

Mt. Diablo Unified School District Charter Petition Evaluation

School Name: Rocketship Education Mt. Diablo

Submission Date: June 17, 2015

Public Hearing Date: July 15, 2015

Lead Petitioner/s: David Kuizenga, Vice President, Bay Area, Rocketship Education

Committee Presentation Date: August 10, 2015

Decision Date: August 10, 2015

Proposed location of school	No specific site identified. The Petition states that "Rocketship is currently targeting the facility to be located within the Monument Boulevard Corridor." (p. 169.)
Composition of petitioner group	Approximately 600-700 signatures (approximately 66 pages).
Grade levels to be served in year 1	TK-4. (Appendix B-0, p. 1)
Anticipated enrollment in year 1	520 (Appendix B-0, p. 1)
Grade levels to be served at full-capacity	TK -5. Petitioners "reserve" the right to open 6 th grade. (p. 35.)
Anticipated enrollment at full capacity	600-700.
Target student population	<ul style="list-style-type: none"> • "Students who are or may be at risk of achieving below basic proficiency." (p. 32) • Students attending Program Improvement Schools. • Petitioners estimate this population to be approximately 50% English Language Learners; 70% Free-and-Reduced Lunch Eligible.

Brief description of the kind of school to be chartered.

Charter school serving Grades TK-5 or 6, using "blended learning" approach with students rotating between traditional classroom learning and 85 minutes in a "Learning Lab" using "online adaptive technology." (p. 35.)

Brief explanation of the mission of proposed charter school.

To “eliminate the achievement gap by graduating students at or above grade level in literacy and math.” (p. 26.)

Planning to work with a charter management organization (CMO)

Yes X No ___ If Yes, Name of CMO: The charter school would be operated by the parent company, Rocketship Education, which operates charter schools in California as well as other states.

Signature Verification:

EC 47605(a)(3) A petition shall include a prominent statement that a signature on the petition means that the parent or guardian is meaningfully interested in having his or her child, or ward, attend the charter school, or in the case of a teacher's signature, means that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition.

	Y	N	PG #
<input type="checkbox"/> Parents / Guardians			
○ # aligned with proposed opening enrollment	*		
○ Prominent statement			
<input type="checkbox"/> Teachers	N/A	N/A	N/A
○ # aligned with proposed opening enrollment			
○ Prominent statement			

* Education Code section 47605(a)(3) requires that a petition signatory have a meaningful interest in enrolling his/her child in the Charter School. Therefore, it is not sufficient for an individual to sign the Petition only as a general show of support for the Charter School.

The Petition projects that the Charter School would enroll 510 students in Year One. Therefore, under Education Code section 47605(a)(3), the Petition needs to be supported by 255 signatures. The District attempted to contact 682 signatories, and was able to reach 247. Only 149 signatories reached verified that they were meaningfully interested in enrolling their child in the Charter School. Of the remainder:

- 35: Verified that they were **not** meaningfully interested in enrolling their child in the Charter School
- 32: Stated that they were not certain whether they were meaningfully interested in enrolling their child in the Charter School
- 6: Had no response to the question of whether they were meaningfully interested in enrolling their child in the Charter School
- 5: Hung up or had no recollection signing the Petition
- 20: Unsure whether they would enroll their children in the Charter School

Some signatories reported that they were also told by the representatives of the Petitioners that they did not need to enroll their children in the Charter School if they signed the Petition, and that they could sign the Petition for the “other children” who could attend the school.

While it is not possible to determine definitively whether the Petitioners met the 50% threshold set forth in the Education Code, the District has significant concerns that the Petitioners submitted signatures that were not eligible to be counted since not all signatories had a meaningful interest in enrolling his/her child in the charter school. Of the sample of 247 signatories that the District reached, only 60% verified that they were meaningfully interested in enrolling their child in the Charter School, and therefore were eligible. The District also learned from some signatories that the Petitioners either provided community members with false information, made disparaging comments about District schools, or pressured community members sign the Petition.

Mt. Diablo Unified School District

Charter Petition Evaluation

Criteria Reference

- **Inadequate:** The response lacks meaningful detail; demonstrates lack of preparation; or otherwise raises substantial concerns about the petitioner's understanding of the issue in concept and/or ability to meet the requirement in practice.
- **Approaches:** The response addresses most of the selection criteria, but lacks some meaningful detail and requires important additional information in order to be reasonably comprehensive.
- **Meets:** The response indicates solid preparation and grasp of key issues that would be considered reasonably comprehensive. It contains many of the characteristics of a response that excels even though it may require additional specificity, support or elaboration in places.
- **Excels:** The response reflects a thorough understanding of key issues and indicates capacity to open and operate a quality charter school. It addresses the topic with specific and accurate information that shows thorough preparation and presents a clear, realistic picture of how the school expects to operate.

STATEMENT OF ASSURANCES

ASSURANCES	Y	N	PG #
1. Will not charge tuition, fees, or other mandatory payments for attendance at the charter school or for participation in programs that are required for students.	Y		4 (tu- tion only)
2. Will enroll any eligible student who submits a timely and complete application, unless the school receives a greater number of applications than there are spaces for students, in which case a lottery will take place in accordance with California charter laws and regulations.	Y		4
3. Will be non-secular in its curriculum, programs, admissions, policies, governance, employment practices, and all other operations.	Y		4
4. Will be open to all students, on a space available basis, and shall not discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, proficiency in the English language or a foreign language, or academic achievement.	Y		4
5. Will not base admission on the student's or parent's/guardian's place of residence, except that a conversion school shall give admission preference to students who reside within the former attendance area of the public school.	Y		4
6. Will offer at least the minimum amount of instructional time at each grade level as required by law.	Y		5
7. Will provide to MDUSD information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be used by the school, including where the school intends to locate, the manner in which administrative services will be provided, and potential civil liability effects, if any, upon the school and authorizing board.	Y		172-3
8. Will adhere to all applicable provisions of federal law relating to students with disabilities, including the Individuals with Disabilities Education Act; Section 504 of the Rehabilitation Act of 1974; and Title II of the Americans with Disabilities Act of 1990.	Y		5
9. Will adhere to all applicable provisions of federal law relating to students who are English language learners, including Title VI of the Civil Rights Act of 1964; the Equal Educational Opportunities Act of 1974; MGL c. 76, § 5; and MGL c. 89, 71 § (f) and (l).	Y		85
10. Will comply with all other applicable federal and state laws and regulations.	Y		6
11. Will submit an annual report and annual independent audits to MDUSD by all required deadlines.	Y		167-8

12. Will submit required enrollment data each March to MDUSD by the required deadline.	N	168
13. Will operate in compliance with generally accepted government accounting principles.	Y	166-8; App. B-0
14. Will maintain separate accountings of all funds received and disbursed by the school.	Y	166-8; App. B-0
15. Whether Charter School will participate in the California State Teachers' Retirement System and or PERS, as applicable.	Y	158
16. Will obtain and keep current all necessary permits, licenses, and certifications related to fire, health and safety within the building(s) and on school property.	N	169-70
17. Will at all times maintain all necessary and appropriate insurance coverage.	Y	5, 168
18. Will submit to MDUSD the names, mailing addresses, and employment and educational histories of proposed new members of the Governing Board prior to their service.	N	
19. Will, in the event the Governing Board intends to procure substantially all educational services for the charter school through a contract with another person or entity, provide for approval of such contract by the Board of Education in advance of the beginning of the contract period.	N/A	168-9
20. Will provide financial statements that include a proposed first-year operational budget with start-up costs and anticipated revenues and expenditures necessary to operate the school, including special education; and cash-flow and financial projections for the first three years of operation.	Y	166-7 App. B-0
21. Will provide to MDUSD a school code of conduct, Governing Board bylaws, an enrollment policy, and an approved certificate of building occupancy for each facility in use by the school, according to the schedule set by MDUSD but in any event prior to the opening of the school.	Y	Ex- cept CBO

I. EDUCATIONAL PROGRAM

Statutory References:

E.C. § 47605(b)(1)

E.C. § 47605(b)(5)(A)-(C)

The education program should tell you whom the school expects to serve; what the students will achieve; how they will achieve it; and how the school will evaluate performance. It should give you a clear picture of what a student who attends the school will experience in terms of educational climate, structure, materials, schedule, assessment and outcomes.

A. TARGET POPULATION

A description of the Target Population excels if it has the following characteristics:

- Coherent description of the students the school expects to serve based on understanding of the district population and the location in which the school expects to operate;
- Demonstrated understanding of the educational needs of the target population; and
- Explanation of how the mission and vision align with the needs of the target population.

TARGET POPULATION

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ANALYSIS: TARGET POPULATION

FINDINGS	Reference
<p>The Petition’s target student population is addressed on pp. 33-35. The Petition identifies the Charter School’s target student as “students who are or may be at risk of achieving below basic proficiency on past and current state exams and/or district assessments.” (p. 32.) The Petition states that “[w]e anticipate that our average student will be 1.5 years behind the average American student,” though the derivation this metric is not developed in any further detail. The Petition anticipates that the Charter School would advance students “approximately one quartile in achievement each year in school.” (p. 34.)</p> <p>The Petition does not discuss the demographic profile of its anticipated student population in terms of ethnicity. Much of the Petition’s comparative data is referenced against schools in Santa Clara County (pp. 17-19), which is not the proposed location of the Charter School. Therefore, these comparisons are of limited utility for a proposed charter school in Contra Costa County. Moreover, the reference to selecting parent leaders who speak Vietnamese (p. 24) is not clear, unless it carried over from a charter petition previously submitted to another District. Vietnamese speakers constitute only 0.3% of the District’s enrollment (less than Farsi (.4-.5%) and Filipino (Pilipino or Tagalog) (.5-.6%).) (See, http://www.ed-data.org/district/Contra-Costa/Mt.-Diablo-Unified.) Therefore, it does not appear that this section of the Petition was customized for a school to be located in Contra Costa County, and therefore does not meet the reasonably comprehensive standard in the Education Code.</p>	

B. PHILOSOPHY AND APPROACH TO INSTRUCTION

A description of the Educational Philosophy and Approach to Instruction excels if it has the following characteristics:

1. Rationale: *Is the rationale compelling?*

- A compelling rationale with a clear foundation in research-based educational practices, teaching methods and/or high standards for student learning;

2. Mission Alignment: *Do the philosophy and approach align with the mission and vision?*

- Alignment with mission and vision; and

3. Population Alignment: *Does sound reasoning or evidence indicate that the target population is likely to benefit?*

- Persuasive explanation of why the philosophy and approach are appropriate for and likely to result in improved educational performance for the target population, including any available performance data from use of the same educational philosophy and approach to instruction with similar populations.

1. Rationale: *Is the rationale compelling?*

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

2. Mission Alignment: *Do the philosophy and approach align with the mission and vision?*

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

3. Population Alignment: *Does sound reasoning or evidence indicate that the target population is likely to benefit?*

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

ANALYSIS: EDUCATIONAL PHILOSOPHY AND APPROACH TO INSTRUCTION

FINDINGS	Reference
<p>The Petition addresses “What it Means to be an Educated Person in the 21st Century” on pp. 35-37. The Petition lists a number of academic skills, such as critical thinking, problem solving and meta-cognition, as well as non-cognitive critical life skills, such as characteristics required of an educated person in the 21st Century.</p> <p>The Petition addresses “How Learning Best Occurs” on pp. 37-40. The Petition lists the following characteristics of a successful school: school-wide expectation of high achievement, personalized curriculum, extra time to practice, purposeful access to technology, teachers who are subject matter specialists, teachers who are highly motivated, a culture of caring, and a well-run school.</p>	

C. CURRICULUM FRAMEWORK Mark this box on behalf of the curriculum that has already been selected/developed:

The description of the curriculum should provide the reviewer with a sense not only of *what* the school will teach but also of *how* and *why*. It must present research, applicant experience and/or reasoning sufficient to convince the reviewer that the applicants have already made sound educational decisions.

A description of the Curriculum Framework excels if it has the following characteristics:

1. **Alignment:** *Is the selection well-reasoned and aligned with the mission, state standards and student needs?*
 - o A clear description of the framework and research, experience and/or sound reasoning that demonstrates alignment with the school’s mission, state standards and anticipated student needs;
2. **Implementation:** *Does the plan demonstrate the resources, scheduling and professional support needed for effective implementation?*
 - o An implementation plan showing persuasively the resources, daily schedule, annual calendar and professional development that support effective implementation; and
 - o A clear description of the manner in which the school will prioritize the implementation of those elements of the proposed educational program that will ensure likely achievement of the goals of the program;
3. **Evaluation:** *Does the school have strategies to evaluate effectiveness and respond when student performance falls short of goals?*
 - o Effective strategies for evaluating the effectiveness of implementation and responding when student performance falls short of goals.

1. Alignment: *Is the selection well-reasoned and aligned with the mission, state standards and student needs?*

Inadequate	Approaches	Meets	Excels
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. Implementation: *Does the plan demonstrate the resources, scheduling and professional support needed for effective implementation?*

Inadequate	Approaches	Meets	Excels
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. Evaluation: *Does the school have strategies to evaluate effectiveness and respond when student performance falls short of goals?*

Inadequate	Approaches	Meets	Excels
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ANALYSIS: CURRICULUM FRAMEWORK

FINDINGS	Reference
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The Petition describes the curricular framework, broken down by subject matter content in the areas of reading, writing, math, science, social studies, art (art and music), and socio-emotional learning. (pp. 47-53) Social studies is embedded into literacy instruction, and science embedded into humanities and math. The charter school's curriculum is designed to be aligned with Common Core State Standards, as well as Rocketship's own "focus standards."

The Petition also defines the charter school's Response to Intervention process, which includes a 3-step process for at risk students that includes Tier 1 (small group and personalized instruction in the classroom); Tier 2 (daily intervention by non-certificated Instructional Learning Specialists (ILS's); and Tier 3 (initiation of special education assessment process.)

The Petition describes an instructional day in which the charter school's projected 116 students in each grade level would be divided into 4 groups of 29. During the first 170-minute block, the first two cohorts of students will be assigned to a humanities teacher, while the third cohort is assigned to a math/science teacher for an 85-minute block. The fourth cohort is assigned to the Learning Lab during this 85-minute block. During the second 85-minute block, the third and fourth cohort rotate between math/science and the Learning Lab. During the second half of the day, the first and second cohort rotate with the third and fourth cohort and repeat the pattern. (pp. 69-70.)

While in the Learning Lab, students spend 50 minutes in a computer lab working on an online adaptive curriculum, 35 minutes in leveled reading, and 30 minutes in targeted/small group tutoring for qualifying students. (p. 54.) However, rather than emphasize the educational rationale for having students engaged in extended computer time for 50 minutes a day, the Petition touts the economic benefits of this model. (See, e.g., "Rocketship's unique rotational model and approach to instruction, which includes students spending a portion of their day in the Learning Lab, allows for students to receive instruction in core academic subjects at student/teacher ratios of no more than 29:1" (Appendix B-0, p. 7); "It is through this 'rotational model' that RMSD will be able to ensure that student: teacher ratios remain at a level of 29:1" (Appendix B-0, p. 8).)

The Learning Lab also would be supervised not by certificated personnel, but by non-credentialed Instructional Learning Specialists (ILS's). ("The final cohort of students are in the Learning Lab at a 29:1 ratio as well as with an Individualized Learning Specialist, a highly qualified tutor, that guides this class through online learning, tutoring, activating reading." (p. 69, see also, p. 140.) Rocketship also has made a programmatic adjustment, and no longer claims time spent in the Learning Lab in its count of total daily instructional minutes. (Compare, p. 69; http://fmsd.org/files/user/1/file/%233%20Rocketship%20Franklin%20McKinley%20Petition_FINAL.pdf, p. 63 of 164.)

The Petition lacks a reasonably comprehensive description as to the soundness of having students spend 50 minutes on a computer engaging in an online adaptive curriculum, supervised by non-certificated personnel, as opposed to direct classroom instruction by certificated teaching personnel. Rocketship appears to realize that such time cannot be counted as creditable instructional minutes under the direct supervision of a certificated employee. The Petition develops the economic rationale for the Learning Lab more than it does the educational rationale.

The Petition primarily states that it will serve grades TK-5, but states on p. 34 that the Charter School “reserves the right” to add Grade 6. However, a passing reference to a charter school “reserving the right” to add a grade level essentially functions as a Trojan Horse in which the Charter School would be allowed to significantly increase its enrollment and/or curriculum offerings without seeking what would otherwise constitute a material revision of the Charter. (Education Code section 47607(a).)

Moreover, the Petition anticipates a total enrollment of 600-700 students in TK through 5th grades. However, the Petition’s budget shows the Charter School’s enrollment reaching 655 only after 3 years, based upon 4 classes per grade at a 29:1 student/teacher ratio (Appendix B-0, p. 1.) Therefore, the Charter School would be on track to surpass its proposed capacity of 700 students in Year Four if it maintained the same enrollment and matriculation patterns. The Petition does not contain a reasonably comprehensive description of how it would stay within its self-described enrollment cap (*i.e.*, either by significant attrition, or deliberate disenrollment of 4th or 5th grade students in Years Four and Five.) In order to enroll the projected class of 116 in Year Four, the Charter School would have to achieve attrition of 20% after Year Three to stay under the cap.

The Petition fails to contain “[a] description, for the charter school, of annual goals, for all pupils *and for each subgroup of pupils identified pursuant to Section 52052*, to be achieved in the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school, and specific annual actions to achieve those goals.” (Emphasis Provided.) The Petition fails to identify annual goals for students in each pertinent subgroup, such as ethnicity, English Language Learners, etc. (pp. 27-32.)

D. CURRICULUM FRAMEWORK Mark this box *on behalf of the curriculum that has yet to be developed:*

1. **Plan:** *Is there a sound curriculum development plan?*
 - o A thorough, persuasive plan for development including the research base to be considered and foundation materials;
2. **Schedule:** *Is there a well-defined, realistic schedule?*
 - o A realistic, time-specific development schedule and clear objectives to be met; and
3. **Responsibilities:** *Are the development responsibilities clear and manageable?*
 - o Identification of individuals responsible for development and evidence that they are well-qualified for the task.

1. **Plan:** *Is there a sound curriculum development plan?*

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

2. **Schedule:** *Is there a well-defined, realistic schedule?*

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

3. **Responsibilities:** *Are the development responsibilities clear and manageable?*

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

ANALYSIS: CURRICULUM DEVELOPMENT PLAN

FINDINGS	Reference
<p>Rocketship currently operates 9 charter schools in Santa Clara County, with two more slated to open in the next two years, and therefore has developed a curriculum for its existing schools. Descriptions of curriculum in the core subject areas of instruction (reading, writing, math, science, social studies, art (art and music)) are contained on pp. 41-51, and additional information on curricular scope and sequence, focus standards, sample units and research-based pedagogy are attached as Appendices. Pages 70-81 set forth the professional development plan for the charter school, including a three-week summer training for teachers, in addition to professional development during the school year.</p>	

E. SPECIAL POPULATIONS: SPECIAL EDUCATION

Federal law requires charter schools, like all public schools, to provide a free appropriate education in the least restrictive environment to students identified with disabilities who are enrolled at the school. A plan for serving students with disabilities excels if it has the following characteristics:

- Demonstrated understanding of state and federal special education requirements including the fundamental obligation to provide a free, appropriate education to students identified with disabilities and obligations held under Section 504 of the ADA;
- A clear statement regarding what petitioners expect will be the school’s anticipated LEA status for purposes of special education and the implications of that status determination ;
- A sound plan -- including lead contact, funding, service and intervention arrangements -- for identifying and meeting the needs of students identified with disabilities;
- Alignment of the special education plan with the core educational program; and
- Evidence of high expectations for students with special needs.

Inadequate	Approaches	Meets	Excels
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ANALYSIS: SPECIAL EDUCATION

If Meets or Excels; Strengths	FINDINGS	Reference
	<p>The “Affirmations” section of the Petition states that “[t]he Mount Diablo School District will provide special education services for students enrolled in the Charter School to the extent required by law. Specifically, the Mt. Diablo School District will (A) serve children with disabilities in the same manner as it serves children with disabilities in its other schools; and/or (B) provide the Charter School with an equitable share of state and federal special education funding to support special education instruction or designated instructed and services to students enrolled in the charter school [Citation Omitted.]” (p. 5.)</p> <p>However, the Petition contradicts this affirmation. The Petition states that “RMSD intends to operate as a Local Educational Agency (LEA) under the El Dorado County Charter Special Education Local Plan Area (SELPA) pursuant to Education Code section 47641(a.)” (p. 98.) However, as an LEA of a SELPA, the Charter School, and not the District, would bear all responsibility for students receiving special education services in accordance with the requirements of law. Therefore, the Petition contains contradictory information with respect to which entity would be responsible for providing special education services to the charter school’s students.</p> <p>The special education portion of the Petition contains a general stock description of the Charter School’s basic obligations under special education law.</p>	

F. SPECIAL POPULATIONS: ENGLISH LANGUAGE LEARNERS

Federal law requires charter schools, like all public schools, to meet the needs of English language learners by helping them gain English proficiency and also make progress in all academic subjects. A plan for serving English language learners excels if it has the following characteristics:

- Demonstrated understanding of the likely English language learner population;
- A sound approach to identifying and meeting the needs of English language learners tailored to the anticipated population;
- A sound approach to helping English language learners fulfill expectations of the core educational program, including a lead contact and intervention process; and
- Evidence of high expectations for English language learners.

Inadequate	Approaches	Meets	Excels
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ANALYSIS: ENGLISH LANGUAGE LEARNERS

FINDINGS	Reference
<p>The Petition provides a general description of the process for identifying English Language Learners and the general instructional strategies for educating them. However, there is no reference in the daily class schedule attached as Appendix 30 or elsewhere to differentiated or dedicated time allotted to English Language Development instruction. English language development is only mentioned as part of humanities blocks or community meetings. The portion of the Petition that describes support for English Learners and the daily schedule included in the appendices does not include the state-identified number of minutes for English Language development. (See, e.g., www.cde.ca.gov/ci/rl/cf/elaeldfrmwrksbeadopted.asp, Chapter 2, p. 91, <i>et seq.</i>)</p> <p>The English Language Development program set forth in the Petition is defined as an English immersion program, though under California law such programs should also include a language mainstream program. The Petition also fails to contain a reasonably comprehensive description of parental waiver rights with respect to English Learner instruction. The petition states that the charter school would provide written notification to parents informing them that “they have a right to visit the program and to withdraw their student from the program through a waiver.” (p. 96.) It is not clear whether the Petition refers to the parental waiver right under Education Code section 310 to a structured English immersion program under Education Code section 305 in favor of bilingual instruction, or a waiver from English Language Development instruction entirely. Since charter schools are subject to the requirements of Education Code section 313 to offer English Language Development, the failure to specify the scope of the waiver is problematic.</p> <p>The Petition also only identifies teaching strategies and training in integrated ELD (i.e. Guided Language Acquisition Design (“GLAD”) and Specially Designed Academic Instruction in English (“SDAIE”)), which are designed to facilitate English Learners accessing core subject matter content. The Petition lacks a reasonably comprehensive description of the training and teaching strategies in in the State ELD Standards or designated English Language Development, which focuses on language acquisition skills. (See, e.g., See, e.g., http://www.cde.ca.gov/ci/rl/cf/elaeldfrmwrksbeadopted.asp, Chapter 2, 106-115.) Moreover, the Petition fails to identify any instructional materials specifically targeted towards language acquisition skills. The Petition mentions use of primary language as a scaffold in passing, but does not contain a reasonably comprehensive description of how this approach would be implemented.</p> <p>The Petition also fails to fully integrate the new CCSS for English Language Development. For example, the Petition identifies the stages of English Language Development as Beginning, Early Intermediate, Intermediate, Early Advanced and Advanced. (p. 91.) However, under the new English Language Development framework adopted by the State Board of Education, the stages along the ELD Continuum are “Emerging,” “Expanding,” and “Bridging.” (http://www.cde.ca.gov/ci/rl/cf/elaeldfrmwrksbeadopted.asp, Chapter 2, p. 104-5.)</p>	

Moreover, the Petition contains some imprecise language with respect to the identification of students who are English Language Learners. The Petition makes reference to TK and Kindergarten students from another country, state, or a private school receiving CELDT testing, implying that CELDT testing is required for only new or entering students, as opposed to all students. (p. 87.) The Petition also states that “[a] student is identified as English Learner (EL) if the student’s primary language is something other than English.” (p. 87.) Technically, a student’s result on the CELDT test will determine whether he/she is an English Learner.

The Petition lacks a reasonably comprehensive description of the specific level of academic performance that will be used for reclassification when referring to teacher input. The Petition needs further clarification on how the Charter School would reclassify students not meeting reclassification criteria due to other factors, such as deficit of motivation or academic difficulty unrelated to language proficiency. Alternative criteria for reclassification are customarily used for students who have a learning disability rather than just having difficulty with the subject matter (p. 90, Section 3.A.I.)

The Petition lacks a reasonably comprehensive description of the formative assessments that the Charter School would use to measure language acquisition. The Petition is vague on the topic of assessments to monitor language development, stating such assessments as an option rather than a requirement (*e.g.*, “...may choose to implement an interim formative assessment, such as ADEPT...”) (p. 88.)

The Petition lacks a reasonably comprehensive description of the specific legal requirements applicable to the English Learner Advisory Committee (ELAC), such as the number of parents needed to form such a committee as stated by statute.

As noted elsewhere, noncredentialed ILS’s provide significant instruction to the Charter School’s students, including Learning Lab time, Tier II Response to Intervention, and TK. However, under California law, instruction to English Learners must be delivered by a certificated employee with CLAD certification. The Petition lacks a reasonably comprehensive description of how the charter school would meet the CLAD authorization requirement with respect to the elements of its program that are delivered by non-certificated personnel.

G. PUPIL OUTCOMES

Pupil outcomes are central to the school’s existence. They represent the school’s definition of success and should drive all aspects of the program and operation. A description of Pupil Outcomes excels if it has the following characteristics:

1. **Alignment:** *Do the objectives align with the mission and vision?*
 - o Educational objectives aligned with the mission, vision and educational program;
2. **Measurement:** *Are the goals clear, specific and measurable?*
 - o Multiple performance measures applied to student learning objectives.
 - o Measures include performance goals based on absolute (e.g., proficiency levels), relative (e.g., comparison schools) and individual gains (e.g., year-to-year matched student cohort gains);
 - o Goals that are specific, measurable and time bound;
3. **Performance Level:** *Have the petitioners demonstrated that the target performance levels are both ambitious and attainable?*
 - o Performance levels that are both ambitious and realistic including rigorous promotion and graduation standards;
 - o Performance levels are considered annually and graduated as needed to sufficiently accelerate learning based on the needs of the target population;
4. **Annual Goals:** *Does the Petition include “[a] description, for the charter school, of annual goals, for all pupils and for each subgroup of pupils identified pursuant to Section 52052, to be achieved in the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school, and specific annual actions to achieve those goals?” Does the Petition “identify additional school priorities, the goals for the school priorities, and the specific annual actions to achieve those goals?”*

1. Alignment: *Do the objectives align with the mission and vision?*

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. Measurement: *Are the goals clear, specific and measurable?*

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. Performance Level: *Have the petitioners demonstrated that the target performance levels are both ambitious and attainable?*

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4. Annual Goals: *Have the petitioners adequately described their annual goals?*

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ANALYSIS: PUPIL OUTCOMES

FINDINGS	Reference
<p>The Petition appears to contain the fundamental components of an assessment plan on paper. The Petition lists Northwest Evaluation Association (NWEA) as its benchmark assessment source and administers it three times a year to determine students' strengths and weaknesses. In addition, the Petitioners would administer bi-monthly assessments in Reading, Writing, and math to assess whether students are on track to meet their goals. To assess reading, Rocketship uses the STEP reading assessment, which is a performance-based assessment developed by the University of Chicago Urban Education Institute. In the area of writing, it uses an internal assessment scored by a rubric aligned to the 6 +1 traits of writing. The listed assessments, along with state assessments, are used in combination to determine the most appropriate instruction for students. The Petition also cites comparative performance data with public schools in Santa Clara County, which is not pertinent to a proposed charter school in Contra Costa County. (pp. 17-19.)</p> <p><u>Use and Reporting of Data:</u></p> <p>The Petition states that Rocketship is a data-driven school and that teachers and teacher leaders participate in quarterly Data Days to analyze student data. The attachment of the Data Driven Instruction Playbook suggests that data is analyzed at a deep level. The Petition suggests that the analysis of data drives the Charter School's RTI model and that professional development is ongoing to develop their expertise in the use of data. To support teachers in this process, RSMD uses Schoolzilla, which is a data warehouse and reporting system.</p> <p>Although, on paper, the Petition appears to describe a comprehensive description of the Charter School's assessment plan, there are significant questions as to whether the Rocketship charter schools are comprehensively and successfully implementing this plan. (See. Section H, <i>infra</i> ("Pupil Progress").)</p> <p><u>Annual Goals According to Pupil Subgroups:</u></p> <p>The Petition contains a Local Control Accountability Plan ("LCAP") template aligned with the eight state priorities, and listing actions and methods of assessment for each. (pp. 115-121.) However, this section of the Petition fails to contain "[a] description, for the charter school, of annual goals, for all pupils and for each subgroup of pupils identified pursuant to Section 52052, to be achieved in the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school, and specific annual actions to achieve those goals." The Petition fails to identify annual goals for students in each pertinent subgroup, such as ethnicity, English Language Learners, etc. The Petition also fails to contain measurable pupil outcomes "that address increases in pupil academic achievement both school wide and for all groups of pupils served by the charter school, as that term is defined in subparagraph (B) of paragraph (3) of subdivision (a) of section 47607." The only subgroup for which specific outcomes are identified are English Learners, with respect to the reclassification rate. No increases in pupil performance for pupil subgroups is identified.</p>	

H. PUPIL PROGRESS

Summative evaluations measure student performance for the purpose of evaluating academic program effectiveness and overall school operation. In other words, they are used to determine how much students have learned.

Formative evaluations measure student performance for the purpose of determining students' learning needs and to inform instructional strategies. In other words, they are used to determine what students still need to learn.

A plan for evaluating Pupil Progress excels if it uses both formative and summative and includes the following characteristics:

1. **Assessments:** *Does the school have valid and reliable measures of student progress?*
 - o Identification of the expected range of formative and summative assessments including but not limited to state-mandated assessments;
 - o Evidence that assessments will be valid and reliable measures of student progress toward achieving the identified Pupil Outcomes.
2. **Instruction Improvement:** *Does the school have a sound plan for using assessments to inform instruction?*
 - o A coherent strategy for using student assessment and performance data to evaluate and inform instruction on an ongoing basis.
3. **Reporting:** *Is the school committed to reporting and disseminating performance information?*
 - o A plan for sharing performance information, including standardized test results, with students, families and public agencies, as required.
 - o A clear description of the manner in which stakeholders will act upon and make use of the performance information provided.
4. **Pupil Outcomes:** Does the petition contain measurable pupil outcomes "that address increases in pupil academic achievement both school wide and for all groups of pupils served by the charter school, as that term is defined in subparagraph (B) of paragraph (3) of subdivision (a) of section 47607?" Do "[t]he pupil outcomes shall align with state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school?"

1. Assessments: Does the school have valid and reliable measures of student progress?

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. Instruction Improvement: Does the school have a sound plan for using assessments to inform instruction?

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. Reporting: *Is the school committed to reporting and disseminating performance information?*

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4. Pupil Outcomes: *Does the description of pupil outcomes meet the requirements of law?*

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ANALYSIS: PUPIL PROGRESS

FINDINGS	Reference
<p><u>Trend Data:</u> Upon review of RSMD's trend API data, it suggests that although the assessment plan is sound on paper, there are significant questions as to whether all aspects of the described data assessment plan are being fully implemented. The overall API of six of the eight schools that had an API declined from 2011-2013. (See, Exhibits A, D) The current API listed for 2014 indicates an increase of three of those schools, but it must be noted that the calculations were compiled by Rocketship and an outside consultant. (Id.)</p> <p>In ELA, 5 of the schools had a significant decline in their overall percent proficient while it appears that math goes up and down from year to year. (See, Exhibit B.)</p> <p>If Rocketship's charter schools were fully implementing the data tracking and assessment plans set forth in the Petition, these drops in performance should not be happening.</p>	

II. PETITIONER CAPACITY

Statutory References:

E.C. § 47605(b)(2)

E.C. § 47605(b)(5)(D)-(P)

E.C. § 47605(c)(2)

E.C. § 47605(g)

The Charter Schools Act requires the authorizer to determine whether the petitioners are “demonstrably unlikely to successfully implement the program.” Experience with new school development demonstrates that unless petitioners have sound plans and capacity for governance, management, employment and financial operation, they are unlikely to successfully implement the program. This section should provide a clear, convincing picture of the petitioners’ capacity to operate the school successfully.

A. GOVERNANCE CAPACITY

A description of the plan for Governance excels if it has the following characteristics:

1. Legal Structure: *Does the school have adequate and appropriate legal structure?*

- Documentation of proper legal structure (Articles of Incorporation stamped by the Office of the Secretary of State and corporate Bylaws);
- Evidence of 501(c)3 Non-Profit Corporation status;
- Adequate bylaws, policies & procedures for governing body operation (director selection & removal, decision making, powers and duties, expansion and transition plans)

2. Charter School Governance Experience/ Expertise: *Does the board demonstrate the capacity needed to govern effectively?*

- Evidence of analysis that proposed founding members of the governing body possess and will contribute the wide range of knowledge and skills needed to oversee a successful charter school;
- Evidence of the existing or emerging capacity of the proposed founding members of the governing board to work as an effective unit in the interest of the proposed charter school;

3. Operating Plan: *Does the school have an operating plan that complies with legal obligations and incorporates sound governance practices?*

- Demonstrated understanding of the board’s responsibility for the educational and fiscal integrity of the school and for fulfilling the terms of the charter;
- Clear, reasonable selection and removal procedures, term limits, meeting schedules, and powers and duties for members of the governing body;

- Demonstrated understanding and assurance of compliance with open meetings requirements;
- Reasonable conflict of interest policy;
- Adequate plan for insurance;
- A plan for meaningful involvement or input of parents and community members in the governance of the school;
- Clear, sensible delineation of roles and responsibilities of parent councils, advisory committees or other supporting groups; and
- Clear, sensible definition of governing body roles and responsibilities in relation to management.

1. Legal Structure: *Does the school have adequate and appropriate legal structure?*

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

2. Governance Experience: *Does the board demonstrate the capacity needed to govern effectively?*

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

3. Operating Plan: *Does the school have an operating plan that complies with legal obligations and incorporates sound governance practices?*

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ANALYSIS: GOVERNANCE CAPACITY

FINDINGS	Reference
<p>The Charter School would be operated by Rocketship Education, a California non-profit public benefit corporation. (p. 127.) The Charter School would be governed by the Rocketship Education Board of Directors, which will contain anywhere from three to 25 members. (p. 127.) The Petition includes Articles of Incorporation, Bylaws and a conflict of interest code for the corporate entity. The Governing Board serves as the Board for all 9 existing, and 2 planned, Rocketship charter schools.</p> <p>The Petition states that “[t]he Board of Directors will meet regularly to review and act on its responsibilities” and that “[a]ll meetings shall be held in accordance with the Brown Act, and thus be held openly and easily accessible to the public.” (p. 129.) However, according to the Rocketship Education website, the Rocketship Education Board of Directors conducts all of its meetings in San Jose, while various committees meet in corporate headquarters in Redwood City or other locations in San Mateo County. Although the Board would hold a teleconference location for its Board meetings within the District, having the Charter School’s governing body meet exclusively in a location so remote from Concord creates access and equity issues for the parents and students of the Charter School.</p> <p>The Petition states that the Charter School would create an English Learner Advisory Committee and School Site Council to facilitate parent involvement. (p. 131-2.) An advisory board consisting of parents, community and business leaders would also be created, though it has no binding authority over areas of jurisdiction held by the Rocketship Education Governing Board. (p. 128, Appendix D-2.) The Advisory Board would not be unique to the proposed Mt. Diablo Charter School; rather, its membership would consist of a member from each School Site Council for all 11 Rocketship Charter Schools, almost all of which are located in Santa Clara County.</p> <p>Although Rocketship Education charter schools have an ongoing governance infrastructure, the District finds that the Petition lacks a reasonably comprehensive description of an adequate governance structure, in terms of access to and representation on the charter school’s and parent organization’s central governing boards, at the local level.</p>	

B. MANAGEMENT CAPACITY

A leadership plan excels if it has the following characteristics:

1. Enrollment Procedures: *Does the petition present reasonable enrollment procedures that comply with applicable law?*

- A description of the means by which the school will seek to attain a racial and ethnic balance among its pupils that is reflective of the district including specific plans and strategies for student recruitment;
- A clear and compelling student recruitment plan likely to attract projected enrollment, particularly in Year 1;
- A specific plan for conducting a public random drawing or an assurance that such a drawing will be conducted subject to district approval in the event that the number of pupils who wish to attend the school exceed the capacity;
- An assurance that the school will not impose admission requirements OR, if the school proposes to have requirements, a precise description of those requirements, a compelling statement regarding why they are essential to fulfillment of the school's mission, and a specific plan for the school will incorporate the requirements into any random drawings.
- A clear description of the enrollment process to include any unique intake or application evaluation process to be used by the school designed to meet the needs of the target population outlined in the petition.

2. Operating Procedures: *Does the petition present sound operating procedures that comply with applicable law?*

- *The procedures that the school will follow to ensure the health and safety of pupils and staff;*
- A clearly articulated discipline policy with suspension and expulsion procedures that are fully explained consistent with the school's mission, educational philosophy and applicable law;
- A statement regarding attendance alternatives for students residing in the district who choose not to attend the school;
- A statement that the school intends to use the district's approved procedure for resolving disputes relating to provisions of the charter OR, in the alternative, a clear description of the procedures that the school proposes to use;
- A description of the systems likely to be effective in addressing parent and community complaints; and
- An assurance that the school will comply with the district's approved procedures for school closure in the event that the charter is relinquished, revoked or not renewed.

3. Management Structure: *How effective is the management structure likely to be?*

- Clearly defined management roles and responsibilities for all positions within the administration of the school;
- A clear plan for recruitment, selection, development and evaluation of staff including the school leader;
- Verifiable internal procedures and controls to ensure conformance with the approved budget;

- An approved and public organizational chart delineating board and management roles and lines of authority;
- Clear, sensible delineation of roles and responsibilities for implementing the school program including clearly defined roles for parent councils, advisory committees and other supporting groups;
- Management job descriptions identifying key roles, responsibilities and accountability;
- An allocation of time, financial resources and personnel that is sufficient for planning and start-up prior to the school's opening; and
- The manner in which administrative services are to be provided and any potential civil liability effects on the school or the district.

1. Enrollment Procedures: Does the petition present reasonable enrollment procedures that comply with applicable law?

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

2. Operating Procedures: Does the petition present sound operating procedures that comply with applicable law?

Inadequate	Approaches	Meets	Excels
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. Management Structure: How effective is the management structure likely to be?

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

ANALYSIS: MANAGEMENT CAPACITY

FINDINGS	Reference
<p>Rocketship Education operates 9 charter schools in Santa Clara County, with a 10th slated to open in 2016, and an eleventh slated to open in Redwood City in the fall of 2015. <i>See</i>, Governance Capacity, above, for findings with respect to the proposed governance structure of the Charter School.</p> <p><u>HEALTH AND SAFETY</u></p> <p>The Charter School’s Health and Safety procedures are contained under Element F, pp. 148-150. This section describes health and safety policies in the areas of Fingerprinting/Background checks, Mandated Child Abuse Reporting, TB Testing, Immunization, Administration of Medication, Vision/Hearing/Scoliosis, Emergency Preparedness, Bloodborne Pathogens, Drug/Smoke-Free Environment and Facility Safety. Appendix F-1 contains sample policies in the above-named areas.</p> <p>Staff’s findings with respect to the Petition’s Health and Safety Procedures follow:</p> <p><u>Fingerprinting/Background Checks:</u> The Rocketship Education policy in Appendix F appears to apply to all schools systemwide, including those in Tennessee. Although the policy makes passing references to California Education Code sections 44237 and 45125.1, it fails to contain a reasonably comprehensive description of the Charter School’s personnel policies and practices with respect to employees who are charged or convicted of crimes. Although charter schools are exempt from many Education Code provisions with respect to certificated and classified employees, they are specifically bound by some that govern potential criminal conduct by employees. (<i>See, e.g.</i>, Education Code section 44939.5.)</p> <p><u>Safe Facilities:</u> The Rocketship Education policy in Appendix F refers to “[t]he immediate area around the schools currently run in San Jose, CA,” and does not appear to be tailored to a school proposed to be located in Concord, CA.</p> <p>Rocketship's facilities policy covers California Building Code requirements and other areas, such as hazardous materials, indoor air quality, maintenance/inspection of school buildings, and campus access. It does not address land use issues, such as what steps that the Charter School would take to ensure that a potential school site complies with local zoning requirements. Rocketship Education has in the past attempted to exempt itself from local zoning requirements under Government Code section 53094, and has</p>	

been advised by the Santa Clara County Counsel's Office that the zoning exemption power was limited to school districts. (See, Exhibit E.) It then requested that the Santa Clara County Board of Education exempt a Rocketship Charter School from local zoning requirements, which a local Superior Court Judge found illegal. (Santa Clara County Superior Court Case No. 113CV241695, appeal pending.) Therefore, the Petition lacks a reasonably comprehensive description of whether Rocketship Education would take legally-recognized steps to ensure that its proposed site meets local land use requirements.

Administration of Medication: The Petition's Medication Administration Policy is attached as Exhibit A to the Petition. However, the policy fails to incorporate Education Code section 49414, as amended by Senate Bill 1266 in 2015, which requires public schools and charter schools to stock auto-injector epinephrine devices, as well as to provide notice and training. Rather, the policy states that "Rocketship Education schools DO NOT stock emergency Epi-Pens (emergency epinephrine auto-injectors) for general emergency use." (Appendix D, Policy #176, p. 3.)

Drug Testing: The drug testing policy fails to contain a reasonably comprehensive description of the potential adverse employment actions resulting from a drug test result, as well as due process considerations for employees and chain of custody issues.

Child Abuse Reporting: The Petition contains a Mandated Reporter Policy in Appendix D. However, the policy does not reference the mandatory child abuse reporting training recently implemented by California law. It also only identifies child abuse reporting agencies located in Santa Clara County, which would be inapplicable to a charter school located in Contra Costa County.

MEANS TO ACHIEVE RACIAL AND ETHNIC BALANCE:

The Petition addresses this requirement on p. 150. However, as noted above (Section I(A): "Target Student Population"), elsewhere in the Petition, Petitioners make a reference to "selecting parent leaders who speak Vietnamese (p. 24)." Vietnamese speakers constitute only 0.3% of the District's enrollment (see, <http://www.ed-data.org/district/Contra-Costa/Mt.-Diablo-Unified>), so this reference is not clear, unless it was carried over from a petition to another district.

ADMISSIONS REQUIREMENTS:

The Charter School's admissions procedure, which calls for a random drawing in the event of oversubscription, with preferences for siblings of current students, children of charter school employees (up to 10%), District residents and

other California residents, is contained on pp. 151-152.

FINANCIAL AUDIT: The Petition addresses this requirement on p. 153, and describes a process for conducting an annual audit of its finances and resolving audit exceptions to the satisfaction of the District.

STUDENT SUSPENSION/EXPULSION: The Petition's student discipline procedure is described on pp. 154-157, and contained in Appendix J.

STRS/PERS: The Charter School would participate in STRS for certificated employees, and offer a 403(b) plan for other employees. (P. 158.)

ATTENDANCE ALTERNATIVES: The Petition states that District students electing not to enroll in the Charter School may enroll in MDUSD schools. (p. 159.)

EMPLOYEE RIGHTS: The Petition addresses employee return rights on p. 160. No District employee will be required to work at the Charter School, and those choosing to do so will not have automatic return rights to District employment.

DISPUTE RESOLUTION PROCEDURE: The Petition's dispute resolution procedure, which includes meetings between the Charter School Principal and District Superintendent; additional meetings involving two members from each parties' governing board; and referral to a neutral third-party mediator, is contained on p. 161.

CLOSURE PROCEDURE: The Petition addresses this requirement on pp. 164-165.

C. EMPLOYMENT CAPACITY

An employment plan excels if it has the following characteristics:

1. **Qualifications and Responsibilities:** *How clear and sensible are required staff capacities and intended allocation of responsibilities?*
 - Description of the qualifications for and responsibilities of key employees of the school, including the instructional leader and other key school administration positions.
2. **Compensation Plan:** *How sound is the staff compensation plan?*
 - A compensation plan based on sound budget assumptions that reflects understanding of the prevailing market and supports the proposed educational program.
3. **Policies and Assurances:** *Does the petition contain the required assurances and a reasonable plan for policy development?*
 - Adequate personnel policies or a sound plan articulated for timely development;
 - An assurance that staff will meet applicable state and federal requirements for credentialing and "highly qualified" status;
 - An adequate description of the manner by which staff members of the charter school will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security;
 - A statement regarding employee rights of return, if any;
 - A clear declaration of whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act; and
 - An assurance that staff will have criminal background and other required health and safety checks and manner in which these will be conducted.

1. Qualifications and Responsibilities: *How clear and sensible are required staff capacities and intended allocation of responsibilities?*

Inadequate	Approaches	Meets	Excels
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. Compensation Plan: *How sound is the staff compensation plan?*

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

3. Policies and Assurances: *Does the petition contain the required assurances and a reasonable plan for policy development?*

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ANALYSIS: EMPLOYMENT CAPACITY

FINDINGS	Reference
<p>The Petition identifies key positions (including Principal, Assistant Principal, Core Classroom Teachers, Integrated Special Education Teacher, Individual Learning Specialists, Paraprofessional, TK Assistant Teacher and Office Manager) and lists qualifications for each position. (pp. 134-147.) While the Petition contains teacher evaluation instruments (Appendix A-35) and teacher compensation materials addressing employee salaries (Appendix A-36), no employee handbook or similar document was found containing other terms and conditions of employment, such as sample employment contracts, leave policies, etc.</p> <p>The District is also concerned by the extensive use of non-certificated personnel to perform instructional duties. For examples, ILS's supervise the Learning Lab (p. 69, <i>see also</i>, p. 140), as well as conduct Tier II Response to Intervention (p. 67) and rotational instructional duties for TK students. (p. 53.) Sound educational practice dictates that instruction be provided by experienced and properly credentialed teachers.</p>	

D. FINANCIAL CAPACITY

The petition should present an understanding of how the charter operators intend to manage the school's finances and maintain the organization's financial viability. It should make a persuasive case for financial viability including sound revenue projections; expenditure requirements; and budgetary support for and alignment with the educational program.

A plan for financial capacity excels if it has the following characteristics:

1. **Financial Operation:** *How would you rate the structures and practices related to financial operation?*
 - A balanced three-year budget accurately reflecting all budget assumptions;
 - A start-up year plan with reasonable assessment of and plan for costs;
 - A clear indication that the school has a sound plan for sustainability including funding for the core program that does not have ongoing reliance on "soft" money (e.g., donations, grants, etc.);
 - Clear evidence and track record of sustainability, in the event there is an enduring reliance on "soft" money (e.g., donations, grants, etc.);
 - An adequate reserve and contingency plan targeted to the minimum enrollment needed for solvency (especially for year 1);
 - A sound plan for financial management systems;
 - An audit assurance and/or plan with adequate budget allocation; and
 - A plan for dissolution of assets should the school close.

2. **Revenues:** *How would you rate the accuracy and attainability of the revenue projections?*
 - A narrative explaining key revenue assumptions;
 - Realistic revenue projections showing all anticipated revenue sources -- including state, local, federal and private funds, and any fee-based programs and services;
 - Realistic cash flow projection; and
 - A fundraising plan including assumptions and report on current status.

3. **Expenditures:** *How would you rate the expenditure plan in terms of sound assumptions and priorities consistent with effective operation of the school?*
 - Spending priorities that align with the school's mission, educational program, management structure, professional development needs, and growth plan;
 - A budget narrative explaining key expense assumptions;
 - Realistic expense projections addressing major operating expenses including staffing and benefits, special education, facility, materials and equipment, and contracted services;
 - Budgeting to meet minimum insurance requirements; and
 - Evidence to support key assumptions including that compensation is sufficient to attract qualified staff and that facilities budget is adequate.

1. Financial Operation: How would you rate the structures and practices related to financial operation?

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

2. Revenues: How would you rate the accuracy and attainability of the revenue projections?

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

3. Expenditures: How would you rate the expenditure plan in terms of sound assumptions and priorities consistent with effective operation of the school?

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

ANALYSIS: FINANCIAL CAPACITY

FINDINGS

The Petition contains the required budget and cash flow data for its first three years of operation. The Petition’s budget is essentially sound, and its calculation of the Charter School’s Local Control Funding Formula (LCFF) rate in accordance with accepted methodology. The District notes the following areas of concern with respect to the budget:

- As noted above (“Educational Program”), the Charter School’s enrollment projection of 655 in Years One through Three would result in it exceeding its enrollment cap of 700 students by Year Five, unless significant attrition or disenrollment occurs. In order to enroll the projected class of 116 in Year Four, the Charter School would have to achieve attrition of 20% after Year Three to stay under the cap.
- The budget does not rely upon the most recent data from the State in calculating its LCFF funding rate or in lieu property tax revenue.
- The Petition’s budget also erroneously shows Lottery funds apportioned in 2016-2017, the first year of operation. Since Lottery apportionment is based on prior-year ADA, the Charter School’s first year of receiving an apportionment of lottery funds would be 2017-2018. This discrepancy could result in a cash flow issue in 2016-2017.
- The Budget is premised upon a 70% enrollment of students eligible for participation in the federal Free and Reduced Lunch program, approximately 20% higher than that of the District. The Petition does not contain sufficient information regarding the school’s location to support the Charter School’s projection of such a significantly higher concentration of FRL-eligible students than the District. The budget also does not explain why it assumes a significantly higher 90% student participation rate in the National School Lunch Program.
- The Petition fails to explain the basis under which the Charter School would qualify for Title I, II and III funding, which is heavily contingent upon the demographic composition of its students.
- The Budget makes numerous references to obtaining short-term loans, as well as cash from the Rocketship Education parent organization, but contains insufficient information regarding the financing costs of such debt, which might cause a cash flow issue from Year One to Year Two if the short-term financing does not materialize.
- The teacher starting salaries are initially competitive, but do not increase sufficiently to remain competitive after Year 2.

Reference

E. FACILITIES PLAN

The Facilities Plan should demonstrate that the petitioners understand the school’s facilities needs and its options for meeting those needs.

Do the petitioners anticipate using a district facility or finding a facility independent of the district?

- Non-district facility
- District facility (Prop 39)

Select One

Non-district facility anticipated

A description of the plan for using a non-district facility excels if it has the following characteristics:

- Informed assessment of anticipated facilities needs;
- Estimated costs for anticipated facilities needs based on research and evidence;
- A description of potential sites including location, size and resources;
- Informed analysis of the viability of potential sites;
- Adequate budget for anticipated facilities costs including renovation, rent, maintenance and utilities;
- A schedule for securing a facility including the person responsible for implementation
- An assurance of legal compliance (health and safety, ADA, and applicable building codes); and
- Identified funding sources.

District facility anticipated pursuant to Prop 39

A description of the facilities plan where the applicants have not yet identified a specific site will include the following characteristics:

- Informed assessment and description of anticipated facilities needs;
- Adequate budget based on 3% of anticipated per pupil revenue;
- A thoughtful contingency plan in the event that a mutually agreeable district facility is unable to be procured,
- A site preference with a compelling rationale for the preference; and
- An assurance of legal compliance (health and safety, ADA, and applicable building codes).

Facilities Plan: Does the facilities plan indicate a thorough understanding of the school's needs?

Inadequate	Approaches	Meets	Excels
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ANALYSIS: FACILITIES PLAN

FINDINGS	Reference
<p>The Petitioners have not located or identified a specific facility for the Charter School, but state that they will seek a facility within the District in the Monument Boulevard Corridor. (p. 169.)</p> <p>The Petition states that the Charter School “reserves the right to locate a single site outside the District in the unlikely event that the proposed site cannot be utilized and no other site within the District can be found so long as appropriate notice is provided pursuant to Education Code 47605.1(d).” (p. 169.) However, Education Code 47605.1(d) requires that the required notice to locate within a District other than the authorizer is required to be provided “in advance of the charter petition approval.” There is no evidence that the Petitioners have provided any such notice to another district.</p> <p>Rocketship has acquired land and facilities for its other charter schools through Launchpad Development Company, which accesses various sources of funding to finance the Rocketship charter schools facility needs.</p> <p>Rocketship has not adequately addressed how it would ensure compliance with local land use regulations in locating its proposed site. (See, p. 32 (“Health and Safety.”).)</p>	

SIXTEEN ELEMENTS TABLE

Statutory Reference: E.C. §§ 47605(b)(5)(A) to (P).

The Charter Schools Act requires authorizers to evaluate whether the petitioners have presented a “reasonably comprehensive” description of 16 elements related to a school’s operation (the “16 Elements.” To complete the following table,

1. Read the Element (column 1)
2. Use column 2 to find your earlier assessment of the item
3. Translate your assessment into a rating of “Inadequate” or “Reasonably Comprehensive” and mark the corresponding box.

Element	Evaluation Reference	Inadequate	Reasonably Comprehensive	Statutory Reference
Description of the educational program of the school, including what it means to be an “educated person” in the 21 st century and how learning best occurs.	<i>Section I., bullet 3</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	E.C. § 47605(b)(5)(A)
Measurable pupil outcomes	<i>Section II.D.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	E.C. § 47605(b)(5)(B)
Method by which pupil progress is to be measured	<i>Section II.E.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	E.C. § 47605(b)(5)(C)
Governance structure	<i>Section III.A.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	E.C. § 47605(b)(5)(D)
Qualifications to be met by individuals employed at the school	<i>Section III.C.1.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	E.C. § 47605(b)(5)(E)
Procedures for ensuring health & safety of students	<i>Section III.B.2., bullet 1</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	E.C. § 47605(b)(5)(F)
Means for achieving racial and ethnic balance	<i>Section III.B.1., bullet 1</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	E.C. § 47605(b)(5)(G)
Admission requirements, if applicable	<i>Section III.B.1., bullet 3</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	E.C. § 47605(b)(5)(H)
Manner for conducting annual, independent audits	<i>Section III.D.1., bullet 7</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	E.C. § 47605(b)(5)(I)
Suspension and expulsion procedures	<i>Section III.B.2., bullet 2</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	E.C. § 47605(b)(5)(J)
Manner for covering STRS, PERS, or Social Security	<i>Section III.C.3., bullet 3</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	E.C. § 47605(b)(5)(K)
Attendance alternatives for pupils residing within the district	<i>Section III.B.2., Bullet 3</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	E.C. § 47605(b)(5)(L)
Employee rights of return, if any	<i>Section III.C.3., bullet 4</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	E.C. § 47605(b)(5)(M)
Dispute resolution procedure for school-authorizer issues	<i>Section III.B.2., Bullet 4</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	E.C. § 47605(b)(5)(N)
Statement regarding exclusive employer status of the school	<i>Section III.C.3., bullet 5</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	E.C. § 47605(b)(5)(O)
Procedures for school closure	<i>Section III.B.2., Bullet 5</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	E.C. § 47605(b)(5)(P)

EXHIBIT A: ROCKETSHIP API 2011-2014

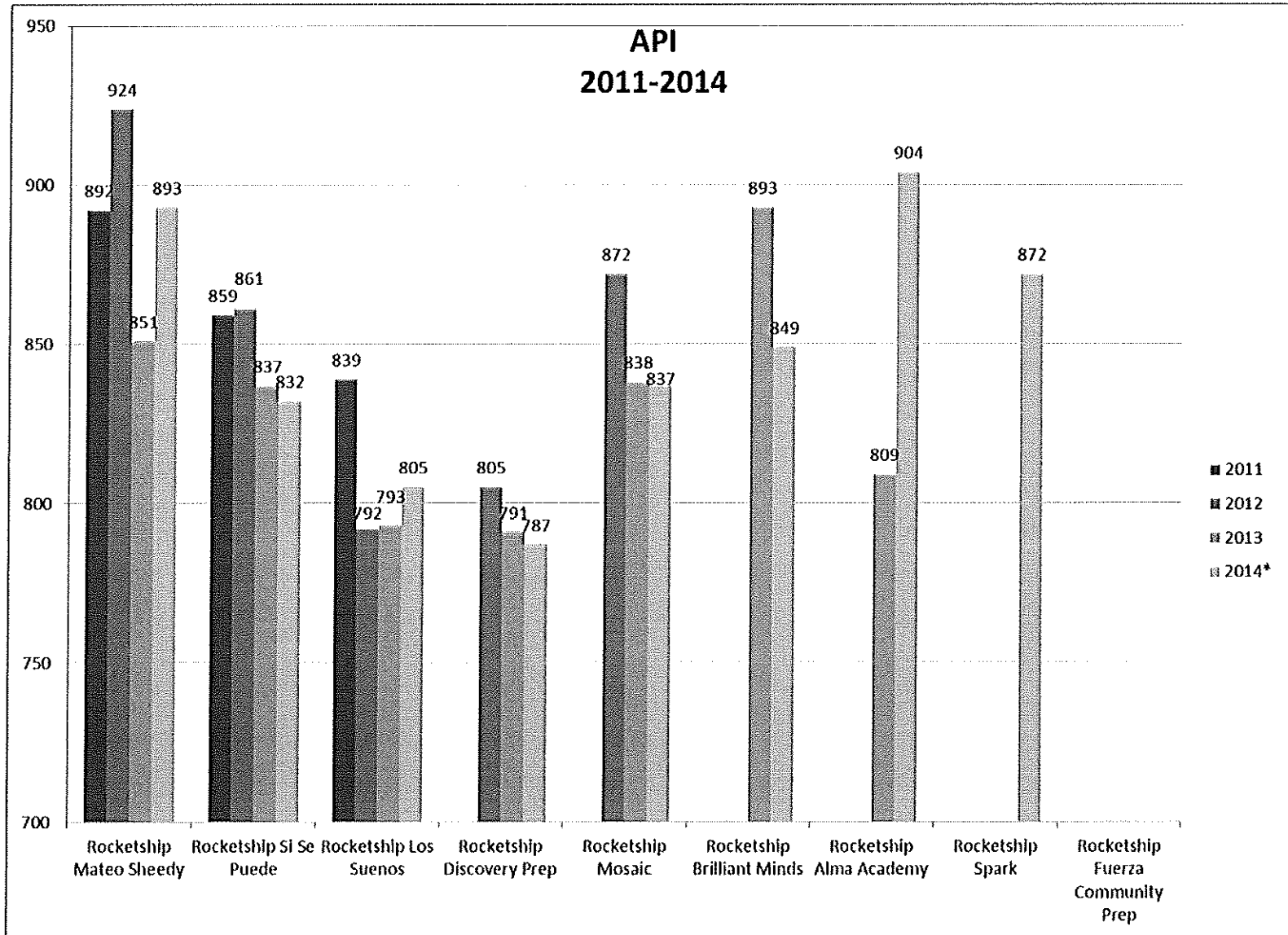


EXHIBIT B: ROCKETSHIP ELA PROFICIENT 2011-2014

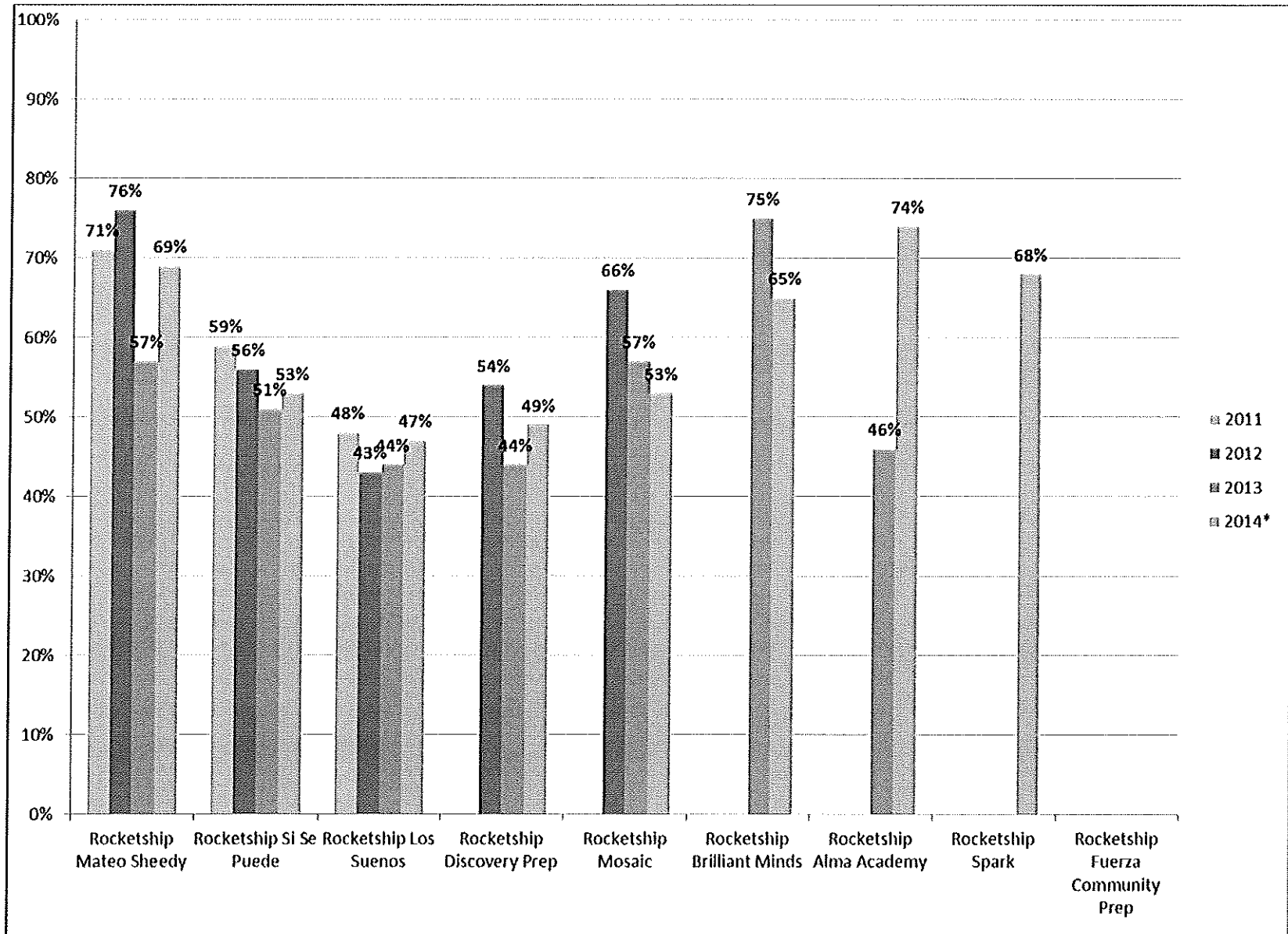


EXHIBIT C: ROCKETSHIP MATHEMATICS PROFICIENT 2011-2014

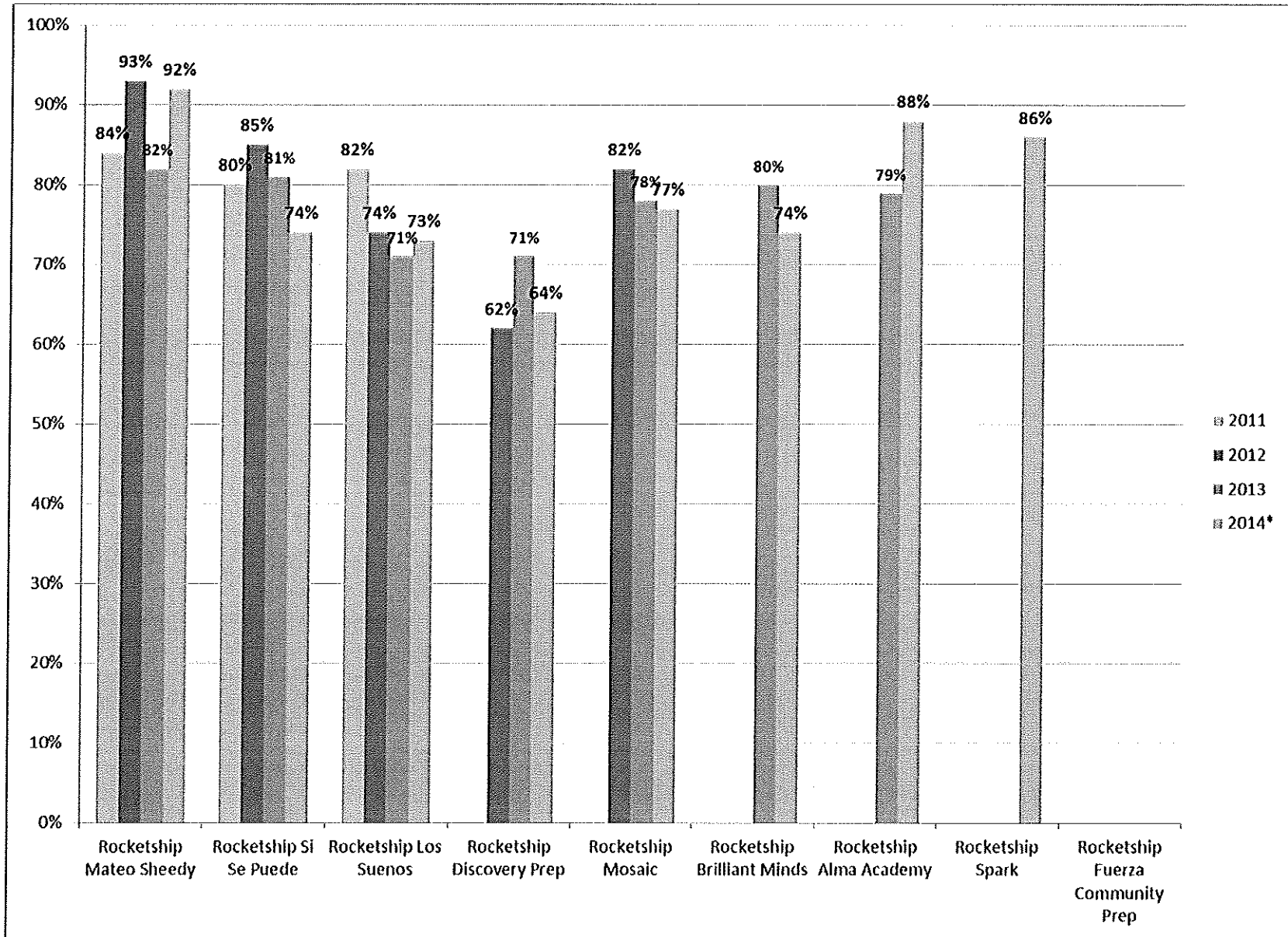


EXHIBIT D: ROCKETSHIP RAW TEST SCORE DATA: 2011-2014

API Scores

School Name	2011	2012	2013	2014*
Rocketship Mateo Sheedy	892	924	851	893
Rocketship Si Se Puede	859	861	837	832
Rocketship Los Suenos	839	792	793	805
Rocketship Discovery Prep		805	791	787
Rocketship Mosaic		872	838	837
Rocketship Brilliant Minds			893	849
Rocketship Alma Academy			809	904
Rocketship Spark				872
Rocketship Fuerza Community Prep				

*2014 As stated in the Petition, the API results for 2014 were calculated by an independent auditor.

ELA % Proficient on the CSTs

School Name	2011	2012	2013	2014*
Rocketship Mateo Sheedy	71%	76%	57%	69%
Rocketship Si Se Puede	59%	56%	51%	53%
Rocketship Los Suenos	48%	43%	44%	47%
Rocketship Discovery Prep		54%	44%	49%
Rocketship Mosaic		66%	57%	53%
Rocketship Brilliant Minds			75%	65%
Rocketship Alma Academy			46%	74%
Rocketship Spark				68%
Rocketship Fuerza Community Prep				

Math % Proficient on the CSTs

School Name	2011	2012	2013	2014*
Rocketship Mateo Sheedy	84%	93%	82%	92%
Rocketship Si Se Puede	80%	85%	81%	74%
Rocketship Los Suenos	82%	74%	71%	73%
Rocketship Discovery Prep		62%	71%	64%
Rocketship Mosaic		82%	78%	77%
Rocketship Brilliant Minds			80%	74%
Rocketship Alma Academy			79%	88%
Rocketship Spark				86%
Rocketship Fuerza Community Prep				

The CSTs were used as the assessment to calculate the 2014 API.

EXHIBIT E: LETTER FROM SANTA CLARA COUNTY COUNSEL'S OFFICE

OFFICE OF THE COUNTY COUNSEL
COUNTY OF SANTA CLARA

70 West Hedding Street, 9th Floor
San Jose, California 95110-1770
(408) 299-5900
(408) 292-7240 (FAX)



Miguel Márquez
COUNTY COUNSEL

Winifred Botha
Orly P. Korb
Lori E. Pege
ASSISTANT COUNTY COUNSEL

December 9, 2011

VIA E-MAIL AND U.S. MAIL
E-mail: linda@lezottelaw.com

Linda J. LeZotte
Law Offices of Linda J. LeZotte, LEED AP
Ten Almaden Boulevard, Suite 1250
San Jose, CA 95113

Re: *Rocketship Education and Rocketship Six Public School*

Dear Ms. LeZotte:

I am writing in response to your November 16, 2011 letter to Carolyn Walsh and Lizanne Reynolds regarding Rocketship Education's authority to exempt Rocketship Six Public School from County of Santa Clara ("County") zoning and building regulations pursuant to California Government Code Section 53094 because Rocketship Education is a school district.

The County has reviewed this matter and, for the reasons explained below, the County does not believe Rocketship Education may exempt Rocketship Six Public School from the County's zoning ordinance because Rocketship Education is not a "school district" for purposes of California Government Code Section 53094. For similar reasons, the County does not believe Rocketship Education can serve as a Lead Agency under the California Environmental Quality Act ("CEQA") for the Notice of Intent to Adopt a Mitigated Negative Declaration and Availability of a Mitigated Negative Declaration ("Notice")

Rocketship Education may request an exemption from the County's zoning ordinance from the appropriate school district governing board. If the exemption is granted, it would only apply with respect to the County's zoning ordinance and Rocketship Education would still need to comply with any other permitting requirements by the County and any other governmental agency. Absent the exemption, Rocketship Education must comply with the County's zoning ordinance, including applying for and receiving a use permit, to develop the proposed Rocketship Six Public School site at 379 Meadow Lane, San Jose, CA.

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Letter to Linda J. LeZotte
Re: *Rocketship Education and Rocketship Six Public School*
Date: December 9, 2011
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1. Government Code §§ 53090 et seq.

With regard to local zoning and building regulations, Government Code sections 53090 through 53097.5 generally govern the application of building and zoning ordinances to local agencies, including school districts. When these sections are read as a whole, it is apparent that all local agencies are required to comply with local building and zoning ordinances, but school districts are specifically authorized, under certain circumstances, to exempt themselves from the purview of a zoning ordinance by a two-thirds vote of the district's governing board. The definition of a school district in Section 53094 has not been broadly defined to include a charter school or charter management organization. Section 53094 provides in relevant part,

Notwithstanding subdivision (a), the governing board of a school district, that has complied with the requirements of Section 65352.2 of this code and Section 21151.2 of the Public Resources Code, by a vote of two-thirds of its members, may render a city or county zoning ordinance inapplicable to a proposed use of property by the school district...If the governing board has taken such an action, the...county may commence an action in the superior court of the county whose zoning ordinance is involved..., seeking a review of the action of the governing board of the school district to determine whether it was arbitrary and capricious....If the court determines that the action was arbitrary and capricious, it shall declare it to be of no force and effect, and the zoning ordinance in question shall be applicable to the use of the property by the school district.¹

Section 53097.3 provides in relevant part,

Notwithstanding any other provision of this article, no school district may render a...county ordinance inapplicable to a charter school facility pursuant to this article, unless the facility is physically located within the geographical jurisdiction of that school district.

¹ Government Code Section 65352.2, cited in Section 53094, also requires the school district governing board to notify and provide copies to the relevant jurisdiction's planning commission or planning department of any relevant and available information, master plan, or other long-range plan relating to the potential expansion of existing school sites or the necessity to acquire additional school sites. Public Resources Code Section 21151.2, also cited in Section 53094, requires that before acquiring title to property for a new school site, the governing board of a school district must give the planning commission having jurisdiction notice of the proposed acquisition. The planning commission shall investigate the proposed site and within 30 days after receipt of the notice shall submit to the school district governing board a written report of the investigation and its recommendations concerning acquisition of the site. The governing board shall not acquire title to the property until the report of the planning commission has been received.

Letter to Linda J. LeZotte
Re: *Rockership Education and Rockership Six Public School*
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Therefore, under Section 53097.3 the exemption authorized under Section 53094 can only be exercised by a school district to exempt charter school facilities from county zoning ordinances when those facilities are physically located within the geographical jurisdiction of the school district.

If Rockership Education requests and is granted an exemption from the appropriate school district, the exemption will solely be applicable to the proposed Rockership Six Public School site and the school district must comply with all other review requirements identified in Section 53094.

2. Education Code §§ 47600 et seq. (Charter Schools Act of 1992)

Your letter asserts that under Education Code Section 47612(c) a charter school is deemed a "school district." Consequently, under your analysis, Rockership Education is a "school district" for purposes of Government Code Section 53094. The County does not agree with this conclusion.

Education Code Section 47612(c) provides in relevant part,

A charter school shall be deemed to be a "school district" for purposes of Article 1 (commencing with Section 14000) of Chapter 1 of Part 9, Section 41301, Section 41302.5, Article 10 (commencing with Section 41850) of Chapter 5 of Part 24, Section 47638, and Section 8 and 8.5 of Article XVI of the California Constitution.

The plain language of Education Code Section 47612(c) provides that a charter school is a school district for the enumerated purposes identified in Section 47612(c). Section 47612(c) does not cover the exemption from local zoning ordinances and does not deem a charter school to be a school district for purposes of Government Code Section 53094. Moreover, Government Code Section 53097.3 provides a framework for a school district to address charter school siting.

The interpretation that a charter school is only deemed a "school district" for the narrow purposes identified in Section 47612(c) is consistent with the California's Supreme Court decision in *Wells v. One2One Learning Foundation et al.* (2006) 39 Cal.4th 1164. In this case, the California Supreme Court refused to accept the argument that charter schools operated by an independent non-profit corporation are the same as a school district or any other governmental agency. Instead, the Court characterized an independent charter school as more akin to a private school, and in doing so, was unwilling to extend the public agency exemption at issue to charter schools. In reaching this holding, the Court explicitly rejected the argument that charter schools are some type of a public government entity simply because various provisions of the Charter School Act (Educ. Code §§ 47600 et seq.) describe charter schools as being part of the public school system. (*Id.* at pp. 1200-1201.)

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In conclusion, Rocketship Education cannot rely on Education Code Section 47612(c) to exempt itself from the County zoning ordinance pursuant to Government Code Section 53094. When a school district selects a school site, it is subject to rigorous public scrutiny and requirements under the Education Code, the Government Code and the California Environmental Quality Act. There is no support in the case law or statutory law to support the conclusion that the Legislature intended to give broad exemption powers to charter schools with respect to these requirements.

3. Rocketship Education CEQA Lead Agency Status

The County has also received Rocketship Education's "Notice of Intent to Adopt a Mitigated Negative Declaration and Availability of a Mitigated Negative Declaration" ("Notice"). The Notice identifies Rocketship Education as the Lead Agency for purposes of CEQA.

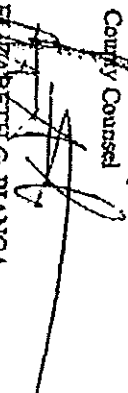
CEQA defines a "lead agency" as "the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment." (Cal. Pub. Res. Code § 21057.) The CEQA Guidelines recognize a school district as a public agency and, thus, a school district can serve as a lead agency. (14 Cal. Code Regs. § 15368.)

Since a charter school is only deemed a "school district" for the narrow purposes specified in Education Code Section 47612(c), which does not include CEQA, the County finds no support for Rocketship Education's position that it is a "lead agency" under CEQA.

Please contact me if you would like to discuss this matter further.

Very truly yours,

MIGUEL MÁRQUEZ
County Counsel



ELIZABETH G. PIANCA
Deputy County Counsel

EGP:ae
cc: Miguel Márquez, County Counsel
Lizanne Reynolds, Deputy County Counsel
Carolyn Walsh, Acting Director, Department of Planning & Development
Eric Schoenmaier, The Schoenmaier Company (via e-mail: es@stanfordaturni.org)
David Feinberg, Launchpad Development Company (via e-mail: dfeinberg@launchpad-dev.org)