

## California Department of Education Findings Related to a Petition to Establish the New West Charter Middle School

### Background

On March 16, 2001, the California Department of Education (CDE) received a request from the petitioners of the New West Charter Middle School (New West) to authorize a charter school proposed to be located in the Pacific Palisades area of Los Angeles. The petition to establish the charter school was denied by the Los Angeles Unified School District on July 25, 2000 and the Los Angeles County Office of Education on January 9, 2001. The petitioners submitted the request to the State Board of Education (SBE) pursuant to *Education Code* Section 47605(j).

The CDE Charter School Review Team, which included representatives from School Fiscal Services, Special Education, Professional Development and Curriculum Support and the CDE Legal Office, 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. The CDE recommended that the SBE deny the petitioners request to become a charter school under the oversight of the SBE based on a number of findings: (1) the charter may present an unsound program relative to students who may be eligible for special education services; (2) the petitioners may be unlikely to successfully implement the program; and (3) the petition may not provide a reasonably comprehensive description of each of the 15 elements required to be included in a charter.

The SBE, at its June 2001 meeting, held a public hearing in accordance with law to consider the level of support for the petition by teachers, district employees and parents. At this meeting, the SBE deferred action on the petition for a few months with the understanding that the petitioners and the Los Angeles Unified School District (LAUSD) would work to resolve their differences (with the assistance of CDE staff) and modify the petition so that it could be acceptable to the LAUSD governing board. It was further the direction of the SBE that if the charter petition came back to the SBE, it would be accompanied by modifications to address the concerns outlined in the discussion at the June SBE meeting and, if those modifications were acceptable, the SBE would approve the charter.

On July 13, 2001, CDE staff met with LAUSD and the New West petitioners to discuss differences between the two parties on a number of issues. Compromises were reached on a few issues, but many significant issues remained unresolved. Since the July 13 meeting, both SBE and CDE staffs have exchanged numerous phone calls and e-mails with LAUSD and the New West petitioners regarding the remaining differences. To date, no compromises have been reached on the outstanding issues. The petitioners have revised the charter petition twice since it was originally submitted to the SBE. CDE staff has reviewed both petitions. The findings of fact described in this analysis are based on the October 7, 2001 version of the charter petition. Attachment 2 contains a checklist with a brief summary of findings related to each of the required elements of the New West charter petition.

On November 26, SBE and CDE staffs will meet with both parties one last time to attempt to reach a compromise that will be acceptable to the LAUSD governing board and the New West

petitioners. We will provide an update at the December SBE meeting on our findings and recommendations based on the outcome of the November 26 meeting.

**Finding 1: The New West charter may present an unsound educational program as it relates to students who may be eligible for special education services.**

Our original analysis of this petition identified two areas of concern which remain valid based on our review of the October 7 petition: (1) the education program is not sufficiently specific and, in fact, has yet to be developed, and (2) there is a lack of description about how special education students and others with special needs would be served. While the petition provides considerable detail about the proposed charter's educational philosophy, program goals, and subject offerings, the specific curriculum, instructional materials, instructional methods and measurable student outcomes are not described. The charter only describes a process to develop the curriculum and outcomes. This is troublesome considering that the petitioners have had over one and a half years to develop the curriculum and have received planning grants from both CDE and the Walton Foundation. If the SBE approves this petition, we recommend that as a condition of approval New West be required to submit for joint SBE/SSPI review and approval a detailed educational program, including specific and measurable student outcomes, course offerings by grade level, instructional materials to be used, and interim measures of student achievement where there are not enough students to generate an API.

Regarding the lack of description about how special education students will be served, our original analysis on the petition described concerns that while special education students were referenced in the petition, there was a lack of explanation of *how* students with disabilities will be served in the general education program; the supplementary aides and services available to support students; and the lack of a continuum of services and program options for students with disabilities. This was of particular concern because New West wanted to be its own LEA. Now New West wants to be considered as a public school within LAUSD for purposes of participating in the LAUSD SELPA. To date, the petition only partially satisfies LAUSD requirements for participation in the SELPA. If the SBE approves this petition, we recommend that, as a condition of approval, New West be required to provide written verification of participation in a SELPA just as the other SBE-approved charters have been required to do.

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

Based on the information provided with the petition as originally submitted, we had strong concerns regarding the fiscal viability of the charter and could not conclude that the petitioners would be likely to succeed in implementing the program. The petitioners have provided a new business plan with the October 7 version of the petition that separates out the “core budget” from the “supplemental enrichment budget” as we recommended. Although, the revised budget projection indicates a fund balance of \$66,985 in year 1, we found that the charter will end year 1 with a deficit of \$413,015 (including a 5% reserve of \$108,380) because the budget includes a \$280,000 line of credit and a \$200,000 loan from the State Charter School Revolving Fund which the petitioners have not yet secured and are not guaranteed. In addition to this deficit, we had previously identified other problems with the budget which are still of concern. Specifically:

- Revenues are overstated to the extent that the petitioners receive less than requested in grant funding - The budget projection assumes that the charter will receive a \$250,000 implementation grant from the California Department of Education (CDE).

Implementation grants provided by the CDE are competitive and there is no guarantee that New West will be awarded a grant.

- Expenditures are understated by \$24,300 - The petition (page 11) indicates that the charter will employ 9 instructional aides for 2002-03. The budget projection only provides for 6.75 instructional aides for 2002-03, understating the budget by \$24,300. Furthermore, the petition indicates that the charter will employ 14 instructional aides for 2003-04, and 18 instructional aides for 2004-05 and thereafter. Again, the budget only provides 10.8 instructional aides for 2003-04 (understated by \$34,398), and 14.2 instructional aides for 2004-05 (understated by \$40,722).
- The enrollment projections for each grade level identified in the petition (page 16) differ from the enrollment projections used in the budget. Although the enrollment for each year agrees in total, the number of pupils projected for each grade level is different. This difference may alter the number of classes and teachers needed to satisfy each grade level.
- It is unclear whether or not the budget includes costs for the annual financial audit. The petition (page 69) states that the audit will be conducted at the same time as LAUSD's audit. Budgeted expenditures may be understated by the costs associated with the audit.
- It is unclear whether or not the budget includes costs for payroll processing. The petition (page 95) states that these services may be contracted on a fee for service basis with LAUSD or another source. Budgeted expenditures may be understated by the costs associated with payroll processing.
- Facilities costs represent a significant portion of the charter's budget. Facility costs are 30% of expenditures in year 1, 20% of expenditures in year 2, and 26% of expenditures in year 3. High facilities costs may threaten the education program.
- The budget does not include a 1% set aside for the costs of supervisory oversight by the chartering entity.

If the SBE approves this charter petition, we recommend that, as a condition of approval, New West be required to submit, for review and approval by the SBE/SSPI, a revised budget with the educational plan that addresses the concerns noted above and that reflects only those loans, grants and lines of credit which the petitioners have in hand.

**Finding 3: The New West 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 A: A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an "educated person" in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.*

Concerns regarding the educational program are described in Finding 1. Of particular concern are the lack of detail regarding the educational program and the lack of explanation of how students with disabilities will be served in the general education program; the supplementary aides and services available to support students; and the lack of a continuum of services and program options for student with disabilities.

***Element B: The measurable pupil outcomes identified for use by the charter school. "Pupil Outcomes," for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program.***

Our original findings regarding this element remain the same. The measurable pupil outcomes are equated with the standards for graduation from eighth grade at New West. They "shall include competency in the school's academically rigorous core curriculum that shall be aligned to the state content standards for reading and language arts, mathematics, science, and history and social science..." The outcomes are proposed in three broad categories: academic excellence (critical thinking and core academics); character development (personal qualities); and lifelong learning (interpersonal skills and life skills) (pages 44-46).

The outcomes tend to be general and may be more accurately described as goals. Two examples illustrate this aspect:

Reading and Language Arts: Students will demonstrate mastery in reading, writing, listening, speaking and presentation skills, in multiple forms of expression, with communication skills appropriate to the setting and audience; and will comprehend and critically interpret multiple forms of expression, including literature from various time periods and cultures.

Caring: Students will show they care by being kind, compassionate, expressing gratitude, forgiving others and helping people in need.

The content outcome noted above for reading and language arts is more general than state standards in this area and the outcome for personal qualities is subjective. These statements do not provide sufficient detail about the level of desired performance in order to assess student progress easily and are not stated in measurable terms. Our recommendation under Finding 1 that New West be required to submit a detailed educational plan should include details on specific measurable outcomes.

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

The charter states that the school will establish itself as a nonprofit organization. The petition provides that the governance council and its officers include employees of the school as voting members. Although the charter specifies that board members will abstain from voting on issues that benefit themselves financially, the appearance of impropriety is strong. Also, the provisions of the *Government Code* relative to conflict of interest would apply to the extent that decisions made by the Governance Council members who are in a conflict situation would be void. If the SBE approves the charter, we recommend as a condition of approval that employees of the school be removed from the governing body. The SBE has previously required the Ridgecrest Charter School to remove employees from the governing board.

The petition of October 7 allows LAUSD to appoint a member to the Governance Council, but the member would be a non-voting one. We recommend that if the SBE approves this charter, New West be required to specify that the SBE appointee shall be a voting member of the governing body.

***Element H: Admission requirements, if applicable***

The petition has limited the set aside for founding families to 10% of enrollment which would mean about 30 founders in the first year, 45 in the following year and 60 founders each year thereafter would be given preference for enrollment. The petitioners have indicated verbally that they could provide more information on the anticipated number of founder's children by grade level and year. We recommend that the petitioners provide this information.

The charter also appears to convey to founders such status for as long as they have children of any age. Page 18 of the charter states that "Founders who have met all requirements of the Founder's Agreement prior to the 2002-03 classes shall retain preference for their children until the youngest child graduates from 8<sup>th</sup> grade." This seems like an excessively long time to be receiving preferential status. We recommend that founder status only apply to those founders' children who are currently eligible to attend the school. Siblings of children currently enrolled already have admissions preference.

The petition does set aside up to 30% of enrollment slots for students participating in the LAUSD voluntary desegregation transportation program (Permit With Transportation students) and provides for recruitment efforts.

***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***

Language regarding dispute resolution procedures in the October 7 charter petition (page 78) specifies how charter language and the charter school law should be construed in the event of a dispute. We recommend that the first paragraph on page 78 under the dispute resolution process be deleted because it may bind the SBE to interpretations of law which it does not wish to assume.

We also recommend that New West describe a dispute resolution process that: (1) acknowledges that the SBE may include any specific provisions it deems necessary and appropriate; (2) describes how the costs of the process, if any, would be funded; (3) recognizes that because the SBE is not a local education agency, it may choose to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter; and (4) acknowledges the right of the SBE, at its discretion, to take other appropriate action in accordance with *Education Code* Section 47604.5 and any pertinent regulations.

**Summary and Recommendation**

The CDE had previously noted several areas of concern which have not been adequately addressed, and therefore, remain problematic in this petition. Based on concerns raised in Findings 1, 2 and 3 above, we conclude that the SBE has sufficient justification to deny the petitioner's request to approve the New West charter. At a minimum, we believe that the petition

## Attachment 1

would need further clarification or revision before this school could be operational. In addition to the above findings and recommendations, we recommend that the charter be revised to reflect the SBE as the chartering entity. We are also developing a list of changes we believe need to be made to the charter language if the SBE is the chartering entity because the current language is restrictive or imposes requirements and interpretations that the SBE may not accept, or does not make technical sense. We will provide the SBE with this list of recommended language modifications as well as an update on our findings and recommendations (based on the November 26 meeting with LAUSD and New West) at the SBE meeting.

### Conclusion

The SBE has three options related to this charter:

- 1) Approve the charter petition. If the SBE approves the charter, the charter will be authorized to operate 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 in Los Angeles County.

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

1. Revise the charter and supporting documents to address the findings, comments and recommendations identified in this report.
2. Complete development of the educational program and measurable objectives and submit a detailed plan, including a balanced budget, by June 1, 2002 for joint review and approval by the SBE and SSPI.
3. Provide written verification that the school has been accepted for inclusion in a SELPA.
4. Agree to the scope of oversight and reporting activities, including, but not limited to, adequacy and safety of facilities, as contained in the document entitled *State Board of Education-Approved Charter Schools: Expectations for Oversight and Supervision*.
5. Provide documentation of adequate insurance coverage, including liability insurance, which shall be based on the type and amount of insurance coverage maintained in similar settings.
6. Submit the attendance accounting system to be used by the school for review and approval by the CDE School Fiscal Services Division one month prior to the opening of school.

Finally, if the New West charter is approved, we recommend that the SBE assign a charter number to New West.

- 2) Deny the charter petition. If the SBE denies the petition, the petitioners are not authorized to operate. However, 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.

## Attachment 1

- 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.