

ROSS VALLEY SCHOOL DISTRICT

ROSS VALLEY CHARTER ("RVC") CHARTER PETITION STAFF REPORT

August 18, 2015

I. BACKGROUND

On or about September 12, 2014, the Ross Valley School District ("District") received a charter petition to convert the District's Multi-Age Program ("MAP") into a self-governing K-5 charter school named Ross Valley Charter School. The District created MAP in 1996, which was then known as the Innovative Learning Community, as a K-5 program of choice. Based upon its philosophy that children acquire knowledge and skills at different rates and with different learning styles, MAP assigns two grade levels for each classroom, and students typically remain with the same teacher for two years. Teachers are viewed as facilitators, and curriculum is flexible and open-ended to address the wide range of interests, developmental abilities, and learning styles of students. In addition to academic development, the program focuses upon the emotional, social, and physical growth of each student. Since inception, MAP has expanded and operated with increasing and significant autonomy, and currently serves approximately 130 K-5 students in six (6) classes at Manor Elementary School.

The petition was submitted on behalf of Ross Valley Charter School, a California nonprofit public benefit corporation. Lead Petitioners were Chris Lyons, a 4th/5th grade MAP teacher, and Jason Morrison, a program director at a non-profit policy research center ("Petitioners"). Petitioners sought to convert MAP into a charter school because of their desire to grow the program and to formalize their self-governance in the form of a charter school. After conducting a public hearing on the charter proposal and performing a thorough review of the petition, on or about November 4, 2014, the District's Board of Trustees ("Board") voted to deny the petition to establish Ross Valley Charter School and issued written factual findings supporting its decision.

Approximately eight months later, on or about July 15, 2015, Petitioners submitted another charter petition ("Petition") to the District for Ross Valley Charter ("RVC" or "Charter School"), which, in effect, again seeks to convert the District's MAP program into a charter school and essentially proposes the same program as the one offered in the 2014 petition. Although the Board recently voted to update the designation of MAP from an "Alternative Program of Choice" to a "District-Wide Program," as further detailed below, updating MAP's designation has no impact upon MAP's instructional program. The District has neither terminated nor planned to terminate the program, and MAP remains an alternate instructional option for parents and students throughout the District.

Within 30 days of receiving a petition, the District 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." (Ed. Code, § 47605(b).) A public hearing was held on August 4, 2015. The Board must "either grant or deny the charter within 60 days of

receipt of the petition.” (Ed. Code, § 47605, subd. (b).) Accordingly, the Board will act on the Petition during its **August 18, 2015** meeting.

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.) In enacting the Act, the California Legislature intended for teachers, parents, and community members to establish charter schools in order to, among other things, increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving, encourage the use of different and innovative teaching methods and programs, and provide new professional opportunities for teachers as well as expanded choice in the types of educational opportunities for parents and students. (Ed. Code, § 47601.)

Charter schools are established through 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, RVC 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 Marin County Board of Education (“MCBOE”). If MCBOE grants the charter, it becomes the supervisory agency over the charter school. If the county denies the petition, then Petitioners may appeal to the State Board of Education (“SBE”). (Ed. Code, §47605(j)(1).)

II. REVIEW OF THE PETITION

A team of District staff conducted a comprehensive review of the Petition. The team was comprised of the following individuals, and was assisted by the District’s legal counsel:

- Rick E. Bagley, Ed.D., Superintendent
- Marci Trahan, Assistant Superintendent
- Teri Louer, M.Ed., Director of Student Services
- Midge Hoffman, Chief Business Official
- Terri Ryland, Financial Consultant, Ryland School Business Consulting

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.*

In addition to the above, staff's review and analysis of the Petition was guided by the legislative intent set forth in Education Code section 47601 and by the regulations promulgated for SBE's evaluation of its own charter petition submissions (Cal. Code Regs., tit. 5, section 11967.5.1) ("Regulations"). Although these Regulations are not binding on a school district's review of charter petitions, they are helpful guidance. Where relevant, the content of the Education Code and Regulations is stated or paraphrased with respect to each area in which staff has identified deficiencies.

III. STAFF RECOMMENDATION

Based upon its comprehensive review and analysis of the Petition, staff recommends that the Petition be **denied**. This Staff Report contains staff's analysis of the Petition, and the written findings supporting staff's recommendation. Accordingly, staff also recommends that the Board adopt this Staff Report as its written findings in support of its denial.

The following reasons justify denial of the Petition prior to the commencement of the school's operations:

- **The Petition does not contain the number of signatures required by Education Code section 47605, subdivision (a);**
- **The Petitioners are demonstrably unlikely to successfully implement the program presented in the Petition; and**
- **The Petition fails to provide a reasonably comprehensive description of all required elements of a charter petition.**

More specific findings with regard to each basis for denial are described under Section IV in the enumerated paragraphs below.

IV. FINDINGS IN SUPPORT OF DENIAL OF PETITION

Staff's evaluation and analysis of the Petition have resulted in the following factual findings:

A. The Petition Does Not Contain The Requisite Number Of Signatures Pursuant To Education Code Section 47605(b)(3)

Education Code section 47605, subdivision (a)(2) states: "The petition may be submitted to the governing board of the school district for review after the petition is signed by not less than 50 percent of the permanent status teachers currently employed at the public school to be converted."

Staff finds that Petitioners have not satisfied the petition signature requirement. Education Code section 47605(a)(2) requires a charter petition that seeks to convert a school, either partially or entirely, into a charter school must be signed "by not less than 50 percent of the permanent status teachers currently employed at the public school to be converted." The Petition includes signatures from 6 Manor Elementary School teachers, who also teach in the MAP program. (App. A.) Manor Elementary School currently has 20 permanent status teachers employed, which includes the 6 teachers who have signed the Petition. Fifty percent of the "permanent status teachers currently employed at the public school to be converted" is 10. Because the Petition only contains signatures from 6 permanent teachers from Manor Elementary School, the Petition is not supported by the number of signatures required by law.

Petitioners state in the Petition that they are ostensibly proposing to establish a "new" or "start-up" charter school. (p. 4; App. A.) Although Petitioners do not expressly specify which signature requirement that the Charter School proposes to satisfy, the "Teacher Approval Sign-off" document (App. A.) reflects that Petitioners seek to satisfy the signature requirement set forth under Education Code section 47605(a)(1)(B), which requires the Petition to be signed by "a number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the school during its first year of operation."

However, review of the Petition reflects that it actually seeks to *convert* the District's MAP program into a charter school. The Petition acknowledges, "*in practical effect*, [the Charter School] is patterning itself on the existing Ross Valley School District (RVSD) MAP program at Manor School." (App. D, p. 53; emphasis added.) Evidence that Petitioners seek to convert the MAP program into a charter school is found throughout the Petition, and is also demonstrated by Petitioners' history and background with the District. For example, Petitioners of the instant Petition are the same individuals who submitted a petition to the District in September 2014 to convert MAP into a K-5 charter school named Ross Valley Charter School. (p. 11.) The Petition proposes to staff the Charter School with the same teachers who teach at the District's MAP program. (p. 8.) The Charter School proposes to continue relationships with entities having preexisting partnerships with MAP, such as the YES Foundation. (p. 8.) And the Petition makes repeated references to MAP's history and background (e.g., "[RVC] has been developed by parents, teachers, and supporters of Ross Valley School District's Multi-Age Program" (p. 4); "RVC philosophy and curriculum will grow from the 19-year history and experience of MAP" (p. 4); "RVC will be based on the Multi-Age Program's practices and philosophy" (p. 19.) Moreover, many of the same individuals currently serving on MAP's Leadership Council are RVC founders or RVC board members. (p. 14.) In discussing RVC's plans for assessments, as well as its enrollment projections, the Petition cites to and relies upon the academic performance figures and history of MAP

students. (p. 42.) The Petition makes clear that Petitioners intend to continue the MAP program, but in the form of a charter school.

Obtaining signatures from only MAP teachers is not adequate. Although Education Code section 47605(d) refers to partial conversions, section 47605(a) makes no distinction to the signature requirement for partial conversions. The statute requires the signatures of 50% of the permanent teachers employed at the school site regardless of whether a partial or complete conversion is proposed. This requirement serves an important purpose. The conversion of a public school, whether partial or complete, impacts the entire school site, including all of the teachers employed at the site, as well as the school's students, staffing, budgeting, and operations. Therefore, the statute ensures that all the teachers who may be impacted by a potential conversion are part of the conversion decision-making process by including all teachers at the school in determining the required number of signatures. Therefore, the statute intends, as it states, to require Petitioners to obtain the signatures of at least 50% of the permanent status teachers currently employed at Manor Elementary School. Petitioners did not meet this requirement.

Accordingly, as a proposed conversion charter school, Petitioners must meet the petition signature requirement set forth under Education Code section 47605(a)(2), not section 47605(a)(1). As explained above, the Petition only contains signatures from 6 permanent teachers from Manor Elementary School and therefore the Petition is not supported by the number of signatures required by law.

The Petition also includes signatures from parents whom Petitioners contend are meaningfully interested in enrolling their student(s) at the Charter School (App. B), ostensibly in an effort to meet the parent signature requirement set forth under Education Code section 47605(a)(1)(A). However, as explained above, by virtue of its status as a proposed conversion charter school, the Charter School must meet the petition signature requirement set forth under Education Code section 47605(a)(2), not section 47605(a)(1). Accordingly, the parent signatures are not relevant in determining whether Petitioners have met the signature requirements.

We note that the District received a complaint from a parent regarding Petitioners' efforts to solicit petition signatures and their representations regarding the purpose of the signatures. During the Petition review process, a Manor Elementary School parent submitted a written complaint to the District, stating that she was approached by one of the Petitioners and a MAP parent who then solicited her signature to move MAP from the Manor Elementary School campus. When asked specific details regarding the proposal, the Petitioner and the MAP parent assured her that the MAP program was only seeking to rent space at another location, but they did not mention that her signature would be used to create RVC. After signing the Petition, the parent found out later that her signature would be used to support the RVC Petition. Although she requested that her signature be removed from the Petition, her signature was not removed. It appears that Petitioners collected signatures without compliance with Education Code section 47605(a)(3), which requires that "[t]he proposed charter shall be attached to the petition." This parent complaint reflects that the charter document did not accompany the Petition when the Petitioners collected signatures. Additionally, Petitioners collected signatures, in part, by using an online form, which can be accessed at <https://fs22.formsite.com/RVCS/form2/index.html>. (App. B, p. 3.) However, the online form does not have the proposed charter attached or posted. Accordingly, many of the parent signatures obtained by Petitioners were not obtained in conformity with the statute.

B. Petitioners Are Demonstrably Unlikely To Successfully Implement The Program Pursuant To Education Code Section 47605(b)(2)

The Education Code requires Petitioners to show they are demonstrably likely to successfully implement the program set forth in the Petition. (Ed. Code, § 47605, subd. (b)(2).) The Regulations also require consideration of whether a petition has presented a realistic financial and operational plan, including the areas of administrative services, financial administration, insurance and facilities. (Regulations, § 11967.5.1, subds. (c)(1) and (c)(3).) In the area of administrative services, the charter or supporting documents must adequately describe: the structure for providing administrative services, accounting and payroll that reflects an understanding of school business practices and expertise to carry out the necessary administrative services, or a reasonable plan and time line to develop and assemble such practices and expertise. (Regulations, § 11967.5.1, subds. (c)(3)(A)(1).) For any contract services, the Regulations require a description of the criteria for the selection of a contractor or contractors that demonstrate necessary expertise and the procedure for selection of the contractor or contractors. (Regulations, § 11967.5.1, subds. (c)(3)(A)(2).)

Under section 11967.5.1(c)(3)(B), an unrealistic financial and operational plan for the proposed charter exists when the charter or supporting documents do not adequately include: a) At a minimum, the first year operational budget, start-up costs, and cash flow, and financial projections for the first three years; b) include in the operational budget 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; c) 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; and d) 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. Education Code section 47605, subdivision (g), and Regulations, section 11967.5.1(c)(3)(B) also require Petitioners "to provide financial statements that include a proposed first year operational budget, including start-up costs, and cash flow, and financial projections for the first three years of operation."

Under section 11967.5.1, subdivision (c)(3)(C), the Regulations require, in the area of insurance, for the charter and supporting documents to adequately provide for the acquisition of and budgeting for general liability, workers compensation, and other necessary insurance of the type and in the amounts required for an enterprise of similar purpose and circumstance.

Finally, under section 11967.5.1, subdivision (c)(3)(D), the Regulations require, in the area of facilities, for the charter and supporting documents to adequately: describe the types and potential location of facilities needed to operate the size and scope of educational program proposed in the charter; in the event a specific facility has not been secured, provide evidence of the type and projected cost of the facilities that may be available in the location of the proposed charter school; and reflect reasonable costs for the acquisition or leasing of facilities to house the charter school, taking into account the facilities the charter school may be allocated under the provisions of Education Code section 47614.

Based on the following enumerated findings, staff concludes Petitioners are demonstrably unlikely to successfully implement the program set forth in the Petition:

1. Enrollment Projections

Staff finds that the Petition overstates its enrollment estimates and that Petitioners are unlikely to successfully implement the program based upon their assumptions regarding the Charter School's projected enrollment. The Petition proposes that RVC will begin the 2016-17 school year with 222 students, with the following blended grade level breakdowns: 3 TK/K/1st grade classes of 24 students; 3 2nd/3rd grade classes of 24 students; 2 4th/5th grade classes of 26 students, and a 9th class of 24 students in either 2nd/3rd, 3rd/4th, or 4th/5th grade classes, depending upon the first year applicant pool. (p. 22.)

As a preliminary matter, the Petition contains inaccurate assumptions regarding the MAP program that Petitioners rely upon for their enrollment projections. The Petition states that "[i]n April 2015, the RVSD school board voted to discontinue MAP's status as an Alternative Education program. Creating a charter school appears to be the best way to ensure that free, multi-age, progressive education remains available to...Ross Valley families." (p. 7.) The use of this language incorrectly suggests that MAP will no longer be available for parents, and Petitioners use this language to justify the creation of the Charter School and to support its enrollment assumptions because of the "discontinuance" of MAP.

Petitioners mischaracterize the status of the MAP program. On or about April 7, 2015, the District's Board voted to update the designation of MAP from an "Alternative Program of Choice" to a "District-Wide Program." Designation as an "Alternative Program of Choice" under a statute enacted in 1976 permits certain elements of a program to operate outside the scope of the Education Code. However, as a consequence of this designation, school districts must obtain waivers from the State and meet specific annual reporting requirements. With the assistance of the California Department of Education ("CDE"), staff has identified no current components of MAP requiring any waivers. Given that changes in law have occurred since 1976 and that MAP has operated and continues to function without the need for a waiver, the annual reporting requirements have become an unnecessary compliance burden. Updating MAP's designation to a "District-Wide Program," therefore, more accurately identifies the program while simultaneously unburdening MAP, Manor Elementary School, and the District from additional administrative compliance requirements.

Notably, updating MAP's designation has no impact on the MAP instructional program, its structure, pedagogy, enrollment, or philosophy. An updated designation does not constitute a discontinuance of the program. Similarly, an update in designation does not change the fact that MAP remains an alternate instructional option for parents and students throughout the District.

The Petition overstates the demand for the MAP program that Petitioners state justifies their enrollment projection of 222 students. For example, Petitioners state that MAP "has a waiting list of about 100 students." (p. 22.) However, for the 2015-16 MAP lottery, the waiting list currently holds only 85 students. Of those 85 students, 36 students declined enrollment after being offered a placement, and 14 were Kindergarten students. 11 5th grade students were offered a placement, but only 1 student accepted. Out of the 12 4th grade students offered a placement, only 3 students accepted. Therefore, the District has doubts whether RVC can meet its enrollment projections, or even enroll a new 4th/5th grade strand for 2016-17.

Given that MAP will continue to serve District families, and that RVC seeks to continue the educational program already provided for in MAP, staff finds that RVC will be unlikely to enroll and sustain the enrollment figures projected in the Petition. Nonetheless, the Petition makes numerous references to application and enrollment statistics of the MAP program as

evidence that the Charter School too will be able to attract sufficient students to operate the program as proposed and even exceed MAP's historical enrollment (e.g., pp. 23-24). Petitioners state that "[o]ver the last five years, MAP has had an average of 45 Kindergarten applications, 9 more than the 36 needed to sustain RVC's ongoing enrollment numbers." (p. 23.) However, during the 2014-15 school year, MAP only had 24 Kindergarten applications, which would fill only 1 out of the 3 proposed K/1st grade classes and would not sustain RVC's ongoing enrollment figures. In the Petition, Petitioners state that their low enrollment in the 2014-15 school year occurred because "no outreach was done to area preschools and no mention of the Program was made at District kindergarten orientations, which resulted in lower than normal applications." (p. 22, fn. 7.) However, staff finds that this explanation demonstrates Petitioners' reliance upon the District's operation of the program and access to District students and enrollment procedures for the success and continued enrollment of MAP, and that RVC, as a charter school operating independently from the District, will be unlikely to meet its enrollment projections.

The Petition states that "[m]ore than 220 parents have signed forms indicating they are interested in enrolling their children in RVC." (p. 12; App. B.) However, as further detailed above under Section IV.A, the District's receipt of the parent complaint regarding Petitioners' efforts to solicit petition signatures casts doubt as to the validity of the signatures obtained by Petitioners, and therefore the validity of whether all those who signed the Petition are meaningfully interested in enrolling their children at RVC. Moreover, close review of the signatures reflect that projected enrollment at RVC is overstated. For example, 11 signatures are for pre-kindergarten students, and therefore they may not be eligible for TK, which RVC does not commit to providing (p. 22); and 8 signatures are for students who are 6th grade and above. (App. B.) The Petition also includes a signature from a family whose child currently attends a school district in Manhattan Beach, California (App. B, p. 9), which casts doubt as to whether the student is meaningfully interested in attending RVC. Even if the signatures are valid, the Petition reflects signatures of parents who may be interested in enrolling their children at RVC, which is not an accurate measure of actual enrollment, and Petitioners do not provide any intent-to-enroll or application forms.

The Petition does not acknowledge or take into consideration the foundational assumption behind the Charter School's projections that MAP's enrollment was based upon its operation as a *District* program. Thus, the Petition makes unsupported assumptions regarding the demand for RVC that do not appear supported. For example, the Petition does not acknowledge the fact that the MAP waiting list is for enrollment in a District program with the support of District resources. As demonstrated by repeated references and reliance upon MAP, the Petition reflects the assumption that RVC will make a seamless transition as a Charter School, and even grow its program, despite the fact that RVC, as a charter school operating independently from the District, will be without the District's resources and that MAP will continue as an alternative program option.

As a conversion charter program, the school is tied to the Manor Elementary School site. Therefore, the Charter School's projected enrollment increases, and its basis for growth, during the out years are not based upon an appropriate assessment of location and are speculative. It is noted that under Proposition 39, the current allocation of space for MAP at Manor would be considered reasonably equivalent facilities for the charter school's first year based upon current enrollment. (5 C.C.R., section 11969.3(c)(2).) Accordingly, it is indefinite whether Petitioners may attract sufficient students to adequately support their program during their proposed charter term, as the loss of only a few Average Daily Attendance ("ADA") will significantly impact the Charter School's budget and operations due to the school's size. According to the District's analysis, if the unsubstantiated enrollment is removed from the budget, along with the related revenue and operating costs, the resulting

budget reflects an operation that is fiscally unviable. Accordingly, the Charter School's unsupported growth projections render the program unlikely to be successfully implemented during the proposed charter term.

2. Fiscal Operations

The charter proposal contains significant issues that materially impact the budget and renders the financial position of the Charter School fiscally insolvent. Unsubstantiated revenue sources and assumptions, and also understated expenses, have required District staff, with the assistance of a charter school financial consultant, to make numerous modifications and adjustments to the RVC budget to reflect realistic revenues and expenditures. In sum, analysis of the budget and the proposed projections reflect significant deficit spending and negative fund balances in each year of the Charter School's multi-year projections. Accordingly, the District's due diligence indicates that the Charter School will be unlikely to be successfully implemented due to deficiencies in its fiscal operations.

a. Unsupported Revenue and Assumptions

The proposed budget contains significant unsupported sources of revenue. In its 2015-16 start-up budget, the Charter School relies upon a sizeable \$200,000 in donations from "local foundations" along with an unsecured loan for \$85,000. (App. D, pp. 56, 64.) However, the Petition does not provide any evidence that Petitioners have already secured \$200,000 in donations or that a legal commitment for such funding has already been made. Such unsubstantiated funding cannot be used as a revenue source or a valid assumption in the budget.

The \$85,000 unsecured loan is also uncertain and cannot be shown as a source of revenue until a commitment can be verified. The Petition provides no evidence that Petitioners have been approved for a loan in this amount. Unlike donations or grants, a loan is a fiscal liability of the Charter School, and, by virtue of its status as a non-profit entity and independent charter school, RVC cannot reflect a cash loan as income. RVC has committed to over \$200,000 of expenses in the current year. However, the budget does not set forth adequate and verified funding sources to cover its expenses.

The Petition also does not provide for a contingency plan for funding, including for music and art programs, if RVC cannot establish a relationship with the YES Foundation. The Petition states that, "[t]he budget assumes that the Charter will raise an average of \$125 per student per year through community fundraising efforts," including efforts with the YES Foundation. However, the Petition does not include documentation to demonstrate the YES Foundation Board has authorized or recognized such support. Additionally, the YES Foundation is expressly tied to the District, not to an independent charter school. Petitioners state that their donation projections are based upon historical figures raised by Manor Elementary School and the other elementary schools of the District. (App. D, p. 56.) However, as with the enrollment projections, Petitioners' reliance upon the historical figures are not valid because, unlike the proposed Charter School, MAP is a program of the District, which has a pre-existing relationship with the YES Foundation that is designed to support District programs. Petitioners do not provide adequate documentation to substantiate Petitioners' successful fundraising efforts or any documentation to substantiate donation commitments.

The Petition also states that "RVC will apply for the California School Finance Authority Charter School Revolving Loan Fund." (App. D, p. 59.) Relying upon the receipt of funds from the revolving loan, RVC has forecasted the receipt of \$250,000 in principal in July

2016, assumed a four-year payback period, and budgeted interest expense for the loan. However, conversion charter schools are not eligible for funding from the revolving loan fund. (Ed. Code § 47605, subd. (a)(2); § 41365, subd. (c) ["Loans may be made from moneys in the Charter School Revolving Loan Fund to a chartering authority for charter schools that are not a conversion of an existing school, or directly to a charter school that qualifies to receive funding pursuant to Chapter 6 (commencing with Section 47630) of Part 26.8 of Division 4 that is not a conversion of an existing school."].) Because RVC seeks to convert a District program, RVC cannot rely upon the revolving loan fund as a source for revenue or as a means of servicing its cash flow needs. Additionally, the Petition does not provide documentation to support this budget assumption.

The Petition states that "[t]he budgeted revenue assumes full enrollment" which RVC contends is a reasonable assumption because of the "traditionally oversubscribed nature of applications and the continuing existence of a waiting list." (App. D, p. 54.) However, as further detailed under Section IV.B, the Charter School's enrollment projections are unsupported, which reflects the likelihood that RVC will not be able to operate a fiscally viable program.

b. Understated Expenses and Assumptions

The Petition also does not reflect adequate assumptions for its expenses. For example, the Budget Narrative states that "[w]e have budgeted for up to twelve 900 sq. ft. rooms plus 30% of other space at a rate of \$1.10 a square foot per month for a total of \$185,328 per year." (App. D, p. 58.) Although Petitioners made it clear at the public hearing that they do not intend to locate RVC at Manor Elementary School, Petitioners have not identified any location for its program in the Petition itself, nor has it documented any agreement that reflects this rate, which is below market rate. Petitioners underestimate the expenses associated with lease costs by a significant factor in their proposal. Staff research regarding facilities lease costs reflects that, rather than the proposed \$1.10 square foot per month assumption proposed by RVC, the market rate for average commercial rent in San Anselmo is approximately \$1.83 per square foot per month, which would add approximately \$123,000 to RVC's overall expenditures.

Petitioners have also informed the District of its intent to possibly locate at the District's Red Hill site and that RVC would allocate significant expenses in improvement costs over the next 5 years. However, none of these expenses are reflected in the budget; the Petition neither identifies nor describes how RVC will obtain the funding for these expenses; and, as described in this report, RVC will be facing deficit spending and negative fund balances every year in its multi-year projections and therefore does not have the resources to operate its program, much less allocate money towards facility improvements.

The budget also does not adequately reflect special education costs, which are significantly understated, and numerous adjustments were required to be made by District staff to reflect an accurate representation of such expenses. For example, the budget does not reflect that RVC has incorporated its equitable share of its charter school block grant funding to the District for special education. The Petition does not make clear whether RVC will be a "school of the District" for special education purposes, or its own Local Education Agency ("LEA") with a Special Education Local Plan Area ("SELPA"). (p. 87.) Absent information supporting the Charter School's membership in a SELPA, RVC must be treated as a "school of the District." It is noted that the budget does not recognize special education funding as going to the District, which is responsible for providing special education under Education Code section 47646. Additionally, as a school of the District, the Charter School must budget a proportionate share of special education costs that are paid from the

District's general fund. Education Code section 47646(c) requires charter schools to contribute "an equitable share of its charter school block grant funding to support districtwide special education instruction and services, including, but not limited to, special education instruction and services for pupils with disabilities enrolled in the charter school." Thus, an increase in the balance of special education costs above the cost of a teacher to the \$909/ADA cost of local general fund contribution incurred by the District in 2014-15 was required to be made, which results in an additional \$236,000 to \$239,000 per year of special education expenses.

Additionally, the Petition states that, "RVC will create a Special Ed allocated Reserve Account and will put \$30,000 per year into this Reserve until it reaches \$150,000. This reserve will be set aside for any non-public school placements or other extraordinary Special Ed expenses that might occur." (App. D, p. 56.) However, it is unclear what constitutes "extraordinary special education expenses" and the plan for the "special education allocated reserve" is not reflected in the budget.

Other expenses appear significantly understated. For example, the Petition promises that RVC staff will undergo a significant amount of training, which is not realistically encompassed in its budget. Such training includes EL ("English Learner") training (p. 80); special education training (p. 96); CCSS-aligned best practices training (p. 105); cultural competency training (p. 118); parent volunteer training (p. 119); Brown Act training (p. 139); training for various matters regarding charter school law and governance including conflicts of interest, RVC legal compliance, special education, budget, and finance (p.140); mandated reporting and child abuse and neglect reporting requirements training (p. 152); emergency response or first responder training (p. 152); and anti-discrimination and bullying training (p. 154). Additionally, RVC will "[r]equire all staff (teachers and administrators) to receive training in CCSS-aligned best practices in curriculum and instruction highlighting needs of all subgroups; Train teachers in best practices to improve academic achievement among ELs, using Problem Based Learning (PBL) and GLAD strategies; Provide professional development for teachers and administrators on how to scaffold the CCSS for access for ELs; Provide a broad range of high-quality, standards-aligned instructional resources that facilitate ELs' access to core curriculum and expand their knowledge of the world. Provide curriculum and unit development aligned to both CCSS and ELD standards; Hire an ELD teacher to work directly with students and support classroom teachers in the implementation of CCSS content material." (pp. 105-106.) However, despite the significant amount of training required to be offered by RVC, the proposal only budgets \$8,000 per year for such training. (App. D, p. 67.)

The Petition also budgets utilities for only ten months of the year. Therefore, RVC will have no power during the summer, which will be problematic for numerous employees, such as the individual in charge of finances closing the Charter School's books, custodial staff performing summer deep cleaning, site principal planning for the following year, and other staff. Additionally, custodial and gardening services are budgeted at less than \$18,000 per year, which amounts to \$0.107 per square foot/month. At \$12.50 per hour minimum wage plus 20% benefits (and no PERS), the budget to cover all cleaning and landscaping needs amounts to 1,200 hours per year, or only a 0.57 Full-Time Equivalent ("FTE").

c. Curriculum Expenses

RVC underestimates the cost of the purchase and development of Common Core State Standards ("CCSS") curriculum. According to the Budget Narrative, "[t]he RVC curriculum will be taught to the Common Core State Standards but the teachers will develop their own reading and other curricular and reference materials. The budget reflects \$78 per student

for ongoing purchasing of curriculum and reference materials, books, and other instructional equipment, materials and supplies." (App. D, p. 57.)

As a preliminary matter, the Petition's promise that teachers "will develop" their own curriculum reflects that the curriculum has not yet been developed or finalized, and the absence of the final curriculum is evident in the Petition. Absent this information, the Petition does not reflect CCSS-aligned curriculum. The Petition also does not provide any information, metric, or plan for the District or RVC to be able to determine whether the curriculum to be developed will be CCSS-compliant curriculum. Because the School Director is not credentialed there is no means for the school management to supervise and ensure that curriculum developed by teachers is CCSS compliant and effective. Based upon this structure, the training that is set forth in the Petition is necessary but the funding required is understated.

Moreover, District staff finds the \$78 per student rate for the purchase of CCSS-aligned curriculum and books is inadequate. District staff estimates that the costs of materials needed to meet just its ELA needs for the purposes of complying with the CCSS will be greater than traditional and consumable textbooks, and that the costs to establish a complete program of balanced literacy, which would include reading and writing and the cost of purchasing leveled readers, are significant, and will not be adequately covered by the \$78 per student rate. Additionally, the Petition states that it has "budgeted three sets of 27 laptops," which may be insufficient to support the technological needs of RVC.

For example, for the 2015-16 school year (excluding vocabulary, fluency, and any intervention materials) the District spent \$25,000 for 9 classrooms for the leveled libraries and the book room and \$1,600 per K-3 classroom for foundational reading materials. The District also spent \$4,000 per Leveled Literacy Intervention ("LLI") kit for EL students. If RVC intends on using Readers'/Writers' Workshop, RVC must incur additional costs associated with that program since it is provided by Columbia Teachers' College, and such costs are not accounted for in the proposed budget. These expenses encompass ELA only, and do not even include the expenses associated with mathematics, which require manipulatives and consumable materials and which the District estimates would cost at least \$18,000. Materials for science using Full Option Science System ("FOSS") kits would cost approximately \$9,000 to \$12,000, and intervention materials would cost approximately \$60,000 for EL and special education students. Moreover, these expenses exclude the costs for printing and paper that would be required, which are significant expenses associated with instruction, especially since RVC proposes to use curriculum developed by its teachers and online resources. The Toolbox program is approximately \$800 to \$1,100 for materials and supplies. Accordingly, District staff finds the \$78 per student projection provided for by the Charter School to be insufficient to cover the expenses for the purchase and development of Common Core State Standards curriculum.

Accordingly, the District's analysis of RVC's proposed budget and financial information reflects significant and immediate cash flow deficiencies. The removal of the unsupported start-up revenues; increase in special education expenses to reflect contribution expenses; and increase in the facilities lease expenses to reflect the average San Anselmo rental rate will result in immediate and significant deficit spending and negative fund balance in every year of the RVC's multi-year projections.

Consequently, while the budget allocates funding for teacher and staff salaries and benefits commensurate with those provided by the District, the adjustments needed to be made to the budget to reflect a realistic projection of revenues and expenditures shows that RVC cannot meet these teacher and staff salary and benefits commitment. Based upon these

unsubstantiated estimates of revenue, unrealistic assumptions, and overstated expenses, Petitioners are demonstrably unlikely to successfully implement their proposed program.

3. Employee Qualifications

The Charter School does not require the School Director to possess any credential (p. 149; App. I, pp. 135-37), resulting in a classified director supervising and evaluating certificated personnel. Among the responsibilities required to be performed by the School Director and which can only be properly administered by a credentialed individual include overseeing the special education program and attending Individualized Educational Program (“IEP”) meetings, overseeing all necessary RVC, District, County, State and Federal applications and reporting, ensuring 504 compliance, supervising and evaluating certificated personnel, providing meaningful feedback to teachers, making hiring recommendations, evaluating student data analysis, leading professional development for teachers, and coordinating the administration of California Assessment of Student Performance and Progress (“CAASPP”) testing, among other things. (App I, pp. 135-37.) Therefore, Petitioners will be unlikely to successfully implement their educational program without a properly credentialed school director/leader.

Although RVC intends on hiring MAP teachers to initially implement the Charter School’s program, the three additional teachers to be hired will not have the benefit of the institutional knowledge of the original MAP teachers and will require supervision and evaluation from a credentialed individual. The lack of a credentialing requirement will also have a negative impact upon overall instruction and, ultimately, students.

The Petition makes repeated references to the fact that MAP teachers will teach at the Charter School, and suggests that RVC will rely upon their expertise to continue and grow the MAP program in the form of a Charter School. For example, the Petition states that “[f]ive out of six founding teachers have been trained at the Lucy Calkins Reading and/or Writing Institutes, Teachers’ College, at Columbia University in New York.” (p. 46.) The Petition reflects that the success of RVC will depend upon the continued participation and involvement of the former MAP teachers. However, the Petition does not account for the possibility that the former MAP teachers may leave or retire from RVC, and describe how such departures will affect the sustainability of the educational program.

4. Academically Low/High Achieving Students

The Petition does not reflect a plan that offers meaningful differentiated instruction between low- and high-achieving students. According to the Petition, “low achieving students will be fully integrated into the RVC student body.” (p. 76.) One of the practices identified in the Petition to assist low achieving students is the use of parent volunteers in the classroom. Specifically, “[v]olunteers also may support students as directed by teachers at the lower grade levels during math, writing, and other subjects. Parents may provide assistance to teachers by being present at learning centers to answer questions as they come up, under the direction of the classroom teacher.” (p. 77.) The plan does not appear adequate to support low-achieving students, who may be in most need of assistance by qualified and certificated personnel.

Just like the low-achieving students, “[a]cademically high-achieving students will be fully integrated into the RVC student body.” (p. 79.) The Petition’s plan for high-achieving students is general and vague, and lacks specificity. For example, high-achievers will be provided with “extra opportunities for enrichment,” “opportunities to go at a faster pace,” “encouragement to independently pursue an area of interest,” “extra opportunities for

leadership," "individual and small group projects," "alternative ways to show their learning," "develop critical thinking skills," and "take ownership of their learning," but the Petition does not specifically define or identify what specific opportunities, projects, or skills are entailed. (p. 79-80.) Many of these broadly-stated methods could arguably be applied to low-achieving students as well. Significantly, the Petition states that "[t]he personalized curriculum at RVC is designed to meet students where they are academically and to allow them to be challenged appropriately," which is vague and also reflects Petitioners' belief that the general RVC curriculum itself should be sufficient to meet the needs of high achievers. The Petition does not reflect how high-achievers will be treated differently than the general population, including the low-achieving population, or to what degree the curriculum will be adjusted to meet the needs of these distinct student groups.

5. English Learners

Despite the fact that English Learner ("EL") students will be a target student population for RVC, the Petition does not reflect an adequate plan for serving EL students that is operational. The Charter School anticipates enrolling approximately 14 EL students. (p. 24.) However, Petitioners plan on hiring only 1 part-time English Language Development ("ELD") instructor. (p. 84.) The expectations for the sole part-time ELD teacher are significant, especially in light of the significant responsibilities that the Petitioners expect to be performed for EL students identified in the Petition. The EL program appears to be understaffed and does not demonstrate that the Charter School has an actual and operational plan to serve EL students that is likely to be successfully implemented.

The Petition also reflects that the Charter School does not have a defined plan to serve the needs of EL students. The Petition states that "[a]ll EL students will be fully integrated into the regular classroom setting." (p. 82.) Moreover, the Petition vaguely states that "[t]hrough the use of printed materials, audiovisual resources, spoken language, parents and/or other volunteer participants, teachers will strive to incorporate the home language(s) and culture of the students in the classroom as much as possible." (p. 82.) The use of the terms "strive" and "as much as possible" reflects a lack of solid commitment by the Charter School in applying these strategies. Additionally, the Petition does not discuss GLAD strategies to be used to promote academic language and scaffold the curriculum. With respect to using "parents and/or other volunteer participants," the Petition indicates that the Charter School will rely upon parents to assist in the education of EL students, which reflects that EL students may be receiving instruction from unqualified and uncertificated volunteers while the classroom teacher focuses his/her attention to the other students in the class. The Petition again reflects noncommittal language by stating the Charter School "will *prioritize* the hiring of teachers who have already obtained a [CLAD] certificate or a [BCLAD] certificate." (p. 86.) However, the minimum qualifications of a classroom teacher contains no CLAD/BCLAD certification requirements. (App. I, p. 128.)

The Petition also states that "[t]he ELD teacher and classroom teachers may decide that some EL students may attend Spanish-language classes, based on their CELDT level and classroom performance," which reflects Petitioners' assumption that RVC's EL students will be Spanish-speakers. (p. 85.) Accordingly, the Petition does not adequately reflect or account for the fact that not all EL students are Spanish-speakers and that RVC must educate and provide services for students with a wide range of backgrounds/languages. Moreover, this provision is vague and does not specify the criteria or standard, with respect to CELDT level and classroom performance, that an EL student must achieve in order to attend Spanish-language classes. Additionally, the reference to RVC's plan for EL students to attend Spanish-language classes assumes that Spanish will be offered as a separate class from the general instruction, or that EL instruction and Spanish-language classes must

occur at the same time. However, the Petition does not make clear how both services will be offered from a logistical standpoint, especially in light of the Petition's plan for EL students to be fully integrated into general student population. The Petition does not reflect an adequate operational plan to serve EL students.

6. Anti-Discrimination Processes

As discussed above, MAP has operated as a District program with significant autonomy. On or about August 27, 2014, the District received a formal complaint alleging discrimination against students on the basis of their special education status, English Language Learner status, and gender with respect to admissions practices and procedures at the MAP program since 2006. As a result of this complaint, the District engaged an independent, third party investigator to investigate the complaint. The independent investigator concluded that although there was no intentional discrimination against any individual student or students, certain practices, procedures and policies of the MAP program resulted in disproportionately fewer students of certain protected classes participating in the program. The investigator concluded, among other things, "[a]pproximately fifty percent of the slots for students are unavailable during the lottery process due to the priority list established by MAP. The change in the priority list in 2011 to give the children of MAP teachers the number one priority into the program (with no consideration to other Manor School teachers) created a negative impression that MAP was manipulating their enrollment policies to satisfy the needs of a very [few] people in the program." The investigator also found that "statistical information confirms low numbers of IEP families in MAP and low number of ELL students in relationship to the overall population within the District." As a result, the District took back control over the enrollment procedures and gave directives to MAP regarding such procedures.

While the Petition contains language to address some of the investigator's findings, the Petition does not adequately set forth a program that is likely to be successfully implemented with respect to these student populations. As further described under Sections IV.B.5 and IV.C.1 with respect to EL and special education students, the Petition does not present an adequately described and defined program that is likely to be operational with respect to these student populations. Accordingly, and in light of MAP's history, the District has concerns regarding ongoing underrepresentation and/or discrimination at RVC.

C. The Petition Fails To Provide A Reasonably Comprehensive Description Of All Required Elements Of A Charter Petition

Education Code section 47605, subdivision (b)(5)(A-P), requires a charter petition to include reasonably comprehensive descriptions of numerous elements of the proposed charter school. The Regulations require the "reasonably comprehensive" descriptions required by Education Code section 47605(b)(5) to include, but not be limited to, information that:

- 1) Is substantive and is not, for example, a listing of topics with little elaboration.
- 2) For elements that have multiple aspects, addresses essentially all aspects of the elements, not just selected aspects.
- 3) Is specific to the charter petition being proposed, not to charter schools or charter petitions generally.
- 4) Describes, as applicable among the different elements, how the charter school will:
 - a. Improve pupil learning.
 - b. Increase learning opportunities for its pupils, particularly pupils who have been identified as academically low achieving.

- c. Provide parents, guardians, and pupils with expanded educational opportunities.
- d. Hold itself accountable for measurable, performance-based pupil outcomes.
- e. Provide vigorous competition with other public school options available to parents, guardians, and students.

(Regulations, § 11967.5.1, subd. (g).) Staff finds that the Petition does not provide reasonably comprehensive descriptions of many of the required elements as described below.

Element 1 – Educational Program

The Education Code and Regulations provide various factors for considering whether a charter petition provides a reasonably comprehensive description of the educational program of the school, including, but not limited to, a description of the following: the charter school’s target student population, including, at a minimum, grade levels, approximate numbers of pupils, and specific educational interests, backgrounds, or challenges; the charter school’s mission statement with which all elements and programs of the school are in alignment and which conveys the petitioners’ definition of an educated person in the 21st century, belief of how learning best occurs, and goals consistent with enabling pupils to become or remain self-motivated, competent, and lifelong learners; the instructional approach of the charter school; the basic learning environment or environments; the curriculum and teaching methods that will enable the school’s students to meet state standards; how the charter school will identify and respond to the needs of pupils who are not achieving at or above expected levels; how the charter school will meet the needs of student with disabilities, English learners, students achieving substantially above or below grade level expectations; and, the charter school’s special education plan, to include the means by which the charter school will comply with the provisions of Education Code section 47641, the process to be used to identify students who may qualify for special education programs and services, how the school will provide or access special education programs and services, the school’s understanding of its responsibilities under law for special education pupils, and how the school intends to meet those responsibilities. (Ed. Code, § 47605, subd. (b)(5)(A); Regulations, § 11967.5.1, subd. (f)(1).)

Staff finds that the Petition requires further comprehensive description of the Charter School’s educational program for the following reasons:

1. Transitional Kindergarten: The Petition does not adequately describe its Transitional Kindergarten (“TK”) program, nor does it recognize that Charter Schools are required to offer TK if the District provides Kindergarten classes. Rather, the Petition states that TK will be offered contingent upon receipt of apportionment funding. Specifically, “[i]f RVC receives apportionment for students in a Transitional Kindergarten (“TK”) program, it will accept applications for TK children who will have their fifth birthday between September 2 and December 2.” (p. 22.) The Petition does not provide any further description regarding its TK program, nor does the charter proposal reflect the requirement that TK must be offered by the Charter School.
2. Commitment to Curriculum: The Petition contains language that reflects a lack of commitment by the Charter School to implementing specific curriculum. According to the Budget Narrative, “the teachers will develop their own reading and other curricular and reference materials.” (App. D, p. 57.) The Petition’s promise that teachers “will develop” their own curriculum reflects that the curriculum has not yet

been developed or finalized, and therefore a lack of commitment to a specific course of curriculum is reflected. Without this information, the District is unable to evaluate the educational program.

The Petition also states that “RVC will use likely [sic] the Toolbox social-emotional learning curriculum (published by Dovetail Learning, Inc.) to teach children twelve basic ‘tools’ they can use to develop their innate abilities to cope with uncomfortable emotions, strengthen their social skills and resilience, and enhance their interactions with others.” (p. 29.) The use of such language as “will use likely” reflects uncertainty and a lack of commitment to a particular course of curriculum and makes it impossible for the District to exercise its oversight responsibilities to ensure that RVC is complying with its charter.

As another example, to foster cultural competency, the Petition states, “[w]e will select, develop, and implement curriculum that reflects diverse perspectives and languages and provides inclusive, accurate portrayal of historical events and cultural groups.” (p. 39.) Here, in addition to the fact that the proposed curriculum is vague, the Petition reflects that the curriculum to be used has not yet been identified or selected, which reflects a lack of commitment by the Charter School to implementing a course of curriculum.

The Petition also states, “[w]e will consult, combine, and select from range of resources such as Everyday Math, Mathland, Touch Math Program, Tile Math, Marilyn Burns (About Teaching Mathematics, 1992), Mary Baratta-Lorton (Mathematics Their Way, 1995), as well as online resources.” (p. 52.) Again, the Petition merely describes options for mathematics curriculum, without commitment; reflects that a mathematics curriculum has not been selected or developed; and vaguely states that teachers will use “online resources” without further description of what specific materials will be used. Moreover, the Petition does not adequately describe how these materials are connected to the CCSS.

3. Parent Participation: The Petition states that “[s]ome parents may help out regularly in the classroom (e.g., weekly, every other week, monthly), working with students and/or supporting the teacher...Parents may also enrich classroom experienced by sharing their own skills, interests, and professional knowledge in areas such as engineering, natural sciences, design, yoga, meditation, arts, crafts, cooking, sewing, gardening, woodworking, and more.” (p. 32.) However, the Petition does not adequately describe the scope of parent/volunteer responsibilities, and suggests that Parents may even teach academic content, despite the fact that they are volunteers and not credentialed staff. Aside from orientation meetings, the Petition does not account for the requisite training for parents to act in this role or describe any credentialing or certification requirements to ensure that parent volunteers are indeed qualified to teach.

Even though the Petition recognizes that some parents will not be able, or will choose not, to volunteer, and that “volunteering will not be a requirement or expectation” (p. 32), such acknowledgment is inconsistent with the Charter School’s measurable outcome for parent participation. Specifically, the Charter School requires that “[a]t least 40% of parents choose to volunteer during the school year, including in class, on the Board of Directors or Leadership Council, on committees, driving on field trips, working on project preparation for teachers at home, helping with performances, or in other ways.” (p. 109.) The Petition does not adequately describe how it will achieve its goal of promoting parent participation if it does not

achieve a 40% participation rate, and the Petition places RVC in the untenable position of incentivizing the Charter School to require parent participation in order to achieve the 40% participation rate.

4. Vague Description: The Petition contains numerous descriptions of its educational program that are vague and nebulous, and that could be used to describe any general educational program. For example, the Petition states, “[t]eachers will use a variety of assessment data to identify students that need additional support in order to reach the standards, and work with them individually and in small groups frequently and with targeted instruction.” (p. 37.) Academic performance is a critical component to evaluating the educational program and a clear and defined plan with identified assessments is expected.
5. Spanish Language: The Petition states that “[s]tudents who are native Spanish speakers *may not participate* in Spanish language class. They may be opted out of Spanish language instruction in favor of English language instruction with the ELD teacher, or *they may participate* in Spanish classes and be given the opportunity to shine as model Spanish speakers.” (p. 51; emphasis added.) This provision is unclear and potentially conflicting, as it appears to initially state that native Spanish speakers are prohibited from participating in Spanish class, but later permits them to participate. Additionally, the Petition does not adequately describe what it means for a native Spanish speaker to be “given the opportunity to shine as model Spanish speakers” and does not describe what educational benefit native Spanish speakers in this role will gain. Moreover, the prohibition against native Spanish speakers from participating in Spanish class may constitute impermissible discrimination on the basis of race and/or national origin.
6. Privacy: The Petition states that, “[i]n the upper grades, students will do a majority of their writing on computers. They will use Google docs so their writing can be shared with their teacher or writing partner for comments and editing.” (p. 49.) The Petition also contemplates significant volunteer participation in the educational program. These provisions implicate privacy concerns. However, the Petition does not provide any description of how student privacy rights and access to pupil records will be protected.
7. Philosophy: Although the Charter School intends on using the Reggio Emilia approach and references an academic article describing this educational philosophy (App. J), the article focuses upon early childhood education only, and the Petition does not further describe how the philosophy and approach is used for grades K through 5. For example, the Petition does not include information regarding the constructivist philosophy for elementary-age students, which would be appropriate here.
8. Special Education: The Petition does not adequately describe the Charter School’s plan to serve students with disabilities. Although the Petition provides pages of text with regard to its special education program, upon closer review, the District finds that the descriptions comprise of general restatements of the law that apply to charter schools generally, without any meaningful consideration or description of how the special education plan is specific to the charter school being proposed. The Petition utilizes boilerplate language reciting the special education obligations of a charter school claiming to be a “school of the district” for special education purposes and also a LEA with a SELPA, even though RVC cannot be both.

The Petition reflects that the boilerplate provisions have been included to cover both situations (i.e., school of the district and LEA of a SELPA) but does not bind the Charter School to either through the use of broad and noncommittal language, and the Petition does not even reflect a commitment to one specific SELPA. The Petition states, "RVC may initially be, by default, a public school of the authorizer for purposes of special education, pursuant to Education Code Section 47641(b). However, RVC reserves the right to make written verifiable assurances that it shall become an independent local educational agency (LEA) and join a special education local plan area." (p. 87.) Although a charter school is a "school of the District" by default, and must therefore contribute to an equitable share of its charter school block grant funding to support districtwide special education instruction and services under Education Code section 47646(c), the budget does not reflect that RVC has accounted for its equitable share of special education costs. The Petition also does not account for any transition requirements for RVC to become an LEA.

The Petition also incorrectly states that "[a] change in LEA status or SELPA membership shall not require a material revision of this charter." (p. 87.) This provision reflects Petitioners' lack of understanding of the significant differences in a charter school's obligations to provide services to students with disabilities when a charter school is its own LEA of a SELPA or a "school of the district" for special education purposes. Such differences are significant and would require a material revision of the charter. A change of special education status is a material revision to the terms of the charter subject to authorizer approval. In accordance with CDE directives, a charter school is to provide at least one year of notice together with the legally required assurances to the authorizer to ensure proper transition and provision of services to special needs students.

The Petition does not adequately describe how students who do not currently have an IEP but may be in need of a pre-referral intervention plan will be served or provided services. (p. 88.) The Petition sets forth general and vague strategies such as "appropriate individual tutoring schedule, classroom modifications, strategies and techniques to enhance that student's ability to be successful." The lack of operational specifics reflects that the Charter School does not have an adequate plan for providing pre-referral interventions.

The Petition also states that it will collect and maintain information regarding "the basis of exit of students with disabilities (i.e., attainment of diploma and type, exits from special ed, moved, etc.)." (p. 94.) However, the Petition does not define what the term "exits from special ed" means, as such term does not have a special meaning in the context of special education.

This section does not adequately describe the procedural safeguards against the removal of students with disabilities, which occurs if the removal is for more than 10 consecutive days, or if the child has been subjected to a series of removals that constitute a pattern because, for example, the series of removals total more than 10 school days in a school year. Although the section describing the suspension and expulsion procedures describes the process for manifestation determinations, such processes are not described here.

9. Program Offering: Although the Charter Schools Act intended for charter schools to "encourage the use of different and innovative teaching methods" and "provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system," the RVC program does not

significantly differ from the program already offered by the District in MAP and instead Petitioners seek to convert the District's already-existing MAP program into a charter school. As stated above, numerous references to MAP and the adoption and replication of MAP's policies, philosophy, and operations are evident throughout the Petition. At the public hearing on the Petition, when asked to identify the differences between MAP and RVC, Petitioners indicated that the only significant difference was that RVC will offer Spanish once a week. The addition of a foreign language class once a week does not constitute a different and innovative teaching method or an expansion of choice sufficiently significant to justify the creation of a Charter School.

Element 2/3 – Measurable Student Outcomes and Methods of Measurement

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, include the annual assessment results from the Statewide Testing and Reporting ("STAR") program, 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).)

Staff finds that the Petition requires further comprehensive description of the Charter School's measurable student outcomes and methods of measurement for the following reasons:

1. Vague Measures: The Petition does not provide meaningful means of measuring pupil outcomes, and many of the pupil outcomes are not objectively measurable or vague. For example, in measuring student outcomes, the Petition promises that, "80% or more of all students show mastery of math concepts on unit assessments," "80% or more of all students show mastery of science and social studies concepts on unit assessments," and "80% of students show mastery of each of the specified skills on year-end progress reports." (pp. 111, 125.) The Petition does not define or describe what constitutes "mastery" or exactly how students can achieve "mastery" in these subjects, or what specific "unit assessments" will be used. Accordingly, even though the Petition purportedly provides a quantifiable outcome in "80% or more", the outcome is rendered meaningless as a result of the lack of specificity.

The Petition states that "100% of RVC teachers are fully credentialed, as reported in the annual SARC." (p. 101.) However, the Petition does not describe what it means to be "fully credentialed." The Petition also states, "100% of RVC students have

access to up-to-date, standards-aligned instructional materials in their classrooms, as reported in the annual SARC." However, the Petition does not identify what instructional materials are to be used to fulfill this outcome.

2. Independent Measures: The Petition does not identify outcomes independent from those of the District. For example, with respect to EL Reclassification Rates, the Petition states that "RVC meets or exceeds the RVSD 3 year rolling average percentage of EL students reclassified each year as a percentage of the previous year's EL total." (p. 113.) Moreover, the Petition does not identify the methodology for reclassification. As another example, the Petition states that "RVC students, including all subgroups, perform at comparable rates of proficiency in CAASPP testing as Ross Valley School District elementary students District-wide." (p. 104.) Here, not only is the phrase "comparable rates" vague and impossible to be measured, but the Petition does not establish an independent measurable outcome towards which the Charter School's students can achieve.

Moreover, despite the fact that the Charter School is targeting the enrollment of EL students, the Petition only requires that "RVC EL Students perform at comparable rates of proficiency on annual CAASPP tests as Ross Valley School District EL elementary students District-wide." (p. 105.) By pegging the Charter School's EL outcomes to those of the District, the Petition does not identify goals or standards for the academic performance of EL students different than what has been achieved by the District, despite the Charter School's emphasis on targeting the EL population.

3. Inapplicable Outcomes: The Petition identifies outcomes that are inapplicable to the stated goal. For example, to address health outcomes, the Petition states that "100% of teachers include lessons for 100% of the 12 tools of the Toolbox Project over the course of two years." (p. 124.) However, the Toolbox program focuses on building self-regulation skills and does not address student health issues. Moreover, this provision does not take into consideration the fact that Toolbox may not be appropriate certain student populations, such as students with disabilities.
4. Parent Reporting: The Petition does not adequately describe the Charter School's reports of academic progress to parents. According to the Petition, the Charter School will report student progress only three times per year, and the third report will be a summative report. (p. 134.) In contrast, the District reports student progress six times per year, and the Petition does not otherwise describe how its proposed reporting schedule/structure will meet the reporting needs of parents.
5. Lack of Rigor: The Petition does not propose rigorous academic outcomes for its students. For example, the Petition states that "80% of students show mastery of each of the specified skills on year-end progress reports." (p. 125.) Notwithstanding the fact that this outcome is vague, the outcome also appears to lack rigor and does not ensure that all students will achieve sufficient academic progress to prepare them for future grade levels. In fact, many of the measurable outcomes identified in this section require that only "80% of more of all students" achieve a certain outcome. (e.g., p. 111.) Staff finds the 80% measurable outcome level to be inadequate and to allow one-fifth of the RVC class to be left behind in their academic progress. Moreover, the Petition also does not fully commit to achieving academic proficiency for RVC students. For example, for reading, the Petition states that "[o]ur goal is for each student to read at or above grade level." (p. 46.) The Petition suggests that RVC will strive for its students to read at or above grade level, but does not commit to an outcome that ensures it. As a result, it is impossible for the

District to ensure that the Charter School is complying with the academic standards set forth in the charter.

Some of the stated outcomes do not necessarily result in the stated goal. For example, the Petition states as a goal that “[a]ll students, including all subgroups, will become competent readers, writers, and speakers of the English Language.” (p. 121.) To achieve that goal, the Petition states that “80% or more of all students, including all subgroups, demonstrate at least one year of growth on the English Language Arts portions of the CAASPP assessments.” (p. 121.) However, because a student has demonstrated one year of growth does not mean that the student is actually competent in English skills and content.

6. Subgroups: Pupil outcomes must include outcomes that address increases in pupil academic achievement for all groups of pupils served by the Charter School. However, the Petition does not adequately identify outcomes for pupil subgroups. Instead, the Petition either establishes a school-wide measurable outcome without reference to subgroups, or summarily states that a certain percentage or more of all students, “including all subgroups,” will meet a certain outcome. (e.g., “80% of more of all students show mastery of math concepts on unit assessments” (p. 111); “80% or more of all students, including all subgroups, demonstrate at least one year of growth on the Mathematics portions of the Smarter Balanced assessment.” (p. 131.) The lack of differentiation in measurable outcomes between the general student population and pupil subgroups reflects a proposal to establish a one-size-fits-all program and lacks the differentiation promised by Petitioners.
7. Measurable Outcomes: The Petition does not adequately describe how certain skills that the Charter School intends to teach will be measurable. For example, the Petition states that “[s]tudents’ ongoing classwork and projects will be assessed to show academic growth and progress toward Common Core State Standards, which reflect the importance of 21st Century skills such as problem solving, collaboration, and communication.” (p. 17.) The Petition also states that RVC strives for its graduates to be independent and confident; collaborative problems solvers; effective communicators; creative and adaptive thinkers; people who persevere; caring community members; and solid in foundational academic skills. (pp. 19-20.) The Petition also states that students need to: “Have the creative thinking, adaptability, and resourcefulness as well as the collaboration skills necessary to become socially and emotionally competent” and “[b]e persistent and engaged in learning to continue on to middle school, high school, college, and beyond as lifelong learners who own their own learning.” (p. 99.) However, the Petition does not adequately describe measurable outcomes or methods of measurements for each of these skills or goals.
8. Parent Participation: The Petition sets forth as a measurable outcome that “[a]t least 40% of parents choose to volunteer during the school year, including in class, on the Board of Directors or Leadership Council, on committees, driving on field trips, working on project preparation for teachers at home, helping with performances, or in other ways.” (p. 109.) This outcome raises concerns whether the educational program can successfully be implemented if 40% of parents do not participate.
9. Suspension/Expulsion: With respect to pupil suspension and expulsion rates, the Petition indicates that RVC will minimize these rates by “implementing various methods to help students who are struggling.” (p. 117.) This description is vague and does not specifically identify which methods are to be used or what evaluation is done to determine a student is “struggling.” Moreover, the actions to achieve this

goal do not discuss any other alternatives other than general “counseling referrals” and “work[ing] with parents of students who are struggling to consider other methods of support.” (p. 117.)

Element 4 – Governance

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 Education Code and Regulations also provide for evidence that parental involvement is encouraged in various ways. (*Ibid.*)

Staff finds that the Petition requires further comprehensive description of the Charter School's proposed governance for the following reasons:

1. Conflict of Interest: According to the Petition, “RVC intends to allow a currently-employed teacher to be a Member of the Board” and the initial Board of Directors proposed by Petitioners includes a teacher/board member (p. 137-38) Conflicts of interests are prohibited by various laws and regulated to ensure that board members act in the best interests of the organizations over which the board governs. For example, the Political Reform Act of 1974 (“PRA”) prohibits public officials at any level of state or local government from participating in or in any way seeking to influence a governmental decision in which he/she has a financial interest and Government Code section 1090 invalidates contracts made where a member of the board has a financial interest in the contract. Common law strictly requires public officers to avoid placing themselves in a position in which personal interest may come into conflict with their duty to the public. Thus, governing board members should perform their duties in an impartial manner, free from bias caused by their own interests.

The Petition suggests that Government Code section 1090 does not apply to charter schools because “[t]he Legislature has passed a number of bills applying Government Code Section 1090 to charter schools, all of which have been vetoed (by Governors from both political parties.” (p. 138.) However, the Governor's veto does not give rise to an inference that charter schools are free of these requirements. (*Lockheed Information Management Services Co. v. City of Inglewood* (1998) 17 Cal.4th 170, 171 [holding that a governor's veto message “cannot supply post hoc evidence of the Legislature's intent when that provision was originally adopted”].) Moreover, section 1090 is contained in the Government Code, and the waiver of the Education Code requirements for charter schools extends solely to laws that apply uniquely to school districts. Accordingly, Government Code section 1090, and also the PRA, apply to charter schools just as they apply to all other public agencies.

The Petition does not adequately address the conflict of interest problem inherent in the RVC governance structure or describe how to address or cure potential conflicts. As structured, the teacher who also serves as a governing board member would have a financial interest in the Charter School since, for example, he/she would receive their salary and benefits from employment with the school. Members of the governing board owe a fiduciary duty to act in the best interest of the Charter School

and are also responsible for the Charter School's operational and fiscal affairs, including making personnel actions; approving hiring of all employees; approving and monitoring the implementation of general policies, including compensation of employees; monitoring overall staff performance; and approving and monitoring the annual budget. (p. 140.) Because the proposed teacher/board member has a financial interest in the Charter School, a conflict of interest would inevitably arise when the governing board renders decisions on such issues as, for example, modifying teacher compensation and benefits, as the teacher's financial interest in their salary may not coincide with what is best for the Charter School. Significant operational decisions, such as employee compensation, would have a material financial effect upon the teacher's salary, and should be free from biases from governing board members.

The Petition does include a Conflict of Interest Code (App. E, p. 77), which contains provisions regarding disclosure and disqualification. However, the Petition limits its application to the Political Reform Act and does not account for Government Code section 1090 or the common law requirement to refrain from participating in decisions where an appearance of impropriety may exist. Neither the Petition nor the Conflict of Interest Code contemplates or addresses the avoidance of the mere appearance of impropriety. The Petition does not adequately address the fact that abstention from voting or participation in discussions or negotiations does not resolve a conflict of interest violation under Government Code section 1090. Rather, mere membership on the board establishes the presumption that the member participated in the forbidden transaction or influenced other members of the board. Similarly, the full disclosure of an interest by an officer is also immaterial as disclosure does not guarantee an absence of influence. To the contrary, knowledge of a fellow board member's interest may lead other members to favor an outcome which would benefit him/her.

Additionally, the Conflict of Interest Code applies only to the Board of Directors and the School Director and does not apply to the members of the Leadership Council, made up of all RVC teachers, despite its extensive authority "regarding matters of policy, budget, or other matters within the Board's authority" and apparent autonomy from the Board of Directors. (pp. 141-44.) In light of the fact that all of the teachers are to serve on the Leadership Council, there are extensive opportunities for conflicts other than those of a strictly financial nature to arise. For example, a conflict may arise with regard to student discipline issues and parent and/or student complaints regarding performance. The Petition does not address these and additional types of conflicts, and therefore the Petition is inadequately described with respect to governance.

Moreover, even though the Petition states that the Charter School is willing to revise its governance structure and Conflict of Interest Code, Petitioners do not describe or propose any alternative governance structure than the one presented in the instant Petition. The District is to consider the Petition as presented and therefore the Petition is inadequately described with respect to its governance structure.

2. Officers: The description of the governance structure in the bylaws is vague and incomplete, which reflects conflicts of interest in violation of Government Code section 1090 and the Political Reform Act, and are therefore inadequately described. For example, under Article VIII, Section 3, under the section "Election of Officers," the bylaws summarily state, "[t]he officers of the Corporation shall serve at the pleasure of the Board, subject to the rights of any officer under any employment

contract.” (App. E, p. 88.) This section provides no further description explaining how officers will be “elected,” and suggests that the board has the ultimate authority to choose and remove its officers without input or participation by parents of students enrolled.

This structure reflects that officers will be compensated through employment contracts which creates conflicts of interest under both Government Code section 1090 and the PRA, with the board members receiving compensation and holding responsibility for overseeing themselves as employees of the charter school. These statutes prohibit public officials and employees from having a financial interest in any contract or decision made by them in their official capacity, or by any body or board of which they are members. The statutes are aimed at eliminating temptation, avoiding the appearance of impropriety, and assuring the government of the officer’s undivided and uncompromised allegiance. Here, the bylaws provide for an impermissible structure in which the board members/officers are also paid employees of the school. For example, under Article VIII, Section 1, the Chairman of the board is an “officer” and he/she “shall preside at the Board of Directors’ meetings” (App. E, p. 89.) while at the same time also receives compensation through an employment contract. It also appears from the bylaws that the School Director is a board member, as the bylaws states that the “President, who shall be known as the ‘School Director.’” (App. E, p. 89.) As the School Director will receive compensation, the bylaws again propose an impermissible structure that reflects conflict of interest problems. The Petition provides that “[t]he Board CFO has extensive business accounting and school accounting experience and will oversee accounting practices in conjunction with the School Director.” (App. D, p. 57.) This, again, presents a conflict of interest.

3. Leadership Council: The Petition states that “[t]he day-to-day guidance of RVC will be jointly overseen by the School Director and the Leadership Council.” However, the Petition does not adequately describe how this will be accomplished. The Petition describes the Leadership Council to comprise of eight voting members, with all RVC teachers holding membership on the Leadership Council. The Petition then describes a complicated voting structure whereby the teachers have three votes for council purposes and the four voting parent members having one vote each. (p. 142.) The rigid structure of the Leadership Council does not appear to allow for the flexibility that is required for day-to-day operation purposes, especially when the Leadership Council is charged with participating in personnel selection processes and monitoring RVC’s progress and performance. While the Petition states the Leadership Council meetings will be open to the public, they do not commit to compliance with the Brown Act to ensure transparency and participation. The Petition states that the Leadership Council will enact its own bylaws and decide the different positions and roles of the elected parents and other non-voting members of the Council as it deems appropriate. (p. 143.) However, because the Leadership Council plays a key role in governance and manages day-to-day operations, these bylaws, positions, and roles are to be set forth in the Petition.

The role of the governing board and Leadership Council overlap and are confusing as to which body has responsibility over specific duties. According to the Petition, both bodies have responsibilities in making personnel actions, monitoring the educational program, and allocating resources. (pp. 140-144.) Also, according to the organizational chart, the RVC Leadership Council appears to operate independently of the governing board, and potentially the Charter School, as the chart does not

make clear what relationship the RVC Leadership Council has with the Charter School governing board. (p. 146.)

The Petition also states that “[t]he even number of voting members between staff and parents has proven to be a critical structure in the MAP for reaching consensus.” (p. 143.) However, the Petition does not describe what the procedures will be in the event staff and parents disagree with each other and an issue results in a tie vote. The Petition also contains vague language with respect to the Leadership Council. For example, the Petition states that “[a]ny decision of the Council can be appealed to the Board by anyone.” (p. 144.) However, the Petition does not describe any appeal procedures and does not further define what it means by the term “anyone.”

4. Board of Directors: The Petition presents conflicting information regarding the RVC Board of Directors. According to the bylaws, the initial board of directors will be comprised of 5 individuals. (App. E, p. 83.) However, according to the Petition, the “Petitioner Team” reflects 8 individuals serving as RVC board members. The Petition does not otherwise explain this discrepancy, and contributes to the lack of clarity regarding whether officers are intended to serve as board members, despite the fact that they will receive compensation through employment contracts.

Element 5 – Employee Qualifications

The Education Code and Regulations provide for a charter petition to identify general qualifications for various categories of employees the school anticipates, identify those positions that the charter school regards as key in each category and specify the additional qualifications expected of individuals assigned to those positions, and specify that all employment requirements set forth in applicable provisions of law will be met, including but not limited to credentials as necessary. (Ed. Code, § 47605, subd. (b)(5)(E); Regulations, § 11967.5.1, subd. (f)(5).)

Staff finds that the Petition requires further comprehensive description of the Charter School’s employee qualifications for the following reasons:

1. Minimum Qualifications: The Petition does not establish adequate minimum qualifications for some of the most important positions for the Charter School. For example, the Petition does not require the School Director to possess any credential (p. 149), whether administrative or teaching, despite the fact that the School Director is responsible for “all personnel and human resource functions and duties..., including supervision and evaluation [of] all RVC employees” and “facilitat[ing] staff professional development and improvement.” (App. I, pp. 135-37.) Therefore, the employee qualifications do not adequately describe how the School Director will be qualified to address issues regarding curriculum, employee evaluations, special education, student discipline, and the myriad of issues inherent in operating a public school in light of the fact that the School Director is not required to possess any credential.

The job description for the position of Classroom Teacher does not require, as a minimum qualification, the possession of a Crosscultural Language and Academic Development (“CLAD”) or Bilingual Crosscultural Language and Academic Development (“BCLAD”) certification. (App. I, p. 128.) Additionally, according to the job descriptions, the position of Special Education Teacher does not require a multiple subject teaching credential and the Special Education Teacher is not required to obtain highly-qualified (“HQ”) status, both of which are standard for

District special education teachers. (App. I, pp. 129-30.) The job description for the Physical Education teacher provides no description of the minimum qualifications for the position. (App. I, p. 133.) The Petition also does not address the qualifications and/or duties of all non-certificated/classified employees.

Element 6 – Health and Safety

The Education Code and Regulations provide for a charter petition to include the procedures that the school will follow to ensure the health and safety of pupils and staff, including but not limited to requiring that each employee of the school furnish the school with a criminal record summary, including the examination of faculty and staff for tuberculosis, requiring immunization of pupils as a condition of school attendance to the same extent as would apply if the pupils attended a non-charter public school, and providing for the screening of pupils' vision and hearing and the screening of pupils for scoliosis to the same extent as would be required if the pupils attended a non-charter public school. (Ed. Code, § 47605, subd. (b)(5)(F); Regulations, § 11967.5.1, subd. (f)(6).)

1. Health and Safety Procedures: The Petition does not provide a copy of its health and safety procedures, which is concerning in light of the fact that the Charter School seeks to convert the already-existing MAP program. Instead, the Petition states that “[a] full draft will be provided to the authorizer for review at least 30 days prior to operation.” (p. 152.) The Petition also reflects that an Emergency Preparedness Handbook has neither been developed nor submitted with the Petition. (p. 153.) Education Code section 47605(b)(5)(F) expressly requires the Charter School to provide a description of its health and safety procedures. Moreover, health and safety procedures are fundamental to the successful and safe operation of a school site. Accordingly, the Petition is inadequately described on account of the absence of such procedures from the Petition.
2. Incomplete/Vague Procedures: The Petition does not adequately describe its health and safety procedures and does not demonstrate an understanding of the Charter School’s obligations in this regard. The Petition, in numerous places, summarily states that RVC will comply with state and/or federal law, without identifying what obligations it has under those laws. For example, with respect to bloodborne pathogens, the Petition states that, “[t]he Charter School shall meet *state and federal standards* for dealing with bloodborne pathogens and other potentially infectious materials in the work place. The Board *shall establish* a written infectious substances control plan designed to protect employees and students from possible infection due to contact with blood borne viruses...Whenever exposed to blood or other bodily fluids through injury or accident, staff and students shall follow the *latest medical protocol* for disinfecting procedures.” (p. 152; emphasis added.) Here, the Petition does not specifically identify standards or what the “latest” protocols are, and the Petition reflects that a control plan has not been developed yet.
3. Volunteer Background Checks: As stated above, the Petition requires as a measurable outcome that “[a]t least 40% of parents choose to volunteer during the school year, including in class, on the Board of Directors or Leadership Council, on committees, driving on field trips, working on project preparation for teachers at home, helping with performances, or in other ways.” (p. 109.) The Petition only requires “[v]olunteers who will volunteer outside of the direct supervision of a credentialed employee” to obtain background checks prior to volunteering which is not consistent with fingerprinting requirements for charter schools. (p. 152.)

Element 7 – Racial and Ethnic Balance

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).)

Staff finds that the Petition requires further comprehensive description of the Charter School's plan to achieve an appropriate racial and ethnic balance for the following reasons:

1. **Non-Committal Provisions:** The Petition's language with respect to the Charter School's obligation to employ means to achieve a racial and ethnic balance reflective of the District's general population is vague and non-committal. For example, the Petition states "Ross Valley Charter will *strive* to enroll a student body that fully reflects the full range of diversity found in the broader school aged community." (p. 155; emphasis added.) Similar non-committal language is found throughout the Petition: "RVC will *strive* to enroll a student population that is somewhat more ethnically and socio-economically diverse than the population in the Ross Valley School District"; "RVC will *attempt* to attract students in these subgroups greater than the District average"; and "RVC will *attempt* to attract students with a similar racial and ethnic diversity." (pp. 23-24.) Such permissive and noncommittal language does not commit RVC to pursuing these strategies, raises concerns about the Charter School's ability to meet its racial and ethnic balance, and does not reflect a measurable goal. Moreover, the use of such language makes it difficult if not impossible for the District to exercise its oversight responsibilities to ensure that RVC is complying with its charter.
2. **Conflicting Provisions:** The Petition further lacks adequate description in that Petitioners make representation and promises that contradict one another. For example, RVC promises to attract students with a similar racial and ethnic diversity as the District (p. 24), but also promises to enroll a student population that is "more ethnically and socio-economically diverse than the population in the Ross Valley School District." (p. 23.) Nonetheless, according to the Petition, RVC intends to draw enrollment from the same neighborhoods and communities as the District does. Accordingly, without further description, staff finds it unlikely that RVC would enroll a student population that is "more ethnically and socio-economically diverse" than the District.

Element 8 – Admission Requirements

The Education Code and Regulations 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).)

Staff finds that the Petition requires further comprehensive description of the Charter School's admission requirements for the following reasons:

1. **Public Random Drawing:** Residents of the District are 5 out of 6 on the lottery admission priority list. Preferential treatment for the lottery is as follows: (1) existing students of the Charter School; (2) children of current employees and founders; (3) siblings of current students; (4) EL students and students eligible to receive Free and Reduced Price Lunch; (5) residents of the District; and (6) all others. (p. 160.) Accordingly, residents of the District should nonetheless be higher

on the priority list. Statutory lottery preferences dictate over other preferences not specified in law.

2. Language Survey: The Petition states that, to determine whether an applicant/student is an English Learner, RVC will require the family to complete a Home Language Survey, which must indicate that a language other than English is primarily spoken at home. (App. H, p. 122.) However, merely because a family completes a Home Language Survey indicating that the student's home language is not English does not necessarily mean the student is an English Learner. In light of the fact that "[n]o test or assessment shall be administered to students prior to acceptance and enrollment into the Charter School" (p. 159), the Petition lacks adequate description on how RVC will identify and enroll EL students, which will hinder RVC's ability to achieve the EL enrollment projections promised in the Petition. (p. 155.)

Element 10 – Suspension and Expulsion Procedures

The Education Code and Regulations require a charter petition to specify procedures by which students can be suspended or expelled that provides due process for all pupils. These shall include, at a minimum, identification of a preliminary list of offenses for which students must and may be disciplined, the procedures for suspending and expelling pupils who have committed such offenses, and how parents, guardians and students will be informed of the grounds and their due process rights. (Regulations, tit. 5, § 11967.5.1, subd. (f)(10).) A petition must also provide evidence that in preparing the list of offenses and the procedures, the petitioners reviewed the lists of offenses and procedures that apply to students attending non-charter public schools, as well as evidence that petitioners have reviewed their list and believe it provides for adequate safety for students, staff and visitors. (Ibid.) The charter petition must also include a description of due process for and understanding of the rights of students with disabilities with regard to suspensions and expulsion and how discipline policies and procedures will be periodically reviewed and modified. Finally, the petition must outline how detailed policies and procedures regarding suspension and expulsion will be developed and periodically reviewed, including, but not limited to, periodic review and (as necessary) modification of the lists of offenses for which students are subject to suspension or expulsion. (Ed. Code, § 47605, subd. (b)(5)(J); Regulations, § 11967.5.1, subd. (f)(10).)

Staff finds that the Petition requires further comprehensive description of the Charter School's suspension and expulsion procedures for the following reasons:

1. Material Revision: The Petition states that the suspension and expulsion procedures "shall serve as the Charter School's policy and procedures for student suspension and expulsion and it may be amended from time to time, without the need to amend the charter, so long as the amendment comport with legal requirements." (p. 164.) However, changes to procedures that could result in student expulsion, and therefore disenrollment, are significant and material, and implicate due process concerns. Therefore, changes in these procedures must be processed through the material revision process set forth under the Charter Schools Act.
2. Alternative Means of Correction: The Petition lacks adequate description of alternative methods of discipline, which may obviate the need for suspension and/or expulsion and which may be a more appropriate form of discipline for K-5 students. Although the Petition states that the Charter School has reviewed Education Code section 48900 et seq., the Petition does not adequately describe other means of

correction identified in section 48900 et seq. including, but not limited to, a conference between school personnel, the pupil's parent, and the pupil; referrals to the school counselor, psychologist, social worker, or other school support service personnel; study teams, guidance teams, or other intervention-related teams that assess the behavior and implement individualized plans; referral for a comprehensive psychosocial or psychoeducational assessment; enrollment in a program for teaching prosocial behavior or anger management; participation in a restorative justice program; a positive behavior support approach with tiered interventions that occur during the schoolday on campus; or after-school programs that address specific behavioral issues or expose pupils to positive activities and behaviors.

3. Exceptions to Suspension/Expulsion: The Petition lacks adequate description for enumerated offenses and does not distinguish significant exceptions to grounds for suspension and/or expulsion. For example, the Petition states that students may be suspended or expelled if they “[u]nlawfully possessed, used, sold or otherwise furnished, or was under the influence of any controlled substance, as defined in Health and Safety Code Sections 11053-11058, alcoholic beverage, or intoxicant of any kind.” (pp. 165, 169.) This ground for suspension is overbroad and lacks specificity, and does not account for the fact that expulsion cannot be imposed, for example, for the first offense for the possession of less than one avoirdupois ounce of marijuana. Moreover, the prohibition against the possession of an “intoxicant of any kind” is overbroad and does not address the situation where a student possesses over-the-counter or prescription medication for medical purposes. Accordingly, the suspension and expulsion procedures are not adequately described.
4. Appeal Rights: The suspension and expulsion procedures do not provide for appealing an expulsion or suspension to ensure full due process. (p. 178.)
5. Manifestation Determination: The Petition provides that “[i]f the Charter School, the parent, and relevant members of the IEP/504 Team determine that either of the above is applicable [conduct caused by or direct result of child's disability] for the child, the conduct shall be determined to be a manifestation of the child's disability.” (p. 179.) This procedural safeguard description is inadequately described as the language suggests that the Charter School, parent, and members of the IEP/504 team must agree that conduct was caused by a child's disability. However, manifestation determinations are not made by agreement but rather by evaluation of whether the facts establish the conduct is a manifestation of the disability. Manifestation determinations are not optional and the Petition requires more specificity to reflect this requirement.
6. Interim Alternative Setting: The Petition states that students with disabilities who have been suspended may be provided services in an interim alternative educational setting, and that “[t]he student's interim alternative educational setting shall be determined by the student's IEP/504 Team.” (p. 179-80.) However, the Petition does not provide any description of what an interim alternative educational setting entails or who pays for the services provided in the interim alternative educational setting, which is significant in light of the fact that the Petition proposes that the School Director may remove a student into an interim alternative education setting for up to forty-five (45) days without regard to whether his/her behavior was a manifestation of the student's disability in certain cases.

Element 14 – Dispute Resolution

The Education Code and Regulations require a charter petition to specify the procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter. Such procedures should include how the costs of the dispute resolution process, if needed, would be funded, and recognize that if the substance of a dispute is a matter that could result in the taking of appropriate action, including, but not limited to, revocation of the charter, the matter will be addressed at the District's discretion. (Ed. Code, § 47605, subd. (b)(5)(N); Regulations, § 11967.5.1, subd. (f)(14).)

Staff finds that the Petition requires further comprehensive description of the Charter School's dispute resolution procedures for the following reasons:

1. **Mediation Procedures:** The Petition is inadequately described with respect to mediation procedures. Although the Petition states that the Charter School and the District will engage in a mediation session as part of the dispute resolution process, the dispute resolution provision summarily states that "[t]he format of the mediation session shall be developed jointly by the Superintendent and School Director." (p. 185.) The Petition does not otherwise identify or describe the procedures to be used, and the mediation process is left to be decided at a future time when a dispute has already occurred. Accordingly, the dispute resolution procedures are vague and lack adequate description.

Additional/Miscellaneous Provisions

Staff finds that the Petition requires further comprehensive description of the following additional and miscellaneous provisions for the following reasons:

1. **Location:** The Petition does not identify a location for the Charter School. Education Code section 47605(g) states, "[t]he governing board of a school district shall require that the petitioner or petitioners provide information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be used by the school...The description of the facilities to be used by the charter school shall specify where the school intends to locate." Here, although Petitioners made clear that they do not intend on locating RVC at Manor Elementary School, and informed the District of their preference to locate at the Red Hill site, the Petition itself neither identifies a location nor the facilities that will be used by the Charter School. Instead, the Petition summarily states that "[t]he Charter School plans to rent facilities within the District's boundaries" and "will explore both private facilities and public school facilities to accommodate its educational program." (p. 196.)

The location of the charter school is to be set forth in the Petition and the lack of identification of a location and/or facilities makes it difficult, if not impossible, for the District to properly evaluate the Petition in determining whether the Charter School can meet its educational objectives. For example, the Petition states that RVC "has budgeted for three sets of 27 laptops, such as Chromebooks, in charging carts shared between our 4th/5th grade classrooms, plus 3 laptops/Chromebooks permanently in each classroom above K/1st, with reliable internet capacity to support all 100 devices in use at once." (p. 60.) Access to the internet and technology is critical, especially in light of the reliance upon computers for standardized testing. However, the Petition assumes that its facility-to-be-named will be capable of supporting 100 laptops will full internet connectivity without disruption.

Additionally, the budget does not reflect potential additional costs for facility technology upgrades should the charter location require such. Without a location identified, it is not possible for the Charter School, or the District for that matter, to evaluate whether it can support the proposed technology and, consequently, its ability to deliver instruction and conduct standardized testing.

Nonetheless, as a conversion charter school, the Charter School is tied to the Manor Elementary School site and is not eligible to be housed at any other District school site. The Charter School's use of District facilities is governed by Education Code section 47614 and the supporting regulations, not as expressed in the Petition.

V. CONCLUSION

For the reasons stated above, staff finds that the Petition does not contain the requisite number of signatures required by law; the Petition fails to provide a reasonably comprehensive description of all required elements of a charter petition; and the Petitioners are demonstrably unlikely to successfully implement the program as presented in the Petition and its supporting documents. Accordingly, staff recommends that the Petition be denied and that the Board adopt this Staff Report as its written findings in support of its denial.