

California Department of Education Findings Related to a Petition to Renew the Edison Charter Academy

Background

On June 29, 2001, the California Department of Education (CDE) received a request from the petitioners of the Edison Charter Academy (Edison) to renew a charter school located in San Francisco. The application to renew the school's charter was denied by the San Francisco Unified School District (SFUSD) on June 28, 2001.

Pursuant to *Education Code* Section 47607.5 if a governing board of a school district or county office of education does not grant a renewal to a charter school, the school may submit an application for renewal directly to the State Board of Education (SBE). The application for renewal must be subject to the same procedures as a denial of a petition for the establishment of a charter school as provided for in *Education Code* Section 47605(j). The SBE must evaluate the petition according to the criteria and procedures established in law and may only deny the petition if it provides written findings addressing the reasons for the denial. The reasons for denial are limited to the following:

- (1) The charter school presents an unsound educational program
- (2) The petitioners are demonstrably unlikely to successfully implement the program
- (3) The petition does not contain the required number of signatures
- (4) The petition does not contain an affirmation of specified assurances
- (5) The petition does not contain reasonably comprehensive descriptions of 15 required elements of a charter.

In addition to consideration of the above stated reasons for denial, a charter-granting agency must hold a public hearing to consider the level of support for the petition by teachers, district employees and parents.

The CDE Charter School Review Team included representatives from the following divisions: School Fiscal Services, Special Education, Professional Development and Curriculum Support and the CDE Legal Office. The review team reviewed the charter petition according to the requirements of law, *California Administrative Code* regulations and CDE procedures for reviewing charter petitions that have been previously denied by a local agency. Attachment 2 contains a checklist with a brief summary of findings related to each of the required elements of the Edison application for renewal.

Finding 1: The Edison charter appears to present a sound educational program for students enrolled in the school.

The petition describes the charter school as a partnership between the Thomas Edison School and the Edison Schools, Inc., a for-profit, limited partnership that manages all aspects of the school's operations. Edison Schools, Inc. has researched and developed a core curriculum and integrated school design which serves as a blue print for all its schools. The company is currently operating

numerous schools throughout the country, including seven schools in California according to the Charter Schools Office database.

The Edison model generally proposes a research-based academic program intended to prepare a diverse cross-section of students to be successful students, workers and citizens. Among the features of the Edison design are: an integrated curriculum for core academic areas, world class standards tied to assessment and school wide accountability, individualized and varied instructional methods, extensive professional development for teachers, a 205-day school year, extensive use of technology, and partnerships with families. The school design is built on an academy structure in which students stay together with the same teachers for three years. The Edison school in San Francisco has an enrollment of about 500 students in grades K-5. It has been a charter school for three years.

Edison’s population is approximately 40% African American, 39% Hispanic and 7% White, with 70% of students participating in the free or reduced price lunch program. English language learners comprise 29% of the school’s population and the school mobility rate is about 20%. We have reviewed Edison’s annual assessment data and API for the last two years and have found that, although Edison ranks 12th from the bottom among San Francisco Unified School District’s 72 elementary schools, Edison has made significant improvement in student achievement over this period of time. The school’s 2000 similar schools rank is 5 compared with the 1999 rank of 2. The statewide rank increased from 2 in 1999 to 3 in 2000. These gains were made while the percent of students taking the test rose from 86% in 1999 to 95% in 2000. The following table displays the 1999-2000 growth for numerically significant subgroups of students:

Student Subgroup	2000 Subgroup API (Growth)	1999 Subgroup API (Base)	1999-2000 Subgroup Growth Target	1999-2000 Subgroup Growth
All Students	552	465	17	87
African American	502	381	14	121
Hispanic	538	461	14	77
Socioeconomically Disadvantaged	529	452	14	77

As the above table indicates, the school overall substantially exceeded its targeted growth level (target of 17 points with actual growth of 87 points) and all numerically significant subgroups of students performed well above the target levels. On the basis of the Spring 2000 data, Edison has been awarded the Governor’s Performance Award and the School Site Staff Employee Bonus Award.

The petition generally describes clear goals and a comprehensive blueprint for the provision of special education services. However, there is no information on how the special education model is being carried out specifically in this particular school. The general applicability of the special education model to all Edison schools nationwide leads staff to question the applicability of some particular parts of the model to California. For example, in Appendix A of the charter petition (page 86 of Attachment 4), it states “... the Special Edison coordinator screens the IEPs of all partnership school students with disabilities, so that appropriate services can be arranged. As appropriate, waivers from the school district are sought to suspend particular aspects of the IEP (e.g., to waive a self-contained placement) and to allow a reassessment period within the

significantly different educational environment of the Edison partnership school.” However, there is no such thing as a “waiver” of the IEP in the California special education program.

Another example is in Appendix D to the Management Agreement with SFUSD (page 47 of Attachment 3), where it states that “Parents may then choose to maintain the IEP as is, renegotiate some specific provisions, or elect some alternative form of “contract” arrangement.” It is unclear what is meant by “some alternative form of contract arrangement.” The IEP is the instrument for renegotiating services.

These examples might be cause for concern in a new charter school without any operational history. However, Edison, during its 3-year history as a charter school in the SFUSD has been a school site within the SFUSD SELPA so the district has retained responsibility and oversight of all special education programs. The charter petition states that if the charter is renewed by the State Board, Edison will become an LEA in the SFUSD SELPA. Therefore, Edison’s past history operating under the district’s special education program and the school’s intent to become an LEA in the SELPA provide reasonable assurance that Edison’s special education program will provide a free and appropriate education to its students, will be conducted in accordance with applicable state and federal statutes, and will not result in any disruption to special education students currently being served.

The Edison petition in Appendix A (beginning with page 77 of Attachment 4) and in the Management Agreement (Appendix E, beginning on page 51 of Attachment 3) describes various program options for English acquisition and further states that each individual Edison school works with the local community it serves to identify which program best suits the needs of the English Language Learners (ELL) at that school. Edison, after monitoring the progress of its ELL students and meeting with parents, decided to use an intensive English immersion program coupled with specialized instructional support utilizing Cross-cultural Language and Development (CLAD) trained teachers. Spanish instruction is integrated into the World Language program at the school so that parents who want their children to continue to receive Spanish instruction will be able to do so. The Appendices are reasonably comprehensive in describing the levels of instruction and expected length of time at each level, materials, and methods of delivery for each subject studied. It appears to us that the Edison ELL program is sound and responding to the needs of the students.

In summary, based on our review of student performance data and the educational model described in the petition, we conclude that Edison is providing a sound educational program and is responding to the needs of its students, including those students with special needs.

Finding 2: The petitioners may be unlikely to successfully implement the program

Edison Schools, Inc. and SFUSD have developed a settlement agreement to delineate roles and responsibilities between the two parties for the next two years should the State Board become the charter authorizing entity. According to the agreement, upon approval by the State Board, the current charter will expire immediately and the management agreement between the two parties will terminate as of June 30, 2001. The recently signed settlement agreement and general release between the parties specifies the following major agreements reached regarding governance structure and the provision of services:

Attachment 1

Governance structure - Edison Charter Academy will become a nonprofit public benefit corporation and the Community Council which governs the school will be an elected board rather than one in which all the proposed appointments must be approved by the district. The board will be composed of at least 5 members including parents, community and business leaders and others. Potential nominees to the Council will be voted on at public meetings. The Community Council will be responsible for contracting with Edison Schools, Inc. to implement the Edison Design at the school.

The charter states that the Community Council is responsible for the guidance and oversight of the school and for implementing the Edison Design. However, we are concerned that the unique structure of this arrangement with Edison Schools, Inc. presents the potential for the Community Council to be a governing body in name only. The Council is to be responsible for general policies of the school, approving and monitoring the budget, operation of the school in accordance with law and the charter agreement, and soliciting grants and donations. It is difficult to determine what degree of independence the Council has from Edison Schools, Inc. with whom it will be contracting for educational services and therefore, how effective representation of interested parties, including parents, can occur.

If the State Board chooses to approve this charter, we would recommend the petition be amended to clearly spell out the specific duties of the Community Council, the timeline for elections to create a new Council, the terms of Council members, and include a designated representative of the State Board as a member of the Council.

Employees – The agreement proposes various arrangements with existing employees at the school depending on whether they are credentialed, classified, tenured or probationary. However, after June 30, 2003, with the exception of employees providing special education services, all certificated and classified non-management employees will be employees of Edison Charter Academy and not the district. Any new employees hired after June 30, 2001 will be employees of Edison.

Although the Principal of the school will be an employee of the school, it is not clear whether other management employees (Technology and Community Resource Directors and Business Manager) will be employees of Edison Charter Academy or Edison Schools, Inc. If the majority of management employees are employees of Edison Schools, Inc., this would serve to reinforce our concerns that the governance and decision making structure of the school is largely controlled by Edison Schools, Inc. If the Board approves this charter renewal, we would recommend the petition be amended to clarify that all of the school's management employees are employees of the Edison Charter Academy.

Special Education – Edison will become an LEA in the SFUSD SELPA. The district is currently a single district SELPA, but will amend its local plan to provide for Edison's participation in the SELPA. Until such time as that happens, Edison will remain as a school site within the district for special education purposes. As a practical matter, there should be no disruption of service or change in services provided to students.

Facilities – Edison will enter into a lease arrangement with SFUSD that will enable Edison to continue to use the current facilities until November 8, 2003 or until Proposition 39 becomes applicable to district charter school facilities at which time the two parties will have to renegotiate

facilities use issues. Edison will pay the district \$355,200 per year for use of the facilities and will be responsible for all operating costs.

Transportation - SFUSD will continue to provide the current level of transportation services for two years. Edison will pay for additional costs associated with longer school days and years.

Desegregation Funding – Edison will not be considered a school of the district for any purpose including any consent decrees under which the district is operating. Edison will not receive any consent decree funding under this arrangement.

Expansion of Grade Levels – Edison agrees not to expand the grade levels served by the school beyond those served now (K-5) and further agrees not to submit any new charter petitions to SFUSD.

In addition to concerns regarding the governance structure described above, we would also note that because of the late submission of financial information from Edison and the time constraints for providing this analysis to the State Board, we have been unable to thoroughly review the budget and financial data. Our initial review indicates that the financial data may be incomplete or missing items in the following areas:

- Financial estimates do not show any provision for a reserve for economic uncertainties.
- No monthly estimated cash flow document was submitted.
- There are no estimated expenditures for special education although Edison is responsible for paying the marginal costs of special education personnel because of the longer school day and school year schedule at the charter school.
- There are no estimated expenditures for transportation services although Edison is responsible for paying the marginal costs of the longer school day and school year at the charter school.
- There are no estimated expenditures for auditing or legal fees although the Settlement Agreement and General Release indicates that each party will bear its own attorneys' fees and costs.

We have also not been provided with a copy of the proposed management agreement between Edison Schools, Inc. and Edison Charter Academy. The changes proposed to the charter upon renewal by the State Board indicate that the management agreement will be provided to the State Board after it is executed. The State Board will be a third party beneficiary of the agreement and will have the right to enforce the agreement on behalf of the school. The management agreement will be very similar to the one contained in Attachment 3, which in many respects contains more operational detail than the actual charter petition. We think the State Board needs to, at a minimum, review the actual management agreement that will become the operating document.

Finally, as noted previously, the recently signed settlement agreement between Edison Schools, Inc. and SFUSD resolving disputes is for two years. After the two-year period, Edison proposes to submit a report to the State Board describing any operational changes and changes to the

charter that will need to be made as a result of expiration of the settlement agreement. If the State Board approves this charter, we would recommend the Board require Edison to submit proposed changes no less than 90 days before expiration of the settlement agreement. In addition, we would recommend that Edison submit any necessary conforming changes to the management agreement between Edison Schools, Inc. and Edison Charter Academy at the same time as proposed charter amendments.

In conclusion, as a result of the deficiencies and lack of timely information noted above, we cannot conclude that the petitioners would be likely to succeed in implementing the program. Assuming we have been given additional information, we will provide an update to our conclusions and recommendations to the State Board at the time of its July meeting.

Finding 3: The Edison petition may not fully comply with Education Code Section 47605 which requires a reasonably comprehensive description of each of 15 elements required to be included in a charter. The review team noted specific concerns related to some elements under Sections 47605(b)(1)(A-O) which are discussed below.

Element D: Governance structure, including the process to insure parental involvement

As noted under Finding 2, we are concerned that the Community Council may be a governing body in name only without any real authority or power.

Element F: Procedures to ensure health and safety of pupils and staff, including criminal records summary (per EC Section 44237)

The charter petition indicates that the procedures to ensure health and safety of students and staff will be those of SFUSD. However, given the relationship between Edison and SFUSD it is unclear whether that means SFUSD will carry out procedures and policies or whether Edison will even have access to those policies and procedures. For example, who will be responsible for the criminal records summary check required by EC Section 44237? Will Edison arrange for immunizations and tuberculosis tests? If the charter is approved by the State Board, we recommend the petition be amended to clearly identify health and safety procedures and who is responsible for carrying them out.

Element I: 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.

The proposed changes to the Edison charter upon renewal by the State Board document states that the school will secure an annual independent financial audit within 6 months of the close of the school year. However, the charter contains no description of how an annual, independent audit will be conducted other than that the Community Council will establish an audit committee to review and resolve any noted deficiencies. There is no indication of who is responsible for contracting and overseeing such an audit, or whether the auditor would have experience in education finance. Nor are there timelines and procedures for addressing audit findings/exceptions. The State Board would be provided a copy of the audit report with Community Council recommendations for resolving exceptions. If the charter is approved by the

State Board, we would recommend the petition be amended to describe more precisely how the audit will be conducted, including timelines for resolving exceptions.

Element J: The procedures by which pupils can be suspended or expelled

According to the Edison charter, the criteria for suspension and expulsion of students will be consistent with state and federal laws and the due process hearings will be conducted in conformity with state and federal law. The principal or designee has the authority to suspend students. The proposed changes to the charter upon renewal by the State Board indicate only that Edison will review and, if necessary update procedures for providing students due process in connection with discipline and expulsions. An assumption seems to be made that the various components of the school program (structures for prevention and intervention, character and ethics program, family support teams, motivating curriculum, etc.) will mitigate the need for having to use such procedures. Since the charter school has been in existence for three years, presumably there are written procedures for suspension and expulsion, and parents and guardians of students are being informed of their due process rights. However, we are unable to comment on such procedures due to lack of information. If the charter is approved by the State Board, we would recommend procedures for suspension and expulsion be more clearly delineated in the charter petition.

Element N: The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter

The charter describes a resolution process between Edison Schools, Inc. and SFUSD, however there is no description of a dispute resolution process between Edison and the State Board. If the charter is approved by the State Board, we would recommend the charter petition be amended to incorporate such a process, including a description of how costs of the process, if any, would be funded and acknowledging that the State Board is not a local education agency and, therefore, may include specific provisions in the dispute resolution process that it determines are necessary.

Summary and Recommendation

We recognize that this petition for renewal is different from the other appeals that have come before the State Board previously in that Edison is a school that has been an operational charter school for three years. It is also unique in that the school is being operated by a for-profit company which adds a layer of complexity to the situation. Clearly Edison Schools, Inc. and SFUSD have been under severe time constraints in which to work out the details of their relationship should the State Board approve this charter and we believe that accounts for the provision of insufficient information and lack of detail in some parts of the charter petition. In this report, we have noted some areas of concern and areas where information has not been provided or provided too late for us to draw conclusions.

Based on concerns raised in Findings 2 and 3 above, we conclude that the SBE has sufficient justification to deny the petitioner's request to approve the Edison charter. At a minimum, we believe that the petition would need further clarification or revision and that a draft management agreement be provided before the State Board approves this charter renewal. Until we can thoroughly review the budget and financial documents as well as the proposed management agreement between Edison Charter Academy and Edison Schools, Inc. we withhold

recommendation on the charter renewal. It is our intent to provide further information and recommendations at the time of the State Board meeting in July.

Conclusion

The SBE has three options related to this charter:

- 1) Approve the application for renewal. If the SBE approves the charter, the school will be authorized to continue to operate as a charter school for five years and the SBE will become the responsible oversight entity for the school unless the SBE, by mutual agreement, delegates that responsibility to another local educational agency.

If the SBE wishes to approve the charter, we recommend that it approve the petition under the condition that school shall not be authorized to operate until:

1. The petitioners revise the charter and supporting documents to address the findings, comments and recommendations identified in this report.
 2. The petitioners provide evidence that the school has been accepted for inclusion in a SELPA.
 3. The petitioners agree to abide by the specific supervisory and oversight requirements contained in the document entitled State Board of Education-Approved Charter Schools: Expectations for Oversight and Supervision.
- 2) Deny the charter petition. If the SBE denies the petition, the petitioners are not authorized to operate. The petitioners would not be prohibited from revising the charter and resubmitting it to the original school district or another eligible LEA in the state. However, given that Edison is a conversion school of the district, it is not clear whether SFUSD would be able to open this school as a district operated school by September.
 - 3) Take no action on the charter petition. According to *Education Code* Section 47605(j), if the SBE does not act on the petition within 120 days, the decision of the governing board of the school district denying the petition shall be subject to judicial review.