

Central Academy of Arts and Technology Charter Petition

KCSOS Staff Findings and Recommendations

I. Introduction

The Kern County Superintendent of Schools received a petition from Central Academy of Arts and Technology (CAAT) Charter on September 19, 2022, upon denial of approval by the Bakersfield City School District on August 24, 2022.

II. Standards and Timetable for Review of Charter Petition Submitted to the County Board on Appeal of Denial

“If the governing board of a school district denies a petition, the petitioner may elect to submit the petition for the establishment of a charter school to the county board of education. The petitioner shall submit the petition to the county board of education within 30 days of a denial by the governing board of the school district. At the same time the petition is submitted to the county board of education, the petitioner shall also provide a copy of the petition to the school district. The county board of education shall review the petition pursuant to subdivisions (b) and (c). If the petition submitted on appeal contains new or different material terms, the county board of education shall immediately remand the petition to the governing board of the school district for reconsideration, which shall grant or deny the petition within 30 days. If the governing board of the school district denies a petition after reconsideration, the petitioner may elect to resubmit the petition for the establishment of a charter school to the county board of education.” {EC 47605(k)(1)(A)(i)}

“The county board of education shall review the appeal petition pursuant to subdivision (c). If the denial of the petition was made pursuant to paragraph (8) of subdivision (c), the county board of education shall also review the school district’s findings pursuant to paragraph (8) of subdivision (c).” {EC 47605(k)(1)(A)(ii)}

“In considering charter petitions that have been previously denied, the county board of education or SBE are not limited to a review based solely on the reasons for denial stated by the school district, but must review the charter school petition pursuant to Education Code section 47605(c).” {5 CCR Section 11967(f)}

III. KCSOS Staff Review Team

Dr. Mary Barlow, in collaboration with Dr. Lisa Gilbert, Deputy Superintendent of Instruction for KCSOS, created a team with expertise in all areas for review within the CAAT Charter Petition including, charter-specific staff, as well as business/fiscal services, curriculum/instruction, legal, governance, special education and English Language learners, and human resources.

IV. Kern County Board of Education Appeal Review Criteria {EC 47605(c):

The governing board of the school district (or county office, if on appeal) shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition setting forth specific facts to support one or more of the following findings:

- 1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.
- 2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
- 3) The petition does not contain the number of signatures required by subdivision(a) of EC 47605.
- 4) The petition does not contain an affirmation of each of the conditions described in subdivision (e).
- 5) The petition does not contain reasonably comprehensive descriptions of all of the 15 required elements.

V. Staff Findings – Based on the attached review matrix, incorporated herein.

A. The petition does not contain the number of signatures required by subdivision(a) of California EC 47605.

1. The signature of Joanna Kendrick was viewed by BCSD as problematic in that this proposed teacher is also listed as a board member. While teachers sitting on the board of a charter school are not in an illegal conflict of interest, per EC 47604.1(d), the school is intended to be operated by a nonprofit corporation, and the corporation's Conflict of Interest Code, Article VI.B. prohibits contracts where a board member has a financial interest. The board's Bylaws, Section 5, precludes a board member from being an interested person, which includes interests from employment with the school. While Ms. Kendrick can resign from the board, or not seek employment with the school, the proposal as currently described violates the nonprofit's bylaws and conflict of interest code. Staff's recommendation is to not treat this irregularity as a defect in the petition, but as something that clearly requires a "fix" if the petition is granted.
2. The signature of Kayleigh Meyers is viewed as problematic in that her credential as a teacher is reported by CTC as "expired." Staff will continue to monitor status to see if she renews the credential. While the credential was valid at the time her signature was added to the petition, it expired since that date. Applicable code and regulations indicate the KCBE should, de novo, review the sufficiency of signatures submitted with the petition. Since the KCBE is charged with evaluating the sufficiency of the signatures, the KCBE should not ignore signatures determined to be invalid. Staff's recommendation is that the KCBE treat this signature as invalid unless the credential is shown to have been

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renewed by the time of the vote. If the KCBE grants the petition there is no need to fix this signature issue.

3. Appendix F's budget documents indicate 17 teachers and 2 SPED teachers will be employed in Year 1 of the Charter for a total of 19 teachers. The budget document, on page 212 of the exhibits, shows 20 teachers getting \$1,000 each for supplies (budget item 4346). Appendix G: Teacher Signatures, includes a total of 9 signatures, including one of a SPED teacher. Even if all teacher signatures are valid, 9 signatures are not *"at least one-half of the number of teachers that the charter school estimates will be employed at the charter school during its first year of operation"* as required by EC 47605(a)(1)(B). Staff reached out to petitioners as to this irregularity, and was told the budget was revised shortly before submission, and that this mistake was not caught and corrected. Staff was advised the true intent was to have 17 teachers and one SPED teacher. Petitioners offered to make the correction or to file affidavits discussing the true intent at the time of petition submission. While it appears simple to fix this issue, the KCBE is charged with review of the same petition as denied by BCSD, and allowing this post-denial fix would violate that mandate. Additionally, based upon CDE advisement, the failure to have submitted sufficient signatures can not be waived by a county board on appeal.

B. The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.

1. As will be cited in many of the other following findings regarding the CAAT Petition, the petition, itself, often includes contradictory information about the proposed charter and reflects a petition that lacks coherence. The petition was, as least in part, duplicated from the Grimmway Charter School Petition, as evidenced by the name "Grimmway" inadvertently being cited instead of "CAAT" on page 44. In addition, in good faith effort to collaborate with the petitioners, KCSOS staff reached out to petitioners regarding the aforementioned issue about the lack of the required petition signatures. The petitioners responded that the budget provided in the petition had been neglected to be revised prior to submission to indicate the actual number of teachers to be employed in Year 1. Additionally, when asked about credentialing issues in Finding C-4 below, petitioners responded that CAAT would be recruiting teachers who hold a multiple subject and two different single subject credentials to support their educational program. This requirement is an integral part of the CAAT structure, but was not mentioned in the petition. A thorough and well-conceived charter petition should reflect accurate details and descriptions of all required aspects of a charter petition, as outlined in California Education Code Section 47605.
2. The petition presents an unsound educational program for Students with Disabilities (SWDs) for the following reasons:

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- a. IDEA Description in the petition is noted as “*not binding*” and, as such, appears to not be a description of a proposed IDEA program but only thoughts on how services might be provided. The “not binding” language is typically found where the authorizer is proposed to be the LEA responsible for providing special education services. Here, the school proposes to join a SELPA and be the LEA, such that a description that is “not binding” means the school is not providing a reasonably comprehensive description of what the school actually intends to do. Anything actually stated in the petition, being “not binding,” does not describe an actual proposal. This does not meet the requirements of the Education Code.

- b. The “School Overview” section describes the overall educational program as a “full inclusion” model, only noting that SWDs will be supported by ‘*experts in the field*’. In reviewing the “Serving Students with Disabilities” section, no further detail can be found on the specifics of SPED programming. The signature of one of two Education Specialist - SPED is provided, but the only credential held by this person is a preliminary credential, which raises doubt as to whether the charter actually can or will provide “experts in the field.” This section of the petition also mentions CAAT intends to become a member of the El Dorado **Charter SELPA**, however, the SELPA Policies and Administrative Regulations for the **El Dorado County SELPA** was provided as Appendix J (instead of the *Charter SELPA*’s regulations). In order to join the El Dorado Charter SELPA, LEAs must first attend a ‘Potential New Partner Meeting’ which was held on October 14th, 2022, via Zoom. El Dorado Charter SELPA confirmed that no representative from CAAT attended this required meeting. CAAT only has one other SELPA option to join, which would be BCSD as LEAs are assigned to SELPA’s by boundary and the proposed CAAT location would be in BCSD’s boundaries. BCSD’s SELPA Director confirmed that CAAT has yet to apply for membership. Failures to timely attend required meetings in order to join a SELPA, at the least, demonstrate they are unlikely to successfully implement their SPED program. The petition does not include any information about SPED services for high school students (other than the Local Plan of the El Dorado SELPA (wrong SELPA) such as transition planning required for all students 16 years and older (soon to be 14 yrs.) There is no mention of a Mod/Severe population and how CAAT would support these students. There is no information about how CAAT would serve deaf/hard of hearing, visually impaired, or emotionally disturbed students: only references an MOU with the SELPA. Kern County has a difficult time finding qualified service providers in these areas. The Petition also did not include information about how Interim and Initial Placements for new SWDs will be accessed and delivered.

- c. The petition does not include a description of how dually-identified (EL/SWD) students will be provided accommodations and/or designated supports for assessment.

3. The petition presents an unsound educational program for English Language Learners because:
 - a. The Reclassification Procedures for English Language Learners (Page 70) is inconsistent with Appendix I: Reclassification Overview. The description on Page 70 does not include the SBE's standardized criteria for Overall Performance Level of "4" on the ELPAC Summative Assessment. Also, the petition (Page 70) incorrectly states that reclassified students will be monitored for 2 years after reclassification instead of the required 4 years. The Petition includes contradictory information. (20 U.S.C. Section 6841(a)(4)(5); *California Code of Regulations*, Title 5, Section 11304.)
 - b. The petition component related to English Language Learners (ELLs) does not consider that ELLs may encompass more than Spanish-speaking students.

C. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition. The following items address this finding:

1. As noted in Finding B-1 above, the petitioners submitted a charter petition that has numerous omissions, inconsistencies, and contradictions. A charter petition, although not necessarily required to be flawless, should provide a solid foundation upon which the charter school will be established. It is the opinion of KCSOS staff that the CAAT Charter Petition is lacking in details to ensure that the petitioners can successfully implement a charter that would prove to be beneficial to students.
2. There is no Western Association of Schools and Colleges (WASC) Accreditation mentioned for the high school program. The Petition only notes that "*CAAT will submit courses to the University of California for A-G approval.*" EC 47605(c)(5)(A)(iii) regarding charters that serve high school pupils requires that the petition include the following: "*the manner in which the charter school will inform parents about the transferability of courses to other public high schools*" and that "*Courses offered by the charter school that are accredited by the Western Association of Schools and College may be considered transferable.*"
3. Appendix B (*A Day in the Life of a CAAT Teacher*) in the Petition states: "*Each day, CAAT teachers will have two 40-minute blocks of prep time and a 30-min lunch*" (Page 179). In Year 1 of the Budget Narrative, the charter purports to have 16 classroom teachers and one additional teacher. If the 17th teacher is a Single Subject PE teacher who teaches PE all day, that could account for one 40-min. prep. To claim ADA, {EC 46300(a) and 47612.5(e)} students must be under direct supervision of a credentialed teacher, and therefore, it is unclear how the charter will provide teachers with two 40-minute prep periods. The second 40-minute block of time is not reflected in the bell schedules in Appendix C, pages 180-181.

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4. Appendix F of the Petition is the Budget Narrative. In Year 1, CAAT plans for two classrooms per grade levels K-5 and one classroom of TK, and 6-8. In Year 2, CAAT adds 1 additional 6th grade, and 75 9th graders (3 classes). The Budget Narrative indicates that CAAT will add 4 teachers in Year 2. Page 59 outlines 9th-grade courses: History/SS, English/LA, Math, Lab Science, Language other than English, VAPA, Elective. (PE not included on required courses on Page 59, but is noted as a requirement on Page 101). Assuming that one of the 4 additional teachers in Year 2 teaches the additional 6th-grade class, that leaves 3 teachers for the 9th graders. Page 43 in the Petition states: *"In grades 7-12, science instruction is departmentalized."* Since there is no further description of how grades 9-12 will be structured, it is assumed from the description of the science program on Page 43, that all grade 9-12 subjects will be departmentalized. This structure requires that grade 9-12 teachers have Single Subject credentials. With only 3 teachers being added to serve grade 9, there is little likelihood that the charter will be able to provide the 9th-grade Course of Study as noted above. The issue is the same for Year 3 when 4 additional teachers are added to serve an additional 7th-grade class and 75 10th graders. The Year 4 budget adds 4 teachers (one additional 8th-grade class and 75 11th graders), Year 5 adds 3 additional 9-12 teachers for 75 12th graders. Considering that all 9-12 science courses require different Single Subject Credentials, in addition to the other myriad of math, language, and elective courses that would need to be provided, the charter is unlikely to successfully implement a comprehensive high school program with the staffing proposed in the Budget Narrative. If the petitioners propose to hire teachers with multiple types (two or more single subject and/or multiple subject) of credentials, they are still unlikely to successfully implement, as the nationwide teacher shortage is problematic for districts to recruit teachers with one credential, let alone two or more different credentials.
5. Appendix B: *A Day in the Life of a CAAT Student*, outlines a typical day for the TK-8 students, but does not thoroughly discuss the high school typical day. It does include the following: *"a High School student will select a mentor and externship. For up to 2 hours a day, a CAAT high school student leaves campus to participate in their externship."* Additionally, Page 15 states: *"CAAT students in grades 11-12 will participate in a minimum of one semester of an externship ..."* and that *"the Charter School's location uniquely positions students to work in various industries, within walking distance from the Charter School."* The Petition does not discuss student safety in regard to how the externships will be vetted or how students will be monitored to and from their externship sites, nor does it discuss how the externship hours will translate into credit hours, or who in the organization will establish and monitor the placements of students. Educators with experience in mentorship/externship programs understand the extraordinary amount of planning, organization and monitoring that must be provided to have effective student externships. The petition does not include any of that information.
6. Petition Pages 51-56 include an extensive listing of professional development to be provided for a myriad of instructional strategies; most of which are research-based.

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However, research has shown that, without a strategic plan to introduce, train, support, and monitor the implementation of each strategy, the chance of full implementation is greatly diminished. *“Countless studies confirm this central finding that less is more in organizations. They implore us to devote ourselves exclusively to only one or two initiatives at a time—and to stick with them until they bear fruit.”* (Schmoker, 2018). Roughly 50 days of professional development are included in the petition with a 175-day school calendar. Also, Petition Page 58 notes: *“summer months and intersession weeks to set the stage for new areas of focus for departments and grade spans”*. There is no description of how the numerous amounts of professional development will be scheduled throughout the school year. Therefore, the Petition’s description of professional development is unlikely to be successfully implemented.

7. There is conflicting information on graduation requirements for high school students. Petition Page 58 states: *“students must fulfill state graduation requirements,”* but Page 59: *“All students at CAAT will be enrolled in A-G courses.”* Minimum state graduation requirements are less than A-G required courses. Also, there are no total credits noted for graduation requirements. These issues are examples of a lack of understanding of, and planning for, the high school program.
8. The FAQ section of the CDE’s charter school website states: Question: *“Do charter schools have to offer PE?”* Answer: *“Charter schools are required to provide PE consistent with their individual charters. If the charter school does have PE included in its charter, then it is required to provide PE consistent with the charter, even if that exceeds the EC requirements for non-charter schools.”* Page 58 indicates that CAAT high school students must fulfill minimum state graduation requirements, which include two years of PE. Page 98 of the Petition lists PE for course access, but not for graduation. Page 101 states: *“A comprehensive Physical Education Program will be provided for students through the one-year requirement offered freshman year.”* The conflicting descriptions of PE requirements for high school students is another example of the lack of planning on the part of the petitioners which significantly diminishes the charter’s successful implementation of its petition. There is no discussion of what PE will look like or how it will be offered at the proposed facility.
9. The Petition discusses Response to Intervention (RtI), and a Multi-Tiered System of Support (MTSS) for academic, behavioral, social-emotional, etc. needs. The Petition includes some detail about academic interventions, but lacks development around social-emotional/behavioral supports, which are not clearly identified. Page 35 states: *“At Tier 2, teachers provide intensive small-group instruction, one-on-one support or targeted behavioral or mental health supports using validated intervention programs”*. The Petition does not include a description of “validated programs” and begs the question: should teachers be providing “mental health supports”? Without a solid plan on how RtI and MTSS for behavior and mental health will be provided, the charter is unlikely to successfully implement these programs.

D. The petition does not contain reasonably comprehensive descriptions of all of the 15 required elements.

1. The Petition does not contain reasonably comprehensive descriptions of the instructional program in the following areas:
 - a. As described in Item B-b2(a/b) above, the Petition does not provide a reasonably comprehensive description of the proposed educational program for students with disabilities. Page 76 of the Petition says that The IDEA description in the petition “*is not binding*” and, as such, appears to not be a description of a proposed IDEA program but only thoughts on how services might be provided.
 - b. The Petition discusses Dual Enrollment for high school students. However, there is no description of courses that will be targeted for dual enrollment. Also, 1) there is no explanation of how the school will ensure equitable access to dual enrollment courses, if not all teachers are eligible by community college standards, 2) no explanation for credit approval, and 3) no clear path for how dual enrollment will be structured and developed. In regard to equity issues, how will ELL or SWD students receiving SEL or intervention participate in concurrent enrollment? Lastly, there is no explanation of the minimum number of minutes per day a student must be in classes if they are also concurrently enrolled. Charter schools must offer 64,800 instructional minutes each year to students in grades 9-12. Not offering the required instructional minutes carries a fiscal penalty (EC sections 46207 and 47612.5). EC Sections 46141-46156.5 outline the requirements for a charter school to claim apportionment for students dually enrolled, including which instructors count for ADA purposes, and which courses qualify for instructional time. If students aren’t scheduled appropriately, average daily attendance and/or instructional time can be lost.
 - c. The petition does not include a description of the high school curriculum—only possible courses. Also, Appendix C: The daily schedule does not include high school and indicates an 8:00 a.m. start time, which is not permitted for high schools in California, and which violates EC 46148(a)(1).
 - d. The petition includes outdated language related to English Language Proficiency levels (i.e. Beginning, Early Intermediate, Intermediate, Early Advanced, advanced). The CA ELD Standards define three proficiency levels—Emerging, Expanding, and Bridging.
 - e. Page 45 of the Petition states “*Integrated instruction (Arts and Technology) is delivered by the regular classroom teacher, as well as by the enrichment staff*”. There is no description of who “enrichment staff” is or what qualifications they will have. Also, per Education Code 46300(a), students must be under direct supervision of a credentialed teacher to earn ADA, and the petition does not indicate the credentialed teachers will be supervising the undescribed enrichment staff.

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2. In regard to reasonably comprehensive descriptions of Measurable Pupil Outcomes are the following findings:
 - a. Students with Disabilities are not recognized as a student sub-group, which may be in conflict with the “Targeted School Population” Section (Pg. 20), which noted an expected 10.2% SWDs population. In the first year of operation, that would presumably be equal to approximately 40 SWDs. *EC 52052(3)(A)* defines a numerically significant subgroup for SWDs for charter schools as a group consisting of at least 30 students.
 - b. The Petition notes a 95% student attendance rate as a school goal on Page 83 in the Petition and then targets 97% as the goal in Priority 5(A) without explaining the reason for the difference.
3. The Governance Section was found to have the following findings:
 - a. As noted, above, in the discussion of signature issues, Founding Member Joanna Kendrick proposes to be a teacher in the school. While the employment status does not disqualify her under GC 1090, per *EC 47604.1(d)*, the Political Reform Act (PRA) section 87100 precludes a public officer from participating in the making of a contract where the board member has a financial interest (as defined in 87103). This means the board member cannot participate in any way in the making of the contract, but must abstain from the vote (leaving the room) and the contract can then be created. The nonprofit’s conflict of interest code, section VI.B, prohibits the board from entry into the contract where the board member has a material financial interest. In our opinion, a teacher has a material financial interest in the teacher’s salary from employment. The nonprofit’s bylaws, Article 7, section 5, preclude an interested person (including from employment) from sitting on the board. Should Ms. Kendrick choose employment over her position as Founding Member, a significant source of the alleged knowledge base for running a school will be lost. Who else at LinkEd has successfully operated other charter schools?
[P.9]
 - b. Appendix D of the Petition does not include Articles of Incorporation, as indicated in the Petition’s Table of Contents.
 - c. The Petition does not describe School Site Council composition for high schools, which is very different from that of elementary schools, as listed on Page 111 of the Petition.
 - d. Article VII, Sec. 5 of the Charter Board’s Bylaws do not include safeguards against nepotism.
 - e. Article VII, Sect. 12 of the Bylaws state: *“Meetings shall be held at the principal office of the Corporation, except as otherwise provided in these Bylaws. The Board of Directors*

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may designate that a meeting be held at any place within California that has been designated by resolution of the Board of Directors....” Since the principal office of the Corporation is in Kern County, this Article is in violation of Ed. Code Section 47604.1(3)(A) which requires the governing body to meet within the physical boundaries of the county in which that charter school is located.

- f. Article VII, Sec. 14 of the Bylaws includes the following: *“At least 72 hours before a regular meeting, the Board of Directors, ...shall post an agenda”* This Section does not contain a statement regarding where the posting will be and is in violation of GC 54954.1 even though the Petition says that the board will post notices at Charter School in accordance to Brown Act and 47604.1(c). Petition Bylaws do not include all required components of applicable Government and Education Codes.
- g. Article VII, Sec. 16 (of the Bylaws): *NOTICE OF SPECIAL MEETINGS* does not follow the 24-hour public notice/posting pursuant to GC Section 54956. Additionally, this Section indicates that the public posting notice is deemed to be received when deposited in the United States Mail, which typically takes longer than 24 hours to be delivered.
- h. The Petition does not include discussion around or policies and internal controls to prevent against fraud, embezzlement and conflict of interest. In Appendix D of LinkED Bylaws, Article XVI, Section 1F states *“an independent accountant’s report or, if none, the certificate of an authorized officer of the corporation that such statements were prepared without audit from the corporation’s books and records.”*
- i. The nonprofit Bylaws, Article VII, Section 25, indicates the nonprofit board will follow Gov Code Section 1090, but bylaws Article XVI, Section 2 requires an annual statement of certain transactions, including transactions with “interested persons.” Most if not all transactions between the nonprofit and an interested person would violate GC 1090. The bylaws call for an annual report of:
“Any transaction (i) in which the corporation, or its parent or subsidiary, was a party, (ii) in which an “interested person” had a direct or indirect material financial interest, and (iii) which involved more than \$50,000 or was one of several transactions with the same interested person involving, in the aggregate, more than \$50,000. For this purpose, an “interested person” is either:
(1) Any director or officer of the corporation, its parent, or subsidiary ...” or (2) Any holder of more than 10 percent of the voting power....” The inclusion of this language implies that board directors may have financial deals with the corporation, in any amount up to \$50,000 without being reported to the board, yet any transaction between the corporation and the board members, in any amount, would violate Gov Code Section 1090 and subject the interested board member with the material financial interest to potential criminal penalties if the member participated in the making of the deal. At the least, this language should reflect an obligation on the board to void any such

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transaction, pursue recovery of the full amount from the board member, and refer the matter to the local district attorney's office.

4. The following issues were found in the Petition's Element 5 related to Employee Qualifications:
 - a. Although not required in California Education Code for charters, The Clear Administrative Services Credential (CASC) is required for all other public schools for those administrators who evaluate certificated staff. The Petition does not require an Administrative Service Credential for any of the administrative positions listed in the Petition.
 - b. The Petition did not include descriptions of the qualifications or job descriptions of several staff members including the proposed paraprofessionals, the Special Education teachers, the counselors, etc.
 - c. Page 77 of the Petition states: *"The charter school is responsible for the hiring, training, and employment of the itinerant staff necessary to provide special education services to the Charter School's students, including, without limitation, speech therapists, occupational therapists, behavioral therapists, and psychologists."* No further information was provided on an analysis of how many service providers from each discipline would be required per their anticipated enrollment, nor how they plan to recruit and hire specialists that existing SELPAs and LEAs are already struggling to staff. Special education teachers and aides are estimated in the budget provided, but no other necessary providers are included such as a school psychologist to conduct eligibility evaluations or a speech pathologist to provide speech therapy.
 - d. The petition notes (Page 120) that teachers employed by charter schools during the 2019-20 school year shall have until July 1, 2025, to obtain the certificate required for the teacher's certificated assignment. This is not applicable to CAAT since no teachers were employed during the 2019-20 school year. Therefore, all teachers will be required to have the credential/certification for their assignment per the Commission on Teacher Credentialing in order to satisfy the requirements of *EC 47605(c)(5)(I)*.
5. In regard to Element 6: Health and Safety of Pupils and Staff, are the following findings:
 - a. The petition states (Page 125) that the school will provide one free meal to needy students, per federal lunch program, without indicating how the school will meet the AB 130 "meals for all" requirements. Ed Code 49501.5(a)(2), requires up to two meals a day for every student who requests them, regardless of FRL status. The budget narrative says the budget accounts for the Universal Meal Program, but there is no description of the required offering in the petition. This obligation applies, starting with the 2022-2023 school year per *EC 49501.5(a)(2)*.

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- b. Petition states that the charter will develop policies for discrimination and harassment, including employee-employee, employee-student, and student-employee, but does not mention student-student discrimination or harassment.
6. In regard to Element 7: Racial and Ethnic balance are the following findings:
- a. The Petition describes the expected student demographics as: *“CAAT will reflect the diversity of the general population residing within the jurisdiction of BCSD, and projects that its Economically Disadvantaged (SED) student population will be “Over 75%.”* Bakersfield City School District’s average SED rate, however, is 92.8%.
 - b. The CAAT Petition lists its enrollment priorities as 1) siblings of CAAT students, 2) children of employees, 3) BCSD students and 4) Franklin Elementary School students). In Year 1 of the petition, there would be no siblings for consideration. Therefore, the first priority for enrollment will be children of employees and then BCSD students from throughout the district. After Year 1, siblings of CAAT students will have the first priority, and thus, the process will perpetuate the disparate demographics of the charter as compared to BCSD. The Petition notes (Page 19) community interest in the charter: *“For Bakersfield families who cannot afford private school and who have limited resources, there is no alternative to the neighborhood school.”* Petitioners reflect a potential conflict with the intent to reflect the demographics of BCSD as a whole to serve a diverse population.
 - c. The CAAT Petition does not include the provision for transportation, which is not required by charter schools. However, the lack of transportation will pose a barrier for homeless and foster youth. Additionally, families without their own transportation will not have equal access to the charter school. The Petition does not provide a description of how students will get home from after-school or intervention programs. It is not clear whether the charter intends to exclude low-income students without access to transportation.
7. In regard to Element 7: Admission Requirements, are the following findings:
- a. CAAT Petitioners are using Franklin Elementary School in BCSD as the charter’s SB 740 comparison for a Charter Facilities Grant. However, enrollment priorities (See #6b above) list Franklin students #4 on the priority list and this, again, appears to use one school’s demographics while obviously having other priorities for enrollment.
 - b. While the petition says there is no weighted priority assigned to listed admissions preferences, the vacant/available seats are filled from each preference, in descending priority, resulting in siblings and students of CAAT staff having a higher priority than general students of the district. The admission preference for students residing in the

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district is a statutory requirement {EC 47605(e)(2)(B)} and a statutorily mandated preference should have a higher priority than discretionary preferences.

8. In regard to Element 10: Suspension and expulsion process, are the following findings:
 - a. The petition indicates the expulsion decision of the CAAT board is final with no appeal. This violates the concept of and requirement for due process under both federal and state rules. (EC 48919)
 - b. Under enumerated offenses for suspension and expulsion of students, Item K includes: *“Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, or other school officials”* and notes that *“this section shall only apply to students in any of grades 9-12 inclusive.”* However, the petition does not clarify that 9-12 students may not be expelled for willful defiance or that grade 6-8 students may not be suspended for such. (EC 48901.1)
 - c. The Petition does not include reference to the rights of foster youth in regard to expulsion and the provision of notice of the hearing to Foster Youth Students’ Attorneys and representatives of the county child welfare agency. (EC 48918.1)
 - d. The Petition does not include a reasonably comprehensive description for what would constitute an involuntary transfer.
9. In regard to Element 15: Closure Procedures, are the following findings:
 - a. Closure protocols include disposition of assets according to corporate Articles of Incorporation, which are not provided. Appendix D does not include Articles of Incorporation, as indicated in the Table of Contents, so staff is unable to ascertain whether or not asset disposition complies with applicable law.
 - b. The Petition states that the proposed disposition of assets is as follows: *“shall be distributed in accordance with the Articles of Incorporation upon the dissolution of the non-profit public benefit corporation to a nonprofit fund, foundation, or association which is organized and operated exclusively for educational, public or charitable purposes and which has established its tax exempt status under Section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose.”* While this proposed disposition may comply with nonprofit corporation laws, staff believes California public education funds should at all times remain inside the public education family, such that any remaining assets should be distributed to a California public school district or operating California charter school. Any other distribution should be viewed as an improper distribution of public funds.

- E. ***EC 47605(H) states: “The governing board ...shall require that the petitioner or petitioners provide information regarding the proposed operation and potential effects of the charter school, including, but not limited to, the facilities to be used by the charter school... “The description of the facilities to be used by the charter school shall specify where the charter school intends to locate.” The petitioner or petitioners also shall be required to provide financial statements that include a proposed first-year operational budget, including startup costs, and cashflow and financial projections for the first three years of operation. If the school is to be operated by, or as, a nonprofit public benefit corporation, the petitioner shall provide the names and relevant qualifications of all persons whom the petitioner nominates to serve on the governing body of the charter school.”***

Findings:

1. Facilities are uncertain at this time, although there was a location identified during the BCSD review. Given the unfortunate, sad and untimely demise of the Lessor, the continued availability of the proposed premises is uncertain.
2. There is no mention in the Petition of how this facility will be used to provide physical education, although included as a component of the instructional program for both elementary and high school students.
3. The Petition notes on Page 12: *“During intersession, students will continue to work with support staff...”* The Petition does not describe the operation of the intersession program and whether it plans on collecting ADA for that time, which would not be permissible without certificated staff teaching classes.
4. Proposed budgets and funding are based on ADA. Staff questions whether evidence exists that suggests the petitioner, CAAT, can generate an enrollment of 390 and then growth of 20.4%, 16.9%, 14.4%, respectively.
5. In-lieu of property taxes should be \$742 and not the \$848 per ADA based on the apportionment schedule as written in the Petitioner’s budget.
6. Cash flow and projections for the first three years in Appendix F clearly demonstrate a cash flow issue in the 1st and 2nd year. The calculations for monthly revenue minus monthly expenditures does not calculate correctly. Cash becomes dangerously low many times across the first two fiscal years and is not sufficient cash to support any possible emergency expenditures. It also appears the cash flow projections for federal programs are overly optimistic in their timing of revenue received.
7. The budget for Books and Supplies for the first two years appears low at \$165 per ADA and would not be adequate to provide sufficient materials. (object 4100 instructional materials, 4200 reference materials, 4300 supplies and 4400 non-capitalized equipment).

Repairs and maintenance on building and tenant improvement budgets also appear low for a facility not set up for classes for students.

8. Minimum Reserve Level: Upon review of the budgets, staff found that there is not a division between restricted and unrestricted expenditures or for the ending balance. The district minimum reserve percentage cannot be determined without an unrestricted ending fund balance number. Based on the Charter Petition, it states the CAAT will not have sufficient reserves until its 3rd year of operation.
9. Review staff could not find a reference to Petitioner's planned insurance nor was a "hold harmless" agreement provided for review.

Staff Recommendations

Based upon the staff findings above, the KCSOS staff recommends that the Kern County Board of Education deny the CAAT Petition's appeal due to the following reasons:

1. The CAAT Petition did not include the required number of valid signatures.
2. The charter school presents an unsound educational program for the pupils to be enrolled in the charter school
3. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
4. The petition does not contain reasonably comprehensive descriptions of all of the 15 required elements.

Albeit that the petitioners are passionate, well-meaning and enthusiastic about establishing this charter, it is the finding of the KSCOS staff that the problems with this petition are so widespread and serious that the development of a MOU to address the shortcomings would not be possible.

OFFICE OF MARY C. BARLOW
Kern County Superintendent of Schools
Advocates for Children...

EXHIBIT

From: Sandi Ridge <SRidge@cde.ca.gov>
Sent: Thursday, November 3, 2022 12:05 PM
To: Cathie Morris <camorris@kern.org>
Subject: RE: [EXTERNAL] Petition Signature Question

Hi Cathie – Happy Friday Eve.

The Kern County board does not have the discretion to waiver the 50% signature requirement under EC 47605.

Enjoy the rest of your work week 😊

Sandi

From: Cathie Morris <camorris@kern.org>
Sent: Thursday, November 3, 2022 9:56 AM
To: Sandi Ridge <SRidge@cde.ca.gov>
Subject: [EXTERNAL] Petition Signature Question

CAUTION! This email originated from outside the California Department of Education. Be careful of links and attachments.

Hello, Sandi.

Would the Kern County board have any waiver authority over the 50% signature requirement? As noted above, the petition has several issues, which we are documenting by page # and EC. Thank you for any advice you can provide.

Regards.

Cathie