exceptional needs pursuant to Education Code sections 56320, 56321, 56329, and Code of Federal Regulations, title 34, sections 300.304(b),(c).

Education Code section 56320 states, in relevant part:

*“Before any action is taken . . . , an individual assessment of the pupil’s educational needs shall be conducted, by qualified persons, in accordance with requirements including, but not limited to, all of the following:*

*(a)[P]ursuant to Section 1412 (a)(6)(B) of Title 20 of the United States Code, the materials and procedures shall be provided in the pupil’s native language or mode of communication, unless it is clearly not feasible to do so.” (Emphasis added.)*

The SPA charter petition, however, fails to contain any information about providing assessment materials and procedures in the pupil’s native language or mode of communication, thus, failing to comply with Education Code section 56320(a).

The SPA charter petition also fails to require assessment of pupils in “*all areas related to the suspected disability*” under Education Code section 56320(f).

Education Code section 56320(f) states:

*“(f) The pupil is assessed in all areas related to the suspected disability including, if appropriate, health and development, vision, including low vision, hearing, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. A developmental history shall be obtained, when appropriate. For pupils with residual vision, a low vision assessment shall be provided in accordance with guidelines established pursuant to Section 56136. In assessing each pupil under this article, the assessment shall be conducted in accordance with Sections 300.304 and 300.305 of Title 34 of the Code of Federal Regulations.” (Emphasis added.)*

**Additionally, the SPA charter petition fails to contain almost every element of Code of Federal Regulations, title 34, section 300.304, despite Education Code section 56320’s**

**explicit requirement that special education assessments be conducted in accordance with Code of Federal Regulations, title 34, section 300.304.**

That the SPA charter petition fails to comply with Code of Federal Regulations, title 34, section 300.304 is evidence that the SPA charter petitioners are unfamiliar with their “responsibilities under law for special education pupils[.]”

The SPA charter petition also fails to demonstrate SPA’s understanding of its different responsibilities under federal civil rights law and federal special education law to SPA pupils.

The SPA charter petition contains language regarding “Section 504 of the Rehabilitation Act” at pages 55 to 56, but refers to “IEP/504” at pages 137 and 138 regarding “Suspension and Expulsion Procedures for Students with Special Needs.”

It is therefore unclear whether the SPA IEP team and plan is distinct from the SPA 504 team and plan, and whether the SPA charter petitioners understand the proposed SPA charter school’s different responsibilities to pupils with exceptional needs under Section 504 of the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act.

The District notes that a student’s Section 504 plan and a student’s IEP offer diverse federal legal protections. The SPA charter petition confuses federal civil rights law prohibiting discrimination of people with disabilities under Section 504 of the Rehabilitation Act of 1973 with federal special education protections for children with disabilities under the Individuals with Disabilities Education Act.

Therefore, the SPA charter petition fails to contain the essential evaluation procedures for assessing a student with special needs under Education Code sections 56320, 56321, 56329, and Code of Federal Regulations, title 34, section 300.304; and the SPA special education plan fails to specify “the process to be used to identify students who qualify for special education programs and services” under California Code of Regulations, title 5, section 11967.5.1(f)(1)(H).

***c. The SPA Charter Petition’s Special Educational Provisions Fail to Contain Legally Required Notices for IEP Assessments and IEP Meetings***

The SPA charter petition fails to contain important statutory language regarding certain requirements about parent/guardian rights under Education Code section 56321(a).

Section 56321 provides:

*“(a) If an assessment for the development or revision of the [IEP] is to be conducted, the parent or guardian of the pupil shall be given, in writing, a proposed assessment plan within 15 days of the referral for assessment . . . . However, in any event, the assessment plan shall be developed within 10 days after the commencement of the subsequent regular school year or the pupil’s regular school term . . . for each pupil for whom a referral has been made 10 days*

*or less prior to the end of the regular school year . . . . A copy of the notice of a parent’s or guardian’s rights shall be attached to the assessment plan. A written explanation of all the procedural safeguards under the . . . [IDEA] . . . and the rights and procedures contained in Chapter 5 . . . shall be included in the notice . . . including information on the procedures for requesting an informal meeting, prehearing mediation conference, mediation conference, or due process hearing; the timelines for completing each process; whether the process is optional; and the type of representative who may be invited to participate.”* (Emphasis added.)

Regarding the proposed SPA charter school’s responsibilities to SPA parents/guardians as to providing them notice of their pupil(s)’ assessment, the SPA charter petition fails to explicitly provide SPA pupils the above bolded protections of Education Code section 56321.

Further, although the SPA charter petition states at page 55 that the proposed SPA charter school “*will provide the parents/guardians a written Notice of Procedural Safeguards, which will include inform [sic] action on the procedure to initiate both formal and informal dispute resolutions*” it is unclear whether SPA’s “*Notice of Procedural Safeguards*” will comply with Education Code section 56500 et seq.

The District notes that the SPA charter petitioners failed to include a sample of the parent/guardian “*Notice of Procedural Safeguards*” in support of the SPA charter petition.

The SPA charter petition also fails to comply with Education Code section 56321, which provides, in relevant part:

*“(c)(1) The [LEA] . . . shall make reasonable efforts to obtain informed consent from the parent of the child before conducting the assessment, . . .*

*(2) If the parent of the child does not provide consent . . . or the parent fails to respond . . . , the [LEA] may, but is not required to, pursue the initial assessment . . . .”* (Emphasis added.)

*“(4) The parent or guardian shall have at least 15 days from the receipt of the proposed assessment plan to arrive at a decision . . . .”* (Emphasis added.)

*“(g) [T]o meet the reasonable efforts requirement in subdivision (c), the [LEA] shall document its attempts to obtain parental consent using the procedures in subdivision (h) of Section 56341.5.”* (Emphasis added.)



The SPA charter petitioners fail to state in their petition that SPA *shall*<sup>1</sup> make reasonable efforts to obtain the informed consent from the child’s parent or guardian in violation with Education Code section 56321(c)(1). The SPA charter petition also fails to address the situation where a parent does not provide consent or fails to respond to a request to provide consent under Education Code section 56321(c)(2).

Additionally, Education Code subsections 56329(a) and (b) require that a pupil’s parent or guardian be provided, as part of the assessment plan, a “**written notice with all of the following information**”:

“(a) (1) *Upon completion of the administration of tests and other assessment materials, an [IEP] team meeting, including the parent or guardian and his or her representatives, shall be scheduled, . . . to determine whether the pupil is an individual with exceptional needs . . . and to discuss the assessment, the educational recommendations, and the reasons for these recommendations.*

(2) *In making a determination of eligibility under paragraph (1), a pupil shall not, . . . be determined to be an individual with exceptional needs if the determinant factor for the determination is one of the following . . . .:*

(A) *Lack of appropriate instruction in reading, including the essential components of reading instruction . . . .*

(B) *Lack of appropriate instruction in mathematics.*

(C) *Limited-English proficiency.*

(D) *If the pupil does not otherwise meet the eligibility criteria under Section 300.8(a) of Title 34 of the Code of Federal Regulations.*

(3) *A copy of the assessment report and the documentation of determination of eligibility shall be given to the parent or guardian.*

(b) *A parent or guardian has the right to obtain, at public expense, an independent educational assessment of the pupil from qualified specialists, . . . if the parent or guardian disagrees with an assessment obtained by the public education agency[.]” (Emphasis added.)*

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<sup>1</sup> Education Code section 75 provides that “‘*Shall*’ is mandatory and ‘*may*’ is permissive.”

The SPA charter petition fails to state that SPA will provide students' parents/guardians with all of the required written notice information identified in Education Code section 56329(a) above.

Further, the proposed SPA charter school **fails to afford SPA parents/guardians the right to obtain an "independent educational assessment"** of their students in accordance with Education Code section 56329(b).

Although the SPA charter petition states at page 53 that "*SPA may initiate a due process hearing on behalf of a student enrolled in SPA as is legally necessary to meet a school agency's responsibilities,*" the SPA charter petition fails to state that the parent or guardian "***maintains the right for an independent educational assessment***" that "*shall be considered by the . . . agency . . . and may be presented as evidence at a due process hearing*" pursuant to Education Code subsections 56329(b),(c). (Emphasis added.)

Thus, because the SPA charter petition fails to comply with Education Code section 56329 (a)-(c), the SPA charter petition's special education plan fails to demonstrate "*the process to be used to identify students [and] . . . how the school will provide . . . special education programs and services*" as required by California Code of Regulations, title 5, section 11967.5.1(f)(1)(H).

Moreover, although the SPA charter petition states at page 53 that "*SPA shall inform parents/guardians of their rights to raise concerns regarding special education needs or services to SPA,*" the SPA charter petition **fails to state that SPA staff must provide in the "notice of parent rights"** that parents have the "*right to electronically record the proceedings of the [IEP] team meetings*" under Education Code section 56321.5 and that SPA staff "*shall include information regarding the state special schools for pupils who are deaf, hard of hearing, blind, visually impaired, or deaf-blind*" under Education Code section 56321.6.

The SPA charter petition therefore fails to adequately protect SPA parents/guardians' rights with regards to assessment of their student(s), thereby evidencing that the SPA charter petitioners fail to understand their "*responsibilities under law for special education pupils, and how the [proposed SPA charter] school intends to meet those responsibilities*" under California Code of Regulations, title 5, section 11967.5.1(f)(1)(H).

***d. The SPA Charter Petition's Special Educational Provisions Fail to State the Legal Requirements for IEP Meetings and the Procedures for the Development of IEPs***

Although the SPA charter petition states at page 53 that IEP "[t]eam membership shall be in compliance with state and federal law and shall include all required representatives," evidence exists within the SPA charter petition that the SPA charter petitioners fail to understand the legally-required membership of an IEP team and how IEP meetings should be conducted.

The SPA charter petition states at page 54 that "[p]arents/guardians of a **student with an IEP** . . . [will] be invited, along with teachers, to conferences and meetings to develop their child's

IEP,” but fails to provide an IEP development plan for students **suspected** of having a specific learning disability.

Education Code section 56341(c) states:

**“(c) For a pupil suspected of having a specific learning disability, at least one member of the [IEP] team shall be qualified to conduct individual diagnostic examinations . . . such as a school psychologist, speech-language pathologist, or remedial reading teacher.”** (Emphasis added.)

Not only does the SPA charter petition fail to provide a development plan for pupils suspected of having a disability, but the proposed SPA charter school will be unable to comply with Education Code section 56341(c), to the detriment of SPA pupils, because the SPA charter petition fails to include a school psychologist from the list of individuals SPA assumes it will employ at page 104 and the SPA Budget fails to include a projected salary and benefits package cost for a school psychologist.

The SPA charter petition also fails to contain any information regarding the requirements identified at Education Code subsections 56341(d)-(i):

**“(d) (1) The [LEA] shall invite an individual with exceptional needs to attend his or her [IEP] meeting if a purpose of the meeting will be the consideration of the postsecondary goals . . . and the needed transition services . . . .”**

**(2) If the individual with exceptional needs does not attend . . . the [LEA] shall take steps to ensure that the individual’s preferences and interests are considered.**

**(e) A [LEA] may designate another [LEA] member of the [IEP] team to serve also as the representative . . . .**

**(f) A member of the [IEP] team described in paragraphs (2) to (5), inclusive, of subdivision (b) shall not be required to attend an [IEP] meeting, . . . if the parent . . . and the [LEA] agree, in writing, that the attendance of the member is not necessary . . . .**

**(g) A member of the [IEP] team described in subdivision (f) may be excused from attending . . . when the meeting involves a modification to or discussion of the member’s area of the curriculum or related services, if both of the following occur:**

**(1) The parent . . . and the [LEA] consent to the excusal . . . .**

**(2) The member submits . . . to the parent and the [IEP] team input into the development of the [IEP] prior to the meeting.**

*(h) A **parent’s agreement** under subdivision (f) **and consent** under subdivision (g) **shall be in writing.***

*(i) In the case of a child who was previously served under. . . Early Education for Individuals with Exceptional Needs, or the California Early Intervention Services Act . . . an invitation to the initial [IEP] team meeting shall, at the request of the parent, be sent to the infants and toddlers with disabilities service coordinator . . . or other representatives . . . to assist with the smooth transition of services.” (Emphasis added.)*

The SPA charter petition’s failure to comply with Education Code subsections 56341(d)-(i), evidences that the proposed SPA charter school’s special education plan fails to demonstrate “*the school’s understanding of its responsibilities under the law for special education pupils*” as required by California Code of Regulations, title 5, section 11967.5.1(f)(1)(H).

The SPA charter petition also fails to state the four items that the IEP team shall consider when developing each pupil’s IEP pursuant to Education Code section 56341.1(a).<sup>2</sup>

The SPA charter petition fails to provide that, in accordance with Education Code section 56341.1(b), the IEP team must do the following:

*“(b)(1) In the case of a pupil whose behavior impedes his or her learning or that of others, **consider the use of positive behavioral interventions and supports, and other strategies . . . .***

*(2) In the case of a pupil with limited English proficiency, **consider the language needs of the pupil . . . .***

*(3) In the case of a pupil who is blind or visually impaired, **provide for instruction in braille, and the use of braille . . . .***

*(4) **Consider the communication needs of the pupil . . . .***

*(5) **Consider whether the pupil requires assistive technology devices and services . . . .***

*(c) If, in considering the special factors described in subdivisions (a) and (b), the [IEP] team determines that a pupil needs a particular device or service, including an intervention, accommodation, or other program modification . . . the [IEP] team*

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<sup>2</sup> Education Code section 56341.1(a) provides that the IEP team shall consider: (1) the strengths of the pupil, (2) the concerns of the parents or guardians for enhancing the education of the pupil, (3) the results of the initial or most recent assessment, (4) the academic, developmental, and functional needs of the child.

*shall include a statement to that effect in the pupil's [IEP]."*  
(Emphasis added.)

The SPA charter petition further fails to contain information about what matters the IEP team must address when **revising** a pupil's IEP under Education Code section 56341.1(d).

Thus, the SPA charter petition fails to comply with Education Code section 56341.1, thereby evidencing that the SPA charter petitions lack an "*understanding of [their] responsibilities under the law for special education pupils*" under California Code of Regulations, title 5, section 11967.5.1(f)(1)(H).

The SPA charter petition also fails to contain information about **the required IEP meeting notice requirements** under Education Code section 56341.5(c), which requires that the notice:

*"(c) shall indicate the purpose, time, and location of the meeting and who shall be in attendance. Parents or guardians also shall be informed in the notice of the right . . . to bring other people to the meeting . . . and inform the parents of subdivision (i) of Section 56341 relating to the participation of the infants and toddlers with disabilities service coordinator . . ."* (Emphasis added.)

The SPA charter petition further fails to state that SPA charter petitioners shall "*maintain a record of [their] attempts to obtain parental consent,*" as required by Education Code section 56341.5(h).

Additionally, the SPA charter petition fails to comply with Education Code section 56341.5(i) because there is no affirmation that the SPA charter petitioners will accommodate "*parents or guardians with deafness or whose native language is a language other than English*" and fails to state that SPA "*shall give the parent or guardian a copy of the [IEP], at no cost*" pursuant to Education Code section 56341.5(j).

Even though the SPA charter petition at page 53 states that "*a review of each IEP will be conducted on an least an annual basis,*" the SPA charter petition fails to require IEP teams to meet when "*[t]he pupil demonstrates a lack of anticipated progress*" and "*[t]he parent or teacher requests a meeting to develop, review, or revise the [IEP]*" as required under Education Code section 56343.

The SPA charter petition also **fails to state the essential information about changing a student's IEP or to contain any information about the procedure for reassessing pupils with an IEP** under Education Code sections 56380.1 and 56381, respectively.

The SPA charter petition's many material failures regarding the identification of the IEP team members and IEP meeting procedures demonstrate that the SPA charter petitioners fail to specify "*the process to be used to identify students who qualify for special education program and services, how the school will provide or access special education programs and services, the school's understanding of its responsibilities under the law for special education pupils, and how*

*the school intends to meet those responsibilities”* under California Code of Regulations, title 5, section 11967.5.1(f)(1).

The CVUSD Board of Education therefore finds that the SPA charter petition fails to contain a reasonably comprehensive description of the educational program of the proposed SPA charter school, as required by Education Code section 47605(b)(5)(A).

**B. The SPA Charter Petition Fails To Provide A Reasonably Comprehensive Description Of The Governance Structure Of The Proposed Charter School. [Education Code section 47605(b)(5)(D)]**

Education Code section 47605(b)(5)(D) requires that the SPA charter petition contain a reasonably comprehensive description of “[t]he governance structure of the charter school.”

California Code of Regulations, title 5, section 11967.5.1(f)(4) states that a factor to be considered in determining whether a charter petition contains a “*reasonably comprehensive description*” of the proposed charter school’s governance structure is if the petition at a minimum:

“(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.”*

The SPA charter petition fails to contain a reasonably comprehensive description of the proposed SPA charter school’s governance structure because:

1. **The SPA charter petition fails to contain evidence that there will be active and effective representation of interested parties, including, but not limited to, parents or guardians.**

Education Code section 47605(b)(5)(D) requires the SPA charter petition contain a reasonably comprehensive description of “[t]he governance structure of the charter school, including, but not limited to, *the process to be followed by the charter school to ensure parent involvement.*” (Emphasis added.)

The SPA charter petition fails to ensure there will be active and effective representation of interested parties, including, but not limited to SPA pupil’s parents or guardians.

**The SPA charter school petition states at page 94 that only “[t]wo parents members are permitted on the Governing Board at one time.”** (Emphasis added.)

Article IV of the RRCSA Bylaws states:

“Section 2. Number and Qualifications of Trustees

*The number of Trustees of the corporation shall not be less than five (5) and not more than nine (9).*

***No more than two (2) members of the Board may be parents or guardians of children who attend Sycamore Academy of Science and Cultural Arts or any other charter school that the Corporation operates.”*** (Emphasis added.)

The RRCSA Bylaws restrict the number of parent or guardian representatives on the Board of Trustees to two members. Based on RRCSA Board Secretary and Treasurer Daniel Leavitt’s remarks at the February 16, 2017 public hearing for the denied January 19, 2017 SPA charter school petition, two SASCA parents currently occupy the two parent Trustee positions on the RRCSA Board. Because all of the RRCSA parent Board member positions are currently filled, SPA parents/guardians will be unable to serve on the RRCSA Board for the foreseeable future.

Although the SPA charter petition claims at page 94 that “[e]fforts will be made to ensure that each school has a parent member,” the RRCSA Bylaws fail to require parent or guardian Trustees to be representative of both the existing SASCA charter school and the proposed SPA charter school.

**Therefore, the RRCSA Bylaws and SPA charter petition fail to provide means by which there will be SPA parent or guardian representation on the RRCSA Board.**

Further, even though the SPA charter petition refers to strategies for involving parents or guardians, the proposed SPA charter school’s governance structure fails to provide SPA parent the means to have meaningful input on the financial and policy decisions that impact their students at the proposed SPA charter school.

The SPA charter petition identifies the following committees that “provide parents opportunities for input on school-wide operations and school involvement activities” at pages 99 through 100:

- The SPA School Site Council;
- The English Learning Advisory Committee (“ELAC”); and
- The Sycamore Foundation.

However, the SPA charter petition’s description of these parent committees fails to provide any direct means for SPA parents or guardians to influence or access the RRCSA Board, such as procedures that allow SPA parents or guardians to evaluate the RRCSA Board or to address SPA parent or guardian concerns regarding RRCSA Board actions.

The SPA charter petition states at page 99 that the SPA School Site Council “*will be established to further the involvement of parents and guardians in their children’s educational program.*”

However, the SPA charter petition limits membership of the SPA School Site Council at page 99 to “**10 members: one (1) administrator, three (3) teachers, one non-certificated staff member, and [only] five (5) parents/guardians/caregivers (including one from each of the following parent groups: English Language Learners, GATE, and Special Education).**” (Emphasis added.)

The District notes that while page 99 of the SPA charter petition states that the SPA School Site Council will include “**five (5) parents/guardians/caregivers,**” page 65 of the SPA charter petition states that the SPA School Site Council will only include “**five (5) parents.**”

The RRCSA Bylaws for SPA School Site Committee are also inconsistent with both of the SPA School Site Committee compositions stated in the SPA charter petition. The RRCSA Bylaws for the SPA School Site Committee state that the composition of the SPA School Site Committee members include “[*five parents or community members.*” (Emphasis added.)

Thus, it is possible that there may not be any parents on the SPA School Site Committee under the RRCSA Bylaws for the SPA School Site Committee.

This internal inconsistency within the SPA charter petition and RRCSA Bylaws regarding the composition of the SPA School Site Council evidences “*that the organizational and technical designs of the [proposed SPA charter school’s] governance structure*” fails to “*reflect a seriousness of purpose necessary to ensure that . . . [t]here will be active and effective representation of . . . parents (guardians.)*” (5 C.C.R. § 11967.5.1(f)(4)(B).)

Moreover, if there are only five parent-members on the SPA School Site Council and the SPA School Site Council has 10 members, and a majority vote is required to approve any action, the SPA School Site Council’s 5 parent-members will never be able to obtain a majority vote to effect any necessary changes in the SPA charter school’s operation.

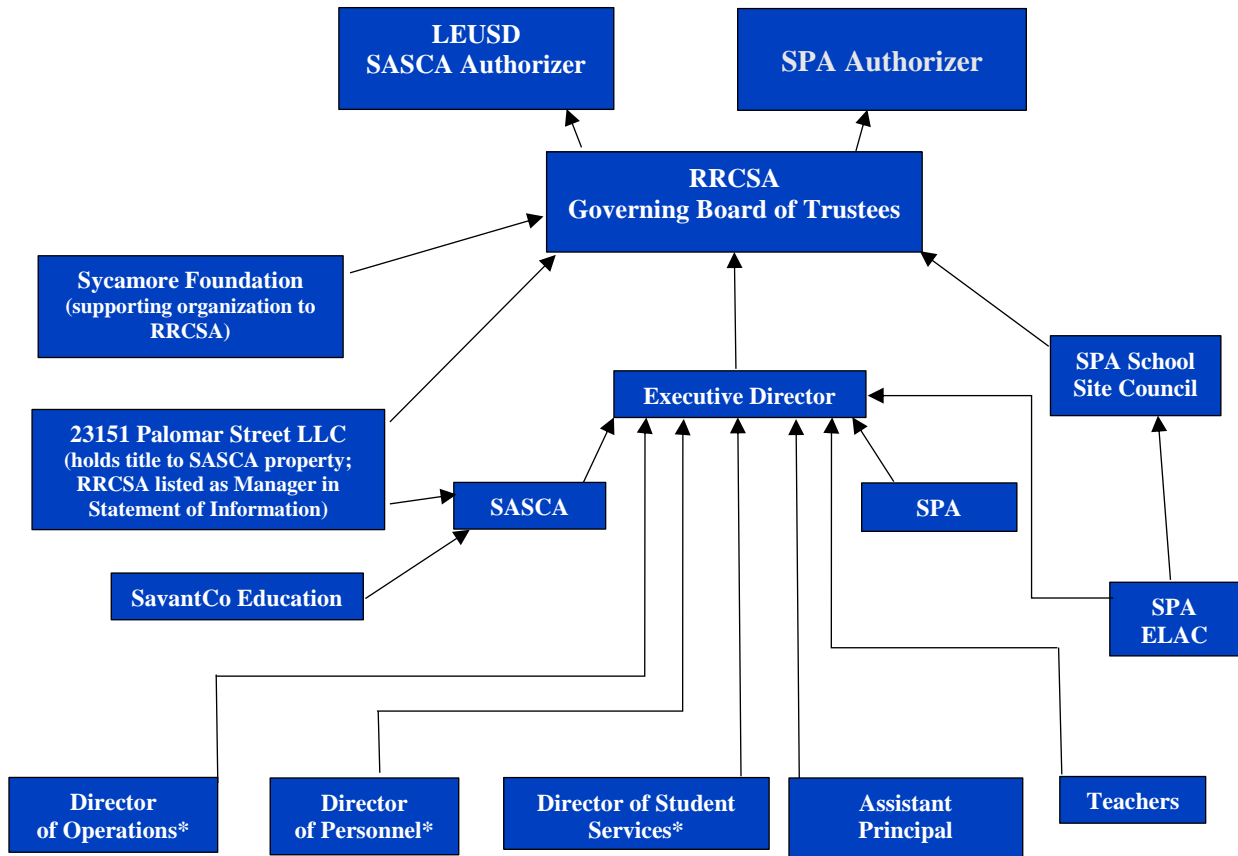
The SPA School Site Council therefore fails to ensure there will be active and effective representation of parents at the proposed SPA charter school.

**2. The SPA charter petition fails to contain a reasonably comprehensive description of the governance structure of the proposed SPA charter school because the structure prevents the District from carrying out its statutory oversight duty under Education Code section 47604.32(a)(4).**

The SPA charter petition contains an organizational chart at page 94, which purports to show “*all entities involved in the oversight and operations or related to the charter school;*” **however, the SPA organizational chart fails to accurately show the governance structure of the proposed SPA charter school.**



Therefore, District staff created the following organizational chart to accurately identify the proposed SPA charter school’s governance structure and its relationship to and with related/affiliated entities:



*\*Denotes employees that will split time and costs between existing SASCA charter school and the proposed SPA charter school; shared in proportion to each charter school’s ADA.*

The SPA charter petition states at page 93 that the proposed SPA charter school and the existing Sycamore Academy of Science and Cultural Arts (“SASCA”) charter school will be governed by the same board, the Ronald Reagan Charter School Alliance (“RRCSA”), which currently oversees the operation of the existing SASCA charter school.

Under the SPA charter petition’s governance structure, the RRCSA Board is subject to oversight by both the existing SASCA charter school’s authorizer, Lake Elsinore Unified School District and to the proposed SPA charter petition’s authorizer, which if approved by the CVUSD Board of Education would be the Chino Valley Unified School District.

Within the RRCSA organization, the RRCSA Board controls the Executive Director, and the Executive Director controls the existing SASCA charter school and the proposed SPA charter school.

The SPA charter petition states at pages 96 through 97 that the RRCSA Board members will carry out the following roles and duties:

- *“Review and evaluate progress toward fulfilling the mission and vision of [each charter] School”*
- *“Receive[] reports directly from the Executive Director of the total operation of school including, but not limited to, budget, curriculum, activities, student achievement data, evaluation of Principal, and renewal of staff contracts;”*
- *“Ratify[] contracts of employees after recommendation by the Executive Director;”*
- *“Act[] as a fiscal agent, which includes the receipt of funds for operations;”*
- *“Approve[] annual fiscal audit and performance report;”*
- *“Ratify[] compensation plans and stipend schedules.”*

Considering that most of the RRCSA Board’s primary business activities will be in Wildomar, California, across county lines and at least 44 miles away from the proposed SPA charter school, the District has serious concerns as to whether the RRCSA Board can be fair and independent in carrying out its responsibilities and duties with respect to the proposed SPA charter school.

The District notes that the Sycamore Foundation, the *“Parent/Staff Organization”* identified at page 66 of the SPA charter petition, is also located across county lines.

Further, because the RRCSA’s Articles of Incorporation identify the RRCSA as a nonprofit public benefit corporation, the RRCSA Board must comply with California Nonprofit Public Benefit Corporation Law, including California Corporations Code section 5110 *et seq.*

California Corporations Code section 5231 states that a director of a nonprofit public benefit corporation such as the RRCSA:

*“shall perform the duties of a director . . . in good faith, in a manner that the director believes to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinary prudent person in a like position would use under similar circumstances.”*

Although the RRCSA Bylaws incorporate the statutory language from California Corporations Code section 5231 above, the SPA charter petition and RRCSA Bylaws fail to demonstrate how the RRCSA Board members will be able to satisfy their legal duties under California Nonprofit Public Benefit Corporation Law and act in the best interests of the RRCSA non-profit corporation and in the best interests of both the existing SASCA charter school and the proposed SPA charter school.

Further, the SPA charter petition states at page 97 that the RRCSA Board must act “*as a fiscal agent, which includes the receipt of funds for operations*” for the proposed SPA charter school.

The District notes that the RRCSA Board must act as “*a fiscal agent*” for both the existing SASCA charter school and the proposed SPA charter school. Therefore, the RRCSA Board’s ability to make unbiased educational and operational decisions in the best interests of both charter schools is cause for concern, especially because the existing SASCA charter school and proposed SPA charter school are located in geographically, demographically, and politically different communities and offer distinct educational programs.

Although page 152 of the SPA petition states that the RRCSA “*keeps separate books for each school in its organization in accordance with the law . . . and does not co-mingle [sic] funds between separate Sycamore schools,*” as the potential authorizer of the proposed SPA charter school, the District is concerned that the proposed shared governance structure would prevent the District from carrying out its statutory duty under Education Code section 47604.32(a)(4) to “*monitor the fiscal condition of each charter school under its authority*” by monitoring whether any public funds appropriated for the proposed SPA charter school are shifted to the existing SASCA charter school without any guarantee of repayment.

Under the proposed SPA charter school’s governance structure, records of accounts and business transactions could be commingled through the RRCSA’s complex and non-transparent governance structure.

For example, in 2014, the SASCA charter school received a \$9.405 million bond from California Municipal Finance Authority (“CMFA”). However, because the RRCSA will keep separate books for each school, the District will not have access to the SASCA charter school Budget and supporting financial documents to oversee and ensure that SPA charter school public funds are not used to repay SASCA’s CMFA bond.

Moreover, the SPA charter petition states at page 95 that the 23151 Palomar Street LLC entity is a disregarded 501(c)2 tax exempt title-holding limited liability company.

The District notes that the 23151 Palomar Street LLC’s September 1, 2017 Statement of Information, as submitted to the California Secretary of State, identifies the RRCSA as Manager.

The 23151 Palomar Street LLC’s Articles of Incorporation state:

*“specific purposes of this LLC are to hold title to real property within the meaning of R&T Code § 23701h, and to manage, operate, lease and otherwise deal with such property, and to collect any income from the property and to **turn over the entire amount of said income, less expenses and expenditures, to its members**, and to do any and all things and to engage in any and all other activities and transactions necessary, convenient, appropriate or incidental to the*

*accomplishment of the foregoing purposes or otherwise for the protection and benefit of its members.” (Emphasis added.)*

California Code of Regulations, title 18, section 23701(a)(1) provides:

*“General Revenue and Taxation Code section 23701 provides an exemption from franchise or corporate income tax for organizations organized and operated for nonprofit purposes within the provisions of a specific section of Article 1, Chapter 4, or are subject to Revenue and Taxation Code sections 23710h or 23701x (relating to certain title-holding companies)”*

The SPA charter petition fails to identify who the 23151 Palomar Street LLC’s “members” are, when and how the 23151 Palomar Street LLC will hold title to real property and collect income from the property, and/or how this affects the proposed SPA charter school’s Budget.

That the District will be unable to conduct adequate oversight of the proposed SPA charter school’s finances without access to the existing SASCA charter school and 23151 Palomar Street LLC’s books and records is particularly concern because the SPA charter petition fails to explicitly state in its “Affirmation/Assurances” at pages 3 through 4 that the proposed SPA charter school will comply with the Political Reform Act and Government Code section 1090 *et seq.*<sup>3</sup>

Under the Political Reform Act, public officials/employees may not participate in making, or in any way attempt to use their official position to influence, a governmental decision in which they know or have reason to know they have an economic interest. (Cal. Gov. Code § 81000 *et seq.*) Government Code section 1090 *et seq.* further protects public funds from self-dealing transactions by strictly prohibiting conflicts of interests. “*The law does not permit a public officer to place himself in a position in which he might be tempted by his own private interest to disregard the interests of the public.*” (40 Ops.Cal.Atty.Gen. 210)

Although page 8 of the RRCSA Bylaws state that “[t]he corporation and the Board of Trustees shall comply with . . . Government Code Section 1090 *et seq.*, and the Political Reform Act,” the SPA charter petition and RRCSA Board Policy 4.14, “Conflict of Interest Policy 9150.0” fail to incorporate Government Code section 1090 and the Political Reform Act’s statutory prohibitions against conflicts of interest and self-dealing transactions.

The CVUSD Board of Education therefore finds that the SPA charter petition fails to contain a reasonably comprehensive description of the governance structure of the proposed SPA charter school as required by Education Code section 47605(b)(D).

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<sup>3</sup> The California Political Reform Act of 1974 and Government Code section 1090 *et seq.* apply to charter schools. (Cal. Gov. Code § 1090 [“Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interest in any contract made by them in their official capacity or by any body or board of which they are members”]; Knapp v. Palisades Charter High School (2006) 141 Cal.App.4th 780 [California Court of Appeal held that a charter school was not a separate legal entity for purposes of the Government Tort Claims Act].) That California charter schools are subject to open meeting requirements under the Brown Act further demonstrates that the proposed SPA charter school must comply with the California Political Reform Act of 1974 as a public agency.

**C. The SPA Charter Petition Fails To Contain A Reasonably Comprehensive Description Of The Qualifications To Be Met By Individuals To Be Employed By The Proposed SPA Charter School. [Education Code section 47605(b)(5)(E).]**

Education Code section 47605(b)(5)(E) requires that the SPA charter petition contain a reasonably comprehensive description of “[t]he qualifications to be met by individuals to be employed by the school.”

California Code of Regulations, title 5, section 11967.5.1(f)(5) requires, at a minimum, the qualifications to be met by individuals employed by the school:

*“(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 the requirements for employment set forth in applicable provisions of law will be met, including, but not limited to credentials as necessary.” (Emphasis added.)*

However, the SPA charter petition and supporting documents fail to “[i]dentify those positions that the charter school regards as key in each category”, as required by California Code of Regulations, title 5, section 11967.5.1(f)(5)(B).

The SPA charter petition states at page 104:

*“The following positions will split their time and the costs are shared in proportion to each school’s ADA:*

- *Executive Director;*
- *Director of Operations;*
- *Director of Student Services;*
- *Director of Personnel Services” (Emphasis added.)*

However, the SPA charter petition and supporting documents fail to include reasonably comprehensive job descriptions for the Director of Operations, Director of Student Services, and

Director of Personnel Services, the three employees to be shared between the existing SASCA charter school and proposed SPA charter school.

The “*Job Descriptions*” supporting document, under “*Qualifications*” for Director of Operations, Director of Student Services, and Director of Personnel, states: “*Meet the Employee Qualifications as outlined in the Charter*”

However, the SPA charter petition fails to contain employee qualifications specific to these three members of the proposed SPA charter school’s administration.

As such, it is unclear what minimum education these “key” members must have. The District notes that under the SPA charter petition, SPA could hire a Director of Operations, a Director of Student Services, or a Director of Personnel Services that did not graduate high school.

Even assuming SPA’s Directors of Operations, Student Services, and Personnel Services graduated high school, it is unclear whether members of SPA’s executive leadership team are capable of implementing the SPA charter petition’s stated goal to “*create a collegiate-inspired atmosphere that supports [SPA’s] vision, where all students are introduced to the educational benefits of attending a higher-learning institution beyond high school*” when, individually and collectively, they may not have received an advanced degree from a higher-learning institution.

Further, although page 90 of the SPA charter petition states that SPA “[s]taff will be trained on Multiple Intelligences and best practices of teaching” and page 108 of the SPA charter petition states that there will be “[o]ngoing constructivist training by professional consultants” for teachers, the SPA charter petition fails to state that there will be teacher trainings for implementing the SPA educational program based on Dr. Dweck’s theory regarding fixed mindsets or SPA’s STEAM curriculum.

Because the SPA charter petition fails to establish that the SPA charter petitioners are familiar with Dr. Dr. Howard Gardner’s Theory of Multiple Intelligences, Dr. Dweck’s theory regarding fixed mindsets, and STEAM, the proposed SPA charter school’s teacher qualifications listed in the SPA charter petition and “*Job Descriptions*” supporting document should require some training or experience in the educational programs proposed by the SPA charter petition, especially because, according to the SPA charter petition at page 11, the proposed SPA charter school embraces Darling-Hammond 1997’s theory that “[t]he single most important determinant of student achievement is the expertise and qualifications of teachers.”

However, the SPA charter petition fails to state that in hiring teachers, the proposed SPA charter school will consider the prospective hire’s training and experience in Dr. Howard Gardner’s Theory of Multiple Intelligences, Dr. Dweck’s theory regarding fixed mindsets, and/or STEAM to implement the SPA educational program.

The CVUSD Board of Education therefore finds that the SPA charter petition fails to contain a reasonably comprehensive description of the qualifications to be met by individuals employed by the proposed SPA charter school as required by Education Code section 47605(b)(5)(E).

**D. The SPA Charter Petition Fails To Contain A Reasonably Comprehensive Description Of The Procedures To Ensure The Health And Safety Of SPA Pupils And Staff. [Education Code Section 47605(b)(5)(F)]**

California Code of Regulations, title 5, section 11967.5.1(f)(6) requires that “[t]he 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.”*  
(Emphasis added.)

Education Code section 49406 requires volunteers to “*have on file with the school a certificate showing that, upon initial volunteer assignment, the person submitted to a tuberculosis risk assessment, and if tuberculosis risk factors were identified, was examined and found to be free of infectious tuberculosis.*”

Although the SPA charter petition states at page 105 that “[a]ll employees, **volunteers** . . . must provide the results of a TB test as required by current state law,” the SPA charter petition fails to cite Education Code section 49406 or to comply with its requirements.

The SPA charter petition also fails to require that all of the proposed SPA charter school’s contractors and consultants will be assessed and examined for tuberculosis prior to commencing employment and working with students as mandated by Education Code section 49406.

The District further notes that the SPA charter petition fails to specifically state that it will comply with the requirements set forth in Education Code Section 44830.1 regarding employment of felons.

The SPA charter petition also fails to comply with the requirements of Health and Safety Code section 118600, which states, in pertinent part:

*“all single-user toilet facilities . . . shall be identified as all-gender toilet facilities by signage that complies with Title 24 of the*

*California Code of Regulations, and designated for use by no more than one occupant at a time or for family or assisted use.” (Emphasis added.)*

Health and Safety Code section 16 provides that, “‘*Shall*’ is mandatory and ‘*may*’ is permissive.” Thus, the identification of a single-user toilet facility is **mandatory**.

However, SPA Governing Board Policy 4.0, “*Transgender and Gender Nonconforming Student Discrimination Policy 0020*,” states at page 6 under “*Restroom Accessibility*” that “3. Administrators **may** take steps to designate single stall ‘gender neutral’ restrooms on their campus,” which fails to satisfy the **required designation** of an “*all-gender toilet facility*” under Health and Safety Code section 118600. (Emphasis added.)

The CVUSD Board of Education therefore finds that the SPA charter petition fails to contain a reasonably comprehensive description of the procedures to ensure the health and safety of SPA pupils and staff, as required by Education Code section 47605(b)(5)(F).

**E. The SPA Charter Petition Fails To Contain A Reasonably Comprehensive Description Of The Means By Which The Proposed SPA 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 Chino Valley Unified School District. [Education Code Section 47605(b)(5)(G)]**

Education Code section 47605(b)(5)(G) requires the SPA charter petition to contain a reasonably comprehensive description of “*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.*”

The SPA charter petition states at page 36 that SPA “*will make it a priority to recruit a diverse student population, including low-income and academically low achieving students, reflective of similar racial and ethnic backgrounds of those residing in the District*” and at page 120 that the proposed SPA charter school “*will strive to have a broad representation of student demographics similar to that of the District.*”

**However, these are not the correct legal standards.**

**The correct standard is “*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 [CVUSD].*” (Education Code section 47605(b)(5)(G) (Emphasis added).)**

That after eight years of operation the SASCA charter school administration’s recruiting efforts have failed to achieve demographics similar to the Lake Elsinore Unified School District (“LEUSD”) at the existing SASCA charter school evidences that the SPA charter petitioners fail to understand the correct legal standard of Education Code section 47605(b)(5)(G) and are unlikely



to achieve a racial and ethnic balance among pupils that is reflective of the general population residing within the territorial jurisdiction of the CVUSD at the proposed SPA charter school.

The following charts identify the deficiencies of the SPA charter petitioners’ efforts to achieve the statutorily required racial and ethnic balance among its pupils at the existing SASCA charter school.

Chart 6 below demonstrates the SPA charter petitioners’ inability to establish and operate a charter school with “a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of” the Lake Elsinore Unified School District.

<b>Chart 6: Comparison of SASCA and LEUSD Demographics in Opening Year (2009-2010)</b>					
	<b>SASCA</b>		<b>LEUSD</b>		<b>Difference</b>
	<b>Enrollment</b>	<b>Percentage</b>	<b>Enrollment</b>	<b>Percentage</b>	
<b>Hispanic</b>	98	37.8%	11301	50.9%	13.1%
American Indian	1	0.4%	154	0.7%	0.3%
Asian	2	0.8%	416	1.9%	1.1%
Pacific Islander	0	0.0%	133	0.6%	0.6%
<b>Filipino</b>	3	0.0%	190	0.9%	0.9%
African American	12	4.6%	1183	5.3%	0.7%
White	130	50.2%	8290	37.3%	-12.9%
Two or more	12	4.6%	385	1.7%	-2.9%
Not reported	1	0.4%	164	0.7%	N/A
<b>Total</b>	<b>259</b>		<b>22,216</b>		

Source: 2010 DataQuest Ethnicity by Enrollment

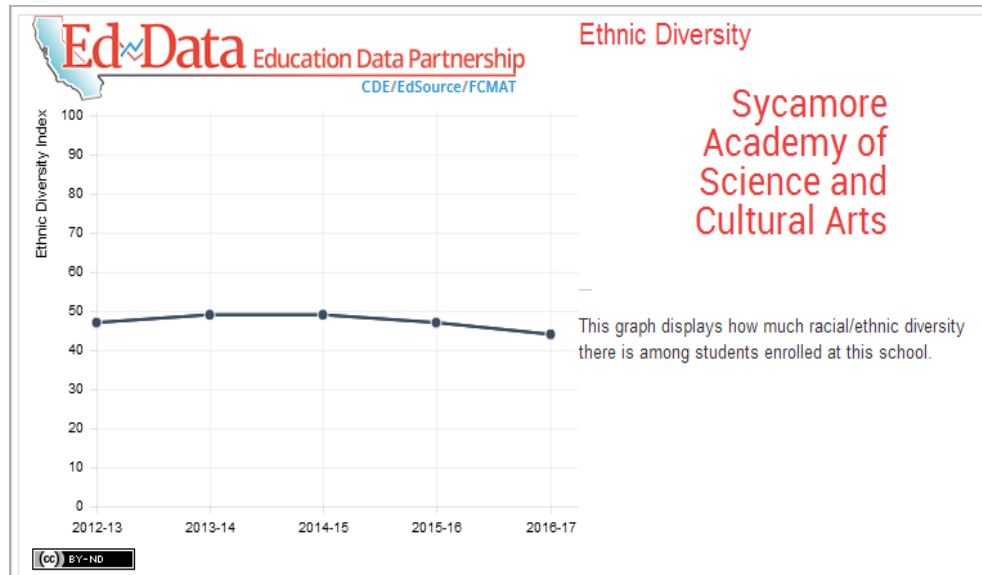
Chart 7 below demonstrates that even after eight years of operation, the SPA charter petitioners have failed to achieve “a racial and ethnic balance among its pupils that is reflective of the general population residing within” the Lake Elsinore Unified School District at the existing SASCA charter school.

<b>Chart 7: Comparison of SASCA and LEUSD Demographics in 2016-2017</b>					
	<b>SASCA</b>		<b>LEUSD</b>		<b>Difference</b>
	<b>Enrollment</b>	<b>Percentage</b>	<b>Enrollment</b>	<b>Percentage</b>	
<b>Hispanic or Latino</b>	267	50.3%	12997	59.0%	8.7%
American Indian or Alaska Native	2	0.4%	55	0.2%	-0.2%
Asian	11	2.1%	374	1.7%	-0.4%
Pacific Islander	2	0.4%	46	0.2%	-0.2%
<b>Filipino</b>	0	0.0%	336	1.5%	1.5%
African American	15	2.8%	812	3.7%	0.9%
White	181	34.1%	6260	28.4%	-5.7%
Two or more	38	7.2%	1143	5.2%	2.0%
Not reported	15	2.8%	16	0.1%	N/A
<b>Total</b>	<b>531</b>		<b>22,039</b>		

Source: DataQuest

Chart 7 above shows that the existing SASCA charter school’s percentage of Hispanic students remains over 8 points less than the Lake Elsinore Unified School District’s Hispanic student population.

According to EdData’s Graph of SASCA charter school’s Ethnic Diversity from 2012 to 2017 below, SASCA’s ethnic diversity has declined since 2014-2015, which further evidences that the SPA charter petitioners are unlikely to implement an educational and operational program at the proposed SPA charter school with “a racial and ethnic balance among its pupils that is reflective of the general population residing within” the CVUSD.



**1. The SPA community outreach plan fails to consider other language groups besides Spanish**

The SPA charter petition states at page 120 that the SPA charter petitioners will distribute literature in English and Spanish “*outlining the vision and mission statements for the school and for the purpose of student recruitment*” as part of the SPA petitioners’ community outreach plan.

However, based on the CVUSD’s population demographics and the Education Code section 47605(b)(5)(G)’s requirement to provide a reasonably comprehensive description of “*the means by which the [proposed SPA 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 [CVUSD],*” the SPA charter petition should have but fails to consider the CVUSD’s five largest language groups for inclusion in SPA’s community outreach plan.

Chart 8 below identifies the native language groups of CVUSD’s English Learners as of the 2016-2017 school year:

<b>Chart 8: 2016-2017 CVUSD English Learner (EL) Student Data</b>		
<b>Language</b>	<b>Number of English Learners</b>	<b>Number of Fluent English Proficient Students</b>
Spanish	2,302	3,684
Mandarin (Putonghua)	440	789
Korean	100	329
Cantonese	72	174
Filipino (Pilipino or Tagalog)	39	197

Source: DataQuest

Although the SPA charter petition states at page 120 that the SPA charter school petitioners will distribute literature in Spanish, the SPA charter school petition fails to state that the SPA materials will be distributed in other languages, such as the four of the largest language categories in the Chino Valley Unified School District: Mandarin, Korean, Cantonese, and Filipino.

**2. The SPA charter petitioners’ false and unsupported claim that CVUSD schools are underperforming**

Page 120 of the SPA charter school petition states that the SPA charter school petitioners plan to “disseminate informational fliers/brochures to many locations within the community, so that [their] focus is on a broad-based ethnic/racial recruitment effort.”

The SPA charter school petition list the following CVUSD schools as locations to distribute information regarding the proposed SPA charter school at page 121:

***“Under-performing schools within Chino Valley Unified School District***

- 1. Alicia Cortez Elementary - 12750 Carissa Avenue Chino, CA, 91710*
- 2. Doris Dickson Elementary - 3930 Pamela Drive Chino, CA, 91710*
- 3. E.J. Marshall Elementary - 12045 Telephone Avenue Chino, CA, 91710*
- 4. Howard Cattle Elementary - 13590 Cypress Avenue Chino, CA, 91710*
- 5. Levi H. Dickey Elementary - 2840 Parco Avenue Ontario, CA, 91761*
- 6. Liberty Elementary - 2730 S. Bon View Avenue Ontario, CA, 91761*
- 7. Newman Elementary - 4150 Walnut Avenue Chino, CA, 91710*
- 8. Walnut Avenue Elementary - 5550 Walnut Avenue Chino, CA, 91710*
- 9. Canyon Hills Junior High - 2500 Madrugada Chino Hills, CA, 91709*
- 10. Magnolia Junior High - 13150 Mountain Ave. Chino, CA 91710*
- 11. Ramona Junior High - 4575 Walnut Avenue Chino, CA, 91710*
- 12. Woodcrest Junior High - 2725 South Campus Ontario, CA, 91761”*  
(Emphasis added.)

**The CVUSD Board of Education vigorously disputes SPA’s allegation that the listed CVUSD schools are “under-performing.”**

Not only is “underperforming” an antiquated term, but the SPA charter petitioners fail to define “*Under-performing*,” which the District notes must mean extremely poor CAASPP scores considering the existing SASCA charter school’s academic performance in recent years. It is also interesting that the SPA charter petitioners fail to cite to any data to support their allegation.

It is clear that the SPA charter petitioners fail to understand the current legal and educational standards that determine whether a school is “underperforming.”

The following chart is based on the District’s review of the CDE’s new accountability system for California public schools, the “*California Model Five-by-Five Placement Reports & Data Dashboard*.” The California Model Five-by-Five Report measures state indicators, including suspension rate, English learner progress indicator, graduation rate indicator, and an academic indicator, to create a five-by-five grid that produces 25 results and five performance levels, red (the lowest), orange, yellow, green, and blue (the highest). Performance for state indicators is calculated by combining current performance (status) and improvement over time (change).

Chart 9 below is based on the California Model Five-By-Five Report and Data for CVUSD schools as of Spring of 2017, and shows whether CVUSD schools have maintained, increased, or decreased their “change” level in two academic indicators (ELA and Math):

Chart 9: California Model Five-by-Five Placement Reports & Data (Spring 2017)		
School Name	Change Level for ELA Indicator	Change Level for Math
Alicia Cortez Elementary	Maintained	Maintained
Doris Dickson Elementary	Maintained	Decreased
E.J. Marshall Elementary	Decreased	Decreased
Howard Cattle Elementary	Decreased	Increased
Levi H. Dickey Elementary	Increased	Increased
Liberty Elementary	Maintained	Increased
Walnut Avenue Elementary	Maintained	Increased
Canyon Hills Junior High	Decreased	Decreased
Magnolia Junior High	Maintained	Decreased
Ramona Junior High	Increased	Maintained
Woodcrest Junior High	Increased	Maintained

Source: (ELA) <http://www6.cde.ca.gov/californiamodel/report?indicator=ela&year=2017s&cdcode=3667678&scode=>  
 (Mathematics) <http://www6.cde.ca.gov/californiamodel/report?indicator=math&year=2017s&cdcode=3667678&scode=>

Based on the Chart 9 above, **nine of twelve CVUSD schools identified by the SPA charter petition as “under-performing” for the ELA Indicator maintained or increased their change level.**

Thus, with regards to academic performance in ELA, only three of the twelve CVUSD schools (E.J. Marshall Elementary, Howard Cattle Elementary, and Canyon Hills Junior High) listed by SPA charter school petitioners have a “*decreased*” change level. With regards to academic performance in Math, **eight of twelve CVUSD schools maintained or increased their change level.** Only four CVUSD schools have a “*decreased*” change level.

Further, as of Spring 2017, the California School Dashboard's Detailed Report for the CVUSD **shows a green performance level** on the continuum of red (the lowest), orange, yellow, green, and blue (the highest) **for all state level indicators for academic performance**, including ELA and Math. (*Detailed Report for Chino Valley Unified School District*, <https://www.caschooldashboard.org/#/Details/3667678000000/1/DetailedReport>.)

Notably, the Spring 2017 California School Dashboard Detailed Report for the SPA charter petitioners' existing SASCA charter school, **shows a yellow performance level** for all state level indicators for academic performance, including ELA and Math, such that under the new California School Dashboard indicators, CVUSD schools actually perform better than the existing SASCA charter school. (*Detailed Report for SASCA*, <https://www.caschooldashboard.org/#/Details/33751760120204/1/DetailedReport>.)

The CVUSD Board of Education therefore finds that the SPA charter petition fails to provide a reasonably comprehensive description of "*the means by which the [proposed SPA 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 [District]*," as required by Education Code section 47605(b)(5)(G).

**F. The SPA Charter Petition Fails To Contain A Reasonably Comprehensive Description Of The Proposed SPA Charter School's Admission Requirements. [Education Code Section 47605(b)(5)(H)]**

Education Code section 47605(b)(5)(H) requires the SPA charter petition to contain a reasonably comprehensive description of pupil admission requirements.

California Code of Regulations, title 5, section 11967.5.1(f)(8) requires:

*"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."*

Education Code section 47605(d)(2)(A) mandates that "[a] charter school shall admit all pupils who wish to attend the school."

Education Code section 47605(d)(2)(B) states:

*"If 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.**"* (Emphasis added.)

Page 125 of the SPA charter petition states the proposed SPA charter school's admission preferences:

*“SPA shall give enrollment preference to pupils currently attending the charter school and pupils who reside in the Chino Valley Unified School District.*

*Additional proposed preferences at the discretion of the Authorizer in the case of a public random lottery will be given to the following students in the order below:*

- a. Children of SPA staff, not to exceed 10% of enrollment; and*
- b. Siblings of current students.”*

Because Education Code section 47605(d)(2)(B) permits admission preferences at the discretion of the chartering authority on an individual school basis and only if consistent with the law, the CVUSD Board of Education hereby declines to authorize any of the SPA charter school's proposed admissions preferences that are not expressly provided for by the Education Code, because SPA's proposed admissions preferences are not consistent with sound educational practice. Education Code section 47605(d)(2)(B) does not exempt children of SPA charter school staff from the public random drawing.

Moreover, the proposed SPA charter school's *“additional proposed preferences”* do not align with the SPA charter petitioners' stated priority to recruit *“a diverse student population, including low-income and academically low achieving students,”* on page 36 of the SPA charter school petition.

Education Code section 47614.5(c)(2)(A) specifically provides for an admissions preference where:

*“The charter schoolsite is physically located in the attendance area of a public elementary school in which 55 percent or more of the pupil enrollment is eligible for free or reduced-price meals and the charter schoolsite gives a preference in admissions to pupils who are currently enrolled in that public elementary school and to pupils who reside in the elementary school attendance area where the charter schoolsite is located.”*

Based on the California Department of Education's 2016-2017 Elementary School Data for Free and Reduced Price Lunches, Glenmeade Elementary, E.J. Marshall Elementary, Wickman Elementary, and Edwin Rhodes Elementary, all have more 55 percent or more of the pupil enrollment eligible for free or reduced-price meals. All of these CVUSD elementary schools are located within the attendance area of the proposed SPA charter school's identified potential facilities locations.

Because the SPA charter petition identifies proposed facilities “*located in the attendance area of a public elementary school in which 55 percent or more of the pupil enrollment is eligible for free or reduced-price meals,*” the SPA charter petition should have but fails to include an admission preferences for pupils eligible for free or reduced-price meals.

That the SPA charter petition permits “*additional proposed preferences for children of SPA staff*” and “*siblings of current students*” over the required statutory preference to pupils eligible for free or reduced-price meals evidences that the SPA charter school petition fails to contain a reasonably comprehensive description of pupil admission requirements.

Moreover, the SPA charter petition states “*All lottery protocols may be refined as deemed necessary by the Board of Trustees*” at page 126. This is an unlawful circumvention of Education Code section 47607, requiring that the material revisions “*of the provisions of a charter petition may be made only with the approval of the authority that granted the charter.*” (Emphasis added.)

The California Department of Education, in its “*Charter School Authorization Webinar*” transcript, available at <http://www.cde.ca.gov/sp/cs/as/authguidance2.asp>, states: “*Material [revisions] can be a change to any aspect of a petition.*” According to the CDE webinar, an example of a material revision includes “*changes to the admissions preferences/policy.*” (Emphasis added.)

Thus, the SPA charter petition’s reservation of the right to “*refine*” the proposed SPA charter petition’s lottery protocols unlawfully circumvents Education Code section 47607(a)(1)’s requirement that all material revisions such as a change to a charter school’s admissions preferences or admissions policy must be approved as a material revision by the charter authorizer.

The CVUSD Board of Education therefore finds that the SPA charter school petition’s admission requirements are not in compliance with Education Code section 47605(d), and that the SPA petition therefore fails to contain a reasonably comprehensive description of the pupil admission requirements for the proposed SPA charter school.

**G. The SPA Charter Petition Fails To Contain A Reasonably Comprehensive Description Of The Procedures by Which Pupils Can Be Suspended or Expelled. [Education Code Section 47605(b)(5)(J)]**

Education Code section 47605(b)(5)(J) requires the SPA charter petition to contain a reasonably comprehensive description of the procedures by which pupils can be suspended or expelled.

California Code of Regulations, Title 5, section 11967.5.1(f)(10) provides:

*“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.”*

Page 130 of the SPA charter petition states:

*“Each classroom will develop a Full Value Contract, an agreement about expectations they have for one another to provide a quality learning environment.”*

The SPA charter petition fails to describe how a Transitional Kindergarten or Kindergarten classroom of students at the proposed SPA charter school can be expected to understand the concept of the SPA charter petition's Full Value Contract, or how to develop a Full Value Contract



for their classroom. Further, the SPA charter petition fails to include a sample “*Full Value Contract*.”

The SPA charter petition states at page 131 charter petition that “*SPA adopts Education Code section 48900 et seq. for any student disciplinary matter involving suspension or expulsion*,” and includes a chart at page 132 purporting to summarize Education Code section 48900 *et seq.*

However, the expulsion chart in the SPA charter petition fails to **accurately** summarize Education Code section 48900 *et seq.*, thereby evidencing that the SPA charter petition fails to actually adopt adoption of Education Code section 48900 *et seq.*

For example, the chart at page 132 of the SPA charter petition, under “*may recommend expulsion (discretionary)*” lists “*possessed dangerous objects*.”

However, Education Code section 48900 (b) states the complete section regarding “*dangerous objects*”:

“*[p]ossessed, sold, or otherwise furnished a firearm, knife, explosive or other dangerous object unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.*”  
(Emphasis added.)

A “*reasonably comprehensive*” description under California Code of Regulations, title 5, section 11967.5.1 requires including information that “*is substantive and is not, for example, a listing of topics with little elaboration.*”

The SPA chart of expulsion procedures is not substantive, and the SPA charter petition fails to contain any evidence that the chart fully complies with Education Code section 48900 *et seq.*

Clearly described suspension and expulsion procedures are necessary to avoid inconsistent, capricious, and unfair student disciplinary practices and to afford students adequate due process. The SPA charter petition fails to contain clearly described suspension and expulsion procedures.

The SPA charter petition fails to state in the “*In-School Suspension*” policy at page 133 that “*at the time a pupil is assigned to a supervised suspension classroom, a [SPA employee] shall notify, in person or by telephone, the pupil’s parent or guardian*,” as required by Education Code section 48911.1(d).

The proposed SPA charter school’s suspension and expulsion policies also fail to “*demonstrate an understanding of the rights of pupils with disabilities in regard to suspension and expulsion*” as required by California Code of Regulations, Title 5, section 11967.5.1(f)(10)(E)(1).

Code of Federal Regulations, title 34, section 300.530(d) provides:

*“(1) A **child with a disability who is removed from the child’s current placement pursuant to paragraphs (c), or (g) of this section must -***

*(i) **Continue to receive educational services, as provided in § 300.101(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child’s IEP . . . .***

*(2) **The services required by paragraph (d)(1), (d)(3), (d)(4), and (d)(5) of this section may be provided in an interim alternative educational setting.*** (Emphasis added.)

The SPA charter petition, however, fails to contain this language from Code of Federal Regulations, title 34, section 300.530(d).

Although the SPA charter petition provides at page 138 that if the behavior of a child with disability is *“not a manifestation of the student’s disability . . . then SPA may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to students without disabilities,”* complying with Code of Federal Regulations, title 34, section 300.530(c), the SPA charter petition fails to comply with Code of Federal Regulations, Title 34, section 300.530(d).

Code of Federal Regulations, Title 34, section 300.530(d) provides that the child must *“(i) continue to receive educational services; (ii) [r]eceive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.”*

The SPA charter petition fails to state that when the behavior of the SPA student with a disability is determined to **not be a manifestation** of the student’s disability, then the student shall receive educational services and as appropriate, a functional behavior assessment, and behavioral intervention services and modifications. The SPA charter petitioners therefore fail to *“demonstrate an understanding of the rights of pupils with disabilities in regard to suspension and expulsion.”*

The SPA petition also fails to contain any information about notifying parents or guardians of children with disabilities, pursuant to Code of Federal Regulations, title 34, section 300.530 (h), which requires:

*“[o]n the date on which the decision is made to make a removal that constitutes change of placement of a child with a disability because of a violation of a code of student conduct, **the LEA must notify the parents of that decision and provide the parents the procedural safeguards notice described in § 300.504.**”* (Emphasis added.)

Although the SPA charter petition states at page 138 that “*The parent of a child with a disability who disagrees with any decision regarding placement, or the manifestation determination, . . . may request an expedited administrative hearing,*” the SPA petition fails to provide any information about the procedural steps of an expedited administrative hearing.

Because the SPA charter petition contains material omissions regarding its suspension and expulsion policies for pupils with disabilities, the SPA charter petition fails to “*demonstrate an understanding of the rights of pupils with disabilities in regard to suspension and expulsion.*”

The CVUSD Board of Education therefore finds the SPA charter petition fails to contain a reasonably comprehensive description of the pupil suspension and expulsion policies and procedures to be used at the proposed SPA charter school as required by Education Code section 47605(b)(5)(J).

**NOW THEREFORE, BE IT FURTHER RESOLVED** that the terms of this Resolution are severable. Should it be determined that one or more of the findings and/or the factual determinations supporting the findings are invalid, the remaining findings and/or factual determinations and the denial of the September 14, 2017 Sycamore Preparatory Academy charter petition shall remain in full force and effect. In this regard, the CVUSD's Board of Education specifically finds that each factual determination, in and of itself, is a sufficient basis for the finding it supports, and that each such finding, in and of itself, is a sufficient basis for denial.

**The foregoing Resolution No. 2017/2018-28 was considered, passed and adopted by the Chino Valley Unified School District Board of Education at its Special Meeting of November 9, 2017.**

**DENYING THE SEPTEMBER 14, 2017 SYCAMORE PREPARATORY ACADEMY CHARTER PETITION.**

AYES:                      NOES:                      ABSENT:                      ABSTAIN:

STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO

Wayne M. Joseph, Secretary, Board of Education of the Chino Valley Unified School District of San Bernardino County, California, hereby certifies that the above foregoing Resolution was duly and regularly adopted by said Board at a Special Meeting thereof held on the 9th of November 2017 and passed by a \_\_\_\_\_ vote of said Board.

IN WITNESS WHEREOF I have hereunto set my hand and seal this November 9, 2017.

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Wayne M. Joseph  
Secretary, Board of Education

# **Exhibit A**

**PAUL S. HORVAT**  
Certified Public Accountant  
6786 Angus Drive  
La Verne, CA 91750

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November 2, 2017

Members of the Chino Valley Unified School District Board of Education  
Mr. Wayne Joseph  
Superintendent  
Chino Valley Unified School District  
5130 Riverside Drive  
Chino, CA 91710

**Re: Review and Analysis of the Sycamore Preparatory Academy Charter Petition and Budget as Submitted on September 14, 2017**

Dear Members of the Chino Valley Unified School District Board of Education and Mr. Joseph:

Thank you for providing the Sycamore Preparatory Academy (SPA) September 14, 2017 charter school petition and Budget for my review.

As you requested, I have reviewed the SPA September 14, 2017 charter school petition and Multi-Year Projection (Budget) as submitted by the Sycamore Preparatory Academy charter petitioners.

My findings after my review and analysis are presented in this report.

**EXECUTIVE SUMMARY**

The September 14, 2017 SPA Charter Petition and Budget fail to present any new information that would alter the conclusions reached in my March 9, 2017 Review and Analysis of the SPA Charter Petition and Budget as submitted on January 19, 2017 which were as follows:

“When providing the SPA charter petitioner’s budget as required by Education Code section 47605(g) and California Code of Regulations, Title 5, section 11967.5.1(c)(3)(B), the SPA charter school petitioners should have but failed to provide complete and accurate Budget Notes and Assumptions describing in detail the amounts presented in SPA’s Budget.

Detailed Budget Notes and SPA’s documentation supporting SPA’s Budget amounts are a critical component of the basis upon which approval of the SPA charter petition is granted. The SPA charter petitioners failed to provide any historical spending experience or budget analysis comparing Sycamore Preparatory Academy and other start-up charter school budgets in California with the proposed Sycamore Preparatory Academy Budget.

The SPA charter petitioners failed to account for \$225,000 of year one Public Charter School Grant Program (PCSGP) start-up costs.

The SPA charter petitioners failed to describe in detail how SPA's budgeted special education encroachment costs were sufficient when a comparative analysis of special education costs determines that SPA's special education encroachment costs are understated by \$591,812.

The SPA charter petitioners also failed to present any comparative facilities rent expense analysis correlating to the SPA charter petitions required 50,625 square feet of rental space.

Material expense omissions in the SPA Budget understate SPA's total expenditures, reduce fund balance to a deficient of (\$577,638) and result in a negative or deficit fund balance reserve of (-7.3%).

The SPA Budget also fails to reconcile salaries and benefits to any salary schedule or payroll and benefits schedule.

Overall, in my professional opinion, because of the material nature of the SPA charter petitioners' omissions from the SPA Budget and Budget Notes, including SPA's unsubstantiated and understated special education encroachment costs, understated facilities rent expenses, and unbudgeted PCSGP start-up costs, the Sycamore Preparatory Academy charter petition and Budget present an unrealistic financial and operational plan for the proposed SPA charter school."

Therefore, even though SPA has had notice of the material failures of the January 19, 2017 SPA Budget to comply with the applicable legal standards since at least March 9, 2017, the SPA charter petitioners continue to present an unrealistic financial and operational plan for the proposed SPA charter school in the September 14, 2017 SPA charter petition and Budget.

After a comprehensive review of the Sycamore Preparatory Academy charter petition and Budget(s) as submitted to the Chino Valley Unified School District on September 14, 2017, I conclude that the Sycamore Preparatory Academy charter petition and Budget present an unrealistic financial and operational plan for the proposed Sycamore Preparatory Academy charter school.

My findings regarding the September 14, 2017 SPA charter petition and Budget can be summarized as follows:

- 1) The SPA charter petitioners have submitted two different budgets with the September 14, 2017 SPA charter petition. The SPA charter petitioners failed to provide any explanation in their Budget Notes, Budget Narrative or Budget Assumptions regarding which of the two budgets the SPA charter petitioners intend to implement or why two conflicting Budgets were submitted.
- 2) The SPA charter petitioners continue to fail to present any comparative historical data from charter schools or school districts of similar type, size, and location as the proposed SPA charter school to support the SPA charter petition's projected enrollment of 440 students for the 2018-19 school year.
- 3) The SPA charter petitioners again failed to account for \$225,000 of Year 1 Public Charter School Grant Program (PCSGP) start-up costs.
- 4) The SPA charter petition's Budget fails to present sufficient detailed Budget Notes or Budget Assumptions that clearly describe SPA's financial Budget projections pursuant to California Code of Regulations, Title 5, section 11967.5.1(c)(3)(B).

The SPA charter petitioners failed to provide supplementary information describing how the proposed SPA charter school's revenues, costs, and cash flows were projected, either through historical data or comparative analytics from other charter schools or school districts of similar type, size and location.

- 5) The SPA charter petitioners included in their Financial Documents 3.1 Budget at Other Sources, \$250,000 of an undocumented alleged Community Bank line of credit commitment of \$500,000. The use of the \$250,000 Community Bank commitment means the SPA 2018-19 Year 1 budget fund balance and cash flow are overstated by \$250,000.
- 6) The California Municipal Finance Authority (CMFA) charter school bond issue listing identifies the Sycamore Academy of Sciences and Cultural Arts, the SPA charter petitioner's existing charter school, as receiving \$9.405 million in CMFA bonds in September 2014. The SPA September 14, 2017 charter petitioners failed to identify if SPA is responsible in any way through rental or lease payments or other debt service options for the \$9.405 million in bonds.
- 7) The SPA charter petitioners wrote in their Financial Documents 3.1 Budget Narrative at section 3.2 Books and Supplies:

*"SPA also budgeted for classroom furniture at \$200 per student".*

SPA's classroom furniture amount is calculated as \$88,000 (440 enrollment x \$200 per student = \$88,000 for furniture).

The SPA 2018-19 Year 1 Budget fails to present any account line item or category for furniture costs and no amount in the SPA Budget corresponds to \$88,000 in furniture costs as described by SPA.

The SPA charter petitioner's failure to present detailed Budget Notes and Assumptions clearly identifying \$88,000 in furniture costs in the SPA Budget results in the SPA charter petitioners having submitted an unrealistic financial and operational plan for the proposed SPA charter school.

- 8) The SPA charter petition's Financial Documents 3.1 Budget fails to identify how the SPA charter petitioners determined SPA's zero special education encroachment costs in the SPA Financial Documents 3.1 Budget or to explain why the proposed SPA charter school would not experience any special education encroachment costs.
- 9) The SPA charter petition's Budget fails to present any staffing or medical and retirement benefits supporting schedules corresponding with the types of staffing position classifications presented in SPA's Budget Narratives, Budget Notes, or Budget assumptions.
- 10) The SPA charter petition's Budget fails to identify how the SPA charter petitioners determined SPA's facilities rental costs in the SPA Budget.

The SPA charter petition's Budget fails to explain how the amount of rent presented in the SPA Budget is sufficient and comparable to other similar types of schools or charter schools and why SPA's annual rent expense has increased from \$188,511.26 in the January 19, 2017 SPA Budget to \$540,000 in the September 14, 2017 SPA Budget.

- 11) Because of the expenditure and financing sources omissions in the proposed SPA charter petition Budget, SPA's total expenditures have increased by \$575,987 while other financing sources have decreased by \$250,000 resulting in the SPA charter school Budget having an ending 2018-19 Year 1 deficit fund balance of (\$80,557) and a deficit fund balance reserve of (1.8%).



## **CHINO VALLEY UNIFIED SCHOOL DISTRICT STANDARDS FOR REVIEWING THE SYCAMORE PREPARATORY ACADEMY CHARTER PETITION AND BUDGET**

The Chino Valley Unified School District (CVUSD) standards for reviewing charter petitions comply with Education Code 47605(g) and the California Code of Regulations, Title 5, sections 11960-11969.

Education Code Section 47605(g) states, *“The governing board of a school district shall require that the petitioner or petitioners 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 school, the manner in which administrative services of the school are to be provided, and potential civil liability effects, if any, upon the school and upon the school district. The description of the facilities to be used by the charter school shall specify where the school intends to locate. The petitioner or petitioners shall also be required to provide financial statements that include a proposed first-year operational budget, including startup costs, and cash flow and financial projections for the first three years of operation.”*

The California Code of Regulations (“CCR”) identifies the critical importance in the charter petition review process of a charter school’s budget, budget notes and assumptions at Title 5, Subchapter 19-Charter Schools, Article 2-General Provisions.

CCR, Title 5, section 11967.5.1(c)(3)(B) states that an unrealistic financial and operational plan for the proposed charter exists when the charter or supporting documents do not adequately include:

1. *“[A]t a minimum, the first-year operational budget, start-up costs, and cash flow, and financial projections for the first three years.*
2. *Include in the operational budget reasonable estimates of all anticipated revenues and expenditures necessary to operate the school, including, but not limited to, special education, based, when possible, on historical data from schools or school districts of similar type, size, and location.*
3. *Include budget notes that clearly describe assumptions on revenue estimates, including, but not limited to, the basis for average daily attendance estimates and staffing levels.*
4. *Present 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.*
5. *Demonstrate an understanding of the timing of the receipt of various revenues and their relative relationship to timing of expenditures that are within reasonable parameters, based, when possible, on historical data from schools or school districts of similar type, size, and location.”*

### **FINDINGS OF FACT**

#### **1. SPA’s Two Separate Unrealistic and Inconsistent Budgets**

The CVUSD reviews all charter petitions as the petitions are submitted by the charter petitioners.

The charter petition submitted by the SPA charter petitioners dated September 14, 2017 contains two different Multi-Year Projection Budgets. The two different Budgets presented in the SPA charter petition are labeled as Financial Documents 3.0 and Financial Documents 3.1. The two Budgets are materially different, but both were submitted with and therefore are components of the September 14, 2017 SPA charter petition.

Therefore, both the Financial Documents 3.0 and the 3.1 Budgets must be considered in reviewing the SPA September 14, 2017 charter petition. If the September 14, 2017 charter were granted, the CVUSD would have a statutory legal duty under Education Code 47604.32 (a)(4) to “*Monitor the fiscal condition of each charter school under its authority.*” If the SPA charter petition were to be granted as submitted containing two different Budgets the CVUSD could not carry out its statutory oversight duty.

The SPA Budget at Financial Documents 3.0 presents SPA’s 2018-19 total revenues and expenses as \$6,937,753 and \$6,063,169 respectively.

The SPA Budget at Financial Documents 3.1 presents SPA’s 2018-19 total revenues and expenses as \$4,227,500 and \$3,982,070 respectively.

Because the SPA charter petitioners failed to prevent any detailed Budget Narratives, assumptions or Budget Notes explaining which Budget or which line item Budgeted amounts the SPA charter petitioners intend to implement between the Financial Documents 3.0 Budget and Financial Documents 3.1 Budget, and because both SPA Budgets are materially inconsistent, both of the SPA Budgets as submitted present an unrealistic financial and operational plan for the proposed SPA charter school.

**Table I** below summarizes the two Budgets’ total revenues, expenditures, and the net difference between revenue and expenditures.

**Table I**

<b>Sycamore Preparatory Academy - Chino Valley Multi-Year Projections Financial Documents Tab 3.0 vs. Tab 3.1 Comparison of 2018-19</b>	<b>Financial Documents Tab 3.0 (A)</b>	<b>Financial Documents Tab 3.1 (B)</b>	<b>(B) - (A)</b>	<b>% Changes</b>
Description	2018-19	2018-19	2018-19	2018-19
	<i>(rounded)</i>	<i>(rounded)</i>		
TOTAL REVENUES	\$ 6,937,753	\$4,227,500	\$ (2,710,253)	-39.1%
TOTAL EXPENDITURES	(6,063,169)	(3,982,070)	(2,081,099)	34.3%
NET DIFFERENCE	\$ 874,584	\$245,430	\$ (629,154)	-71.9%

The September 14, 2017 SPA charter petition and the two separate Budgets at Financial Documents 3.0 and 3.1 fail to describe in detail:

- The purpose of the SPA charter petition’s two separate Budgets and why both Budget documents differ so greatly,
- Why the SPA Budget at Financial Documents 3.0 begins with year one as 2017-18 while the SPA Budget at Financial Documents 3.1 begins with year one as 2018-19.

Comparison of the two SPA Budget’ Financial Documents 3.0 and 3.1 shows extensive and unexplained account level differences for the proposed SPA charter school’s 2018-19 operating year.

Tables II through IV below present a comparison of the 2018-19 Budget amounts as presented in the SPA Budget Financial Documents 3.0 and 3.1.

Certain accounts have been selected as examples of the unexplained differences between the two SPA Budgets.

**Revenue Comparisons of the SPA Charter Petition’ Budget’s Financial Documents 3.0 and 3.1**

**Table II**

Sycamore Preparatory Academy - Chino Valley Multi-Year Projections Financial Documents Tab 3.0 vs. Tab 3.1 Comparison of 2018-19		Financial Documents Tab 3.0 (A)	Financial Documents Tab 3.1 (B)	(B) - (A)	% Change
Description	Object Code	2018-19	2018-19	2018-19	2018-19
<b>A. REVENUES</b>					
<b>1. LCFF Sources</b>					
State Aid - Current Year	8011	\$ 4,863,706.51	\$2,733,304.45	\$(2,130,402.06)	-43.8%
Education Protection Account (EPA) - Current	8012	152,000.00	83,600.00	(68,400.00)	-45.0%
Transfers to Charter Schools in Lieu of Property	8096	1,146,406.80	738,743.94	(407,662.86)	-35.6%
Other LCFF Transfers	8091, 8097				
Total, LCFF Sources		6,162,113.31	3,555,648.39	(2,606,464.92)	-42.3%
<b>2. Federal Revenues</b>					
Special Education - Federal	8181, 8182	95,000.00	52,250.00	(42,750.00)	-45.0%
Child Nutrition - Federal	8220		19,405.02	19,405.02	100.0%
PCSGP		150,000.00	225,000.00	75,000.00	50.0%
Total, Federal Revenues		245,000.00	296,655.02	51,655.02	21.1%
<b>3. Other State Revenues</b>					
Special Education - State	8311	382,280.00	210,254.00	(172,026.00)	-45.0%
Child Nutrition - State	8520		116,430.11	116,430.11	100.0%
Mandated Cost Reimbursement	8550	10,799.60		(10,799.60)	-100.0%
State Lottery Revenue	8560	137,560.00		(137,560.00)	-100.0%
Total, Other State Revenues		530,639.60	326,684.11	(203,955.49)	-38.4%
<b>4. Other Local Revenues</b>					
Food Service Sales	8634				
All Other Sales	8639		48,512.55	48,512.55	100.0%
Donations	8682				
Total, Local Revenues		0.00	48,512.55	48,512.55	100.0%
<b>5. TOTAL REVENUES</b>					
		6,937,752.91	4,227,500.07	(2,710,252.84)	-39.1%

Both of the SPA charter petition Budgets fail to present any Budget Narratives, assumptions or Budget Notes as required by 5 California Code of Regulations section 11967.5.1(c)(3)(B) explaining:

- Why the SPA Budget at Financial Documents 3.1 for 2018-19 presents at Child Nutrition – State, \$116,430.11 in child nutrition revenue but the SPA Budget at Financial Documents 3.0 has zero dollars budgeted for Child Nutrition – State Revenue.
- Why the SPA Budget at Financial Documents 3.0 for 2018-19 presents at Other State Revenues, Mandated Cost Reimbursements of \$10,799.60 and State Lottery Revenue of \$137,560 but the SPA Budget at Financial Documents 3.1 shows zero dollars budgeted at Mandated Cost Reimbursement and State Lottery Revenue.

**Expenditure Comparisons of the SPA Charter Petition' Budget's Financial Documents 3.0 and 3.1**

**Table III**

Sycamore Preparatory Academy - Chino Valley Multi-Year Projections Financial Documents Tab 3.0 vs. Tab 3.1 Comparison of 2018-19		Financial Documents Tab 3.0 (A)	Financial Documents Tab 3.1 (B)	(B) - (A)	% Change
Description	Object Code	2018-19	2018-19	2018-19	2018-19
<b>B. EXPENDITURES</b>					
<b>1. Certificated Salaries</b>					
Certificated Teachers' Salaries	1100	1,739,100.00	924,642.00	(814,458.00)	-46.8%
Certificated Stipends	1101	114,240.00	56,000.00	(58,240.00)	-51.0%
Certificated Pupil Support Salaries	1200	54,060.00	69,000.00	14,940.00	27.6%
Certificated Supervisors' and Administrators'	1300	303,552.00	200,400.00	(103,152.00)	-34.0%
Certificated Bonuses	1400	148,838.40	72,960.00	(75,878.40)	-51.0%
Total, Certificated Salaries		2,359,790.40	1,323,002.00	(1,036,788.40)	-43.9%
<b>2. Non-certificated Salaries</b>					
Non-certificated Instructional Aides' Salaries	2100	294,314.88	113,400.00	(180,914.88)	-61.5%
Non-certificated Supervisors' and	2300	181,968.00	75,000.00	(106,968.00)	-58.8%
Clerical and Office Salaries	2400	41,583.36	67,200.00	25,616.64	61.6%
Non-certificated Bonuses	2600	19,910.40	10,520.00	(9,390.40)	-47.2%
Other Non-certificated Salaries	2900	26,697.60	53,900.00	27,202.40	101.9%
Other Non-certificated Substitute	2935	16,279.20	7,960.00	(8,319.20)	-51.1%
Total, Non-certificated Salaries		580,753.44	327,980.00	(252,773.44)	-43.5%
<b>3. Employee Benefits</b>					
State Teachers' Retirement System,	3101	384,173.88	215,384.73	(168,789.15)	-43.9%
Public Employees' Retirement System,	3202	99,308.84	39,259.21	(60,049.63)	-60.5%
OASDI/Medicare/Alternative, certificated	3301	34,216.96	19,183.53	(15,033.43)	-43.9%
OASDI/Medicare/Alternative, classified	3302	36,006.71	20,334.76	(15,671.95)	-43.5%
Health & Welfare Benefits, certificated	3401	333,840.00	211,140.00	(122,700.00)	-36.8%
Health & Welfare Benefits, classified positions	3402	42,800.00	51,000.00	8,200.00	19.2%
State Unemployment Insurance, certificated	3501	29,025.42	16,272.92	(12,752.50)	-43.9%
State Unemployment Insurance, classified	3502	16,783.77	9,478.62	(7,305.15)	-43.5%
Workers' Compensation Insurance, certificated	3601	35,396.86	19,845.03	(15,551.83)	-43.9%
Workers' Compensation Insurance, classified	3602	8,711.30	4,919.70	(3,791.60)	-43.5%
Total, Employee Benefits		1,020,263.74	606,818.50	(413,445.24)	-40.5%

The SPA Charter Petitioners failed to present any Budget Narratives, assumptions or Budget Notes as required by 5 California Code of Regulations section 11967.5.1(c)(3)(B) explaining in detail why certain salaries and benefits increase or decrease between the two SPA Budgets.

Further, the SPA charter petitioners should have, but failed to explain the rationale of why certain salaries and benefits are increasing in object codes such as Certificated Pupil Support Salaries, Clerical and Office Salaries, Other Non-certificated Salaries, and Health & Welfare Benefits while all other salaries and benefits are decreasing.

Because the SPA charter petitioners failed to present any detailed Budget notes or assumptions explaining which of the two Budgets or which line item Budgeted amounts the SPA charter petitioners actually intend to implement, both of the SPA Budget(s) present an unrealistic financial and operational plan for the proposed SPA charter school.

**Books and Supplies and Services and Other Operating Expenditure Comparisons of the SPA Charter Petition' Budget's Financial Documents 3.0 and 3.1**

**Table IV**

Sycamore Preparatory Academy - Chino Valley Multi-Year Projections Financial Documents Tab 3.0 vs. Tab 3.1 Comparison of 2018-19		Financial Documents Tab 3.0 (A)	Financial Documents Tab 3.1 (B)	(B) - (A)	% Change
Description	Object Code	2018-19	2018-19	2018-19	2018-19
<b>4. Books and Supplies</b>					
<b>Approved Textbooks and Core Curricula</b>	4100	24,600.00	26,640.00	2,040.00	8.3%
Books and Other Reference Materials	4200	105,000.00	55,000.00	(50,000.00)	-47.6%
Materials and Supplies	4300	100,112.21	50,747.00	(49,365.21)	-49.3%
Noncapitalized Equipment	4400	336,000.00	186,000.00	(150,000.00)	-44.6%
<b>Food</b>	4700	15,540.32	194,050.19	178,509.87	1148.7%
Total, Books and Supplies		581,252.53	512,437.19	(68,815.34)	-11.8%
<b>5. Services and Other Operating Expenditures</b>					
Subagreements for Services	5100				
Travel	5210	33,640.66	2,981.13	(30,659.53)	-91.1%
<b>Conference, Convention, Meeting</b>	5220		13,019.36	13,019.36	100.0%
<b>Field Trip</b>	5240		14,690.00	14,690.00	100.0%
Dues and Memberships	5300	14,513.54	6,911.21	(7,602.33)	-52.4%
Insurance	5400	168,079.98	72,908.22	(95,171.76)	-56.6%
Operations and Housekeeping Services	5500	104,978.07	49,989.56	(54,988.51)	-52.4%
<b>Rent</b>	5610	188,511.26	540,000.00	351,488.74	186.5%
Utilities	5620	101,978.70	49,989.56	(51,989.14)	-51.0%
Repairs	5640	26,988.59	13,229.70	(13,758.89)	-51.0%
Leasehold Improvement	5650				
Other Services & Operating Expenses	5800	158,922.11	75,677.19	(83,244.92)	-52.4%
Accounting	5810	18,392.72	8,857.01	(9,535.71)	-51.8%
Business Services	5813	180,000.00	80,000.00	(100,000.00)	-55.6%
Bank Charges	5815	1,561.89	1,487.51	(74.38)	-4.8%
Education Consultants	5817	79,657.00	38,668.45	(40,988.55)	-51.5%
Legal	5830	50,678.39	24,601.16	(26,077.23)	-51.5%
Professional Development	5840	58,928.36	28,606.00	(30,322.36)	-51.5%
Substitute Teachers (Third Party Vendors)	5851	65,260.80	37,800.00	(27,460.80)	-42.1%
Contract Labor	5852				
Special Education Contractors	5869	49,567.56	28,123.84	(21,443.72)	-43.3%
<b>Special Education Encroachment</b>	5872	33,409.60		(33,409.60)	-100.0%
Communications	5900	23,418.13	12,736.05	(10,682.08)	-45.6%
Total, Services and Other Operating		1,358,487.36	1,100,275.95	(258,211.41)	-19.0%

The SPA charter petition Budget, Budget Narrative, Budget Notes and assumptions fail to present any Budget Narratives, assumptions or Budget Notes as required by 5 California Code of Regulations section 11967.5.1(c)(3)(B) explaining:

- Why Approved Textbooks and Core Curricula Materials object codes increased by \$2,040 between the Financial Documents 3.0 SPA Budget and the Financial Documents 3.1 SPA Budget and the Food object code increased by \$178,509.87 between Financial Document 3.0 and 3.1 when all other Books and Supplies object codes decreased.

- Why Conference, Convention, Meeting and Field Trip expenses have increased from zero spending in the Financial Documents 3.0 SPA Budget to \$13,019.36 and \$14,690 respectively in the Financial Documents 3.1 SPA Budget.

- The SPA charter petitioners should have but failed to present Budget Notes and Assumptions to explain:

How they knew rent was precisely \$188,511.26, down to the penny as presented in the Financial Documents 3.0 SPA Budget, and why while most revenues and expenses are decreasing from the Financial Documents 3.0 SPA Budget to the Financial Documents 3.1 SPA Budget, and SPA's projected overall revenue has decreased by \$2,710,253 (rounded) between the two Budgets but SPA's rent has increased substantially from \$188,511.26 in the Financial Documents 3.0 SPA Budget to \$540,000 in the Financial Documents 3.1 SPA Budget, an increase of \$351,488.74.

- Why the SPA charter petitioners Financial Documents 3.0 SPA Budget includes \$33,409.60 in Special Education Encroachment costs but the SPA Budget at Financial Documents 3.1 budgets zero dollars for Special Education Encroachment costs.

The SPA charter petitioners fail to identify which of the two budgets they submitted with the September 14, 2017 SPA charter petition they intend to implement if the SPA charter petition were granted. Both of the SPA Budgets submitted contain material financial deficiencies resulting in financial and operational plans that are demonstrably unlikely to be implemented.

When providing the SPA charter petition's Budget as required by Education Code section 47605(g) and California Code of Regulations, Title 5, section 11967.5.1(c)(3)(B), the SPA charter school petitioners should have but failed to provide complete and accurate Budget Narratives, assumptions and Budget Notes describing in detail how the amounts presented in both of the two SPA Budgets were determined.

Therefore, the SPA charter petitioners have submitted two unrealistic financial and operational plans and are demonstrably unlikely to successfully implement the proposed SPA charter school program.

## **2. SPA's Unrealistic and Unsupported Enrollment**

The SPA charter petitioners project enrollment of 440 students for the 2018-19 school year in the proposed SPA charter school in the Financial Documents 3.1 SPA Budget. The SPA charter petitioners failed to present any comparative historical data from charter schools or school districts of similar type, size, and location to support the SPA charter petition's projected enrollment of 440 students.

The SPA charter petitioners fail to recognize that under the California Code of Regulation's requirements it is insufficient to merely state that their Budgeted amounts are based on similar charter schools or other historical data. The SPA charter petitioners are required by the California Code of Regulations to support all of their financial assumptions, with historical data from charter schools or school districts of similar type, size, and location.

Both of the SPA Budgets submitted fail to present any collaborating documentation that their enrollment and financial assumptions are comparable to other charter schools or school districts of similar type, size, and location.

Because the SPA charter petitioners failed to present any actual comparative enrollment documentation supporting SPA's 2018-19 Year 1 enrollment, SPA's enrollment cannot be confirmed and the SPA charter petitioners have submitted an unrealistic projected enrollment for the proposed SPA charter school.

Detailed Budget Narratives, Budget Notes and Assumptions are a critical component of the basis upon which approval of the SPA charter petition is granted. The SPA charter petitioners failed to provide any historical experience or budget analysis supporting their projected enrollment so therefore SPA's projected enrollment presents an unrealistic financial and operational plan for the proposed SPA charter school.

### **3. SPA's Unrealistic Start-up Budget**

The SPA charter petitioners submitted two Multi-Year Projection Budgets at Financial Documents 3.0 and 3.1.

The SPA Budget at Financial Documents 3.1 presents a Budget Narrative and Budget Assumptions that discusses Public Charter School Grant Program (PCSGP) funding revenue.

The SPA charter petition Financial Documents 3.1 Budget includes PCSGP start-up grant revenue of \$225,000 in 2018-19 Year 1 and \$150,000 in 2019-20 Year 2.

The SPA charter petition, Budget, and Financial Documents 3.1 Budget Notes fail to present the required allowable PCSGP start-up costs associated with the PCSGP start-up revenue, describing in detail how the PCSGP funds will be spent.

Start-up costs must be separately identified. This means if PCSGP start-up costs are described as associated with Travel expenditures in the SPA charter petition Budget Narrative, and account object code 5210, Travel expenditures is \$2,981.13 in the SPA Budget, the SPA Budget Narrative or Budget Assumptions should have stated that all \$2,981.13 in Travel expenditures are PCSGP start-up costs. If a portion of the Travel expenditures were to be considered as PCSGP start-up costs, the SPA Budget Narrative or Budget Assumptions should have described how much of the total Travel expenditures costs of \$2,981.13 are considered PCSGP start-up costs.

SPA's previous "Response to the Denial" dated March 16, 2017 describes that SPA's PCSGP start-up costs are included in object codes 4100, 4200, 4300, 4400, 5210, and 5830 and explains these object codes are associated with start-up costs that are one-time in nature. The object codes SPA identifies are Textbooks, Books and Reference Materials, Materials and supplies, Noncapitalized Equipment, Travel, and Legal.

However, the object codes used by SPA are not solely associated with PCSGP start-up costs because they are also day to day cost accounts. For examples, object codes: 5210 and 5830 are Travel and Legal expense accounts. Travel and Legal costs occur beyond the charter school's start-up phase and are often used to pay for other activities not associated with start-up expenses. Without detailed Budget Narratives, Assumptions or Budget Notes clearly describing the amount associated with each expenditure account attributable to PCSGP start-up costs or if the entire amount in the expenditure account is set aside for PCSGP start-up costs, this analysis cannot determine if SPA's PCSGP start-up costs are budgeted in the SPA charter petition Financial Documents 3.0 or 3.1 Budgets.

Nowhere in SPA's alleged PCSGP start-up only expenditure object codes are there any Budget Notes or Assumptions that describe in detail how much each Budgeted amount represents in start-up costs. The actual SPA Financial Documents 3.1 Budget fails to identify any PCSGP start-up costs or partial start-up costs comingled within its expense object codes. Simply stating in the SPA Budget Narrative that various expenditures have been set aside to be paid from PCSGP start-up costs without quantifying the dollar amounts and expenditure object codes those amounts will be paid from is insufficient and cannot be relied upon.

Without a detailed start-up Budget or a Budget clearly describing PCSGP start-up costs in the Budget Notes and Assumptions which transparently identify all start-up cost amounts within each expenditure object code or account name, it is impossible to know if the SPA Budget actually includes PCSGP start-up costs, and how and where start-up costs will be spent. Because PCSGP start-up costs are one time in nature, and because the PCSGP is a federal grant program, the SPA Budget should have, but fails, to separately identify its PCSGP start-up costs.

The SPA Budget Narrative at 2.3, Start-up Revenues state:

*“SPA anticipates receiving start-up funds of \$375,000 from the Public Charter Schools Grant Program (PCSGP) which provides funding for Planning Year and Implementation Years 1 and 2, for which SPA has received a passing score the previous year but did not receive the funds due to the charter being denied. PCSGP funds will be used for start-up costs, including but not limited to purchases such as textbooks, furniture, computers and other technology, instructional materials and others. In addition, PCSGP funds will also be used for professional development and other operational expenses that are one-time in nature as governed by the guidelines set forth in PCSGP.”*

Education Code section 47605(g) and CCR, Title 5, section 11967.5.1(c)(3)(B) requires the SPA charter petitioners to present a first-year budget including start-up costs.

The SPA charter petitioners have failed to present any separately identified alleged PCSGP start-up cost amounts and to describe the specific dollar amounts allocated within each expenditure object code account. Further, the SPA charter petition, Budget, and Budget Notes fail to explain how SPA’s start-up costs will be funded should SPA not be awarded the PCSGP grant.

The California Department of Education (CDE) has provided Public Charter School Grant Program resources at the CDE’s website at, <http://www.cde.ca.gov/sp/cs/as/csexpenses.asp>.

The CDE website describes allowable PCSGP expenditures and factors affecting charter school’s eligibility for reimbursement and provides the following guidance:

### **Federal Guidance**

Federal guidance pertaining to allowable costs under the PCSGP may be found in the following documents:

- [Elementary and Secondary Education Act \(ESEA\) 5204\(f\)\(3\)](#)
- [U.S. Department of Education \(ED\) Charter Schools Program \(CSP\) Nonregulatory Guidance](#)
- [Office of Management and Budget \(OMB\) Circular A-21, Cost Principles for Educational Institutions](#)
- [OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments](#)
- [OMB Circular A-122, Cost Principles for Non-Profit Organizations](#)
- [ED Cash Management Policies for Grants and Cooperative Agreements](#)

The CDE has provided Public Charter School Grant Program resources in the CDE’s website at, <http://www.cde.ca.gov/sp/cs/as/csexpenses.asp>.

The CDE website states at Factors Affecting Eligibility for Reimbursement:

*“There are a number of factors that contribute towards the allowability of an expense. Developing an understanding of these principles will aid you in allocating expenses to the grant when the eligibility of an expense is not clear, or when an allocated expense is called into question and there is a need to obtain clarification. The factors are as follows:*

***Grant funds are intended to supplement, not supplant, state or local funds.***



*Supplanting is the use of PCSGP funds to pay for costs that would normally be paid using state or local funds. This primarily includes the operational costs of the school, such as rent and teacher salaries.*

*Federal nonregulatory guidance (D-3) indicates: “If the charter school can show that the state or local funds it has received are necessary to meet expenses other than the one at issue, then the charter school has met its burden of showing that the “other initial operational costs” cannot be met from state or local sources and, therefore, is allowable under the CSP grant.”*

***Costs incurred must correlate to a grant objective or a Work Plan objective.***

*The purpose of the PCSGP grant is to foster the development of high-quality charter schools in California. The Work Plan is the medium by which applicants propose activities with measurable outcomes that will enhance the quality of their school.*

*Other grant objectives include: informing the community about the school; and acquiring necessary equipment, educational materials, supplies, and curriculum.*

***Costs incurred must be one-time in nature and may not include ongoing operational costs.***

*When making the distinction between one-time and ongoing costs, it is helpful to ask the following questions:*

*Is the expense required to operate the school?*

*Will the school continue to incur the expense after the grant has ended?*

*Answering “yes” to either of the above questions most likely indicates that the expense is not one-time in nature, and is most likely not allowable.*

***Costs incurred must be obligated during the grant project period.***

*Costs must be incurred during the grant project period in order to be eligible for reimbursement. Therefore, costs related to developing the charter petition or for services rendered beyond the duration of the grant project period are not allowable.*

***Purchases or contracts for goods and services must follow pertinent procurement regulations.***

*Procurement regulations ensure the appropriate use of federal funds, prevent conflicts of interest, and promote open competition between vendors offering similar goods and services. Most, if not all, purchases under the grant must comply with appropriate procurement regulations. You may find additional information on procurement in Appendix C of the 2010—2015 PCSGP Request for Applications.*

***All purchases must be reasonable and necessary to the completion of the grant objectives or the initial operation of the school.***

*Goods and services purchased using grant funds should correlate to some need reflected in the approved charter petition or the approved Work Plan in the grant application. Expenses will be questioned if they appear to be unreasonable or unnecessary to the essential operation of the charter school or the completion of the grant objectives.”*

The SPA Budget, Budget Notes, and charter petition fail to present the SPA charter petitioner's PCSGP Work Plan and fail to identify the specific amounts of PCSGP start-up costs within the SPA Budget's expenditure object codes, if any.

The SPA Budget's 2018-19 Year 1 fund balance includes \$225,000 in PCSGP start-up revenue; however, the SPA Budget fails to identify any PCSGP start-up costs. As a result of the SPA charter petitioners only recognizing PCSGP start-up revenues while SPA's PCSGP start-up costs fail to be budgeted, SPA's Year 1 fund balance is overstated by \$225,000.

Also, because SPA's start-up PCSGP costs are not budgeted while SPA's PCSGP revenue is used as part of SPA's Year 1 Cash Flow, SPA's Year 1 Cash Flow and Fund Balance is overstated by \$225,000.

SPA's 2018-19 Year 1 available Cash Flow at the end of Year 1 is stated by the Financial Document 3.0 Budget as \$149,726.

However, because SPA is recognizing PCSGP start-up revenues as contributing to cash in-flows and SPA's PCSGP start-up cash costs or expenditures fail to be budgeted, SPA's 2018-19 Year 1 ending Cash Flow of \$149,726 is overstated by SPA's unbudgeted PCSGP start-up costs of \$225,000.

SPA's 2018-19 Year 1 Cash Flow ending cash balance of \$149,726 is reduced by SPA's unbudgeted PCSGP start-up costs of \$225,000, resulting in the proposed SPA charter school having a 2018-19 Year 1 negative cash flow of (\$75,274).

To summarize SPA's PCSGP start-up cost deficiencies, the SPA charter petitioners have:

- Prepared their Financial Documents 3.1 Budget based on PCSGP revenue which SPA may not be awarded,
- Failed to present any PCSGP start-up costs in SPA's Financial Documents 3.1 Budget or Cash Flow,
- Used PCSGP start-up revenues of \$225,000 to subsidize SPA's 2018-19 Year 1 un-restricted operations, un-restricted fund balance, and cash flow in the SPA Financial Documents 3.1 Budget.

The SPA Financial Documents 3.1 and 3.0 Budgets fail to present detailed PCSGP start-up costs and Budget Notes as required by CCR, Title 5, section 11967.5.1(c)(3)(B) and Education Code section 47605(g).

The SPA charter petitioners' failure to identify budgeted PCSGP start-up cost amounts, failure to provide PCSGP start-up costs Budget Notes or Assumptions describing SPA's PCSGP start-up costs, and using PCSGP start-up revenue to subsidize non-start-up Cash Flow result in the SPA charter petition and Budget presenting an unrealistic financial operational plan for the proposed SPA charter school.

#### **4. SPA's Undocumented \$500,000 Line of Credit**

The September 14, 2017 SPA Financial Documents 3.1 Budget Narrative at section 3.6 Reserve Requirement states the following:

*"SPA already received a commitment letter from Community Bank for a \$500,000 line of credit, of which only \$250,000 is anticipated in (sic)being used".*

The September 14, 2017 SPA charter petition failed to submit the alleged Community Bank commitment letter with the SPA charter petition. The SPA charter petitioners also failed to disclose the financial terms of the alleged Community Bank commitment letter. Terms of the alleged Community Bank letter line of credit such as if the

Community Bank letter is only a letter of intent, whether the letter is legally binding, whether the time period the line of credit applies to, the interest rate, the names of any guarantors and other such information should have but failed to be disclosed by the SPA charter petitioners.

The SPA charter petitioners have utilized \$250,000 of the undocumented Community Bank commitment of \$500,000 in the SPA Budget at Financial Documents 3.1, Other Sources. The SPA Financial Documents 3.1 Budget Assumptions, at account Other Sources states, “CDE Revolving Loan (250K) + LOC (250K)”.

However, because the SPA charter petitioners failed to provide the alleged Community Bank commitment letter, this analysis cannot confirm the statements made by the SPA charter petitioners in their September 14, 2017 SPA charter petition Budget Narratives that the Community Bank \$500,000 line of credit is available. This means the \$250,000 budgeted as Other Sources in the SPA Financial Documents 3.1 Budget cannot be relied on, is improperly budgeted, and overstates the SPA 2018-19 Year 1 budget and cash flow by \$250,000.

Therefore, the undocumented Community Bank commitment letter and funds allegedly available up to \$500,000 and utilized in the Budget as \$250,000, present an unrealistic financial and operational plan for the proposed SPA charter school.

## **5. Undisclosed Repayment Amounts for Sycamore Academy CMFA Bond**

The California Municipal Finance Authority (CMFA) charter school bond issue listing identifies Sycamore Academy as receiving \$9.405 million in CMFA bonds. The Sycamore Academy for Sciences and Cultural Arts is the SPA charter petitioners existing charter school.

The SPA September 14, 2017 charter petitioners failed to identify in both of the two Budgets submitted whether the proposed SPA charter school is responsible in any way through rental or lease payments or other debt service options for the \$9.405 million in bond repayment liability.

In addition, the SPA charter petition or Budget Notes fail to describe any arrangements with SPA related or affiliated entities as to how the bond debt service and interest will be repaid.

The SPA charter petition and Budget Notes also fail to state that the proposed SPA charter school will not be responsible for any bond debt service and interest.

## **6. Unbudgeted Furniture \$88,000**

The SPA charter petitioners stated in the Financial Documents 3.1 Budget Narrative at section 3.2 Books and Supplies:

*“SPA also budgeted for classroom furniture at \$200 per student”.*

The classroom furniture amount calculated is \$88,000 (440 enrollment x \$200 per student = \$88,000 for furniture).

The SPA 2018-19 Year 1 Budget fails to present any line item or category for furniture and no amount in either of the two SPA Budgets submitted corresponds to \$88,000 in furniture costs.

By failing to provide detailed Budget notes and assumptions or Budget line item clearly identifying \$88,000 in furniture costs, the SPA charter petitioners have presented an unrealistic financial and operational plan for the proposed SPA charter school.

## 7. Special Education Encroachment

Special Education Encroachment occurs when a school district's or charter school's special education costs exceed their special education revenue. The resulting excess costs over the revenue received that must then be supported from other sources is referred to as "encroachment".

**Table V** below presents SPA's budgeted Special Education Encroachment costs in each of the two SPA Budgets submitted.

Special Education Encroachment is presented in SPA's Financial Documents 3.0 Budget in the amount of \$33,409.60; however, the Financial Documents 3.1 SPA Budget fails to identify any encroachment costs.

**Table V**

Sycamore Preparatory Academy - Chino Valley Multi-Year Projections Financial Documents Tab 3.0 vs. Tab 3.1 Comparison of 2018-19		Financial Documents Tab 3.0 (A)	Financial Documents Tab 3.1 (B)	(B) - (A)	% Change
Description	Object Code	2018-19	2018-19	2018-19	2018-19
5. Services and Other Operating Expenditures					
Special Education Encroachment	5872	33,409.60		(33,409.60)	-100.0%

The September 14, 2017 SPA charter petition Budget at Financial Documents 3.1 fails to present a budget amount for special education encroachment.

SPA's Financial Documents 3.1 Budget Narrative, at section 3.3 Services and Operating Expenses, states:

*"The school expects to outsource some of the special education services using third party vendors. In addition, the school included SELPA administration and set-aside fees in the budget that align with current El Dorado SELPA rates. The budget reflects SPED fees (SPED employee, third party vendor, encroachment) that exceed SPED revenues."*

Even though the SPA charter petitioners describe in their Financial Documents 3.1 Budget Narrative that they have "...set-aside fees...The budget reflects SPED fees...that exceed SPED revenues", and even used the word "encroachment" in the Financial Documents 3.1 Budget Narrative, as shown in Table VI above, Special Education Encroachment is not budgeted in the Financial Documents 3.1 Budget.

Because the Financial Documents 3.1 Budget Narrative states that "*The budget reflects SPED fees (SPED employee, third party vendor, encroachment) that exceed SPED revenues*" but the SPA charter petition 3.1 Budget fails to present any financial analysis documenting special education encroachment, based on the limited information included in the SPA Budget, **Table VI** estimates that SPA's special education expenses exceeds SPA's special education revenues by \$96,326.

The \$96,326 of special education expenses that exceeds SPA's special education revenues is estimated as follows:

**Table VI**

<b>Excess SPED Costs over SPED Revenues</b>	
State Special Education	<b>\$210,254</b>
Estimated Salaries (Education Specialist + Instructional Aids)	\$167,865
Estimated Benefits	\$110,591
SPED Contractors (Services and Other Operating)	<u>\$28,124</u>
Total SPED Costs .....	<b>\$306,580</b>
Excess SPED Costs over SPED Revenues .....	<b>(\$96,326)</b>

However, using comparable special education enrollment data from the Chino Valley Unified School District (CVUSD), the CVUSD experiences excess special education costs exceeding revenue in its special education program. This means the CVUSD special education program operates at a program deficit or loses money and requires financial contributions from the CVUSD general fund for encroachment.

Because SPA expects to enroll a similar student population as the CVUSD, SPA should also experience special education encroachment as does the CVUSD. Therefore, SPA should have but failed to budget for any special education encroachments costs resulting from a similar student population as the CVUSD.

Using comparable special education encroachment costs from the CVUSD and SPA’s projected Year 1 ADA of 418, this report calculates SPA’s Year 1 special education encroachment as \$359,313.

SPA’s projected special education encroachment of \$359,313 is determined by dividing the 2016-2017 CVUSD total unfunded special education costs of \$23,123,792 by Chino Valley Unified School District’s total 2016-2017 ADA of 26,902 which results in \$859.60 per ADA of special education encroachment.

Applying \$859.60 per ADA of encroachment costs to SPA’s similar student population total ADA of 418 results in \$359,313 of total projected SPA encroachment costs.

**Table VII** describes that in order to calculate SPA’s total special education encroachment amount of \$359,313, the SPA special education excess costs over revenues of \$96,326 is subtracted from the total encroachment of \$359,313 resulting in a net total special education adjustment of \$262,987 ( $\$359,313 - \$96,326 = \$262,987$ ).

**Table VII**

<b>SPECIAL EDUCATION ENCROACHMENT</b>		
<b>Using Chino Valley USD 2016-17 data</b>		
<b>Year 1</b>		<b>Year 1 2018-19</b>
Total Unfunded Special Education Costs /	\$ 23,123,792.00	
Total District ADA	26,902.00	
Unfunded / District ADA Total	\$ 859.60	
<b>SPA Charter School ADA - Year 1 = 2018-19</b>	<b>418.00</b>	
Projected Special Education Encroachment Year One	\$ 359,313.00	<b>\$ 359,313</b>
<b>Excess SPED Costs over SPED Revenues</b> .....		<b>(96,326)</b>
Un-budgeted Excess SPED Encroachment .....		<b>\$ 262,987</b>

5 California Code of Regulations section 11967.5.1(c)(3)(B) requires the SPA charter petitioners to provide detailed Budget Notes and assumptions that clearly describe how SPA’s budget amounts were determined.

Because the SPA charter petitioners failed to provide detailed special education costs or Budget Notes, the SPA charter petition and Budget fail to comply with 5 California Code of Regulations section 11967.5.1(c)(3)(B) and the SPA charter petitioners have presented an unrealistic financial and operational plan for the proposed SPA charter school.

**8. SPA’s Unrealistic Certificated and Classified Salary & Staffing Schedules**

The September 14, 2017 SPA Budget Narrative at Financial Documents 3.1 Salaries and Benefits states:

*“An average teacher cost (salaries & benefits) is estimated to be \$72,079 in year 1 and will increase based on a salary schedule.”*

However, the SPA Financial Documents 3.1 Budget Narrative fails to provide detailed compensation costs, detailed Staffing and Benefits schedules, or any position control analysis for both SPA’s certificated and classified staffing salaries and benefits.

Instead, the SPA Financial Documents 3.1 Budget Narrative presented limited information as follows:

- A Full Time Equivalent (FTE) schedule describing only the number of positions,
- A Budget Report Assumptions table presenting only average teacher costs and benefits and no classified staff average costs,
- A secondary Full Time Equivalent schedule which is a reproduction of the first FTE schedule but adds only two additional lines of information for medical benefits FTE’s.

In addition, SPA’s budgeted payroll costs fail to provide a salary schedule to explain SPA’s certificated and classified salary levels and how individual SPA employees would qualify for varying salary levels.

Because only FTE position numbers, limited average salaries and no position control or Payroll and Staffing Detail schedules were provided in the SPA charter petition, Budget Narrative or Budget Notes, the SPA charter petition Budget presents an unrealistic financial and operational plan for the proposed charter school.

Further, the SPA charter petition, Budget Narrative, or Budget Notes fail to present any staffing detail allocation tables or schedules identifying any potential shared staff positions, related positions or dual-role positions between the proposed SPA charter school and the Ronald Reagan Charter School Alliance doing business as Sycamore Academy of Science and Cultural Arts, or to explain why no shared, related or dual-role positions are budgeted.

## **9. SPA's Deficient Employee Benefits Schedule**

The September 14, 2017 SPA 3.1 Budget Narrative at section 3.1, Salaries and Benefits states:

*“The school will offer CalSTRS and CalPERS for eligible employees with the employer contribution rates calculated based on the latest available information. SPA will provide medical benefits per eligible employees at a rate of \$10,200 per year. Worker’s compensation and payroll tax fees are also calculated in the budget”*

However, the SPA 3.1 Budget Narrative fails to describe:

- Which SPA employees qualify as eligible employees for medical and retirement benefits
- Which classifications of SPA employees will receive medical or retirement benefits or why certain SPA employees will not be eligible for medical or retirement benefits
- What SPA’s federal statutory benefits will be, what SPA’s California state statutory benefits will be and what SPA’s discretionary employee benefits will be
- Which health plans will be offered by the proposed SPA charter school
- How SPA determined health and welfare and retirement benefits for each classification of SPA employee
- How SPA employees will qualify and vest for health and welfare and retirement benefits, and
- How SPA’s projected per employee benefits costs compare to other similar charter school’s or school district’s employee benefits costs.

5 California Code of Regulations section 11967.5.1(c)(3)(B) requires the SPA charter petitioners to present detailed Budget Notes and assumptions that clearly describe how all of SPA’s budget amounts were determined.

SPA should have, but failed to, present detailed Budget Notes and assumptions, and documentation based on historical data from charter schools or school districts of similar type, size, and location to support its enrollment, staffing, and health and welfare benefits.

## **10. SPA's Insufficient Expenditure Budget Notes and Budget Assumptions**

The SPA charter petitioners failed to provide detailed explanations or Budget Notes and Assumptions describing how they arrived at SPA’s expenditure costs. Each budgeted cost line item should have but fails to describe in detail how each amount was determined.

Transparent and detailed descriptions of all of the proposed SPA charter school’s professional and consulting service providers, especially information identifying any affiliated or related service providers, should have been but failed to be presented in SPA’s charter petition or Budget Notes.

The SPA charter petitioners failed to provide detailed explanations or Budget Notes and Assumptions supporting SPA’s budgeted amounts for:

**a. SPA’s Unexplained Professional Contract Services:**

**Total Professional Contract Services \$322,333.65**

**Table VIII**

<b>Sycamore Preparatory Academy - Chino Valley</b>		
<b>Multi-Year Projections</b>		
<b>Financial Documents Tab 3.1</b>		<b>Financial Documents Tab 3.1</b>
<b>Professional Services</b>		
<b>2018-19 - Year 1</b>		
<b>Description</b>	<b>Object Code</b>	<b>2018-19</b>
<b>5. Services and Other Operating Expenditures</b>		
Other Services & Operating Expenses	5800	75,677.19
Accounting	5810	8,857.01
Business Services	5813	80,000.00
Education Consultants	5817	38,668.45
Legal	5830	24,601.16
Professional Development	5840	28,606.00
Substitute Teachers (Third Party Vendors)	5851	37,800.00
Special Education Contractors	5869	28,123.84
<b>Total Professional Services</b>		<b>\$322,333.65</b>

The SPA charter petitioners failed to describe how they determined that SPA’s Budgeted Services & Other Operating Expenses, Accounting, Business Services, Education Consultants, Legal, Professional Development, Substitute Teachers (Third Party Vendors) and Special Education Contractor amounts are sufficient.

The SPA Budget Notes also fail to identify the law firm(s), consultant(s), accountant(s), auditor(s), business service provider(s), third party substitute teachers and special education contractors, etc. services on which SPA’s professional services costs are based; and whether any of SPA’s consultants and service providers are affiliated or related parties to any of the SPA charter petitioners or other SPA related operations or organizations such as the SASCA charter school or the Ronald Reagan Charter School Alliance.

The SPA charter petition at page 151 Administrative Services or in SPA’s Budget or Budget Notes should have but failed to fully disclose the names of individuals, consultants, and service providers associated with SPA’s budgeted \$322,333.65 Professional Services costs.

The identities of all SPA’s consultants and their service companies, and as much of the following information as is known to the SPA charter school petitioners should have but failed to be fully disclosed in the SPA charter petition and Budget such as:



- i. The names of all individual professionals, consultants and service companies,
- ii. The Internal Revenue Service income tax form, under which the individual and/or organization files federal income taxes, such as 1120 Corporation or 990 Not-for-Profit, etc.
- iii. State of incorporation,
- iv. How long the service companies and individuals have been in business, copies of professional licenses, and areas of expertise,
- v. Number of California clients served and references from a representative sample of California clients,
- vi. Names and relationships of principals and full disclosure of any pre-existing relationships or potential conflicts of interest with any of the SPA charter school petitioners or SPA staff members,
- vii. The financial terms of each attorney, consultant and service company contract with the proposed SPA charter school petitioners, as well as comparison data from other similar service companies such as service cost agreements, fee agreements, etc.,
- viii. Copies of actual or prospective MOU's and contracts between each attorney, consultant and service companies and the proposed SPA charter school,
- ix. Contract termination rights of the proposed SPA charter school, if any,
- x. Organizational and operational contract terms between the service companies and the proposed SPA charter school, and
- xi. All service company and consultant's employee's limits of authorization.

**b. Unexplained Facilities, Repairs and Other Lease Expenses:**

**SPA charter petition Financial Documents 3.0 and 3.1 present Rent of \$188,511.26 and \$540,000.00 respectively**

The SPA charter petitioners have budgeted at Financial Documents 3.0, \$188,511.26 and at Financial Documents 3.1, \$540,000 as the proposed SPA charter school's 2018-19 rent expense.

The September 14, 2017 SPA charter petitioners state in their Financial Document 3.1 Budget Narrative at section 3.3 Services and Operating Expenses:

*“SPA expects to rent a facility which will be more than adequate in operating a school that is reflective of the enrollment projections. The cost of renting such facility has been budgeted at \$2.25 per SQFT which is above current commercial facility rental rate and charter school facility rental rate in San Bernardino County. The school will also apply for Prop 39 as a second option, which based on similarly-sized charter schools in the area will significantly lower the facility cost that is currently included in the budget.”*

The SPA charter petition, Budget or Budget Notes and Assumptions fail to present any supporting documentation as to how the SPA charter petitioners know that 20,000 (\$540,000 Year 1 rent ÷ 12 months) / (\$2.25 per sqft) = 20,000) square feet is sufficient space for the proposed SPA charter school.

The SPA charter petition, Budget or Budget Notes and Assumptions also fail to present any supporting documentation showing how \$45,000 per month ( $\$540,000 \text{ Year 1 rent} \div 12 \text{ months} = \$45,000$ ) is a sufficiently budgeted rent amount for 20,000 square feet.

SPA’s proposed rent on a monthly basis equates to \$2.25 cents per square foot ( $\$45,000 \text{ per month rent} \div 20,000 \text{ square feet} = \$2.25 \text{ per square foot}$ ). The SPA charter petitioners failed to present any documentation demonstrating that 20,000 square feet of suitable space for SPA’s educational program at \$2.25 cents per square foot is available or obtainable within the Chino Valley Unified School District’s geographical boundaries or in the surrounding area.

Furthermore, **Table IX** below identifies SPA’s budgeted rent amounts as submitted by the SPA charter petitioners at Financial Documents tab 3.0 and Financial Documents tab 3.1.

**Table IX** shows that while SPA’s identified desired total square footage has decreased by 30,615, SPA’s total annual rent has increased by \$351,488.74.

**Table IX**

<b>Sycamore Preparatory Academy - Chino Valley Multi-Year Projections Financial Documents Tab 3.0 vs. Tab 3.1 Rent Comparison of 2018-19</b>	<b>Financial Documents Tab 3.0 (A)</b>	<b>Financial Documents Tab 3.1 (B)</b>	<b>(B) - (A)</b>
Description	2018-19	2018-19	2018-19
Square Feet	<b>50,625</b>	<b>20,000</b>	<b>(30,625)</b>
Annual Rent	\$188,511.26	\$540,000.00	\$351,488.74
Monthly Rent	\$15,709.27	\$45,000.00	\$29,290.73
Monthly Square Foot Price	\$0.31	\$2.25	\$1.94

The SPA charter petition and Budget or Budget Notes and Assumptions also fail to identify the following:

- 1) Comparative rents of facilities containing 50,625 or 20,000 square feet.
- 2) A detailed description of the proposed type of facility to be leased by SPA identifying the following:
  - a) If the proposed facility to be leased is suitable for all of the programs to be offered by SPA proposed charter school, including classroom instruction, Special Education services, physical education, administration, the food services, and all other SPA programs,
  - b) The number of bathrooms and whether the bathrooms are ADA compliant to meet the needs of all of SPA’s students,
  - c) The size, capacity and type of cafeteria, kitchen and food service facilities,
  - d) Proximity to incompatible business establishments,
  - e) Proximity to residential neighborhoods,

- f) If the proposed landlord is related or affiliated in any way to any of the SPA petitioners, petitioners' friends or family members, and
- g) If or when such a facility will be available or if SPA's tenant improvements for the proposed SPA facility can be completed and ready for SPA students and staff to safely occupy when the proposed SPA charter school opens for its Year 1 in fall 2018.

Without any facilities expense Budget Notes or assumptions being provided by the SPA charter petitioners, this analysis cannot determine whether the SPA budgeted facilities rent amount reflects market rents in the Chino Valley Unified School District area, what competitive rent prices are in the surrounding cities, or if the monthly rent cost identified by SPA represents a competitive dollar amount per square foot.

The SPA charter petition, Budget and assumptions failed to describe how SPA's rent is or will be calculated, if rents are tied to the Consumer Price Index (CPI), or if there are any additional Common Area Maintenance (CAM) charges, etc.

The SPA charter petition, Budget, Budget Notes and Assumptions failed to identify what type of rent deposit may be required, whom if anyone is guaranteeing SPA's rent, if any collateral is required, and if so, what the collateral may be comprised of, or, if there is an exit provision for early termination of the rental contract or lease in the event the charter school closes.

The California Code of Regulations, Subchapter 19-Charter Schools, Article 2-General Provisions describes the criteria for Review and Approval of Charter School Petitions.

California Code of Regulations, Title 5, section 11967.5.1(c)(3)(D) states:

“An unrealistic financial and operational plan is one to which any or all of the following applies:

In the area of facilities, the charter and supporting documents do not adequately:

1. *Describe the types and potential location of facilities needed to operate the size and scope of educational program proposed in the charter.*
2. *In the event a specific facility has not been secured, provide evidence of the type and projected costs of the facilities that may be available in the location of the proposed charter school.*
3. *Reflect reasonable costs for the acquisition or leasing of facilities to house the charter school, taking into account the facilities the charter school may be allocated under the provisions of Education Code section 47614.”*

The SPA charter petition Budget's facilities expense Budget at Financial Documents 3.0 and 3.1 fail to conform with California Code of Regulations, Title 5 section 11967.5.1(c)(3)(D) and therefore the SPA charter petitioners have presented an unrealistic financial and operational plan for the proposed SPA charter school.

## **11. SPA's Unrealistic Ending Fund Balance and Unrealistic Financial Reserves**

Required reserves for economic uncertainties are defined at 5 CCR §15450 Reserves:

*“(a) Available reserves for any of the budget year or two subsequent fiscal years are not less than the following percentages or amounts as applied to total expenditures and other financing uses:*

*the greater of 5% or \$55,000 for districts with 0-300 ADA*  
*the greater of 4% or \$55,000 for districts with 301-1,000 ADA*  
*3% for districts with 1,001-30,000 ADA*  
*2% for districts with 30,001-400,000 ADA*  
*1% for districts with 400,001 and over ADA”*

The SPA Financial Documents 3.1 Budget Narrative at section 3.6, Reserve Requirement, states:

*“In each year, SPA plans to exceed a budget reserve equal to 5% of total annual operating expenditures or \$50,000, whichever is greater.”*

To meet the 5 CCR §15450 Reserves requirement, since SPA’s 2018-19 Year 1 ADA is 418, SPA’s reserve requirement is 4% of total annual operating expenditures or \$55,000 and SPA’s own self-imposed reserve requirement is 5% of total annual operating expenditures.

As described in this report, the SPA Budget has understated start-up costs by \$225,000, overstated its alleged Community Bank line of credit by \$250,000, understated its furniture expense by \$88,000, and understated its Special Education encroachment costs by \$262,987.

**Table X** below presents the effect of these understatement and overstatement adjustments on SPA’s 2018-19 Year 1 expenditures, ending fund balance, and fund balance reserves.

**Table X**

<b>Sycamore Preparatory Academy</b>			
<b>Expenditures Adjustments</b>			
<b>Expenditures Adjustments Effect on Fund Balance</b>			
<b>Financial Documents Tab 3.1 (Summarized Amounts)</b>			
<b>Description</b>	<b>Year-One</b>	<b>Adjustments</b>	<b>Adjusted</b>
	<b>2018-19</b>		<b>Year-One</b>
	<i>(rounded)</i>	<i>(rounded)</i>	<i>(rounded)</i>
Total Revenues	\$ 4,227,500		\$ 4,227,500
Total Expenditures	\$ 3,982,070		\$ 3,982,070
<b>Unrecorded Expenditures:</b>			
Start-Up Costs		\$ 225,000	\$ 225,000
Furniture		\$ 88,000	\$ 88,000
Special Education Encroachment Costs	-	\$ 262,987	\$ 262,987
<b>Total Adjusted Expenditures</b>	<b>\$ 3,982,070</b>	<b>\$ 575,987</b>	<b>\$ 4,558,057</b>
Other Financing Sources	\$ 500,000		\$ 500,000
<b>Overstated Other Financing Sources:</b>			
Community Bank Line of Credit		(250,000)	\$ (250,000)
<b>Total Adjusted Other Financing Sources</b>	<b>\$ 500,000</b>	<b>\$ (250,000)</b>	<b>\$ 250,000</b>
Net Increase (Decrease) in Fund Balance	745,430	(825,987)	(80,557)
Beginning Fund Balance	-		-
<b>Ending Fund Balance</b>	<b>\$ 745,430</b>	<b>\$ (825,987)</b>	<b>\$ (80,557)</b>
Fund Balance Reserve as a percentage of total expenses	<b>18.7%</b>		<b>-1.8%</b>

Fund balance reserves are calculated by dividing ending fund balance by total expenditures.

The material omissions from the SPA Budget of PCSGP start-up costs, furniture, and special education encroachment costs increase total expenditures by \$575,987, reduce other financing sources by \$250,000, and reduce ending fund balance to a deficit or negative (\$80,557).

The increase in expenditures and negative fund balance results in a deficit or negative fund balance reserve of (1.8%).

The SPA 2018-2019 Year 1 ending fund balance fails to meet sufficient reserve requirements for contingencies, fund balance reserves, and reserves for economic uncertainties as required by CCR, Title 5, section 15450 and fails to meet SPA's own 5% reserve requirement.

Therefore, SPA's failure to meet even the California Code of Regulations, Title 5, section 15450 4% reserve requirement results in the SPA charter petitioners having submitted an unrealistic financial and operational plan for the proposed SPA charter school.

## CONCLUSIONS AFTER COMPREHENSIVE REVIEW

When providing the SPA charter petitioner's Budget as required by Education Code section 47605(g) and California Code of Regulations, Title 5, section 11967.5.1(c)(3)(B), the SPA charter school petitioners should have but failed to provide complete and accurate Budget Notes and Assumptions describing in detail the amounts presented in SPA's Budget(s).

Detailed Budget Notes and SPA's documentation supporting SPA's Budget amounts are a critical component of the basis upon which approval of the SPA charter petition is granted. The SPA charter petitioners failed to provide any historical spending experience or budget analysis comparing other identified start-up charter school budgets in California with the proposed Sycamore Preparatory Academy Budget.

The September 14, 2017 Sycamore Preparatory Academy charter petitioners have presented an unrealistic financial and operational plan for the proposed SPA charter school because:

- The SPA charter petitioners have submitted two different budgets.

The SPA charter petitioners failed to provide any explanation in their Budget Notes, Budget Narrative or Budget Assumptions as to which of the two budgets would be used if the SPA charter petition was granted or why the amounts between the two budgets materially differ.

- The SPA charter petitioners continue to fail to present any comparative benchmark for SPA's proposed financial and operational plan using historical data from charter schools or school districts of similar type, size, and location.
- The SPA charter petitioners again failed to identify any Public Charter School Grant Program start-up costs.
- The SPA charter petitioners included in their Financial Documents 3.1 Budget at Other Sources, \$250,000 of an undocumented alleged Community Bank line of credit commitment of \$500,000. The \$250,000 was used as Other Financing/Sources of cash in the SPA Financial Documents 3.1 2018-19 Budget and Cash Flow.

The SPA charter petitioner's use of the undocumented \$250,000 Community Bank commitment means the SPA 2018-19 Year 1 Budget fund balance and cash flow are overstated by \$250,000 ( $\$500,000 - \$250,000 = \$250,000$ ).

- The combined Cash Flow effect of SPA's overstated use of the alleged Community Bank commitment of \$250,000 and unbudgeted start-up costs of \$225,000 reduce SPA's 2018-19 Year 1 Cash Flow ending balance of \$149,726 to a negative cash flow of (\$325,274) ( $\$149,726 - \$250,000 - \$225,000 = -\$325,274$ ).
- The SPA charter petitioners failed to identify if SPA is responsible in any way through rental or lease payments or other debt service options for the Sycamore Academy of Science and Cultural Art's \$9.405 million in California Municipal Finance Authority (CMFA) bonds.
- The SPA 2018-19 Year 1 Financial Documents 3.1 Budget fails to present any line item or category for furniture and no amount in the SPA Budget(s) corresponds to the \$88,000 in furniture costs stated in the Financial Documents 3.1 Budget Narrative.
- The SPA charter petitioners failed to budget any amount for special education encroachment costs in their Financial Documents 3.1 Budget.

The SPA charter petitioners also failed to describe in detail how SPA's un-budgeted special education encroachment cost was sufficient when a comparative analysis of the CVUSD's special education costs

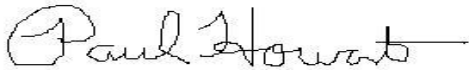
determines that SPA's special education encroachment costs in their Financial Documents 3.1 Budget are understated by \$262,987.

- The SPA Budget presents the proposed SPA charter school employee's full time equivalent schedules and only limited average salaries but fails to reconcile salaries and benefits to any salary schedule, position control, or payroll and benefits detail schedules.
- The SPA charter petition and Budget, Budget Notes or Assumptions fail to present any comparative facilities rent expense analysis correlating with the SPA charter petitions stated requirement of 50,625 or 20,000 square feet of rental space.

Overall, in my professional opinion, because of the material nature of the SPA charter petitioners' omissions from the SPA Budget and Budget Notes, including SPA's unbudgeted PCSGP start-up costs, understated furniture costs, understated special education encroachment costs, overstated other financing sources and the material differences between the two conflicting Budgets at Financial Documents 3.0 and 3.1, the SPA charter petition and Budget(s) present an unrealistic financial and operational plan for the proposed SPA charter school.

Thank you for allowing me to be of service to the Chino Valley Unified School District.

Sincerely,

A handwritten signature in cursive script that reads "Paul Horvat". The signature is written in black ink and includes a horizontal line extending to the right from the end of the name.

Paul S. Horvat, CPA