

# Twain Harte School District

## Proposed Findings of Fact

### Pinecrest Expedition Academy Charter School Petition

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#### **I. Introduction**

On February 27, 2018, the Pinecrest Expedition Academy (“PEA”), a nonprofit charter school operator, submitted a charter school petition (“Petition”) to the Twain Harte School District (“District”) for a TK-8 charter school (“Charter School”) to be located at the former site of the District’s Pinecrest School. On March 19, 2018, the District Board of Education/Trustees (“Board”) held the requisite public hearing on the Petition. Based on a thorough and careful review of the Petition, as well as public input received at the March 19, 2018 public hearing, the District recommends that the Board deny the Petition.

The District recognizes and empathizes with the situation the Pinecrest area faces due to the lack of a school in that area. Indeed, the District operated the Pinecrest School for over thirty years in order to serve the Pinecrest area, closing at the end of the 2011-2012 school year only because its operation was no longer financially feasible. The District has remained steadfast in its commitment to the Pinecrest area since the closure of the Pinecrest School by offering transportation services to Pinecrest area students wishing to take advantage of the excellent academic curriculum available at the Twain Harte School. While Heidi Lupo, the Charter School’s lead petitioner, has argued that the Petition proposes an educationally sound and financially viable alternative to Twain Harte School (Exhibit Packet, pp. 192, 193), the District must respectfully disagree.

The District has concluded that the Petition should be denied for the reasons summarized below, in keeping with the dictates of Education Code section 47605(b).

1. The Charter School presents an unsound educational program for the pupils to be enrolled therein. As discussed further in Section V.A. of these Findings of Fact, the Petition does not address how academic development appropriate for each grade level will be accomplished in the context of the Charter School’s multi-grade classrooms, provides little to no information regarding what textbooks and other instructional materials will be used in the Charter School, and is unsatisfactory in its discussion of special education services.
2. Petitioners are demonstrably unlikely to successfully implement the program set forth in the Petition. As discussed further in Section V.B. of these Findings of Fact, the Charter School’s enrollment and revenue projections are unreasonably overstated. In addition, Petitioners have not demonstrated successful experience in operating and managing a charter school and have not developed a plan for attracting and retaining the highly trained and experienced personnel called for in the Petition.
3. The Petition does not contain reasonably comprehensive descriptions of all 15

required elements. As discussed further in Section V.C. of these Findings of Fact, the Petition does contain a reasonably comprehensive description of the Charter School's educational program, the means by which the Charter School will achieve a racial and ethnic balance among its pupils that is reflective of the surrounding general population, and whether students can be involuntarily removed from the Charter School for reasons other than disciplinary problems.

These Findings of Fact elaborate upon the conclusions above and present a final analysis of the Petition for consideration by the Board. It should be noted, however, that these Findings of Fact only address the most significant areas of concern with respect to the Petition. They do not exhaustively list every concern regarding, or error, omission, or deficiency in, the Petition.

Should the Board take action to deny the Petition, it shall adopt these Findings of Fact in support of its denial.

## **II. Procedural Overview**

Pursuant to Education Code section 47605(b), the governing board of a school district in receipt of a charter petition must hold a public hearing on the provisions of the charter within 30 days of receipt of the petition, at which time the board shall consider the level of support for the petition by teachers employed by the district, other employees of the district, and parents. The Board met this requirement when it held a public hearing on March 19, 2018, 20 days after the District's receipt of the Petition on February 27, 2018.

Education Code section 47605(b) further requires that the governing board of a school district in receipt of a charter petition either grant or deny the petition within 60 days of its receipt by the district. The Board will meet this requirement by acting on the Petition at a special meeting on April 25, 2018, 57 days after the District's receipt of the Petition on February 27, 2018.

If the Board grants the Petition, the Charter School becomes a legal entity. If the Board denies the Petition, Petitioners may appeal the denial to the Tuolumne County Board of Education ("TCBOE") per Education Code section 47605(j)(1). If the TCBOE grants the Petition, the Charter School becomes a legal entity, and the TCBOE becomes the supervisory agency over the Charter School. If the TCBOE denies the Petition, Petitioners may appeal the denial to the State Board of Education ("SBE") per Education Code section 47605(j)(1). If the SBE grants the Petition, the Charter School becomes a legal entity, and the SBE becomes the supervisory agency over the Charter School (see Education Code section 47605(k)(1)). However, pursuant to Education Code section 47605(k)(1), the SBE may, by mutual agreement, designate its supervisory and oversight responsibilities to any local educational agency in Tuolumne County or to the Board. If either the TCBOE or the SBE, as the case may be, fails to act on the Petition within 120 days of its receipt, the decision of the Board to deny the Petition shall be subject to judicial review per Education Code section 47605(j)(4).

## **III. Standard of Review**

Education Code section 47605(b) sets forth the following standards for consideration of charter petitions:

First, the chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged.

Second, a school district governing board shall grant a charter for the operation of a charter school if it is satisfied that granting the charter is consistent with sound educational practice.

Third, a school district governing board shall not deny a charter petition unless one or more of the following findings are made:

1. The charter school presents an unsound educational program for the pupils to be enrolled in the charter school. (Education Code section 47605(b)(1).)
2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition. (Education Code section 47605(b)(2).)
3. The petition does not contain the number of signatures required by Education Code section 47605(a). (Education Code section 47605(b)(3).)
4. The petition does not contain an affirmation of each of the conditions described in Education Code section 47605(d). (Education Code section 47605(b)(4).)
5. The petition does not contain reasonably comprehensive descriptions of all 15 elements required by Education Code section 47605(b)(5).
6. The petition does not contain a declaration of whether or not the charter school shall be deemed the exclusive public employer of the employees of the charter school for purposes of the Educational Employment Relations Act. (Education Code section 47605(b)(6).)

The review of a charter petition is also guided by the regulations promulgated by the SBE, which expand upon the elements above. (See California Code of Regulations, title 5, sections 11967.5 et seq.)

As summarized in the Introduction to these Findings of Fact, the District has concluded that the Petition is deficient with respect to items 1, 2, and 5 above.

#### **IV. Staff Team Review**

A team of District staff members (“Staff Team”) thoroughly and carefully reviewed the Petition. Each member of the Staff Team reviewed either the entire Petition or sections thereof, as relevant to his/her area of expertise.

The following individuals comprised the Staff Team:

- Rick Hennes, Superintendent
- Tonya Midget, Chief Business Official
- Ron Wurz, Maintenance, Operations, and Transportation Director

- Gabe Wingo, Principal
- Laura DeMars, 4th Grade Teacher
- Wendie Roberts, California School Employees Association President and Librarian
- Parker & Covert LLP, Legal Counsel

As stated in the Introduction to these Findings of Fact, the Staff Team has concluded that the Board should deny the Petition.

## V. Discussion

### A. The Charter School presents an unsound educational program for the pupils to be enrolled therein.

#### 1. The Petition does not address how academic development appropriate for each grade level will be accomplished in the context of the Charter School's multi-grade classrooms.

The Charter School will serve students in grades TK-8. (Exhibit Package, p. 11.) Students will be instructed in two multi-grade classrooms. (Exhibit Package, p. 11.) One classroom will house students in grades TK-3, and the other classroom will house students in grades 4-8.

While the Charter School will use what the Petition describes as an “expeditions and outdoor learning” curriculum (Exhibit Package, p. 7), the Petition is also very clear that the Charter School will be dedicated to rigorous academic learning (see Exhibit Package, pp. 7, 15, 16, 54). However, the Petition is completely silent as to how grade appropriate academic development will take place in classrooms with such varying grade levels. Further, the Petition does not provide how the Charter School will avoid teacher burnout in such a challenging environment, a factor that contributed to the closing of a similar school in the Pinecrest area only a few years ago. (See Section B.1.c. below.) A thorough discussion to this effect is required in order for Petitioners to present a sound educational program for Charter School pupils.

#### 2. The Petition provides little to no information regarding what textbooks and other instructional materials will be used in the Charter School.

In spite of the Petition's numerous statements regarding the academic rigor of the Charter School (see above), the Petition is silent as to what textbooks and instructional materials will be used to implement this academically rigorous curriculum, except to provide that technology will be used as part of the learning process. Indeed, the Petition does not even provide a list of textbooks or instructional materials being considered for use by students at the Charter School, again failing to provide a discussion necessary for a determination that the Petition presents a sound educational program.

#### 3. The Petition is unsatisfactory in its discussion of special education services.

The Charter School presents an unsound educational program for special education students to be enrolled therein. The Petition does provide that the Charter School will adhere to all applicable provisions of law relating to students with disabilities (Exhibit Package, pp. 4, 19.), that the

Charter School will be solely responsible for compliance with Section 504 of the Rehabilitation Act of 1973 and the American with Disabilities Act (Exhibit Package, p. 19), and that the Charter School will provide and remain responsible for special education as required by the Education Code and the Individuals with Disabilities Education Act (Exhibit Package, pp. 21, 201). The Petition also provides that it will apply directly for membership in a Special Education Local Plan Area (“SELPA”) (Exhibit Package, p. 19, 197, 201), but the Petition hits a bump in the road when it comes to SELPA.

Membership in a SELPA requires a detailed memorandum of understanding (“MOU”) that clearly delineates the duties and obligations of the Charter School and the SELPA in providing required special education services. However, such an MOU with the Tuolumne County SELPA is problematic. The Tuolumne County SELPA has reviewed the Petition’s approach to special education and has advised that the Petition fails to meet 11 out of the 16 required elements studied: “Results indicate an inadequate description of a comprehensive plan to meet the needs of students with mild/moderate or moderate/severe disabilities under Section 504 of the Rehabilitation Act or the Individuals with Disabilities Education Act.” (Exhibit Packet, pp. 186-187.) Petitioners have failed to successfully rebut the Tuolumne County SELPA’s conclusions.

**B. Petitioners are demonstrably unlikely to successfully implement the program set forth in the Petition.**

Because the Petition does not adequately describe the Charter School’s educational program, it is not demonstrably likely that Petitioners will successfully implement said program. Moreover, there are other insurmountable challenges faced by the PEA that require the District to deny the Petition, not least of which is the fact that the Petition fails to explain how the Charter School makes economic sense.

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.

When providing the Charter School’s budget as required by Education Code section 47605(g) and California Code of Regulations, title 5, section 11967.5.1(c)(3)(B), Petitioners should have but failed to provide complete and accurate budget notes and assumptions describing in detail the amounts presented in the budget. Detailed budget notes and documentation supporting budget amounts are a critical component of the basis upon which approval of a charter petition is granted. Petitioner failed to provide any historical spending experience or budget analysis comparing PEA and other start-up charter school budgets in California with the proposed PEA budget.

1. **The Charter School’s enrollment projections are unreasonably overstated.**
  - a. **Petitioners base the Charter School’s enrollment projections on unsubstantiated optimism.**

The following are Petitioners’ enrollment projections:

School Year	2018-19	2019-20	2020-21	2021-22	2022-23
Grades K-3	13	17	23	27	45
Grades 4-6	9	15	28	28	33
Grades 7-8	3	8	14	18	22
Total Enrollment	25	40	65	73	100
Percent Change Over Prior Year	---	60.00%	62.50%	12.31%	150.00%

(Exhibit Package, p. 114.)

The following are Petitioner’s average daily attendance (“ADA”) projections:

<b><u>2018-2019</u></b>	<b><u>2019-2020</u></b>	<b><u>2020-2021</u></b>	<b><u>2021-2022</u></b>	<b><u>2022-2023</u></b>
24.00	38.40	62.40	70.08	96.00

(Exhibit Package, p. 114.)

There is nothing in the Petition that supports Petitioners' assumption that this exponential growth – an increase of 75 enrolled students in the course of four years – will materialize, nor does it contain with any specificity a realistic plan to make this growth happen. Indeed, based on the figures included in these Findings of Fact, it would not be unexpected to see the enrollment figures for the Charter School actually *decline* over time. Petitioners' optimism is simply not enough to make the Charter School viable.

Petitioners' defend their "attractive program" and argue that it will encourage others to relocate to the Pinecrest area (Exhibit Package, pp. 7, 190, 192.), an overconfident conclusion. Along the same lines, Petitioners suggest that the population of young children will increase after the establishment of the Charter School (Exhibit Package, p. 12), but do not explain how that will miraculously increase student enrollment by 75 in a matter of four years. Additionally, Lead Petitioner Heidi Lupo and Petitioners' attorney, Jerry Simmons, have represented that the Charter School will get to an enrollment figure of 100 by the 2022-2023 school year in part by attracting currently home schooled students (Exhibit Package, p. 193), but the Petition contains no information as to the number of currently home schooled students, the extent to which they will contribute to the increase in enrollment, or why they would choose to return to a more traditional educational setting. Finally, Ms. Lupo claims that Petitioners have "very strong support" of the community (Exhibit Package, p. 192), yet only four individuals who support the Petition, in addition to Ms. Lupo and Mr. Simmons, showed up at the March 19, 2018 Board hearing where the fate of the Charter School was hanging in the balance. (Exhibit Packet, pp. 190-193.)

As a matter of fact, in spite of the above, the Petition does acknowledge that the population in the Pinecrest area is currently unpredictable, and that enrollment in the Charter School will not be large. (Exhibit Package, pp. 11, 12.) Indeed, the Petition goes as far as to reiterate the District's conclusion, stating that the Charter School will "face some unique hurdles due to [its] low enrollment numbers." (Exhibit Package, p. 7.)

**b. The Pinecrest School closure is evidence of declining enrollment not only at Pinecrest School itself, but also District-wide.**

Exhibiting more unbridled optimism, one of the Charter School supporters stated at the March 19, 2018 Board hearing that the District's Pinecrest School "used to have a ton of kids and it was highly successful." (Exhibit Package, p. 193.) The numbers, however, show a much different story: The Pinecrest School was inviable due to declining enrollment (both at the school and District levels), the loss of "necessary small school" funding, and the budget deficiencies resulting therefrom, ultimately leading to its closure in 2012. In spite of this reality, the PEA is basically proposing to reopen the District's Pinecrest School, even in the same location.

The numbers speak for themselves:

<b>School Yr.</b>	<b>TH ADA/Enrollment</b>		<b>PC ADA/Enrollment</b>		<b>Total Dist. ADA/Enrollment</b>	
2007-2008	324.57	341	53.34	57	377.91	398
2008-2009	296.83	317	53.74	55	350.57	372
2009-2010	256.95	271	47.19	51	304.14	322
2010-2011	264.17	281	47.69	49	311.86	330
2011-2012	262.32	281	34.52	35	296.84	316

In addition to declining enrollment, and related thereto, the loss of “necessary small school” funding in 2012, and the resulting loss of extra ADA/Local Control Funding Formula (“LCFF”) funding, was also responsible for sounding the Pinecrest School’s death knell. It begs the question then: If the Pinecrest School was “unnecessary” in 2012, what makes the Charter School “necessary” in 2018? Petitioners fail to convincingly answer this vital question.

c. **The brief existence of the Mountain Oaks Charter School Pinecrest campus supports the District’s conclusion that the Charter School’s enrollment projections are unrealistic and that the Charter School is doomed to fail.**

The fact that the Charter School is unnecessary and, indeed, superfluous, is supported by yet more historical evidence. The Calaveras County Office of Education (“CCOE”) approved the Mountain Oaks Charter School Pinecrest campus (“Mountain Oaks”) in 2012, shortly after the District closed the Pinecrest School, in order to serve the former Pinecrest School students and at the behest of the Pinecrest area parents. Mountain Oaks was doomed to failure for many of the same reasons that the Charter School is. Indeed, Mountain Oaks closed its doors in 2014, after only two years of operation. (Exhibit Package, pp. 190-191.) The numbers are, again, revealing:

<b><u>School Year</u></b>	<b><u>District ADA/Enrollment</u></b>		<b><u>Mountain Oaks ADA/Enrollment</u></b>	
2012-2013	269.65	284	27.97	29
2013-2014	275.35	291	24.26	25

The numbers show that the declining enrollment experienced by the District at the Pinecrest School continued under the auspices of Mountain Oaks.

In addition, Petitioners fail to reveal that, while Mountain Oaks was ostensibly an independent study school, the parents of students at Mountain Oaks insisted on receiving regular school services from its two teachers, so that the services to be provided by the Charter School and the services that were in fact provided by Mountain Oaks are comparable. Teacher burnout contributed to Mountain Oaks’ closure in 2014, and there is no reason to believe that this will not happen with the Charter School as well.

d. **The Tuolumne County Office of Education’s denial of the PEA’s recent countywide charter petition supports the District’s finding that the Charter School will not attract students from throughout Tuolumne County, but that, rather, the Charter School’s very limited student population will be drawn from Pinecrest itself and its immediate environs.**

The Petition is the PEA’s second attempt to open a charter school in Pinecrest. Earlier this year, the PEA brought a countywide charter school petition before the Tuolumne County Office of Education (“TCOE”). The TCOE denied the petition. (Exhibit Package, pp. 209-210.) The TCOE’s denial provides additional evidence in support of the District’s position.

A countywide charter will only be granted if, in addition to other Education Code requirements, the charter school is found to provide services to a countywide pupil population that will benefit from those services and that cannot be served as well by a charter school that operates in only one

school district in the county. (Education Code section 47605.6(a).) The TCOE concluded that the proposed charter school would not offer services to a countywide pupil population that would benefit from those services. The TCOE further concluded that the proposed PEA charter school would only offer services of benefit to students within the District’s jurisdiction.

The fact that the TCOE found that the PEA charter school would not offer services to a countywide pupil population supports the conclusion that that only District residents should be expected to enroll in the Charter School. Therefore, Petitioners’ reliance on attracting non-resident students to enroll in the Charter School in order to get from 25 to 100 students in a matter of four years (Exhibit Package, p. 7) is misplaced. This conclusion is underscored by the fact that, while the District offers student transportation, the Charter School would not, as further discussed below.

**e. The fact that the Charter School will not offer transportation services further limits the Charter School’s enrollment possibilities.**

As noted above, the Charter School’s lack of transportation services also supports the conclusion that the Charter School will not be successful because its enrollment projections are overinflated. While supporters of the Petition point to the transportation difficulties associated with Pinecrest area students having to travel to Twain Harte School, they fail to acknowledge the flip side of that equation, namely, that travel difficulties will negatively impact enrollment at the Charter School as well. It makes complete sense that transportation is an issue in both directions, to and from Pinecrest, especially in light of Petitioners reliance on the enrollment of out-of-District students. Indeed, transportation was an issue contributing to Mountain Oak’s closure. (Exhibit Package, p. 190.) However, a crucial difference is the fact that, while the Charter School will not provide transportation services, the District does provide transportation to Cold Springs and, in inclement weather, to Long Barn. (Exhibit Package, p. 193.) Students from the Pinecrest area are thus assured safe and convenient transportation to and from Twain Harte School, rendering the Charter School unnecessary.

**f. District-wide projections predict a steady decline in enrollment.**

As if the evidence above were not sufficient, it is indisputable in light of the numbers below that the steady decline in District enrollment has continued after the closure of Mountain Oaks:

<b><u>School Year</u></b>	<b><u>District ADA/Enrollment</u></b>	
2014-2015	282.2	296
2015-2016	267.23	274
2016-2017	253.47	271
2017-2018	252.57	264

Moreover, the District projects that enrollment will continue to decrease in the foreseeable future, continuing the last decade’s trend.

<b><u>School Year</u></b>	<b><u>District Projected ADA/Enrollment</u></b>	
2018-2019	247.34	259
2019-2020	240.47	252

<b>School Year</b>	<b>District Projected ADA/Enrollment</b>	
2020-2021	227.18	238
2021-2022	224.85	236
2022-2023	224.85	236

By extrapolation, this means that Charter School enrollment, far from increasing exponentially, as projected by Petitioners, will actually decrease.

**2. The Charter School’s viability is premised on unreasonably overstated revenue projections.**

Because the Petition’s revenue projections are based on unrealistic projected enrollment, the revenue projections are equally unrealistic and, indeed, flawed. The numbers, again, speak for themselves: The Petition specifies that the net income the first year of operation will be \$12,783.57, and the net income jumps to an astounding \$190,964.88 by the fifth year of operation. (Exhibit Package, p. 193.) The Petition, however, contains no evidence that the Charter School will have sufficient operational revenue, let alone the specified net income.

**a. Petitioners’ LCFF calculations are flawed.**

Petitioners’ LCFF calculations are flawed because they are based on unreasonably high enrollment projections, as explained in detail above. The fact that Petitioners’ LCFF calculations are flawed is especially concerning because this funding mechanism represents a large portion of the Charter School’s proposed budget: 49.71% of the Charter School’s proposed budget for the 2018-2019 school year, increasing to 90.31% of the Charter School’s proposed budget for the 2022-2023 school year.

<b>BUDGET REPORT ASSUMPTIONS</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2021-21</b>	<b>2021-22</b>	<b>2022-23</b>
<b>Projected Enrollment</b>					
Grades K-3	13	17	23	27	45
Grades 4-6	9	15	28	28	33
Grades 7-8	3	8	14	18	22
Total Enrollment	25	40	65	73	100
Percent Change Over Prior Year	---	60.00%	62.50%	12.31%	150.00%
<b>Projected P-2 ADA</b>					
Grades K-3	12.48	16.32	22.08	25.92	43.20
Grades 4-6	8.64	14.40	26.88	26.88	31.68
Grades 7-8	2.88	7.68	13.44	17.28	21.12
Total Enrollment	24.00	38.40	62.40	70.08	96.00
Percent Change Over Prior Year	---	60.00%	62.50%	12.31%	150.00%
<b>ADA to Enrollment Ratio</b>	<b>0.96</b>	<b>0.96</b>	<b>0.96</b>	<b>0.96</b>	<b>0.96</b>

(Exhibit Package, p. 114.)

**b. Petitioners' revenue projections rely on grant and loan funds that are limited in scope and may not be ultimately available.**

Petitioners anticipate 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. (Exhibit Package, pp. 139, 142, 193.) PCSGP funds are to be used for start-up costs, including, but not limited to, purchases of textbooks, furniture, computers and other technology, and instructional materials. In addition, PCSGP funds should be used for professional development and other operational expenses that are one-time in nature, as governed by the guidelines set forth in the PCSGP. Petitioners also anticipate receiving a California Department of Education ("CDE") Revolving Loan of \$250,000 for secured cash flow for the first few years of operation. Like the \$375,000 from the PCSGP, the \$250,000 from the CDE Revolving Loan are for the Planning Year and Implementation Years. However, it is uncertain that Petitioners will, in fact, receive this funding, and the discussion of alternatives (e.g., the source of alternate borrowing, its terms of repayment, the costs of borrowings, and any default clause applicable in case of failure of repayment) is insufficient. Accordingly, the Charter School cannot rely on the PSPGP funds or the CDE Revolving Loan, either in the short- or the long-run, for two reasons: First, the PSPGP funds and the CDE Revolving Loan can only be relied upon as revenue during the initial years of operation, and, second, the PSPGP funds and the CDE Revolving Loan may not materialize at all.

Petitioners fail to account for \$225,000 of year one PCSGP start-up costs and \$150,000 of year two costs. These material revenue and expense omissions in the PEA Budget overstate revenues, understate PEA's total expenditures, reduce fund balances and result in a negative or deficit fund balance reserves of (-%).

Overall, because of the material nature of the PEA charter petitioners' omissions from the PEA budget and budget notes, including PEA's unbudgeted PCSGP start-up costs, the PEA charter petition and budget present an unrealistic financial and operational plan for the proposed PEA charter school.

The PEA charter petition's Budget fails to present sufficient detailed budget notes or budget assumptions that clearly describe PEA's financial budget projections pursuant to California Code of Regulations, Title 5, section 11967.5.1(c)(3)(B).

The PEA charter petitioners failed to provide supplementary information describing how the proposed PEA 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.

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

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

The PEA charter petition, budget, and 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 PEA charter petition Budget Narrative, and account object code 5210, Travel expenditures is \$2,580.30 in the PEA Budget, the PEA Budget narrative or budget assumptions should have stated that all \$2,580.30 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 PEA budget narrative or budget assumptions should have described how much of the total Travel expenditures costs of \$2,580.03 are considered PCSGP start-up costs.

Nowhere in PEA'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 PEA budget fails to identify any PCSGP start-up costs or partial start-up costs comingled within its expense object codes. Simply stating in the PEA 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 PEA 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 PEA Budget should have, but fails, to separately identify its PCSGP start-up costs.

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

The PEA 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 PEA charter petition, budget, and budget notes fail to explain how PEA's start-up costs will be funded should PEA 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 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 PEA Budget, Budget Notes, and charter petition fail to present the PEA charter petitioner’s PCSGP Work Plan and fail to identify the specific amounts of PCSGP start-up costs within the PEA Budget’s expenditure object codes, if any.

The PEA Budget’s 2018-19 Year 1 fund balance includes \$225,000 in PCSGP start-up revenue and a 2018-19 Year 2 fund balance includes \$150,000 in PCSGP start-up revenue; and however, the PEA Budget fails to identify any PCSGP start-up costs. As a result of the PEA charter petitioners only recognizing PCSGP start-up revenues while PEA’s PCSGP start-up costs fail to be budgeted, PEA’s Year 1 fund balance is overstated by \$225,000 and Year 2 fund balance is overstated by \$150,000

Also, because PEA’s start-up PCSGP costs are not budgeted while PEA’s PCSGP revenue is used as part of PEA’s Year 1 Cash Flow, PEA’s Year 1 Cash Flow and Fund Balance is overstated by \$225,000. Similarly, PEA’s Year 2 Cash Flow and Fund Balance is overstated by \$150,000.

Because PEA is recognizing PCSGP start-up revenues as contributing to cash in-flows and PEA’s PCSGP start-up cash costs or expenditures fail to be budgeted, PEA’s 2018-19 Year 1 ending Cash Flow and 2019-2020 Cash Flow are overstated by PEA’s unbudgeted PCSGP start-up costs of \$225,000 and \$150,000, respectively.

To summarize PEA’s PCSGP start-up cost deficiencies, the PEA charter petitioners have:

- Prepared their Budget based on PCSGP revenues which PEA may not be awarded;
- Failed to present any PCSGP start-up costs in PEA’s Budget or Cash Flow;
- Used PCSGP start-up revenues of \$225,000 to subsidize PEA’s 2018-19 Year 1 and \$150,000 to subsidize PEA’s 2019-20 Year 2 un-restricted operations, un-restricted fund balance, and cash flow in the PEA Budget.

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

As discussed above, it is unreasonable to expect the enrollment increases as projected in the Petition. It is much more reasonable to expect that there will be a decrease in enrollment, or, under the best circumstances, no enrollment change at all. Assuming no enrollment change then, and the resulting constant revenues of approximately \$258,000, and assuming that expenses will remain constant at approximately \$506,000 (although, as discussed below, the expenses projected in the Petition are understated), the Charter School can be expected to have an operating deficit of approximately \$248,000 per year that will have to be funded from the PSPGP’s \$375,000 and the CDE Revolving Loan’s \$250,000. (See Exhibit Package, pp. 118-121, 139.) These funds, however, may not be available at all and will certainly not be available after the Planning Year and Implementation Years, so that the Charter School’s finances look grim:

<u>School Yr.</u>	<u>Annual Deficit</u>	<u>\$375k Grant Draw</u>	<u>\$250k Loan Draw</u>	<u>Deficit</u>	<u>Total Deficit</u>
2018-2019	\$248,000	\$225,000	\$23,000	\$0	\$0
2019-2020	\$248,000	\$150,000	\$98,000	\$0	\$0
2020-2021	\$248,000	\$0	\$129,000	\$119,000	\$119,000
2021-2022	\$248,000	\$0	\$0	\$248,000	\$367,000
2022-2023	\$248,000	\$0	\$0	\$248,000	\$615,000

(Exhibit Package, pp. 118-121, 139.)

**c. The Pinecrest School Club’s projected funds and contributions to the Charter School are historically unsubstantiated.**

Petitioners maintain that the Pinecrest School Club will raise between \$45,000 and \$50,000 in the 2018-2019 school year. (Exhibit Package, p. 196.) However, based on the gross annual revenue amounts and the ending asset balances reported each year to the California Attorney General, the estimated fundraising amounts seem very ambitious, if not unrealistic. The Pinecrest School Club’s total funds and contributions equal \$22,340 for June 13, 2016 to present. (Exhibit Package, p. 199.)

The Petition does not contain an explanation of how the Pinecrest School Club expects to increase its fundraising from roughly \$22,000 over a period of approximately two years to between \$45,000 and \$50,000 for the 2018-2019 school year. Again, Petitioners' "evidence" consists of wishful thinking, statements to the effect that their "fundraising programs are successful and sustainable" (Exhibit Package, pp. 7-8) and that they "will see much success" (Exhibit Package, pp. 196), but ultimately acknowledging that their plan is uncertain and "will evolve over time" (Exhibit Package, p. 196).

**3. Petitioners have not demonstrated successful experience in operating and managing a charter school.**

The Petition provides information about its "Founding Group," the members of which, with the exception of Ms. Lupo, comprise the initial Charter School Board of Directors. (Exhibit Package, pp. 8-9, 158.) None of the information provided shows that any of these individuals possess the required experience to operate a charter school: While Peggy Herndon has experience working for a school district, the Petition does not discuss any charter school experience or experience with the challenges that accompany working with such a small educational organization. While Jamie Anderson has teaching experience, there is no mention that she has experience dealing with the challenges of a multi-grade classroom charter school. While Courtney Sutton has experience working at the college level, she does not have any K-12 educational experience at all. Neither does Mike Yaley. Finally, neither John Cashman nor Ron Berry have experience in the educational field at all.

**4. Petitioners have not developed a plan for attracting and retaining the highly trained and experienced personnel called for in the Petition.**

The Petition sets the bar quite high for the qualifications of the Lead Teacher and the Business Development and Operations Coordinator. Both will have to wear many hats, but the Petition does not explain how these individuals will be attracted and retained, especially in such a small community, and especially when the Charter School will not have the District resources backing it. As a side note, the Petition does not recognize that this situation could very easily lead to burnout, a factor that contributed to the closing of a similar school in the Pinecrest area only a few years ago. (See Section B.1.c. above.)

The Lead Teacher, for instance, will not only teach, but also fulfill an extensive administrative role, requiring not only a teaching credential, but also an administrative credential. (Exhibit Package, p. 44, 48.) He or she will be responsible for the following administrative duties, among others:

- Supervise all Charter School employees.
- Interview and recommend employee hiring, promotion, discipline, and/or dismissal.
- Identify the staffing needs of the Charter School and offer staff development as needed.
- Ensure that appropriate evaluation techniques are used.
- Monitor compliance with criminal background check policy.
- Review audit exceptions or deficiencies and report to the Charter School Board of Directors with recommendations on how to resolve them.

(Exhibit Package, pp. 44, 50, 56.)

The Business Development and Operations Coordinator must possess the following overarching qualifications, at a minimum:

- Knowledge and experience of budgets, audits, and payroll.
- Experience and knowledge of facilities, leases, and sub-contractors.
- Experience and knowledge of current human resources practices.
- Experience in fundraising, grant writing, and charter development.
- Knowledge of employee relations, development, and implementation of policies;
- Knowledge of contracts, marketing, social media, and advertising.

(Exhibit Package, p. 49.)

C. **The Petition does not contain reasonably comprehensive descriptions of all 15 required elements.**

1. **The Petition does not meet the requirement of Education Code section 47605(b)(5)(A) that a charter school petition contain a reasonably comprehensive description of the educational program of the charter school.**

The Petition does not contain a reasonably comprehensive description of the educational program of the Charter School because it does not address how academic development appropriate to each grade level will be accomplished in the context of the Charter School's multi-grade classrooms, and because the Petition provides little to no information regarding what textbooks and other instructional materials will be used in the Charter School, as discussed in more detail in Section V.A. above.

2. **The Petition does not meet the requirement of Education Code section 47605(b)(5)(G) that a charter school petition contain a reasonably comprehensive description of the means by which the charter school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.**

The Petition does not contain a reasonably comprehensive description of the means by which the Charter School will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the District. (See Petition, p. 53.) The Petition fails to state what the racial and ethnic makeup of the area is and how the PEA will specifically target such racial and ethnic groups to achieve balance among its pupils.

3. **The Petition does not meet the requirement of Education Code section 47605(b)(5)(J) that a charter school petition contain a reasonably comprehensive description of the procedures by which pupils can be suspended or expelled from the charter school for disciplinary reasons or otherwise involuntarily removed from the charter school for any reason.**

While the Petition contains a reasonably comprehensive description of the procedures by which Charter School pupils can be suspended or expelled, it does not specify whether students can be involuntarily removed from the Charter School for reasons other than disciplinary problems.

## **VI. Conclusion**

Based on the Staff Team's thorough and careful review of the Petition, as well as public input received at the March 19, 2018 public hearing, the District recommends that the Board adopt these Findings of Fact and deny the Petition for the reasons detailed above.

To summarize once again, the District recommends that the Petition be denied based on the following conclusions:

1. The Charter School presents an unsound educational program for the pupils to be enrolled therein. As discussed further in Section V.A. of these Findings of Fact, the Petition does not address how academic development appropriate for each grade level will be accomplished in the context of the Charter School's multi-grade classrooms, provides little to no information regarding what textbooks and other instructional materials will be used in the Charter School, and is unsatisfactory in its discussion of special education services.
2. Petitioners are demonstrably unlikely to successfully implement the program set forth in the Petition. As discussed further in Section V.B. of these Findings of Fact, the Charter School's enrollment and revenue projections are unreasonably overstated. In addition, Petitioners have not demonstrated successful experience in operating and managing a charter school and have not developed a plan for attracting and retaining the highly trained and experienced personnel called for in the Petition.
3. The Petition does not contain reasonably comprehensive descriptions of all 15 required elements. As discussed further in Section V.C. of these Findings of Fact, the Petition does contain a reasonably comprehensive description of the Charter School's educational program, the means by which the Charter School will achieve a racial and ethnic balance among its pupils that is reflective of the surrounding general population, and whether students can be involuntarily removed from the Charter School for reasons other than disciplinary problems.