

MOUNTAIN VIEW WHISMAN SCHOOL DISTRICT
Mountain View, California

December 20, 2018

STAFF REPORT
Bullis Mountain View
Charter Petition

I. BACKGROUND

Petitioners currently operate Bullis Charter School ("BCS"), which is a charter program founded in 2003 serving pupils in Transitional Kindergarten ("TK") through eighth (8th) grade in the neighboring community of Los Altos, California. Petitioners seek to open a new campus in Mountain View for the purpose of serving an intentionally diverse student demographic that mirrors the demographics of the Mountain View community both ethnically and socioeconomically, and to serve historically underserved student communities. Lead Petitioner is BCS Los Altos Administrator Jennifer Anderson-Rosse.

Petitioners submitted a charter petition ("Petition") to establish Bullis Mountain View ("BMV" or "Charter School") to be operated under the oversight of the Governing Board ("Board") of the Mountain View Whisman School District ("District"), for a five (5) year term from July 1, 2019, through June 30, 2024. The Board formally received the Petition at its meeting on or about November 1, 2018.

Pursuant to Education Code section 47605, subdivision (b), within thirty (30) days after receiving a petition, the Board must "[hold] a public hearing on the provisions of the charter, at which time the governing board of the school district shall consider the level of support for the petition by teachers employed by the district, other employees of the district, and parents." BMV agreed for the Board's public hearing to be held on December 6, 2018, at which time the Board considered the level of support for the Petition from teachers employed by the District, other employees of the District, and parents.

Education Code section 47605, subdivision (b), requires the Board to "either grant or deny the charter within 60 days of receipt of the petition, however that date may be extended by an additional 30 days if both parties agree to the extension." Accordingly, the Board will act on whether to grant or deny the Petition at a special meeting on **December 20, 2018**.

The Charter Schools Act of 1992 ("Act") permits school districts to grant charter petitions, authorizing the operation of charter schools within their geographic boundaries. (Ed. Code, § 47600, et seq.) Charter schools are established through the submission of a petition by proponents of the charter school to the governing board of a public educational agency, usually a school district, and approval of the petition by the school district. The governing board must grant a charter "if it is satisfied that granting the charter is consistent with sound educational practice." (Ed. Code, § 47605, subd. (b).) Nevertheless, a governing board may deny a petition for the establishment of a charter school if it finds that the particular petition fails to meet enumerated statutory criteria and it adopts written findings in support of its decision to deny the charter. (*Ibid.*) Once authorized, charter schools "are part of the public school system," but "operate independently from the existing school district structure." (Ed. Code, §§ 47615(a)(1) and 47601.)

If the Board grants the Petition, BMV will become a separate legal entity. Under Education Code section 47605, subdivision (j)(1), if the Board denies the Petition, then Petitioners may appeal that denial to the Santa Clara County Board of Education ("County Board"). If the County Board grants the charter, the County Board becomes the supervisory agency over the Charter School. If the County Board denies the charter, then Petitioners may appeal to the State Board of Education ("SBE"). (Ed. Code, § 47605, subd. (j)(1).)

II. REVIEW OF CHARTER PETITION

A team of District staff, with the assistance of the District's legal counsel, conducted a comprehensive review of the Petition.

Education Code section 47605, subdivision (b), sets forth the following guidelines for governing boards to consider in reviewing charter petitions:

- The chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged.
- A school district governing board shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice.
- The governing board of the school district 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 statute.*
 - (4) *The petition does not contain an affirmation of each of the conditions required by statute.*
 - (5) *The petition does not contain reasonably comprehensive descriptions of the required elements of a charter petition.*
 - (6) *The petition does not contain a declaration of whether or not the charter school shall be deemed the exclusive public employer of the employees of the charter school.*

In addition to the above, District staff's review and analysis of the Petition was also guided by the regulations promulgated for the SBE's evaluation of its own charter petition submissions, which are located at Title 5, Division 1, Chapter 11, Subchapter 19 (Cal. Code Regs., tit. 5, section 11967.5.1) of the California Code of Regulations ("Regulations").

III. RECOMMENDATION

Based upon its comprehensive review and analysis of the Petition, District staff recommends that the Petition, and the recommendations set forth herein, be approved by the Board for a three (3) year term beginning July 1, 2019, through June 30, 2022.

The following recommendations are based upon and address issues and/or deficiencies identified in the Petition and/or its supporting documents that may support a finding(s) that the Charter School presents an unsound educational program for the pupils to be enrolled in the Charter School; Petitioners are demonstrably unlikely to successfully implement the program set forth in the Petition; and/or the Petition does not contain reasonably comprehensive descriptions of the required elements of a charter petition. (Ed. Code, § 47605, subd. (b).)

A. Governance/Community Participation

The Education Code and Regulations provide for a charter petition to identify the governance structure including, at a minimum, evidence of the charter school's incorporation as a non-profit public benefit corporation, if applicable, the organizational and technical designs to reflect a seriousness of purposes to ensure that the school will become and remain a viable enterprise; there will be active and effective representation of interested parties; and the educational program will be successful. (Ed. Code, § 47605, subd. (b)(5)(D); Regulations, § 11967.5.1, subd. (f)(4).)

The Charter School's governance structure raises significant concerns and issues regarding whether BMV can operate independently from the Bullis-Purissima Elementary School ("TBPES")/Bullis Charter School Los Altos. According to the Petition, TBPES is the sole statutory member of Bullis Public Charter School II ("BPCS"), which will have its own board of directors and which will operate BMV. (Petition, pp. 3, 102, 166.) TBPES is headquartered out of and also operates Bullis Los Altos. As the sole statutory member, TBPES will have the right to approve/disapprove of the election of the BPCS/BMV directors; dispose of BPCS's/BMV's assets; and merge or dissolve BPCS/BMV. (Petition, pp. 101-103.) Furthermore, under "Element D: Governance Structure of the School," only one (1) out of the five (5) founding board members is identified as residing in Mountain View, and all five (5) of these members are closely associated with Bullis Los Altos, such as serving on the Bullis Los Altos governing board and/or residing in Los Altos. (Petition, p. 105-106.) BMV has also secured a commitment of \$250,000 from the Bullis-Purissima Elementary School Foundation. (Appendix 20, Budget Narrative.)

Furthermore, the Charter School's structure raises concerns regarding the adequacy of representation and participation of members of the Mountain View community. Notably, at the December 6th public hearing, the Board received extensive comments opposing the establishment of BMV from members of the community. Many, if not most, of the individuals speaking in support of BMV were not residents of Mountain View but were instead from Los Altos or associated with Bullis Los Altos. Furthermore, BMV did not have support from any organization representing Mountain View students and families, or its target populations.

Recommendation: To address potential conflicts of interest, governance concerns, and ensure local participation in BMV's governance, District staff recommends the Petition require at least the majority of BMV's Board members reside within the boundaries of Mountain View and/or the Mountain View Whisman School District.

B. Measurable Pupil Outcomes

The Education Code and Regulations provide for a charter petition to identify the specific skills, knowledge and attitudes that reflect the school's educational objectives and that can be assessed frequently and sufficiently by objective means to determine satisfactory progress and provide for the frequency of the objective means for measuring outcomes to vary by factors such as grade level, subject matter, and previous outcomes. (Ed. Code, § 47605, subd. (b)(5)(B); Regulations, § 11967.5.1, subd. (f)(2).) Pupil outcomes must include outcomes that address increases in pupil academic achievement both schoolwide and for all groups of pupils served by the charter school. (Ed. Code, § 47605, subd. (b)(5)(B).) To be sufficiently detailed, objective means of measuring pupil outcomes must be capable of being used readily to evaluate the effectiveness of, and to modify, instruction for individual students and for groups of students during the school year. (Regulations, § 11967.5.1, subd. (f)(2)(A).)

The Education Code and Regulations also require a charter petition to identify the methods by which pupil progress in meeting pupil outcomes is to be measured. To be sufficiently described, a petition must include a variety of assessment tools appropriate to the skills, knowledge, or attitudes being assessed, and outline a plan for collecting, analyzing, and reporting data on pupil achievement to school staff and to parents and guardians, and for utilizing the data continuously to monitor and improve the charter school. (Ed. Code, § 47605, subd. (b)(5)(C); Regulations, § 11967.5.1, subd. (f)(3).)

Under Elements B and C, "Measurable Pupil Outcomes and Methods to Assess Pupil Progress," of the Petition, the Petition does not appear to indicate any defined measures that will allow the District to compare the Charter School's academic performance with that of the District. (Petition, pp. 82-100.) Comparable defined measures are necessary since the Petition states that students of the Charter School, including students within each subgroup, will exceed the average performance level of comparable student subgroups of the District's schools. (E.g., Petition, p. 88.) Furthermore, in support of its Petition, the Charter School indicates that, because of Petitioners' educational program, the percentage of BCS students meeting or exceeding standards on the English Language Arts and math California Assessment of Student Performance and Progress ("CAASPP") assessments exceed those of the District by approximately thirty (30) percent. (Petition, p. 21.) The incorporation of defined measures to allow the District to compare BMV's academic performance with its own is important to the District's oversight efforts, especially in light of the Charter School's purpose to serve historically underserved student communities.

Recommendation: To address the lack of defined measures to enable the District to compare performance with the Charter School, District staff recommends the Petition require BMV to utilize the same benchmark and reading assessments used by the District each school year, conduct such assessments on a trimester basis, and meet assessment reporting deadlines as designated by the District. District staff also recommends the Petition to require that the Charter School exceed Districtwide assessment results for all pupil subgroups by not less than five (5) percent.

C. Finances

Multiple factors may be taken into consideration in determining whether charter petitioners are demonstrably unlikely to successfully implement the program. (Regulations, § 11967.5.1, subd. (c).) With respect to financial administration, the charter and supporting documents must include, at a minimum, the first-year operational budget, start-up costs, and cash flow, and financial projections for the first three years; include reasonable

estimates of all anticipated revenues and expenditures necessary to operate the school, including, but not limited to, special education, based, when possible, on historical data from schools or school districts of similar type, size, and location; include budget notes that clearly describe assumptions on revenue estimates, including, but not limited to, the basis for average daily attendance estimates and staffing levels; present a budget that in its totality appears viable and over a period of no less than two years of operations provides for the amassing of a reserve equivalent to that required by law for a school district of similar size to the proposed charter school; and demonstrate an understanding of the timing of the receipt of various revenues and their relative relationship to timing of expenditures that are within reasonable parameters, based, when possible, on historical data from schools or school districts of similar type, size, and location. (Regulations, § 11967.5.1, subd. (c)(3)(B).)

The Budget Narrative appears to utilize inaccurate estimations of Free and Reduced Price Lunch ("FRPL") and English Language Learner ("ELL") students in its budget assumptions. The budget assumes a FRPL rate of 40% and an ELL rate of 32%. (Appendix 20, Budget Narrative, p. 2.) However, the District's FRPL rate is 42% and its ELL rate is 24%. Furthermore, the District's rate of socio-economically disadvantaged ("SED") students is 35%.

In addition to the fact that the inaccurate figures were utilized to calculate BMV's funding, including but not limited to the Charter School's Title I funding, the estimates raise concerns regarding BMV's ability to recruit and enroll the numbers of underserved students as projected in the Budget Narrative and to therefore meet its purpose of serving historically underserved student communities.

Recommendation: To address the potential fiscal impacts of the inaccurate estimates, District staff recommends the Charter School revise its budget assumptions by utilizing the revised assumptions reflecting a FRPL rate of 42%; ELL rate of 24%; and SED rate of 35%. Furthermore, District staff recommends the Petition indicate that BMV's enrollment rates of FRPL, ELL, and SED students shall be at least equal to those of the District. District staff also recommends revisions to the Petition's Title I estimates and for the Charter School to submit a revised budget containing the corrected assumptions to the District no later than July 1, 2019.

D. Demographics/Enrollment Target

The Education Code provides for the charter petition to identify the means by which the charter school will achieve a racial and ethnic balance among its students that is reflective of the authorizing district's general population. (Ed. Code, § 47605, subd. (b)(5)(G).) Furthermore, they require the charter petition to identify admission requirements that are in compliance with applicable law. (Ed. Code, § 47605, subd. (b)(5)(H); Regulations, § 11967.5.1, subd. (f)(8).) Admissions preferences shall not result in limiting enrollment access for pupils with disabilities, academically low-achieving pupils, English learners, neglected or delinquent pupils, homeless pupils, or pupils who are economically disadvantaged, as determined by eligibility for any free or reduced-price meal program, foster youth, or pupils based on nationality, race, ethnicity, or sexual orientation. (Ed. Code, § 47605, subd. (d)(2)(B)(iii).)

The Petition states that, "BMV seeks to serve the students and families in the communities of Mountain View who reside within the attendance boundaries for Mariano Castro Elementary, Theuerkauf Elementary, and Monta Loma Elementary. BMV believes that there is a need for an additional high-quality public school option in this community, an

opportunity to keep and bring back families to public school, as well as an opportunity to bring the innovative school model developed over the 14-year history of BCS to serve this community.” (Petition, p. 20.) The Petition also states that the Charter School “will serve an intentionally diverse student demographic that mirrors the demographics of the Mountain View community both ethnically and socioeconomically.” (Petition, p. 6.)

However, upon review, most of the parents/guardians who have signed the Petition expressing their meaningful interest in enrolling their children in BMV reside in areas outside of the above-referenced attendance areas. District staff estimates that 59% of the students whose families signed the Petition reside outside of these identified zones. (Appendix 30, Parent Signatures.) Moreover, the Petition does not contain an enrollment preference for families residing within the attendance boundaries of Castro, Theuerkauf, and Monta Loma Elementary Schools in the event of a public random drawing. (Petition, p. 131.)

Recommendation: To effectuate BMV’s enrollment goals and purpose of serving the families residing within the attendance boundaries of Castro, Theuerkauf, and Monta Loma Elementary Schools, District staff recommends that: (1) students who are eligible for Free and Reduced-Price Meals (“FRPM”) and who reside within the attendance boundaries of Castro, Theuerkauf, and Monta Loma Elementary Schools be afforded first enrollment preference; and (2) students who are eligible for FRPM and who reside within the Mountain View Whisman School District be afforded second enrollment preference.

E. Memorandum of Understanding

The Petition indicates BMV is amenable to entering into a Memorandum of Understanding (“MOU”) with the District to outline specific obligations, operational responsibilities, and legal relationship with respect to one another. (E.g., Petition, pp, 65, 109, 157, 163.) District staff understands and finds that MOUs detailing such obligations and relationships are commonly entered into between charter authorizers and the charter schools that they oversee.

Recommendation: To outline their specific obligations, operational responsibilities, and legal relationship, District staff recommends the Board require BMV to enter into the MOU attached to this Staff Report as **Exhibit A**.

IV. CONCLUSION

District staff recommends that the Petition, and the recommendations set forth herein, be approved by the Board for a three (3) year term beginning July 1, 2019, through June 30, 2022. Should the Board decide to deny the Petition, the Board may adopt this Staff Report as its written factual findings in support of denial.