

SOLANO COUNTY BOARD OF EDUCATION
5100 Business Center Drive
Fairfield, California

MINUTES

Special Meeting – DMCS Appeal
August 25, 2009

The Solano County Board of Education met in special session on Tuesday, August 25, 2009, at 5100 Business Center Drive in Fairfield, California.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE TO THE FLAG

Board President John Galvan called the meeting to order at 9:03 AM. Mrs. Bates, Trustee Area 4, led those present in the Pledge of Allegiance to the flag.

II. ROLL CALL

Members Present

John Galvan, President
Larry Asera, Vice President (*arrived 9:08 AM*)
Mayrene Bates
Doug Ford
Raymond Silva
Rozzana Verder-Aliga

Members Absent

Maria Kennedy

Mr. Galvan noted that a quorum was present as was Solano County Superintendent of Schools Dee Alarcón, serving as Secretary to the Board.

Others Present

County Superintendent of Schools Office –

Rob Phillips
Lettie Allen
Lisette Estrella-Henderson

Jay Speck
Laryn Bishop
Sam Neustadt

Steve Ramos
Sheldon Reber

Margaret Merchat, School & College Legal Services
Roger Halberg, Dixon Unified School District
Jim Ernst, Dixon Unified School District
Scott Hill, Dixon Montessori Charter School
Jose Setka, Community Member
K.C. Baltz, Community Member
Matt Randall, Community Member
Chris McGuire, Community Member
Dennis Gomes, Community Member
Ryan Chalk, *The Reporter*
Other members of the community

III. APPROVAL AND ADOPTION OF AGENDA

Motion was made by Mrs. Bates, seconded by Mr. Silva, and unanimously carried by those Board members present to approve and adopt the agenda as presented.

IV. ADMINISTRATIVE REVIEW PANEL REPORT AND POSSIBLE ACTION ON CHARTER SCHOOL PETITION

On July 30, 2009, the County Board of Education conducted a public hearing of a charter school appeal. The petition filed on behalf of the Dixon Montessori Charter School (DMCS) was the same proposal presented to the Dixon Unified School District (DUSD) on May 7, 2009, and denied on June 25, 2009.

An Administrative Review Panel of the Solano County Office of Education (SCOE) evaluated the charter school petition and appeal submitted by DMCS to the County Board on July 1, 2009, as well as additional information submitted by the petitioner on July 30th. The purpose of the review was to determine if the petition met legal requirements. Prior to the Panel presenting its findings and making a recommendation for the Board's consideration and possible action, Mr. Galvan called upon those members of the public who requested to address the Board.

Jose Setka stated he is a supporter of DMCS. He asked the Board not to question whether the charter is a matter of good vs. bad, but rather to consider that charters need to exist to provide educational choice and diversity. He does not feel there is anything wrong with the Dixon Unified School District, but he believes that communities benefit from diversity, and it has made Dixon stronger. He requested that the Board take quick action so DMCS can move on to the next step.

K.C. Baltz said he is also a supporter of DMCS. Several members of his family are students at DMCS, and he looks favorably on it from a parent's perspective. He feels it is a good addition to the district and complements the district schools.

Matt Randall is a parent who feels DMCS has been an important benefit to his family. His child started school in a traditional classroom, but the child's grades have improved since being in the remarkable environment at DMCS.

Chris McGuire, also a DMCS supporter, said the school works tremendously well for many Dixon families, and he hopes the Board will view the charter positively in today's vote.

Rob Phillips, Associate Superintendent of Student Programs and Educational Services, said the Administrative Review Panel, at the Board's direction, had analyzed the 48 pages of information submitted by DMCS on July 30, 2009, and added its findings to the initial report. A revised report has been distributed to the Board, Dixon USD, and Mr. Hill, the petitioner, for review with the new information indicated on blue pages. Since the initial findings were already presented at July's Special Board Meeting, today the Panel will only present its findings on the new information followed by a recommendation.

In the area of special education, the new information did not fundamentally change the findings presented by Sam Neustadt, Assistant Superintendent of SELPA, at July's meeting.

Regarding the area of academic achievement, the new information did not fundamentally change the findings presented in July; however, since that time, the California Department of Education (CDE) published assessment results from the Standardized Testing and Reporting (STAR) test, but these have not been included in the report because it was not part of the documentation presented to DUSD in the original petition. Academic Performance Index (API) results are expected to be released by CDE in early September. As a point of clarification, Mr. Phillips stated that SCOE cannot ask the petitioner to provide more information for our review, but the SBE has the authority to do that and may decide to consider test scores as part of its review.

Of the 17 legal areas of concern presented in July by Margaret Merchat, General Counsel for School and College Legal Services, none were addressed in the newly submitted information.

The majority of the new information pertained to financial matters and was addressed by Lettie Allen, Associate Superintendent of Administrative Services and Operations. A copy of the submitted documents is included in the Panel's written report and contained DMCS's rebuttal to DUSD's denial of the charter as well as e-mail correspondence between DUSD and DMCS. Mrs. Allen focused on DMCS's ability to be fiscally viable. In the initial petition, DMCS did not provide a budget for the 2009-10 academic year, projections, or a cash flow statement. Education Code requires this information to be provided along with facilities and administrative services information. The Panel's review looked at projected enrollment, average daily attendance (ADA), staffing requirements, and the costs associated with staffing, operations, securing and operating a facility, administrative services, and providing special education services to students. The district and DMCS concur on estimations of 200 ADA with 95% attendance and approximately 10 teachers. Figures for teachers' assistants were not included because these positions were eliminated in the budget developed by DUSD in order to balance the charter's proposed budget; however, teachers' assistants are included in the petition. The charter assumes it would continue to use facilities at the former Silveyville school site.

Of greatest concern is DMCS's ability to provide for its cash needs. The charter needs a plan to manage this and control how revenues come in and expenditures go out.

Mr. Phillips pointed to the Panel's recommendation on page 32A of the report. After its review of the original and additional information, it is recommended that the Board deny the petition and adopt a resolution prepared by attorney Margaret Merchat. (Attachment A)

Mr. Ford questioned if the Board could simply vote to deny or approve the charter rather than adopt a lengthy resolution containing multiple points that the members had not reviewed and could contain points with which they did not agree.

Ms. Merchat stated that Education Code requires that the Board adopt a resolution containing the findings and facts in the areas of special education, finance, legal, etc. The district's resolution was also similar when it denied the charter because the state needs more than a "no" vote. The state requires a description of the reasons why a charter was denied, as this information will be helpful as the appeal moves forward. The points contained in the resolution are a summation of the Panel's report, and there is no new information in it other than what the Board has reviewed in the report. Mr. Phillips added that the Panel was prepared to present a resolution at the meeting on July 30th, but no recommendation was made at that time due to the introduction of new information by DMCS.

Motion was made by Dr. Verder-Aliga, seconded by Mrs. Bates, and carried by the following roll call vote to deny the DMCS appeal and adopt the resolution as presented. Yea (5): Mrs. Bates, Mr. Silva, Dr. Verder-Aliga, Mr. Asera, Mr. Galvan; No (1): Mr. Ford; Abstain (0): None; Absent (1): Ms. Kennedy

V. COMMENTS FROM THE COMMUNITY

Mr. Dennis Gomes, community member, thanked the Board for its decision so DMCS can take its appeal on to the state in a timely fashion.

VI. ADJOURNMENT

There being no further business, the meeting was adjourned at 9:40 AM.

Attachment: (A) Resolution B09-10-01

SOLANO COUNTY BOARD OF EDUCATION
Solano County, California

RESOLUTION NO. B09-10-01
ACTION REGARDING DIXON MONTESSORI CHARTER SCHOOL PETITION APPEAL

WHEREAS, the Solano County Board of Education (Board) received a Petition on or about July 1, 2009, from the Dixon Montessori Charter School (DMCS). This Petition is an appeal of the action by the Dixon Unified School District Board (DUSDB) on June 25, 2009 to deny the Renewal Petition; and

WHEREAS, DMCS and the Board agreed to hold a public hearing on July 30, 2009, and in fact a public hearing was held on that date; and

WHEREAS, the Solano County Board of Education undertook an independent and extensive review of the Petition for Approval of Charter Renewal Submitted July 1, 2009 and all documents attached to the Petition, (eighty nine pages (89)) including the Charter Renewal Submitted to Dixon Unified School District May 7, 2009 and the Resolution of the Governing Board of the Dixon Unified School District denying Dixon Charter School's Petition Renewal. The review was not limited to the reasons of the Dixon Unified School District for denial.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees of the Solano County Office of Education makes the following findings:

1. The Petition fails to meet performance criteria required under Education Code (EC) Section 47607 (b) for renewal based on a multi-year analysis review:
 - a. DMCS failed to meet its Academic Performance Index (API) growth target in the prior year and in two of the last three years or in the aggregate for the prior three years. Two years of API data are available for DMCS. DMCS's Base API for 2007 was 738, DMCS's growth target was 743. DMCS's Base API for 2008 was 695, a decline of 43 points.
 - b. DMCS did not rank in deciles 4 to 10 on the API in the prior year or in two of the last three years. In 2008, DMCS ranked in decile 2. In 2007, DMCS ranked in decile 4.
 - c. DMCS did not rank in deciles 4 to 10 on the API for a demographically comparable school in the prior year or in two of the last three years.
 - d. Available data does not support a determination that DMCS's academic performance is at least equal to the academic performance of schools DMCS students would otherwise attend in the District.
 - i. For 2008, when compared to District schools, DMCS's Adequate Yearly Progress (AYP) Marker in English and Language Arts ("ELA") was substantially lower (26.9 and 16 points) than District schools in the *White* and *School/LEA Wide* categories, slightly lower (4.2 points) in the *Hispanic/Latino* category, and slightly higher in the *Target* and *English Learner* categories. For 2007, DMCS's AYP Progress Marker in ELA was substantially lower (12.3 points) in the *Hispanic/Latino* category, slightly lower (1.5 and 3 points) in the *School/LEA Wide* and *White* categories,

and slightly higher (1.4) in the *Target* category. For 2008, DMCS's AYP Progress Marker in Math was substantially lower (18.2 and 9.1 points) than District schools in the *White* and *School/LEA Wide* categories, slightly lower (6.9 and 4 points) in the *Hispanic/Latino* and *English Learner* categories, and slightly higher (2.4 points) in the *Target* category. For 2007, DMCS's AYP Progress Marker in Math was substantially lower (16.9, 27.4, and 19.6 points) than District schools in the *Hispanic/Latino*, *White*, and *School/LEA Wide* categories and slightly higher (2.8 points) in the *Target* category.

- ii. For 2008, the percentages of students at DMCS scoring proficient or above on the California Standards Tests (CSTs) in Math and English were substantially lower (ranging from 9 to 16 points) than the percentages in District schools at all three grade levels (2nd, 3rd and 5th) for which comparable data was available, with the exception of Math at the 2nd grade level where DMCS's percentage was two points higher than the District's. For 2007, the percentages of students at DMCS scoring proficient or above on the CSTs in Math and English were substantially lower (43 and 8 points) than the percentages in Districts schools at the 4th grade level and substantially higher (11 points) in English but substantially lower (17 points) in Math at the 2nd grade level. It is notable that the DMCS's 11 point margin higher than the District in English at the 2nd grade level in 2007 became a 9 point deficit in comparison to the District in English at the 3rd grade level in 2008, showing a comparative decline in the subgroup of DMCS students of 20 percentage points from 2007 to 2008.
 - iii. DMCS's API for Base API for 2008 of 695 was substantially lower than the API of 760 at Higgins Elementary School and 771 at Tremont Elementary School in the District. The percentages of DMCS 3rd grade students meeting proficiency on the CSTs in Math and ELA and on CAT/6 in math and reading are all lower than the comparable performances of 3rd grade students at Higgins Elementary School and Tremont Elementary School.
2. The Petition fails to present a sound educational program for pupils to be enrolled in the charter school (CCR 5 Section 11967.5, subd. (c)):
 - a. DMCS does not have a sufficient or coherent instructional approach to address California content standards and to meet desired measurable pupil outcomes. Such insufficiency is demonstrated by findings 1.a-d inclusive. In addition, during 2005-06, documentation showed that operation of the DMCS curriculum and instruction to standards was inconsistent and sporadic. During 2006-07, DMCS staff was required to give greater attention to standards and follow trimester timelines. DMCS staff continued to struggle to deliver standards-based instruction. The lack of appropriate materials was cited as the cause. DMCS then introduced the use of Albanesi and SRA materials. During 2007-08 it was determined that the Albanesi materials did not produce the expected academic results and in many cases the materials were not in alignment with state standards. DMCS also did not have a consistent assessment structure to align instruction to California standards as required by law.

- b. Although Petitioners have stated that DMCS staff kept detailed records of what standards each child had mastered, District reviewers have found no consistent evidence of what specific standards DMCS students have mastered. In response to a written request from the District, the Petitioners submitted responses regarding teacher activities that, except for grades K-1, were not specifically aligned to grade level standards.
- c. DMCS staff members are not consistently teaching to California grade level standards in a systematic and organized manner. The Petition also does not demonstrate that state standards are sufficiently integrated into instruction at each grade level. The Petition frequently refers to state standards and assessments, and to materials oriented toward state standards and assessments, as supplemental rather than fully integrated to the instructional approach.
- d. As noted above, from 2005 to the present, the DMCS instructional program does not demonstrate consistent standards-based instruction as required by law.
- e. Although the Petition contains elements for a compliant program for English Learners (“EL”), DMCS’s provision of English Language Development and Access to the core curriculum is not evident. The reviewed documentation does not demonstrate what DMCS has provided from 2006 to present as a comprehensive program for English Learners that is compliant with federal and state requirements.
 - i. The Petition does not address the following:
 - How EL students will be provided a program of instruction in English language development (ELD) in order to develop proficiency in English as rapidly and effectively as possible. (20 USC 1703[f], 6824[c][1][A]; EC §300, 305, 306, 310; 5 CCR 11302[a]; Castaneda v. Pickard [5th Cir. 1981] 648 F.2d 989, 1009-1011)
 - How EL students will be reclassified and a process for how they will be monitored after they have been reclassified
 - How it will implement a process and criteria to determine the effectiveness of its instructional programs for ELs, including a way to demonstrate that the instructional program for ELs produces within a reasonable period of time.
 - It includes no provision for daily instruction in English Language Acquisition as required by law.
 - The Petition does not clarify whether all staff have sufficient authorizations such as CLAD or SDAI to work with English Language Learners.
- f. There is no indication that teachers currently meet the requirements of No Child Left Behind (NCLB), which is required by law. Also, there is no indication that the

non-certificated staff who are hired as instructional assistants or “assistant teachers” meet the relevant NCLB requirements.

- g. Petition fails to specify whether teachers at the 7-8 grade level will have multiple subject or single subject credentials. In addition, employment rights for any of the staff are not defined clearly.
 - h. Petition fails to identify any requirement that the Principal have an education credential of any type. This is a serious concern because of the Principal's role as educational leader and because of School's inability to meet academic goals and fiscal reporting requirements over the last three years.
 - i. The Petition describes a program with small class sizes but the budget does not support such a program:
 - The Petition describes how “the school prioritizes its attention and resources on offering very small class sizes.” It describes how each classroom has no more than 24 students, and “each teacher has a half-time aide making the real student-adult ration for classrooms approximately 15:1.” It is apparent that the use of instructional support staff is an integral part of how the school will provide for small group instruction. However, the review of the DMCS budget submitted outside of the Petition indicates a substantial decrease in classified instructional staff. As a result, DMCS will not be able to sustain the instructional program described in the Petition that is dependent on this small student-adult ratio.
3. The Petition is demonstrably unlikely to successfully implement the program set forth in the Petitions. (EC §47605, subd. (b)(2))
- a. The DMCS Board of Directors has not governed DMCS consistently in accordance with the by-laws and/or sound governance procedures. The record indicates numerous apparent instances of unapproved or unposted Board agendas and Board minutes, Brown Act violations, lack of approval of DMCS budgets, commingling of Parent Teacher Organization and Board funds, development of program components such as preschool that are not authorized by the Charter, and contracting with an interested Director in apparent violation of the Political Reform Act.
 - b. DMCS has not demonstrated adequate administrative and financial expertise to implement its program. The District has provided administrative duties, including budgeting and financial reporting, that extend beyond the District's responsibilities under the MOU and that should be responsibilities of DMCS. DMCS has not performed personnel obligations that are a DMCS obligation under the MOU, including maintenance of personnel files. DMCS has not notified the County Superintendent of Schools of funds directly receive annually as required under Education Code Section 47651(b).
 - c. DMCS has not met annual financial reporting requirements pursuant to Education Code Section 47604.33. DMCS provided no documentation for its financial reports for 2004-05 and 2005-06 and only partial documentation/reports

for fiscal years 2006-07, 2007-08, and 2008-09. For 2006-07, DMCS provided only a preliminary budget and adopted budget but no interim reports or final unaudited report. For 2007-08, DMCS provided only an estimated financial statement but no preliminary or adopted budget, interim reports, or final unaudited reports. For 2008-09, DMCS provided first and second interim reports but no preliminary and adopted budgets.

- d. The Petition identifies the Principal as the responsible person for administering the school, including meeting with the District chief financial officer (CFO) regarding oversight issues, providing legally required financial reports to the Board, developing and administering the budget, and presenting financial reports to the Board. The Petition's qualifications for the Principal, however, do not provide for required understanding of school business practices, including financial accounting.
- e. Based on previously submitted information not contained in the Petition, the DMCS multi-year projection indicates deficit spending in the 2010-11 and 2011-12 fiscal years. The DMCS multi-year projection identifies a negative ending fund balance by 2011-12. If DMCS had a negative ending fund balance at first interim it would be comparable to a district's qualified budget status. The Petition does not indicate designation of a fiscally-responsible level of reserves.
- f. As referenced above, although the Petition describes how DMCS will attempt to address state content standards, past instructional practices and student performance to date do not demonstrate consistent instructional methods to address state standards. Moreover, the Petition often addresses state standards and assessments as supplemental to the Montessori curriculum rather than as fully integrated and central to the instructional approach.
- g. Petition fails to provide critical financial information (EC §47605 (g)):
 - i. Petitioners failed to provide financial statements, cash-flow projections, and financial projections for three years of operation. A budget for the Dixon Montessori Charter was not included for 2009-10. In addition, a cash-flow or financial projections for the first three years of operation (should the appeal be approved) were not included. Assumptions were not provided that allow Solano County Office of Education to assess the Charter's ability to meet its obligations for the current year and two subsequent years. As a result, the following concerns regarding the fiscal operations of the Charter and its ability to be successful are noted:
 - No revenue assumptions are provided. The Petition indicates enrollment information for prior years but no information is provided on enrollment or attendance projections. Revenues are not identified by source (federal, state, or local).
 - No expenditure assumptions are provided. The Petition identifies staff hired in previous years but does not include the number of certificated or classified staff for the 2009-10 fiscal year and the cost information for those salaries or benefits.

- The Petition does not identify the costs of administrative, human resource, or fiscal services to be secured, nor by whom or how the services will be specifically provided which were previously provided by Dixon USD.
 - The Petition does not identify the cost of securing special education services or cost of potential special education encroachment that might be assessed to the Charter by the specific Special Education Local Plan Area (SELPA) it contracts with for services.
 - No expenditure assumptions are provided for other costs including reasonably expected legal services and the costs of securing property and liability insurances.
 - The facilities to be utilized by the school are not identified and the potential cost of securing and operating those facilities are not known.
 - No cash-flow was provided. According to the Solano County Treasurer, the Charter School ended the 2008-09 year with approximately a negative \$46,000 cash balance. At minimum, the Charter School needs to identify how it will manage its cash-flow and support its obligations. Given the increase in state revenue deferrals, this is a critical operational issue that is not addressed.
 - The Charter did not provide multi-year financial projections for the current year (2009-10) and subsequent two years, however, the information provided in the Dixon USD 2009-10 budget document included a 2009-10 adopted budget for the Charter School (Fund 09) and a multi-year projection through 2011-12. It is understood that this budget was presented to the Charter School Board prior to the inclusion in the Dixon budget document.
 - The 2009-2010 Charter School budget was developed by Dixon USD based on assumptions should the District approve the Charter School Renewal Petition. While the budget projected that the Charter School would end the 2009-10 year with a positive fund balance and the required state reserve, it projected that the Charter would deficit spend in 2010-11 and 2011-12. The 2010-11 budget did not project the required reserve and in 2011-12 the Charter was projected to have a negative fund balance.
 - The 2009-10 adopted budget for the Dixon Montessori Charter School provided by the Dixon USD assumes the elimination of instructional assistants for a savings of approximately \$120,000. According to the Petition, the use of instructional assistants (also called teacher assistants) is an important component of the instructional program with each teacher having a half-time aide (page 13 of Petition).
- ii. The Petition includes no budget provisions for staff development.
- iii. There Petition does not include financial provisions for facilities.
- iv. The Petition references an extended day program that is “self sufficient” in operation. Because there is no budget submitted for the existing Charter School, it is hard to determine if in fact the extended day program is in fact

self sufficient and does not draw upon public dollars that are to be allocated for the regular school program.

- v. Petition does not include a three year fiscal plan as required by County Board Policy (Policy #9000.21, part 4).
 - vi. Petition indicates intent to participate in the State Teachers' Retirement System (STRS) and Public Employees' Retirement System (PERS) (page 61). Because there is no budget, it is not clear whether DMCS has sufficient funds to meet criteria in the area of compensation and benefits.
 - vii. Petition does not include any budget details for administrative "back-office" services, including financial management, payroll, and budget development. It is impossible to determine whether or not DMCS has allocated sufficient funds for these tasks or that it even has the funds to pay for these operations.
 - viii. The absence of financial statements and projections is critical in that the County Board cannot determine the economic viability of this program and whether Petitioners have taken into account the economic issues that face all public school agencies and the potential costs involved in operating this program.
- h. The Petition that was submitted to the County Board does not address how special education services will be addressed and funded under the current SELPA system by/through the Solano County Office of Education. Because these issues are not adequately addressed in the Petition, required special education services may not be in place for the start of school.
4. The Petition fails to meet Charter School Signature requirements (EC §47605 (a)(1)(A) and County Board Policy section 9000.21.A.4(a)) that requires that the Charter School submit copies of those signatures and fails to meet jurisdictional issues for establishing the Charter.
- a. Petitioners did not submit any signatures to the County Board of Education, and did not submit those signatures to the Dixon Unified School District.
5. The Petition does not contain reasonably comprehensive descriptions of all of the criteria set forth in Education Code Section 47605 (b)(5)(A)-(Q).
- a. A sound educational program that is likely to be of educational benefit to students (EC §47605 (b)(5)(A); CCR 5 Section 11967.5.1, subd. (f)(1)(A)) in that the Petition does not demonstrate full integration of state standards and assessments in the instructional program at each grade level. This is of particular concern in light of past performance.
 - b. A plan to educate English Language Learner students. (CCR 5 Section 11967.5.1, subd. (f)(1)(G)):
 - i. As referenced above, although the Petition contains elements for a compliant program for English Learners, DMCS's provision of English

language development and access to the core curriculum have not been evident. There is not clear evidence of what DMCS has provided from 2006 to present as a comprehensive program for English Learners that is compliant with federal and state requirements.

- c. Measurable pupil outcomes and methods for measuring pupil outcomes (EC §47605 (b)(5)(B) and (C), CCR 5 Section 11967.5.1, subd. (f)(2) and (3)):
 - i. As referenced above, past instructional practices and student performance have not demonstrated sufficient and consistent alignment of curriculum to state standards and assessments. The Petition does not demonstrate full integration of state standards and assessments in the instructional program at each grade level.

- d. Employee qualifications (EC §47605 (b)(5)(E) and (C), CCR 5 Section 11967.5.1, subd. (f)(5)):

The Petition does not adequately describe support staff roles, including the roles of Master Teachers that would appear to be key staff positions and are calculated in the teacher-student ratios. The Petition does not provide specific requirements for non-core teachers and does not identify any certification requirements for the Principal, noting that none are required by law.

- e. Health and safety procedures (EC §47605 (b)(5)(F) and (C), CCR 5 Section 11967.5, subd. (f)(6)):

The Petition does not provide processes for staff training on emergency and first aid response. The Petition does not indicate compliance with the requirement that school personnel responsible for emergency medication must have current CPR certification. (EC §49414 (e)(2)(D).)

- f. A student admissions policy that complies with the requirements of Education Code Section 47605 (D), and other provisions of applicable law. (CCR 5 Section 119767.5.1, subd. (f)(8).):

- i. The Petition does not specify procedures for public random drawings in the event demand exceeds capacity.
- ii. The Petition does not indicate how “capacity” is determined. Petitioners note the negative effect that the school’s sudden growth had on the school’s academic performance, yet they fail to address that concern with any description of the School’s capacity limitations for the future.
- iii. Charter School has a complex admission process and does not include a copy of an application form. Application elements such as the 40 hours of parent involvement in school activities and the requirement that applicants include all copies of IEPs and student study team evaluations may be unduly restrictive and possibly illegal unless DMCS policies are more specific with respect to how parents might meet those requirements and how the requirements will not be implemented in a discriminatory fashion.

- iv. The admission process requires a commitment to at least 40 volunteer hours from parents for admission. This may be a violation of the prohibition against charging tuition in Education Code Section 47605 (d)(1), as well as the California Constitution's guarantee of free public schools (California Constitution Article IX, Section 5; *Hartzell v. Connell* (1984) 35 Cal.3d 899). Requiring a parent to work at the school as a condition of admission amounts to requiring value to be delivered to the school. By requiring this service in conjunction with an application, the Charter School policy may also serve to discourage families that are unable or unwilling to provide service from applying. As stated in *Hartzell*, "In guaranteeing 'free' public school, article IX section 5 fixes the precise extent of the financial burden which may be imposed on the right to an education – none."
- g. Only minimal attention is given in the Petition to the role of parent participation. The Petition briefly describes a Charter School Advisory Council to encourage parent participation, but is insufficiently specific about its role, its participation level, and whether the council complies with the Brown Act.
- h. Financial statements that include a viable proposed first-year operational budget, including cash-flow and financial projections for the first three years of operation (EC §47605 (g), CCR 5 Section 11967.5.1, subd. (b)(3)):
 - i. The present Petition contains no financial statements, no operational budget and no multi-year projections.
 - ii. Prior budget information indicates a multi-year projection of deficit spending in the 2010-11 and 2011-12 fiscal years. The DMCS multi-year projection identifies a negative ending fund balance by 2011-12.
- i. Petition failed to identify a proposed site or sites for the Charter School. (EC §47605 (j)(1))
 - i. The Petitioners do not identify in their Petition a proposed site for operation, nor do they provide any details regarding site requirements, such as numbers of classrooms, numbers of bathrooms, food service areas, multi-purpose type rooms, play area, etc. Also, the Petition does not indicate if and how much money has been set aside for facilities.
- j. The Petition fails to adequately describe a governance structure that meets the requirements of EC §47605 (5)(B).
 - i. The Petition describes a Corporate Board (page 57) that may delegate all responsibilities other than employment, dismissal, and approval of budget provisions over \$25,000 to another person or another entity. This deprives the County Board and County Office of Education of the capacity to exercise appropriate oversight in the form of being able to readily identify individuals responsible for specific tasks and to determine if those individuals have sufficient training. The board is also given the right to delegate or contract out the position of the Charter School Principal, the

school's most essential employee in ensuring the quality of the overall operation of the Charter.

- ii. Page 57 of the Petition gives the Corporate Board the capacity to delegate responsibility for modification of Board Bylaws to an employee or contractor of the Charter School without appropriate oversight by the County Board. The Petition's description of the Corporate Board lacks specifics about the number of Board members and term of office. The Petition includes a provision that requires 2/3 of the Corporate Board to authorize a special or emergency meeting (a standard that exceeds the requirements of the Brown Act) and this may be too cumbersome to allow the Charter to respond effectively to special operational needs.
 - iii. The Petition itself does not specify the governance structure but instead relies on reference to the corporate bylaws.
- k. The Petition includes Closure protocols (page 84) that do not ensure that public dollars stay in public hands.
- i. The closure protocols do not require that the school's residual assets be given to a public school agency. The bylaws also provide that residual assets would become the assets of the corporation upon closure of the school. Upon closure the corporation does not have any legal right to access any public dollars.
- l. The Petition describes a student discipline policy that may allow for substantive changes without authorization from the sponsoring district/county office.
- i. The Petition allows discipline policies to be amended without the need to amend the Charter. This prevents appropriate oversight by the sponsoring district or county office. Page 72 of the Petition also refers to "alternatives to student suspension and expulsion" that will be attempted for students who are truant or tardy. The Petition's grounds for discipline do not list truancy or tardiness as a cause for either suspension or expulsion. The Petition further indicates (page 74) that the Board may delegate the decision to expel to some other entity or person, which would make appropriate oversight by the sponsoring district or county office potentially impractical.

THEREFORE, based on the above findings, individually and collectively, the Board makes the following conclusions in accordance with Education Code Section 47605:

1. The Charter School has failed to meet any of the performance criteria required under Education Code Section 476067 (b) for renewal.
2. The Charter School presents an unsound educational program for the pupils to be enrolled in the Charter School; and
3. The Petitioners are demonstrably unlikely to successfully implement the program set forth in the Petition; and

4. The Petition does not contain the number of signatures required by state law; and
5. The Petition does not contain reasonably comprehensive descriptions of all required elements of Education Code Section 47605.

THEREFORE, based upon the above findings and conclusions, the Board denies the Petition.

The foregoing Resolution was adopted upon motion of Trustee Verder-Aliga, seconded by Trustee Bates, at a special meeting on this 25th day of August 2009, by the following vote:

Trustee Bates	Aye
Trustee Ford	No
Trustee Silva	Aye
Trustee Verder-Aliga	Aye
Trustee Asera	Aye
Trustee Galvan	Aye
Trustee Kennedy	Absent

AYES: 5 NOES: 1 ABSENT/NOT VOTING: 1

I hereby certify the foregoing to be a full, true, and correct Resolution duly adopted by the Trustees of the Solano County Board of Education.

John Galvan, President
Solano County Board of Education

Attest:

Dee Alarcón
Secretary of the Board