

To: Board of Trustees
Willows Unified School District

From: Dr. Mort Geivett *mg*
Superintendent of the Willows Unified School District

Date: May 10, 2011

Re: Review of the Walden Academy Charter School Petition

This memorandum summarizes for the Board of Trustees of the Willows Unified School District the findings of the District's staff regarding the petition to create a charter school named the "Walden Academy Charter School" that was submitted to the District on March 29, 2011.

WILLOWS UNIFIED SCHOOL DISTRICT

WALDEN ACADEMY CHARTER PETITION

CHARTER PETITION ANALYSIS

Education Code section 47605(b)

I.

INTRODUCTION

On March 29, 2011, the Walden Academy presented the Board of Trustees with a Petition for the Establishment of the Walden Academy Charter School (hereinafter "charter school"). As required by the Charter Schools Act, on April 7, 2011 the Board held a public hearing regarding the Petition. The Petition now comes to the Board for action.

II.

OVERVIEW OF CHARTER SCHOOLS ACT

The Charter Schools Act (Education Code section 47600 et seq.) sets forth the Board's obligations with regard to the approval or denial of charter school petitions. In pertinent part, the Act provides as follows:

*The governing board of the school district **shall not deny** a petition for the establishment of a charter school **unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or***

specific to the particular petition, setting forth specific facts to support one or more of the following five criteria, as implemented by the California Code of Regulations:

- (1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.*
- (2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.*
- (3) The petition does not contain the number of signatures required by subdivision (a).*
- (4) The petition does not contain an affirmation of each of the conditions described in subdivision (d).*
- (5) The petition does not contain reasonably comprehensive descriptions of sixteen (16) required charter elements laid out in Education Code section 47605(b)(5)(A)-(P).*

In the event that the Board approves the Petition, the Board will be responsible for the following oversight responsibilities with regard to the charter school:

- (a) Identify at least one staff member as a contact person for the charter school.*
- (b) Visit each charter school at least annually.*
- (c) Ensure that each charter school under its authority complies with all reports required of charter schools by law.*
- (d) Monitor the fiscal condition of each charter school under its authority.*
- (e) Provide timely notification to the department if any of the following circumstances occur or will occur with regard to a charter school for which it is the chartering authority:*
 - (1) A renewal of the charter is granted or denied.*
 - (2) The charter is revoked.*
 - (3) The charter school will cease operation for any reason.*

(Education Code §47604.32.)

In addition, a district must ensure that the charter school transmits a copy of its annual, independent financial audit report for the previous fiscal year to the State Controller's Office, the State Department of Education and the county office of education in the county in which the charter school is located. (Education Code §§47604; 47605(m).) The audit must be transmitted by December 15 of each year a charter school is in operation.

The cost of performing the duties required by this section are funded with supervisory oversight fees paid to the District from the charter school. (Education Code §§47613; 47604.329(f).) In this instance, it would amount to the actual cost of oversight, not to exceed one percent (1%) of the charter school's revenue. (Education Code §§47613; 47604.329(f).)

Where a charter school operates as a non-profit corporation, "a district is not liable for the debts or obligations of the charter school, or for claims arising from the performance of acts, errors, or omissions by the charter school, if the authority has complied with all oversight responsibilities required by law." (Education Code §47604(c).)

III. REVIEW OF PETITION

The following is a summary of those areas where the Petition did not meet the requirements set forth in Section 47605(b).

Finding Regarding Criteria Number 1: The Charter School Presents an Unsound Educational Program for the Pupils to be Enrolled in the Charter School. (Section 47605(b)(1).)

- A. *Is the program set forth in the Petition likely to be of educational value to the pupils who attend? (5 CCR §11967.5.1(a).)*

The description of the educational program is vague. The Petition provides that the charter school intends to operate a "natural resources based education." The Petition indicates that the curriculum will meet state standards. Instructional methods will, however, be determined by "data driven needs of students." The Petition fails to indicate with sufficient specificity the instructional approaches that it will utilize, including its curriculum and teaching methods. Therefore, the exact educational program is somewhat unsettled, though the Petition provides an example of instructional methods which may be utilized.

The Petition does not indicate whether particular instructional materials will be used, particularly textbooks to align to the curriculum and standards. The Petition does not indicate whether the charter school intends to utilize any particular available curriculum. If the intent is to utilize curriculum created by the Petitioners, the Petition should, but does not, provide an empirical basis for the curriculum. The Petition should provide more detail regarding the educational program, including sample lessons and sample curriculum.

Finally, the Natural Resources Education seems to require outdoor learning, but the budget does not adequately account for field trip expenditures.

Findings Regarding Criteria Number 2: The Petitioners are Demonstrably Unlikely to Successfully Implement the Program Set Forth in the Petition. (Section 47605(b)(2).)

A. *Have the Petitioners presented an unrealistic financial/operational plan?*
(5 CCR §11967.5.1(c)(2).)

1. *Does the Petition fail to adequately describe the structure for providing administrative services or the selection criteria for the use of contract services?* (5 CCR §11967.5.1(c)(2)(A).)

A petition should demonstrate how the school will run on a day-to-day basis. The current Petition is vague with regard to how administrative services will be accomplished. The Petition indicates that the charter school “will” hire a principal, but then in a later, contradictory statement states that a principal “may” be hired. If the school chooses not to hire a principal, it is unclear how administrative tasks will be accomplished. This is especially true in light of the significant duties listed for the principal position in the Petition.

There is little description of how school business will be carried out. Rather, the Petition provides only that “Day-to-day administration of the Charter School may be managed by the Principal as outlined in the employment contract, and to the extent practical, in collaboration with teams of students, parents, teachers and administrators.” There is no further description of how these activities will take place. In addition, the reference to “administrators,” plural, is in conflict with the contents of the Petition. (In addition, the budget contains a salary for only one administrator.)

The Petition also indicates that the charter school will hire an independent business services firm to provide administrative services, or may negotiate

services with the District or other districts in the area. There is no indication that the charter school has sought to reach agreement for these services at this time, or even interviewed any contractors. It is also unclear whether the charter school has budgeted for such services. There is no description of the criteria for selecting any such contractors.

Given that the Petitioners presumably intend to open the charter school in August 2011, the plan for administration and day-to-day operations should be far more advanced than as currently set forth in the Petition.

2. *Does the Petition (1) adequately include **reasonable estimates of all anticipated revenues and expenditures**, including special education; (2) include budget notes that **clearly describe assumptions on revenue estimates**, including the basis for average daily attendance estimates and staffing levels; (3) **present a budget that in totality appears viable** over a period of no less than two years, provide for amassing of 3% reserve; (4) **demonstrate an understanding of the timing of the receipt of various revenues** and their relative relationship to the timing of expenditures that are within reasonable parameters. (5 CCR §11967.5.1(c)(2)(C).)*

The Petition's financial documents contain several areas of significant concern. This element is crucial, as financial oversight is the responsibility of the District. The concerns are as follows:

- The budget presented in the Petition is based upon improbable or no specific assumptions and is likely unrealistic. Because of the lack of assumptions, analysis is difficult. For example, the teacher salary in the budget is \$39,580 (based on the 5.0 FTE of teachers). Pooling the County, excluding Willows due to Benefits On the Salary Schedule (BOSS), the average lowest salary is \$38,084 with the highest average at \$69,025. This raises a concern regarding competition for recruitment, and whether qualified and successful teachers can be hired at this rate. Moreover, the charter school has opted not to offer STRS (which is allowed by law), and appears to offer only 1% step increases (for both teachers and the administrator position). This could create turnover, or difficulty in recruitment.
- It is unclear how the Petitioners have reached their estimated enrollment figures (beyond receiving the signatures of seventy-five (75) "meaningfully interested" parents, as required by the statute). As enrollment determines ADA, which determines funding, correct

estimation of enrollment numbers is crucial. The budget provides that, based on enrollment of 125, ADA will be 107. This is based on SSC's dashboard rates for 2011-12 (\$5,030, \$5,106, \$5,252). In order to reach the revenue number in the budget, however, ADA would need to be 116 (based on a \$410/ADA rate for the charter school block grant). Therefore, the revenue is off by a significant amount.

- The budget fails to provide for start up costs for books and supplies or statutory costs associated with staff salaries. Including these costs will increase start up costs, and these expenditures will carry over into later budget years. Also, the budget indicates that most of the start up costs will occur September through November (heaviest in November), but with no such costs in July for an August opening. The capital outlay provides for large payments at the end of the first year. This seems unrealistic.
- The multiyear budget projections indicate that in lieu taxes will be received in July. This does not match the statutory schedule for distribution. It does not appear that apportionment deferrals have been factored into the cash flow.
- The Petition indicates that several positions will be hired, for which there is no line item in the budget (interpreters, before and after school intervention and additional administrators).
- Operational costs have not been detailed enough to ensure that there is an adequate budget. Examples include counseling and nursing services, business, technology, facility costs outside of core maintenance. Instructional materials are not sufficiently budgeted for, either. The Petition appears to provide one computer for five teachers and one administrator. This is unrealistic.
- The Petition fails to address the special education funding process in detail. Without assumptions, the District is unable to determine if the budget for special education is adequate. Based on the District's analysis, however, the special education budget for the second year is approximately \$11,000 short of what would be required based on enrollment. It is assumed that cost per enrollment will increase with the school's listed anticipated enrollment increase (250 by year 3). There is also no mention of how high-cost students will be served.

(Additional fiscal concerns are outlined in the discussion of facilities.)

3. *Does the Petition provide for acquisition of and budgeting for general liability, worker's compensation and other necessary **insurance** of a type and in amounts required? (5 CCR §11967.5.1(c)(2)(C).)*

The Petition indicates that the charter school will obtain general liability insurance, Directors and Officers insurance, and fidelity bonding. The District will be named as an additional insured on the general liability insurance. The liability limits of such insurance are not provided, however, and the budget does not provide sufficient allocations for insurance.

4. *Does the Petition sufficiently describe the type and location of **facilities** that are or may be available? (5 CCR §11967.5.1(c)(2)(D).)*

The Petition provides that the charter school has secured facilities, which are owned by the Glenn County Office of Education. The Petition indicates that the facilities will meet all required building codes, as set forth in the Education Code.

However, the facility contains only three classrooms, while the charter school intends to hire 5.0 FTE of teachers. It is not clear how classroom space will be allocated amongst the teachers. To address this issue, the Petition indicates that other facilities may have to be rented. It is unclear how the Petitioners will accomplish this prior to an assumed opening date of early August 2011. Moreover, the budget does not provide clear assumptions to account for this possibility. Finally, if there is more than one site, it is unclear how one administrator would oversee both sites. If a teaching principal is needed, then budgets would have to be altered accordingly.

**Findings Regarding Criteria Number 5: The Petition Does Not Contain a Reasonably Comprehensive Description of the 16 Required Charter Elements.
(Section 47605(b)(5)(A)-(P).)**

A. *Description of the Educational Program (Section 47605(b)(5)(A).)*

1. *Does the Petition describe the basic **Learning Environment** for the charter school? (5 CCR §11967.5.1(f)(1)(D).)*

The Petition indicates that it will conduct an independent study program, but does not provide details regarding such program. Running an independent study program can have consequences with regard to funding (e.g., "seat time") and reporting of ADA.

2. *Does the Petition describe how the charter will meet the needs of students with disabilities, English learners, students achieving above or below grade level expectations, and other special student populations. (5 CCR §11967.5.1(f)(1)(G).)*

The plan to meet the needs of English Learners is inadequate. The plan does not discuss whether any SDAIE (Specially Designed Academic Instruction in English) will be provided. It also does not indicate how English Learners will be identified. Further, the Petition does not indicate how English Learners will access core content or how their proficiency in academic English will be improved. The Petition does not provide who will oversee the English Language Development program, testing, compliance and specific curriculum. The plan, as set forth in the Petition, is not realistic. More details are required.

In addition, there is no plan for how students with 504 plans would be educated. This is crucial for meeting requirements of the ADA and Section 504.

3. *Does the Petition specify the charter school's special education plan? (5 CCR §11967.5.1(f)(1)(H).)*

Special Education plans in charter petitions are important, as the District is generally responsible for special education services for charter schools in its District. The plan in the Petition for special education is inadequate, contradictory, and raises serious concerns. The Petition indicates that the charter school will receive special education services from the Glenn County Office of Education. The Petition does not indicate that it has entered into an agreement/MOU with Glenn County Office of Education for the provision of services. The Petition states, however, that the charter school will function as a public school of the District for purposes of special education, which would ultimately place the onus for special education services on the District (if the charter school fails to provide them).

The Petitioners appear unclear regarding how the special education process works. In order to be part of the Glenn County SELPA, the charter school would have to be designated as its own LEA. According to the Petition, it has not been designated as such. Therefore, it is unclear how it will receive special education services from the Glenn County Office. Other than the reference to the Glenn County Office of Education, the Petition does not provide any description of how special education

services will be delivered, or who the responsible parties will be at the charter school level. A much greater level of detail would be required for the Petition to meet this requirement.

Note: The District cannot deny a charter petition based on the actual or potential costs of serving special education services. (Ed Code §47605.7.)

- B. *Description of the **governance structure** of the school, including, but not limited to the process to be followed by the school to ensure parental involvement. (Section 47605(b)(5)(D).)*

The Petition raises serious concerns regarding the governance structure of the charter school. The Petition provides that there will be a Board of Directors made up of parents, community members, a teacher and an authorizing board designee (which is not recommended), but it does not indicate how many members will be on the Board.

The Petition also does not indicate the term of office for Directors, elections procedures, how Directors can be removed or how vacancies will be filled. The Petition provides only that bylaws “will be” developed in the future. Draft bylaws should have been provided with the charter document, especially in light of the fact that the charter school intends to operate in the 2011-12 school year.

The vagueness of the membership, term, and election of the Board of Directors creates concern that the charter school will not be a viable enterprise. The Petition further fails to provide a substantial discussion of the roles and responsibilities of various stakeholders. In addition, the Petition does not provide a conflict of interest policy. As with the by-laws, the Petition indicates that such a policy will be adopted in the future.

- E. *Description of the **qualifications** to be met by individuals to be employed by the school. (Section 47605(b)(5)(E).)*

The Petition’s description of the qualifications for the Principal position is inadequate. While an administrative credential is not required, the principal should have qualifications in an administrative capacity, and experience in other areas such as human resources. It is unclear who will oversee daily personnel actions.

The Petition also fails to designate whether employees are “at will” or employed subject to contract. This can raise liability issues in the event that the charter school seeks to terminate the employment of an employee. In addition, the

policies for recruitment, selection, evaluation and termination lack specificity. Good evaluation procedures are necessary to ensure the safety of pupils, faculty and staff, and that the educational program is sound.

The Petition is also vague with regard to the statement that a teacher must be “familiar with the school’s curriculum sequence and learning styles” as the school’s curriculum sequence and learning styles are unclear.

Finally, the budget does not contain sufficient funds for staff development.

- F. *The manner in which annual, independent, **financial audits** shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority. (Section 47605(b)(5)(I).)*

The Petition does not include the manner in which audit exceptions and differences will be resolved, except that the Principal and the charter school’s audit committee will present recommendations regarding the deficiencies to the District’s Board. This description is not sufficiently specific.

- G. *Description of the procedures by which pupils can be **suspended or expelled**. (Section 47605(b)(5)(J).)*

The Petition generally meets this requirement. The Petition provides, however, that there will be no appeal process for expulsion decisions. This may raise due process concerns.