

For a Listing of Upcoming Board Meetings See Page vi of this Table of Contents
Santa Monica-Malibu Unified School District
Board of Education Meeting
AGENDA

December 2, 2010

A **special meeting** of the Santa Monica-Malibu Unified School District Board of Education will be held on **Thursday, December 2, 2010**, in the **Malibu City Council Chambers**: 23815 Stuart Ranch Road, Malibu, CA. The Board of Education will call the meeting to order at 6:30 p.m.

The public meeting will begin at 6:30 p.m.

I. CALL TO ORDER

- A. Roll Call
- B. Pledge of Allegiance

II. PUBLIC COMMENTS

Public Comments is the time when members of the audience may address the Board of Education on items not scheduled on the meeting's agenda. All speakers are limited to three (3) minutes. When there is a large number of speakers, the Board may reduce the allotted time to two (2) minutes per speaker. The Brown Act (Government Code) states that Board members may not engage in discussion of issues raised during "VIII. Public Comments" except to ask clarifying questions, make a brief announcement, make a brief report on his or her own activities, or to refer the matter to staff. This Public Comment section is limited to twenty (20) minutes. If the number of persons wishing to address the Board of Education exceeds the time limit, additional time will be provided in **Section XVI. CONTINUATION OF PUBLIC COMMENTS.**

MAJOR and DISCUSSION Items

As a general rule, items under MAJOR and DISCUSSION will be listed in order of importance as determined by the President, Vice President, and Superintendent. Individual Board members may move to request a change in the order prior to consideration of any Major item. The Board may also move any of these items out of order to be heard immediately following PUBLIC COMMENTS if it appears that there is special interest by the public or as a courtesy to staff members making presentations to the Board.

III. MAJOR ITEMS (180)

These items are considered to be of major interest and/or importance and are presented for **ACTION (A)** or **INFORMATION (I)** at this time. Many have been reviewed by the Board at a previous meeting under Section XII (Discussion Items) of the agenda.

- A.01 Point Dume Marine Science Charter School Petition (180)..... 1-3

IV. ADJOURNMENT

This meeting will adjourn to the next regularly scheduled meeting, which will be held on **Thursday, December 9, 2010**, at 6:00 p.m. at the district office: 1651 16th Street, Santa Monica, CA 90404.

Meetings held at the District Office and in Malibu are taped and rebroadcast
in Santa Monica on CityTV2, Cable Channel 20 – Check TV listing.
Meetings are rebroadcast in Malibu on Government Access Ch. 3 every Saturday at 8pm.

SMMUSD Board of Education Meeting Schedule 2010-2011

Closed Session begins at 4:30pm
Public Meetings begin at 6:00pm

July through December 2010					
Month	1 st Thursday	2 nd Thursday	3 rd Thursday	4 th Thursday	Special Note:
July			7/14* DO		*Wednesday, 7/14
August	8/4* DO		8/18* DO		*8/4: Workshop *Wednesday, 8/18
September	9/2 9/1* DO 9/4* DO		9/16* DO	9/23 DO	*Wednesday, 9/1 *9/4: Special Closed Session First day of school: 9/7 *9/16: Special Meeting
October	10/7 M		10/21 DO	10/29* DO	*10/29: Special Meeting
November	11/4 M		11/18 DO		Thanksgiving: 11/25-26
December	12/2* M	12/9 DO		winter break	*12/2: Special Meeting in Malibu
December 18 – 31: Winter Break					
January through June 2011					
January 1 – 2: Winter Break					
January		1/13 DO			
February	2/3 M		2/17 DO		
March	3/3 DO		3/17 DO	3/31 (5 th Thurs.)	
April 16 – May 1: Spring Break					
April	4/6* DO	4/14 DO	spring break	spring break	*Wednesday, 4/6 (rescheduled from 4/14) *Stairway: 4/7 & 4/8
May	5/5 M		5/19 DO		
June	6/2 DO		6/16 DO	6/30* DO	Last day of school: 6/22 *6/30 replaces 6/16

District Office (DO): 1651 16th Street, Santa Monica.
 Malibu City Council Chambers (M): 23815 Stuart Ranch Road, Malibu, CA

**Santa Monica-Malibu Unified School District
Board of Education
December 2, 2010**

I. CALL TO ORDER

A. Roll Call

Barry Snell – President
Kelly Pye – Vice President
Ben Allen
Oscar de la Torre
Jose Escarce
Maria Leon-Vazquez
Ralph Mechur

Student Board Members

B. Pledge of Allegiance

II. CLOSED SESSION

MAJOR ITEMS

TO: BOARD OF EDUCATION

ACTION/MAJOR

12/02/10

FROM: TIM CUNEO

RE: POINT DUME MARINE SCIENCE CHARTER SCHOOL PETITION

RECOMMENDATION NO. A.01

It is recommended that the Board of Education deny the Point Dume Marine Science Charter School Petition due to the fact that the Petition failed to meet legal requirements in several areas (see page 3).

COMMENTS:

The Charter Schools Act of 1992 permits school districts to grant charter petitions, authorizing the operation of charter schools within their geographic boundaries. (Ed. Code § 47600, et seq.) The legislative intent of the Charter Schools Act is to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure, as a method to accomplish all of the following: (a) improve pupil learning; (b) increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving; (c) encourage the use of different and innovative teaching methods; (d) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site; (e) provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system; (f) hold the schools established under this part accountable for meeting measurable pupil outcomes, and provide the schools with a method to change from rule-based to performance-based accountability systems; and, (g) provide vigorous competition within the public school system to stimulate continual improvements in all public schools.

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(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.)

The Point Dume Marine Science School is a highly successful District program which Petitioners seek to replicate in the form of a charter school. Petitioners promote a charter school on the premise that the District plans to close the Point Dume Marine Science School and/or that the loss of state funding will cause a loss of services and resources at the school. However, Petitioners fears are unfounded and do not provide a basis for the conversion of the school to charter status, particularly where the proposed charter school will not be able to provide the same high quality instruction and resources offered by the District.

The fact is, neither the District nor its Board has taken any action to initiate a closure of the school site. To the contrary, the District has committed extensive funding and support to the school site far beyond what the school site generates in per pupil funding. This reflects the District's commitment to offering a variety of programs to all District students. The District is able to meet these commitments through a combination of the economies of scale and the generous support of the Cities of Santa Monica and Malibu, the Santa Monica-Malibu Education Foundation, District PTA, and voter-approved parcel taxes. In addition, Propositions Y and YY funds will further support the educational programs of the District, including Point Dume Marine

Science School. As a charter school, the school site has no entitlement to these funds that currently support the program.

As explained below, it is Petitioners' proposed program and budget that result in reduced services and resources at the school site. The Petitioners' documents reflect that they cannot sustain the program as it currently exists or as promised in the Petition. It is inconsistent with sound educational practice to dismantle such a successful District program and would serve to undermine the educational opportunities for all students of the District. The proposed charter school does not increase learning opportunities, promote innovative teaching methods nor does it seek to expand learning experiences for pupils who are identified as academically low achieving. While the Petition may provide for some new opportunities for teachers and parents, a sound educational program is designed to serve students, not to promote the interests of adults.

PROCEDURAL STATUS

The Board of Education of the Santa Monica-Malibu Unified School District ("District") received a petition establish Point Dume Marine Science Charter ("Charter School" or "PDMSCS") ("Petition") on October 7, 2010. Within 30 days of receiving a petition, the governing board ("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, section 47605(b).) A public hearing was held on November 4, 2010. At the public hearing the Petitioners made a presentation to the Board and there were numerous public speakers who spoke in favor of the Petition. There were also several speakers that identified concerns with the proposed charter school, including negative impacts upon the community and district schools, as well as the creation of a school which would be exclusive and lack diversity. The Board has also received numerous letters both in support and in opposition of the proposed charter school.

If the Board grants the Petition, the Charter School will become a legal entity, funded and operated independently from the District. Under Education Code section 47605, subdivision (j)(1), if the District denies a charter petition, the petitioners may appeal that denial to the Los Angeles County Office of Education ("LACOE"). If LACOE grants the charter, it becomes the supervisory agency over the charter school. In that case, the District's obligations with respect to the charter school are limited to transfer of what would become the charter school's share of local property taxes, based on its ADA, along with provision of facilities if a request were made and entitlement shown.¹ If the LACOE denies the petition, the petitioner may appeal to the State Board of Education ("SBE"). (Ed. Code, §47605, subd. (j)(1).)

REVIEW OF THE PETITION

A team of District staff and counsel conducted a full review of the Petition, and along with the governing board, were guided by the following considerations:

- It is 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

¹ Although charter schools are entitled to a share of local property taxes, this does not include parcel tax funds or other local revenue received by the District such as Propositions Y and YY funds.

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 also guided by Regulations of the California State Board of Education which were promulgated for the SBE's evaluation of its own charter petition submissions (Cal. Code Regs., tit. 5, section 11967.5.1 "Regulations"). Although these Regulations do not apply by law to 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.

Staff found that the Petition failed to meet legal requirements in several areas. The major deficiencies include:

- Petitioners Fail to Support the Proposed Charter's Promise to Build Upon and Improve the District Program: The Petition and supporting documentation fails to provide for the staffing and resources currently supporting the program.
- Petitioners Lack of Experience in Public Education and Past Experience with School Operation: The Petitioners exhibit a lack of experience and understanding particularly with regard to public entity and school district finance and are demonstrably unlikely to successfully implement the program set forth in the petition.
- Petitioners Lack a Realistic and Sound Financial and Operating Plan: The proposed Budget fails to provide for the staffing and resources identified in the Petition and is deficient by approximately \$400,000.
- Petitioners Educational Program Is Inconsistent with Sound Educational Practice:
 - Failure to clearly define and build upon the current curriculum and teaching methods that will enable the school's students to meet state standards
 - Failure to demonstrate the ability to address the needs of pupils who are not achieving at or above expected levels, students with disabilities, English learners, or students achieving substantially above or below grade level expectations
 - Failure to identify measurable pupil outcomes and means for assessment
 - Failure to provide a plan for diversity commensurate with District demographic

Attached is the complete staff report.

MOTION MADE BY:

SECONDED BY:

STUDENT ADVISORY VOTE:

AYES:

NOES:

SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
STAFF REPORT REGARDING

POINT DUME MARINE SCIENCE ACADEMY CHARTER PETITION

GOVERNING BOARD MEETING DATE: DECEMBER 2, 2010

I. INTRODUCTION

The Charter Schools Act of 1992 permits school districts to grant charter petitions, authorizing the operation of charter schools within their geographic boundaries. (Ed. Code, § 47600, et seq.) Charter schools are established through 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(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.)

The legislative intent of the Charter Schools Act is to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure, as a method to accomplish all of the following: (a) improve pupil learning; (b) increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving; (c) encourage the use of different and innovative teaching methods; (d) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site; (e) provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system; (f) hold the schools established under this part accountable for meeting measurable pupil outcomes, and provide the schools with a method to change from rule-based to performance-based accountability systems; and, (g) provide vigorous competition within the public school system to stimulate continual improvements in all public schools. (Ed. Code, § 47601.)

Therefore, in addition to the statutory criteria set forth in section 47605, the governing board must also examine whether the proposed charter school provides additional choice to parents and students by providing a program that promotes innovation and expands the educational opportunities available in the District.

Once a governing board has granted a petition, a charter school is created as a separate legal entity, subject to the oversight of the charter-granting agency. Although charter schools are exempt from many of the laws governing school districts, in return for that exemption, the Education Code holds them to a high standard: they must live up to all of the commitments in the charter that they make to school districts, parents, community members, and students concerning pupil instruction, community/parent involvement, fiscal accountability, and student safety.

The Point Dume Marine Science School is a highly successful District program which Petitioners seek to replicate in the form of a charter school. Petitioners promote a charter school on the premise that the District plans to close the Point Dume Marine Science School and/or that the loss of state funding will cause a loss of services and resources at the school. However, Petitioners fears are unfounded and do not provide a basis for the conversion of the school to charter status, particularly where the proposed charter school will not be able to provide the same high quality instruction and resources offered by the District.

The fact is, neither the District nor its Board has taken any action to initiate a closure of the school site. To the contrary, the District has committed extensive funding and support to the school site far beyond what the school site generates in per pupil funding. This reflects the District's commitment to offering a variety of programs to all District students. The District is able to meet these commitments through a combination of the economies of scale and the generous support of the Cities of Santa Monica and Malibu, the Santa Monica-Malibu Education Foundation, District PTA, and voter-approved parcel taxes. In addition, Propositions Y and YY funds will further support the educational programs of the District, including Point Dume Marine Science School. As a charter school, the school site has no entitlement to these funds that currently support the program.

As explained below, it is Petitioners' proposed program and budget that result in reduced services and resources at the school site. The Petitioners' documents reflect that they cannot sustain the program as it currently exists or as promised in the Petition. It is inconsistent with sound educational practice to dismantle such a successful District program and would serve to undermine the educational opportunities for all students of the District. The proposed charter school does not increase learning opportunities, promote innovative teaching methods nor does it seek to expand learning experiences for pupils who are identified as academically low achieving. While the Petition may provide for some new opportunities for teachers and parents, a sound educational program is designed to serve students, not to promote the interests of adults.

II. PROCEDURAL STATUS

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If the Board grants the Petition, the charter school will become a legal entity, funded and operated independently from the District. Under Education Code section 47605, subdivision (j)(1), if the District denies a charter petition, the petitioners may appeal that denial to the Los Angeles County Office of Education ("LACOE"). If LACOE grants the charter, it becomes the supervisory agency over the charter school. In that case, the District's obligations with respect to the charter school are limited to transfer of what would become the charter school's share of local property taxes, based on its ADA, along with provision of facilities if a

request were made and entitlement shown.¹ If the LACOE denies the petition, the Petitioners may appeal to the State Board of Education ("SBE"). (Ed. Code, § 47605, subd. (j)(1).)

III. REVIEW OF THE PETITION

A team of District staff and counsel conducted a full review of the Petition, and along with the governing board, were guided by the following considerations:

- It is 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 also guided by Regulations of the California State Board of Education which were promulgated for the SBE's evaluation of its own charter petition submissions (Cal. Code Regs., tit. 5, section 11967.5.1 "Regulations"). Although these Regulations do not apply by law to 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.

Staff found that the Petition failed to meet legal requirements in several areas. The major deficiencies include:

- Petitioners Fail to Support the Proposed Charter's Promise to Build Upon and Improve the District Program: The Petition and supporting documentation fails to provide for the staffing and resources currently supporting the program.
- Petitioners Lack of Experience in Public Education and Past Experience with School Operation: The Petitioners exhibit a lack of experience and understanding particularly with regard to public entity and school district finance and are demonstrably unlikely to successfully implement the program set forth in the petition.

¹Although charter schools are entitled to a share of local property taxes, this does not include parcel tax funds or other local revenue received by the District such as Propositions Y and YY funds.

- Petitioners Lack a Realistic and Sound Financial and Operating Plan: The proposed Budget fails to provide for the staffing and resources identified in the Petition and is deficient by approximately \$400,000.
- Petitioners Educational Program Is Inconsistent with Sound Educational Practice:
 - Failure to clearly define and build upon the current curriculum and teaching methods that will enable the school's students to meet state standards
 - Failure to demonstrate the ability to address the needs of pupils who are not achieving at or above expected levels, students with disabilities, English learners, or students achieving substantially above or below grade level expectations
 - Failure to identify measurable pupil outcomes and means for assessment
 - Failure to provide a plan for diversity commensurate with District demographic

IV. FACTUAL FINDINGS

Staff's review and analysis of the Petition resulted in the following factual findings.

- A. The Petition should be denied because Petitioners are demonstrably unlikely to successfully implement the program. (Ed. Code, § 47605, subd. (b)(2).)**

The statute requires Petitioners to show they are demonstrably likely to successfully implement the program set forth in the Petition. (Educ. Code, § 47605(b)(2).)

The Regulations look to whether a petition has presented a realistic financial and operational plan, including the areas of administrative services, financial administration, insurance and facilities. (Cal Code Regs., tit. 5, § 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. (Cal Code Regs., tit. 5, § 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. (Cal Code Regs., tit. 5, § 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, at a minimum, the first year operational budget, start-up costs, and cash flow, and financial projections for the first three years with reasonable estimates of all anticipated revenues and expenditures, necessary to operate the school. The budget is to 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. The budget must, in its totality appear 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.

Under section 11967.5.1(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 compensations, and other necessary insurance of the type and in the amounts required for an enterprise of similar purpose and circumstance.

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

1. Petitioners Fail to Support the Proposed Charter’s Promise to Build Upon and Improve the District Program.

While Petitioners purport to be adopting and bettering the District program, they do not plan for sufficient staffing or fiscal allocation and management to sustain nor improve the success of the program. The Petition lacks detailed descriptions and facts, and therefore makes the Petitioners demonstrably unlikely to succeed. Staff does not believe the Petition is consistent with sound educational practice because what the Petitioners describes (and fails to describe) would drastically undermine the integrity and success of the existing District program. Additionally, because the Petition promises to continue the current program, but does not provide for the same level of instruction and resources currently provided other than adding a sixth grade, the Petitioners are demonstrable unlikely to successfully implement the program promised in the Petition.

This section will review the how the PDMSS is currently operating under District management and how Petitioners’ proposal does not parallel the current educational program although the Petitioners represent to adopt and continue the District program (pp. 6-11). This comparison will show that while Petitioners purport to convert and better an existing, successful, unique District school, the program description makes it very clear that Petitioners cannot deliver what they promise with the program described in the Petition. In essence, what Petitioners promise to deliver cannot be implemented through the plan laid out in the Petition and its attachments.

a. Summary of Current Program

Contrary to a premise of the Petition, PDMSS is not at risk of closure. In fact, no such action has been considered or initiated by the Board. The District has committed substantial resources and support to the school to create the thriving and unique program that currently exists at PDMSS. PDMSS currently has 11 K-5 classroom teachers for 273 (CBEDS October 2010) students, with student to teacher staffing ratios of 23:1 in Kindergarten, 25:1 in grades 1-3, and 30:1 in grades 4-5. The chart below illustrates the positions that are currently funded by the District and Point Dume PTA. In addition, the District provides other support personnel such as a special education teacher, a speech pathologist, a school psychologist and a cafeteria manager to support and enrich a comprehensive K-5 elementary experience. As the Petitioners repeatedly tout, the District has also been very successful in encouraging and achieving a successful Parent Teacher Association (“PTA”) at the school.

Position Title	Current Staffing (2010-11)		
	District Funded (FTEs)	PTA Funded (FTEs)*	TOTAL FTEs Funded by District & PTA
K-5 Teaching	11.0	0.0	11.0
Reading Teacher	0.1	0.85	0.95
Marine Science Teacher	0.0	0.28	0.28
Art Teacher	0.0	0.2	0.2
Music Teachers (Team of 5)	0.4	0.35	0.75
Custodians	2.0	0.0	2.0
Inst Assts	0.4	4.6	5.0
Physical Activity Specialist	0.75	0.0	0.75
ELC	0.88	0.0	0.88
Clerical	1.5	0.0	1.5
Principal	1.0	0.0	1.0

*PTA-funded positions have been converted to a full-time equivalent (FTE) staff.

The District also provides third grade dance and fourth grade Contra Tiempo program. In addition, the District provides health services and other student support services.

Under the current District structure, the PTA supports three part time reading teachers, one part time science teacher, one part time art and one part time choir teacher, eight part time instructional assistants and additional resource for fifth grade Ballroom Madness program.

PDMSS success as a District school is demonstrated by Accountability Progress Reporting, which includes both state and federal accountability measures (Academic Performance Index – API, and Adequate Yearly Progress – AYP):

Year	API Growth	AYP/ELA % Proficient	AYP Required % Proficient	AYP/Math % Proficient	AYP Required % Proficient
2005-06	926	80.4	24.4	86.1	26.5
2006-07	915	82.1	24.4	83.6	26.5
2007-08	914	75.7	35.2	86.6	37.0
2008-09	944	87.5	46.0	90.9	47.5
2009-10	940	86.0	56.8	87.2	58.0

Note: state minimum API is 800

In the 2009-2010 school year the total District revenues generated by student attendance at PDMSS were \$1,341,350. Projected expenditures included in the 2010-11 District Budget for PDMSS are \$1,519,011. Notably, significant revenue to which the District is entitled and is currently used to support PDMSS would not be available to the Charter School by virtue of its charter school status. Presently, the District supports PDMSS by \$177,661 in excess of the District's revenues generated by current student attendance. This reflects the District's commitment to offering a variety of programs to all District students. The District is able to meet these commitments through a combination of the economies of scale and the generous support of the Cities of Santa Monica and Malibu, the Santa Monica-Malibu Education Foundation, District PTA, and voter-approved parcel taxes. In addition, Propositions Y and YY funds will further support PDMSS. As a charter school, the school site has no entitlement to these funds the currently support the program. The Petitioners have not demonstrated how the additional funds are to be raised to support the funding level necessary to sustain the existing programs. As explained below, even to accept the

Petitioners' assumptions regarding donations, it is inadequate to support the current level of staffing.

b. Areas Petition is Lacking with Regard to Current Program

While the Petitioners do a good job of explaining how PDMSS is operating now, the Petitioners fail to describe what they will do differently, how they will accomplish the promises of the Petition, and also fail to support those promises through budget allocations. The Petition lacks detailed information in substantive areas, making it difficult to determine the accuracy of or rely upon the financial projections. Overall, the Budget does not sustain the program and creates serious deficit in each of the three projected years. The financial issues will be discussed in detail in Section A.3, below.

i. Petition and Its Supporting Budget Demonstrate Smaller Staff, Greater Class Size, and Reliance Upon Non-Credentialed Teachers

The Petition never explains how the school will be able to increase enrollment by dozens of students while maintaining a staff that is fewer in numbers than the existing program. The Petition proposes to have only 14.78 credentialed teachers, one executive director, 0.75 PE coach, 0.88 library media tech, a part time receptionist, and one office manager, while adding a 6th grade and continuing to provide the same level of programs and services currently supported by the District. While growing the student enrollment, Petitioners do not budget for additional teaching staff such that by year three some class sizes are greater than that provided by the District.

As reflected in the Budget, the charter school will not have any music teachers, any nurses, any classroom instructional aides, any technology support services, or other support personnel (although the Petition proposes to contract out some of these services, the Budget Allocations demonstrate they will not be able to maintain the level currently provided by the District). (Appendix V, Section N, p. 24.) This is despite the fact the Petition itself recognizes these individuals as crucial to the school's success as well as proposing to provide additional enrichment programs. (p.6). Funds currently donated to the school that provide additional classroom support and teaching positions for the arts and K-2 music are no longer available for those uses, but instead are relied upon for general operations. Additionally, charter schools may hire non-credentialed staff for non-core subjects; however, the Petition proposes to use non-credentialed teaching staff for what they refer to as "non-core" subjects, such as visual arts, health, performing arts and PE, whereas the District teachers for these subjects are credentialed.² (Appendix S.)

² As discussed more fully in Section B, Element E.4, the District disagrees with Petitioners' assertions that all the subjects identified in Attachment S to the Petition are "non-core" and do not require a teaching credential.

Position Title	Current Staffing (2010-11)			Petition's Proposed Budgeted Staffing (FTEs)
	District Funded (FTEs)	PTA Funded (FTEs)	TOTAL FTEs Funded by District & PTA	
K-5 Teaching	11.0	0.0	11.0	14 (K-6)
Reading Teacher	0.1	0.85	0.95	<i>NOT BUDGETED</i>
Marine Science Teacher	0.0	0.28	0.28	0.78
Art Teacher	0.0	0.2	0.2	<i>NOT BUDGETED</i>
Music Teachers (Team of 5)	0.4	0.35	0.75	<i>NOT BUDGETED</i>
Custodians	2.0	0.0	2.0	Contracted
Inst Assts	0.4	4.6	5.0	<i>NOT BUDGETED</i>
Physical Activity Specialist	0.75	0.0	0.75	0.75
ELC/Library Multimedia Tech	0.88	0.0	0.88	0.88
Clerical	1.5	0.0	1.5	1.5
Principal	1.0	0.0	1.0	<i>NOT BUDGETED</i>
Executive Director	0.0	0.0	0.0	1.0

**PTA-funded positions have been converted to a full-time equivalent (FTE) staff.*

ii. Budget Demonstrates Teacher Salaries Far Below District and Inconsistent with Petition

While the Petition promises to provide the “Founding Teachers” with salaries and benefits commensurate they are entitled to under the District collective bargaining agreement, the Budget does not provide for these salaries or benefits. (p. 66) The Budget indicates 14 teachers (and one 0.78 FTE science teacher) and identifies an average salary of \$59,268 and total teacher salary allocation of \$895,000. (Appendix V.) This does not allocate sufficient funds for the promised compensation for Founding Teachers. The Founding Teachers combined salaries total over \$858,913. Adding the three additional full time teachers and a part time science teacher the total is \$1,071,717; \$176,717 more than the Petition Budget reflects for total teacher salaries (\$895,000 without substitutes). (Budget Section IV, p. 24.) When you add in the additional benefits, the deficit grows to \$188,373. The Budget reflects more working days as well as fewer holidays, sick leave and personal leave for all teachers, but does not provide for additional compensation. (Appendix V.) Additionally, while the Petitioners promise a competitive salary for other teachers, even the “average salary” of \$59,268 is not competitive as significantly below teacher salaries offered by the District and neighboring school districts. The Petition does not specify benefits for teachers that are not Founding Teachers. This raises concerns related to the school’s ability to recruit and maintain the high level of staffing if salaries and benefits will change so significantly from current compensation, contrary to Petitioners promise otherwise. The Budget does not support the Petition’s promise to pay the Founding Teachers commensurate with their District pay.

iii. Petition Assumes Increased Enrollment

Petitioners propose to grow the school’s enrollment significantly over the next several years and rely upon this growth revenue to develop the Budget. The petition’s enrollment projections are inconsistent with the DecisionInsite projections for the school, including the addition of a sixth grade. (p. 12.)

³ DecisionInsite relies upon school district data, Census data and information from various state governmental agencies to provide student enrollment forecasts and community demographics.

Projections	2011-12	2012-13	2013-14
Petitioners	328	352	352
District	292	282	275

Note: District projections are based on current enrollment plus DecisionInsite's conservative projections. The 2010-2011 CBEDS enrollment for Pt. Dume is 273.

Based on District projections for the site, it appears the charter school would be under-enrolled in the very first year of operation and subsequent two years, putting further strain on the already inadequate budget. The Petitioners provide no source to judge the reliability of their projections. There is no recruiting plan provided to support the yearly projected enrollment increases, and given that transportation will not be provided, it is unclear how the school will attract more students than the same program has under District operation with the District's existing policy which allows students from outside the entire Malibu attendance area to enroll in PDMSS subject to space availability. The geographically remote location has hindered increased enrollment when offered to students outside the attendance area. The Petition narrative indicates that PDMSS will attract students who are now attending private school, but it provides no substantiating basis for this claim. These issues are only exacerbated by the fact the Petition and its attachments inconsistently report the ratio of enrollment to attendance, varying between 90% and 95% enrollment to average daily attendance expectancy. (E.g., p. 52; Appendix V, Section III, p. 14.) There are also unexplained anomalies, for example there is an unusually high change in second-grade enrollment between year 1 and 2 that is not ever explained nor justified.

iv. Charter School Does Not Provide for Food Service

Although charter schools are not required by law to provide food service to students, the failure to provide such services is inconsistent with the program currently provided by the District. Additionally, it is impractical to have no food service for students attending the school. This may limit the charter school's ability to recruit and serve children of diverse means. Approximately 28% of the District's students are served by the Free and Reduced Lunch Program. As one charter school coalition opined, "Hungry children can't learn." (U.S. Charter Schs., Nat'l Sch. Lunch Program.) In response to questions posed by the Board, Petitioners stated "PDMSS will provide food services. It is currently considering vendors for this purpose. Parents will pay for their child(ren)'s access to food services, with the exception of students who qualify for free and reduced lunch who will not pay or who will pay a reduced rate in accordance with Federal guidelines." There is neither allocation in the Budget for food service nor any provision in the Petition for provision of food services in conformity with the requirements of the Federal Free and Reduced Lunch program.

2. Lack of Experience in Public Education and Past Experience with School Operation.

Are the petitioners familiar with the content of the petition or the requirements of the law that apply to charter schools? (5 C.C.R. § 11967.5.1(c)(2).)

As will be demonstrated herein, Petitioners have not shown familiarity with the law applicable to charter schools, particularly in the area of the educational program, education of English Learners and special education students, budget and finance, and in the areas of general operations and governance.

It does not appear Petitioners are sufficiently knowledgeable about publicly funded education, the fiscal controls and obligations that public officials must observe, nor the types and diversity of students public schools are obligated to serve. Petitioners do not

appear to have the necessary background in education finance and business management, organization, governance and administration, and do not reflect an understanding of the requirements for operating a charter school. This lack of experience is best exemplified by the Budget issues discussed in Section A.3 below and the list of what PDMSC will seek to accomplish as a charter school. (pp.7-8.) Its first and third items involve "providing students the opportunity for focused learning in marine/environmental sciences with an integration of arts and technology," but the school proposes to hire only one part time science instructor, one part time librarian/multi-media person, and no art, music, or technology teachers.

The second item indicates the charter school will "[p]rovide the typical student not receiving any special services the opportunity to be challenged in a new direction," but no where does the Petition define this "typical student" or "special services," much less does it identify how it is lawful to preclude access on the basis of whether the student is or is not typical or receiving special services. (p. 7.) Further, the plans to draw students back in to public school, offer sixth grade, offer a longer school day, offer extended kindergarten, offer a more in-depth enrichment program, maintain the same program "while providing a more diverse group of students access," increase student achievement, and create new professional opportunities and expanded public school choice are entirely undeveloped and are not provided for in the Budget. (pp. 7-8.) Like the promise to maintain existing teacher compensation, none of these vague promises are budgeted or adequately described.

The Petition refers to a position of an Executive Director, which may indicate responsibilities outside of those listed for Principal. The budget of the Executive Director does not reflect a salary with additional responsibilities. There is no explanation as to how the charter school will meet the administrative requirements such as labor compliance, public finance and contracting requirements. There is no experienced person identified to handle the business operations of the school. The collection, expenditure and accounting of school funds is within the control of the Chief Financial Officer which is a role held by a board member pursuant to the Bylaws; however, there is no criteria or expertise identified for the individual to hold this position nor is this position reflected in the Petition. (Appendix P.)

3. Lack of Realistic and Sound Financial and Operating Plan.

Based upon title 5, 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, at a minimum, the first year operational budget, start-up costs, and cash flow, and financial projections for the first three years.
- 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.
- Include budget notes that clearly describe assumptions on revenue estimates, including, but not limited to, the basis for average daily attendance estimates and staffing levels.
- Present a budget that in its totality appears viable over a period of no less than two years of operations provides for the amassing of a reserve required by law for a school district of similar size to the proposed charter school.
- Demonstrate an understanding of the timing of receipts of various revenues and their relative relationship to timing of expenditures that are within reasonable parameters, based, when possible, on historical data from schools or school districts of similar type, size and location.

In order to properly analyze the planning budget, the charter school petitioners must present information and documentation to establish that the petitioners have prepared a budget based on sound and verifiable data. The financial notes and budget assumptions presented within the charter petition do not support the budget presented by petitioners. Detailed budget notes that clearly describe budget assumptions as required by 5 CCR 11967.5.1(c)(3)(B) were not presented that would support petitioners' anticipated revenues and expenditures. Detailed budget notes and assumptions, tables, and detailed financial analysis specific to the individual charter school petition are necessary in order for the charter petitioners to demonstrate that their revenue and expenditure estimates were reasonable and based on sound, documented assumptions.

The Petition does not present a sound, realistic financial and operational plan. In order to successfully implement the program, the charter petition must be supported by an adequate financial plan. Petitioner' Budget and financials are inadequate as follows:

a. Revenue

i. General Purpose Entitlement Block Grant Funding

State apportionment revenue based on student attendance represents a material portion of total revenues. Petitioners have identified within their Budget model, by grade level, the General Purpose Entitlement rates, upon which revenue is calculated. As discussed below, the per pupil revenue is based upon a projection of 328 students in year one, 352 in years two and three, is not supported by any detail as to how the charter school will grow its enrollment from the current 273.

ii. Average Daily Attendance

Attendance rate is an area that significantly affects the revenues and expenditures of charter schools. Detailed budget notes that clearly describe assumptions on revenue estimates, including, but not limited to, the basis for average daily attendance estimates and staffing levels as required by Title 5 of the California Cod of Regulations, section 11967.5.1 (c)(3)(B) were not presented within the PDMSC budget notes or budget assumptions that would support the charter school's anticipated enrollment.

The Petition reflects various ADA ranging from 90% to 95%, but relies upon 95% for purposes of calculating revenue. This is unreasonable in light of the school's enrollment-to-attendance history is 93% and the Petition's stated goal of 93% (p. 52). The Budget is also founded upon enrollment of 328 students in year one, 352 in year two and in year three; however, Petitioners do not give detail as to how they propose to increase the enrollment from the current enrollment of 273, other than by the addition of projected 46 students for a 6th grade⁴. Because the District currently allows enrollment in the school by students residing outside the entire Malibu attendance area, the change to charter status does not create a greater opportunity for enrollment than currently exists. Although students from outside the District boundaries may enroll in a charter school, the District has campaigned to increase out-of-district attendance, but because of the geographically isolated location of Malibu and PDMSS in particular, the out-of-district student population has remained small. The District's historical information and demographics software reflects a reasonable estimated enrollment is closer to 292 for the first year, 282 for the second year and 275 for the third year.

⁴ According to Petitioners, 70% of the current 5th grade students indicated interest in continuing for 6th grade, not the entire 5th grade class.

iii. Grants and Fundraising

Two additional material revenue sources were provided within the budget as follows:

- Public Charter School Grant Program at \$200,000 as part of year-one revenue and \$22,000 as part of year-two revenue;
- \$375,000 in "community support" i.e., fundraising and donations in year-one (\$475,000 in year-two and \$575,000 in year-three);

These two material revenue sources of grants, loans and fundraising represent \$575,000 of the first year of operations total revenues of \$2,411,114. (This does not include the \$27,778 allocated to current year expenditures.) (Appendix V, Section 1, p. 9.)

When the petitioner does not properly identify, disclose and document grant and fundraising assumptions, a proper determination of the validity and applicability of those grants and fundraising to the financial budget projections cannot be reached, resulting in the Budget being considered unrealistic.

Without proper documentation supporting the validity and terms of a grant, this funding is considered "soft money," is not considered valid revenue, and removes \$200,000 of revenue from the year one Budget as well as the \$22,000 from Budget year two, totaling \$222,000.

Because the local revenue in the amount of \$375,000 is also unsupported, it is not considered valid revenue, and removes the \$375,000 from the year one Budget as well as the \$475,000 from Budget year two and \$575,000 from Budget year three. (Appendix V, Section 1, p. 9.)

If this soft money does not materialize, it alone would reduce the Petitioners' projected revenue by \$575,000 in year one, \$497,000 in year two and \$575,000 in year three.

iv. State Lottery Funds

Petitioners include state lottery funds in budget year-one in the amount of \$34,588 but acknowledge that these funds are not made available until year two. (Budget p.27.) (Appendix V, MultiYear Strategies Fiscal Plan and Budget (MYSFPB), p. 27.)

v. Cash

The timing of receipt of revenues is a critical factor for educational organizations. Management of cash flow is extremely critical for the charter school.

The Budget relies upon \$410,000 in loans over three years but does not provide any detail regarding the loans, a credit line or the debt service for these loans. In response to questions posed by the Board, petitioners identified options for loans but did not include the cost of any of the options. Charter Capital is one option identified but is an expensive means of obtaining cash by selling charter school state revenue receivables. The Petition does not fully disclose the plans for obtaining loans or identify the cost of the loans.

vi. Class Size Reduction

Petitioners include class size reduction funds but acknowledge that Petitioners “expect to slightly over-enroll its K-3 classes.” (MYSFPB, p. 27.) The Budget notes reflect that the penalty for over enrollment has been taken into account but there is no information as to how the Budget revenue was calculated incorporating a penalty. Notably, in the Multi-Year Strategic Fiscal Plan and Budget, petitioners discuss class size highlights suggesting an adult to student ratio as low as 18:1.⁵ (p. 17.) However, the CSR ratio is not based upon adult to student ratio but is based upon certificated teacher to student ratio. This calls into question Petitioners’ understanding of CSR and the relevant calculations.

Overall, the budget presents an unrealistic financial and operational plan for the proposed charter school. In total, the material revenue deficiencies have decreased the charter school revenues by approximately \$575,000 or approximately 23.8% in the proposed charter school’s first year of operation alone. (See Tables, pp. 18-24.)

b. Expenditures

i. Salaries and Employee Benefits:

- Certificated Teachers Salaries and Benefits: Page 66 of the charter petition states, “In order to hold and secure experienced teaching staff committed to innovation, PDMSC recognizes the importance of an attractive compensation package, which includes salaries and health benefits. Teachers from PDMSS (pre-conversion) that choose to remain at PDMSC post-conversion without a break in employment will be provided a guarantee that they will not make less compensation or receive a lesser employer contribution toward health benefits than received in the 2009-2010 school year. All new hires will be paid at competitive rates with competitive benefits packages.” This assumption is flawed; the District negotiated five furlough days for all employees beginning in the 2009-10 school year. The petition states at footnote 3: “2009-2010 was the year chosen in order to capture compensation prior to reduction for work furlough days.”

The Budget indicates 14 teachers (and one 0.78 FTE non-credentialed science teacher) and identifies an average salary of \$59,268 and total teacher salary allocation of \$895,000. (Section IV, p. 24; MYSFPB, p. 33.) This does not allocate sufficient funds for the promised compensation for Founding Teachers. The Founding Teachers combined salaries total over \$858,913. Adding the three additional full time teachers and a part time science teacher the total is \$1,071,717; \$176,717 more than the Petition Budget reflects for total teacher salaries (\$895,000 without substitutes). (Budget Section IV, p. 24.) When you add is the additional benefits, the deficit grows to \$188,373. Additionally, while the Petitioners promise a competitive salary for other teachers, even the “average salary” of \$59,268 is not competitive as significantly below teacher salaries offered by the District and neighboring school districts. The Budget also acknowledges a longer work year (190 days), no sick days, no paid holidays and fewer personal leave days than provided by the District. (MYSFPB, p. 19.)

⁵ In making this representation Petitioners include paraprofessional aids, P.E. and foreign language teachers, guest artists and field and core subject experts; however, funding for these supports are not included in the Budget.

The Budget worksheets also identify "Supplemental Support Teaching Staff" but acknowledges that additional certificated positions to augment the instructional program are not included in the Budget. There are no salaries or benefits for supplemental staff in the Budget. (MYSFPB, p. 32.)

Employee Benefits is a category that charter school budgets should describe in complete detail. All benefits should be clearly identified as to which employees receive what benefits, what the health care plan cost is per employee, what range of health plans and costs employees are to choose from, and what those benefits are as a percentage of salaries, etc. Benefits are a constantly escalating cost area in California. None of this is described in the Petition, assumptions, or cash flow. The dollar amount budgeted for benefits is also very low, compounding the issues caused by the inadequate description. Health and welfare costs are underestimated. The application uses a 5.0% inflation factor when it should be at least 8.0%. The 0.78 FTE science teacher receives no health benefits. If a current employee is hired in this position they would be eligible for benefits at a pro-rata basis. Also future health benefit increases should be in the range of 8-15%, aligned more closely to industry historical trends. Estimated cost of health provider services appears underestimated.

The Petition refers to contribution to health benefits for Founding Teachers and a "competitive benefits package" for other teachers but does not identify what benefits will be provided or the costs associated with any benefits package and does not identify any benefits for non-teaching staff. (p. 66.)

- Page 66 of charter petition states, "Solely for those Founding Teachers who begin service with the charter school at its inception, PDMSC shall recognize those provisions of Article XXV of the collective bargaining agreement between the District and SMMCTA that provide for a retiree health benefit depending upon the age of the retiree. However, PDMSC will not automatically extend such provisions to other future PDMSC hires [post-conversion] due to inherent costs involved and the need to carefully study the future feasibility of such provisions.

Article XXV provides in Sections 4 and 5 that employees who retire after age 55 with at least ten years of service in Santa Monica-Malibu Unified School District receive medical benefits at a cost equal to the Blue Shield or Kaiser single party premium until age 65. At age 65 the obligation for the District is reduced to the PERS minimum contribution.

- Other Non-Certificated Salaries:

IT Support: No salaries are budgeted for IT Support. Pages 7 and 17-18 of the charter Petition emphasizes integration of technology and states at page 17, "PDMSC will create a plan that will maintain, upgrade, and expand the technological program, providing the tools needed to deliver innovative and efficient instruction to all students." Page 18 states, "It is the goal of PDMSC to have classroom computers available for daily, in classroom use, with a possible computer lab for group learning. Over a five year span, PDMSC will work towards building an improved technology program." We note that the three year Budget does not allocate any funds toward achieving this level of technology. However, with technology defined so prominently in the charter Petition, the need for an IT support position is considered relevant. Further, Petitioners plan to spend considerable funds to purchase and maintain equipment such as computers, servers, etc., which would require someone with IT

support skills to install and maintain. Limited consultant services do not appear adequate to install and maintain the expanded technology provided in the Petition.

Nurse Salary: \$10,000 is allocated in the Budget for nursing services; however, because diabetic students require a nurse to administer insulin, the funding is inadequate to cover the costs associated with the level of needed services. Additionally, the health and safety policy of the Petition requires an onsite nurse. An FTE nurse would cost approximately \$80,000.

Instructional Aids and Specialists: No salaries are budgeted for instructional aids or specialists although the Petition acknowledges these positions to be part of the program it seeks to adopt (page 7) and refers to specialists repeatedly throughout the Petition. The school currently has 4.60 FTE instructional aides funded by the PTA that is not included in the Petitioners' Budget.

Science Instruction: The Budget provides for one part time (0.78 FTE) science teacher, without benefits, to support all grade levels. Because of the marine science and environmental focus of the program, a part time position appears inadequate to support all grades. Absent a benefits package, it is difficult to attract and retain science instruction.

- Based on Title 5 of the California Code of Regulations, Section 11967.5.1(c)(3)(B), the Budget notes and assumptions do not clearly describe assumptions for anticipated costs of employee salaries or benefits. The Budget deficit for salaries is \$378,373.

ii. Books and Supplies

- Expenditures for textbooks and materials are budgeted for \$40,000 in year one (which includes \$22,000 for 6th grade textbooks), \$18,400 in year two and \$19,000 in year three. The type and number of textbooks and reference materials to be purchased is not defined. No budget notes or assumptions are written within the charter Petition to support, define and substantiate the expenditures for books and supplies. The allocated funds also appear inadequate particularly in light of the proposed addition of a 6th grade. The Petition indicates on p. 36 that the charter school will exchange text but there is no budget allocation to support new text for each grade level.
- There are two errors on the Budget detail pages that do not come forward on the Budget Summary. Page 20 includes line items for textbooks of 12,000 and non-capitalized equipment of 7,500. When those items were transferred to page 26 detailing the 4XXX accounts, the 7,500 did not transfer. The footing on page 26 does not include the 12,000 and the 7,500. In year one the total should have been 59,500 not 40,000. The 40,000 rolled up to page 10, therefore the 4XXX category is understated. The Budget seems to incorrectly assume the charter school will keep all of the District's textbooks and supplies, since it only budgets money for 6th grade textbooks in the first year, and no money for library or other books and supplies and does not budget for additional text books in the out years.
- Without detailed supporting documentation identifying the costs associated with Books and Supplies, this analysis cannot determine if the estimated cost for books and supplies is reasonable.
- There appears to be a calculation error within the Petition's Budget. Materials, supplies, and noncapitalized equipment totaling \$19,500 have been listed, however

footing errors in some of the spreadsheets do not bring this figure forward to be included in the total expenditures.

iii. Services and Other Operating Expenditures

- Professional/Consulting Services is the second largest expenditure category outside of salaries and benefits of the Budget. In the first year of operation, this expense category spends \$571,964. 75.8% or \$433,616 of those funds are dedicated to Special Education encroachment as required by Education Code, leaving only \$138,348 for professional services and operating expenditures.
- The Petitioners do not identify what the professional and consulting services are comprised of, what the fee arrangement is, and who will be performing such services. The Petition does not provide any criteria that describe how professional and consulting services and organizations will be selected.
- Although the Petition does not address or commit to providing food services, Petitioners informed the Board that they do intend to provide food service at the school site. However, the Budget does not include expenditures for food service.
- There is no money budgeted for the charter school to comply with ELL or Section 504 obligations, despite contrary assurances in the Petition and contrary statements in the assumptions.
- The charter petition relies upon Data Director for data collection and assessments but there is no expenditure for Data Director included in the Budget.
- There is no budget allocation for purchase or maintenance of special equipment for a marine science program.
- Title 5 of the California Code of Regulations, section 11967.5.1(c)(3)(A) states, "An unrealistic financial and operational plan is one to which any or all of the following applies: In the area of administrative services, the charter or supporting documents do not adequately: Describe the structure for providing administrative services, including, at a minimum, personnel transactions, accounting and payroll that reflects an understanding of school business practices and expertise to carry out the necessary administrative services, or reasonable plan and time line to develop and assemble such practices and expertise. For any contract services, describe criteria for the selection of a contractor or contractors that demonstrate necessary expertise and the procedure for selection of the contractor or contractors."
- The Petition does not provide a description of the manner for providing for administrative services and does not provide any criteria or process for selection of contractors. The Petition and supporting documents do not adequately comply with Title 5 of the California Code of Regulations, section 11967.5.1(c)(3)(A) and therefore present an unrealistic financial and operational plan.

iv. Rents, Leases, Repairs and Noncapital Improvements

The Budget assumptions include that Petitioners will seek facilities pursuant to Proposition 39 and have budgeted \$32,578 for facility costs. It is unclear from the documentation provided in the Petition how this figure was determined. Without such documentation the reasonableness cannot be determined. Additional facilities costs including maintenance and utilities are adequately covered.

- Section 11967.5.1 paragraph(c)(3)(D) states “An unrealistic financial and operational plan is one to which any or all of the following applies: In the area of facilities, the charter and supporting documentation do not adequately: . . . Reflect reasonable costs for the acquisition or leasing of facilities to house the charter school, taking into account facilities the charter school may be allocated under the provisions Education Code section 47614.”
- The information presented concerning Rentals, Leases Repairs, and Noncapital Improvements presented in the Budget does not adequately conform to Title 5 of the California Code of Regulations, section 11967.5.1 (c)(3)(D) and provides an unrealistic financial and operational plan for the proposed charter school.

v. Debt Service

The Budget acknowledges approximately \$410,000 in loans but does not identify the expense for these loans. Removal of this financing from the Budget would significantly threaten the charter school’s ability to make payments on their obligations, such as payroll.

The following three scenarios reflect more realistic budget projections over the next three years. The three scenarios are:

- Scenario 1: No change to Revenue Assumptions – Expenditures Changes Only
- Scenario 2: Revenue Assumptions Adjusted for Local Revenue - Expenditures Changes
- Scenario 3: Revenue Assumptions Adjusted for Local Revenue and Enrollment Projections- Expenditures Changes

SCENARIO 1

No Change to Revenue Assumptions – Expenditures Changes ONLY

**3 Year Comparison PDMSCS Budget Analysis
PETITION BUDGET vs ADJUSTED BUDGET**

Description/Year	YEAR 1	YEAR 2	YEAR 3
TOTAL REVENUES			
Petition Budget	2,411,114	2,503,607	2,603,776
Adjusted Budget	2,411,114	2,503,607	2,603,776
Difference	-	-	-
TOTAL EXPENDITURES			
Petition Budget	2,374,493	2,467,280	2,586,289
Adjusted Budget	2,782,366	2,884,234	3,012,704
Difference	(407,873)	(416,954)	(426,415)
INCREASE(DECREASE) FUND BALANCE			
Petition Budget	36,621	36,347	44,487
Adjusted Budget	(371,252)	(380,607)	(381,928)
Difference	(407,873)	(416,954)	(426,415)
BEGINNING BALANCE			
Petition Budget	97,778	134,399	170,746
Adjusted Budget	97,778	(273,474)	(654,081)
Difference	-	(407,873)	(824,827)
ENDING FUND BALANCE			
Petition Budget	134,399	170,746	215,233
Adjusted Budget	(273,474)	(654,081)	(1,036,009)
Difference	(407,873)	(824,827)	(1,251,242)

Adjustments to the PDMSCS Petition Budget

Expenditures

- Salary and Benefit projections are understated:
 - Actual salaries and benefits of Founding Teachers used to recalculate expenditures for staffing. Using these actual salary and benefit numbers and the assumptions of the petition for additional staffing (from the 11 existing teachers

- o to 14) the projections are understated by \$188,373 in the first year of the budget.
- o The Petition Budget does not include existing support personnel currently funded by both the district and the PTA of PDMSS. The projections are understated by \$190,000 in the first year of the budget.
- o Combined the salary and benefit projections are understated by \$378,373 in the first year of the budget.
- o By using the assumption in the petition budget for salary and benefit increases of 2.4% and 2.7% in years two and three respectively, the amount the understatement grows by \$9,081 in year two and another \$10,461 in year three.
- o ***IMPACT*** of understatement of salary and benefit projections of:
 - Year 1 \$378,373
 - Year 2 \$387,454
 - Year 3 \$397,915
- Books and Supply projections are understated:
 - o The worksheet for Books and Supplies in the petition does not foot properly and is not reflective of the expenditures for Smartboard on an annual basis. Although the petition describes a total annual cost in this area of \$59,500, only \$40,000 is reflected in the budget document.
 - o ***IMPACT*** of understatement of books and supply projections of:
 - Year 1 \$19,500
 - Year 2 \$19,500
 - Year 3 \$19,500
- Other Operating Services
 - o It is difficult from the detail provided in the petition to determine if line item budgets are properly projected.
 - o Of significance is the annual projection for legal services of less than \$1,000. This projection should be increased by at least \$10,000 in each of the three years of the budget.
 - o ***IMPACT*** of understatement of other operating services of:
 - Year 1 \$10,000
 - Year 2 \$10,000
 - Year 3 \$10,000
- ***TOTAL IMPACT*** of understatements:
 - Year 1 \$407,873
 - Year 2 \$416,954
 - Year 3 \$427,415

Fund Balance

- After making the changes outlined above in both the revenue and expenditure budgets new Ending Fund Balances reflect large negative amounts.
- ***ADJUSTED FUND BALANCES*** for the PDMSCS would be:
 - o Year 1 \$(273,474)
 - o Year 2 \$(654,081)
 - o Year 3 \$(1,036,009)

SCENARIO 2
Revenue Assumptions Adjusted for Local Revenue – Expenditures Changes

3 Year Comparison PDMSCS Budget Analysis
PETITION BUDGET vs ADJUSTED BUDGET

Description/Year	YEAR 1	YEAR 2	YEAR 3
TOTAL REVENUES			
Petition Budget	2,411,114	2,503,627	2,603,776
Adjusted Budget	2,036,114	2,028,627	2,055,776
Difference	(375,000)	(475,000)	(575,000)
TOTAL EXPENDITURES			
Petition Budget	2,374,493	2,467,280	2,586,289
Adjusted Budget	2,782,366	2,884,234	3,012,704
Difference	(407,873)	(416,954)	(426,415)
INCREASE(DECREASE) FUND BALANCE			
Petition Budget	36,621	36,347	44,487
Adjusted Budget	(746,252)	(855,607)	(956,928)
Difference	(782,873)	(891,954)	(426,415)
BEGINNING BALANCE			
Petition Budget	97,778	134,399	170,746
Adjusted Budget	97,778	(648,474)	(1,504,081)
Difference	-	(782,873)	(1,674,827)
ENDING FUND BALANCE			
Petition Budget	134,399	170,746	215,233
Adjusted Budget	(648,474)	(1,504,081)	(2,461,009)
Difference	(782,873)	(1,674,827)	(2,676,242)

Adjustments to the PDMSCS Petition Budget

Revenue

- Without documentation of local fund raising commitments – removed the local revenue in each of the three fiscal years.
- **IMPACT** of overstatement of revenue projections of:

- o Year 1 \$375,000
- o Year 2 \$475,000
- o Year 3 \$575,000

Expenditures

- Salary and Benefit projections are understated:
 - o Actual salaries and benefits of Founding Teachers used to recalculate expenditures for staffing. Using these actual salary and benefit numbers and the assumptions of the petition for additional staffing (from the 11 existing teachers to 14) the projections are understated by \$188,373 in the first year of the budget.
 - o The Petition Budget does not include existing support personnel currently funded by both the district and the PTA of PDMSS. The projections are understated by \$190,000 in the first year of the budget.
 - o Combined the salary and benefit projections are understated by \$378,373 in the first year of the budget.
 - o By using the assumption in the petition budget for salary and benefit increases of 2.4% and 2.7% in years two and three respectively, the amount the understatement grows by \$9,081 in year two and another \$10,461 in year three.
 - o **IMPACT** of understatement of salary and benefit projections of:
 - Year 1 \$378,373
 - Year 2 \$387,454
 - Year 3 \$397,915
- Books and Supply projections are understated:
 - o The worksheet for Books and Supplies in the petition does not foot properly and is not reflective of the expenditures for Smartboard on an annual basis. Although the petition describes a total annual cost in this area of \$59,500, only \$40,000 is reflected in the budget document.
 - o **IMPACT** of understatement of books and supply projections of:
 - Year 1 \$19,500
 - Year 2 \$19,500
 - Year 3 \$19,500
- Other Operating Services
 - o It is difficult from the detail provided in the petition to determine if line item budgets are properly projected.
 - o Of significance is the annual projection for legal services of less than \$1,000. This projection should be increased by at least \$10,000 in each of the three years of the budget.
 - o **IMPACT** of understatement of other operating services of:
 - Year 1 \$10,000
 - Year 2 \$10,000
 - Year 3 \$10,000
- **TOTAL IMPACT** of understatements:
 - Year 1 \$407,873
 - Year 2 \$416,954
 - Year 3 \$427,415

Fund Balance

- After making the changes outlined above in both the revenue and expenditure budgets new Ending Fund Balances reflect large negative amounts.
- **ADJUSTED FUND BALANCES** for the PDMSCS would be:
 - o Year 1 \$(648,474)
 - o Year 2 \$(1,504,081)
 - o Year 3 \$(2,461,009)

SCENARIO 3
Revenue Assumptions Adjusted for Local Revenue and Enrollment Projections –
Expenditures Changes

3 Year Comparison PDMSCS Budget Analysis
PETITION BUDGET vs ADJUSTED BUDGET

Description/Year	YEAR 1	YEAR 2	YEAR 3
TOTAL REVENUES			
Petition Budget	2,411,114	2,503,607	2,603,776
Adjusted Budget	1,854,409	1,666,800	1,646,977
Difference	(556,705)	(836,827)	(983,799)
TOTAL EXPENDITURES			
Petition Budget	2,374,493	2,467,280	2,586,289
Adjusted Budget	2,704,866	2,726,234	2,850,704
Difference	(330,373)	(258,954)	(264,415)
INCREASE(DECREASE)			
FUND BALANCE			
Petition Budget	36,621	36,347	44,487
Adjusted Budget	(850,457)	(1,059,434)	(1,203,727)
Difference	(887,078)	(1,095,781)	(1,248,214)
BEGINNING BALANCE			
Petition Budget	97,778	134,399	170,746
Adjusted Budget	97,778	(752,679)	(1,812,113)
Difference	-	(887,078)	(1,982,859)
ENDING FUND BALANCE			
Petition Budget	134,399	170,746	215,233
Adjusted Budget	(752,679)	(1,812,113)	(3,015,840)
Difference	(887,078)	(1,982,859)	(3,231,073)

Adjustments to the PDMSCS Petition Budget

Revenue

- Local Fund Raising projections are overstated:
 - Without documentation of local fund raising commitments – removed the local revenue in each of the three fiscal years.
 - ***IMPACT*** of overstatement:
 - Year 1 \$375,000
 - Year 2 \$475,000
 - Year 3 \$575,000
- Using the District's DecisionInsite projections for enrollment, revenue from both Block Grant portions of the State funding is overstated.
 - ***IMPACT*** of overstatement:
 - Year 1 \$181,705
 - Year 2 \$361,827
 - Year 3 \$408,799
- ***IMPACT*** of revenue overstatement TOTALS:
 - Year 1 \$556,705
 - Year 2 \$836,827
 - Year 3 \$983,799

Expenditures

- Salary and Benefit projections are understated:
 - Actual salaries and benefits of Founding Teachers used to recalculate expenditures for staffing. Using these actual salary and benefit numbers and the assumptions of the petition for additional staffing (from the 11 existing teachers to 14) the projections are understated by \$188,373 in the first year of the budget.
 - The Petition Budget does not include existing support personnel currently funded by both the district and the PTA of PDMSS. The projections are understated by \$190,000 in the first year of the budget.
 - Combined the salary and benefit projections are understated by \$378,373 in the first year of the budget.
 - By using the assumption in the petition budget for salary and benefit increases of 2.4% and 2.7% in years two and three respectively, the amount the understatement grows by \$9,081 in year two and another \$10,461 in year three.
 - ***IMPACT*** of understatement of salary and benefit projections of:
 - Year 1 \$378,373
 - Year 2 \$387,454
 - Year 3 \$397,915
- Reducing the enrollment projections has a potential impact on the amount of staffing required to serve the student population. Therefore, salary and benefit line items should be adjusted to reflect 1 fewer teaching staff in the first year and two fewer in years two and three.
 - ***IMPACT*** of reduction of staffing:
 - Year 1 \$(77,500)
 - Year 2 \$(158,000)
 - Year 3 \$(162,000)
- Books and Supply projections are understated:
 - The worksheet for Books and Supplies in the petition does not foot properly and is not reflective of the expenditures for Smartboard on an annual basis. Although the petition describes a total annual cost in this area of \$59,500, only \$40,000 is reflected in the budget document.

- ***IMPACT*** of understatement of books and supply projections of:
 - Year 1 \$19,500
 - Year 2 \$19,500
 - Year 3 \$19,500
- Other Operating Services
 - It is difficult from the detail provided in the petition to determine if line item budgets are properly projected.
 - Of significance is the annual projection for legal services of less than \$1,000. This projection should be increased by at least \$10,000 in each of the three years of the budget.
 - ***IMPACT*** of understatement of other operating services of:
 - Year 1 \$10,000
 - Year 2 \$10,000
 - Year 3 \$10,000
- ***IMPACT*** of understatements and changes TOTALS:
 - Year 1 \$330,373
 - Year 2 \$258,954
 - Year 3 \$264,415

Fund Balance

- After making the changes outlined above in both the revenue and expenditure budgets new Ending Fund Balances reflect large negative amounts.
- ***ADJUSTED FUND BALANCES*** for the PDMSCS would be:
 - Year 1 \$(752,679)
 - Year 2 \$(1,812,113)
 - Year 3 \$(3,015,840)

It should be noted that the Petitioners' Budget would require a negative certification from the LACOE because it demonstrates an inability to meet financial obligations, maintain adequate cash flow and required reserves. LACOE measures fiscal stability by the standards and criteria set forth in Education Code section 42131.

B. The Petition Fails To Set Forth Reasonably Comprehensive Descriptions Of Many Charter Elements As Required By Education Code Section 47605(b)(5)

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 for 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 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.

(Cal. Code Regs., tit. 5, § 11967.5.1, subd. (g).) Staff finds that the Petitions fails to provide reasonably comprehensive descriptions of many of the required elements, particularly in light of the regulatory definition, as identified above and described below.

Element A – Educational Program

The Statute 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 population, the mission statement, the instructional approach, 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, 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, and 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); Cal. Code Regs., tit. 5, § 11967.5.1, subd. (f)(1).)

Based on the following enumerated findings, staff concludes the Petition does not contain a sufficient description of the charter school's proposed educational program. Overall, the Petition seeks to adopt the current district program and “build upon the already exceptional level of academic excellence,” but it does not even offer all of the components of the program currently offered, much less more. For example, the Budget reflects fewer school site personnel than are currently provided at PDMSS, even though they intend to serve more students. The Petition is developed around the premise that the current teaching staff will continue at the charter school, but there is no guarantee of this, particularly as the

funding is not available to provide the salary and benefits promised to the Founding Teachers. The Petitioners represent at pages 7 and 8 of the Petition that the charter school will, among other things:

1. Provide students the opportunity for focused learning in marine/environmental sciences with an integration of arts and technology in addition to a rigorous, standards-based curriculum that serves to close the achievement gap in society as detailed in State Superintendent Jack O'Connell's P-16 Council Initiative.
 2. Provide the typical student not receiving any special services, the opportunity to be challenged in a new direction.
 3. Provide enrichment opportunities in the focus areas of marine and environmental science, with an integration of arts and technology to those that are inclined and drawn to this program.
- * * *
6. Offer a longer school day than students in the District.
 7. Offer an extended kindergarten day.
 8. Offer a more in-depth enrichment program than is currently offered in the District.
 9. Maintain the award winning school culture and climate intact while providing a more diverse group of student's access to our unique, outstanding programs.
 10. Increase student achievement.
 11. Create new professional opportunities to current and future teachers and expanded choices in public education for parents and students.

However, Petitioners make these promises without any further explanation in the Petition to support these representations and no money budgeted for those purposes. For example, the P-16 Initiative is referenced only cursorily with regard to English Learners though the Initiative is designed to close the achievement gap as to all students. (Closing the Achievement Gap, Report of Superintendent Jack O'Connell's P-16 Council.) Nothing in the Petition addresses how the charter school will deliver the components of the P-16 Initiative nor is there any budget allocation to provide for the elements of the P-16 Initiative such as pre-Kindergarten or culturally relevant professional development. The Petition does not provide for enhancements from the District's current program, fails to articulate any enrichment programs beyond what is currently offered or identify how any students will be challenged in a new direction. The promise to increase student achievement is counter to the goal set in the Petition to strive for grade level proficiency despite the fact that the school's AYP/API demonstrates that the majority of students meet or exceed proficiency.

1. Target Student Population and School Size. The Petition indicates PDMSCS school will grow to 328 students in year one (2010-2011), and 352 students by year 2 (2011-2012). However, there is no recruitment plan for how the charter school will accomplish that increased enrollment. Given the school's geographic remoteness and the charter school's failure to offer any transportation services, it is unlikely such an enrollment increase will be achieved.

2. Charter School's Mission. The Petition does not demonstrate the ability to improve and expand upon the District's highly successful program. As explained above, there is no budget for key educational needs such as teaching and support staff, textbooks or the components of the P-16 Initiative.
3. Learning Environment. The Petition fails to provide a meaningful description of curriculum or a course of study that differs from the current District program.
 - a. The Petition lacks reasonably comprehensive course of study descriptions and does not provide adequate scope and sequence, curriculum maps, or pacing guides, but instead provides a general overview of activities for each grade level and subject matter.
 - b. There are no new or innovative programs or instructional techniques.
 - c. The grade level descriptions are taken directly from the PDMSS existing website.
 - d. The Petition does reference "new environmental science curriculum" and "teaching garden curriculum" but does not identify the curriculum and fails to identify the state standards the students will meet. (p. 14.)
 - e. The sixth grade program description does not include marine science curriculum, the stated focus of the school. (p. 29.)
4. Instructional Approach. The instructional approach is no different than what is already being provided at PDMSS, and the laudable promises made in this section in terms of teaching specialists, art integration, technology integration, and professional development are not included in the Budget.
 - a. The Petition provides general information on the proposed curriculum and instructional strategies, but it lacks any meaningful, specific information regarding the proposed educational program and how it is new or different from the existing District programs. (pp. 13-18.) The descriptions of technology integration and social-emotional learning are similarly devoid of detail and description, as well as funding in the Budget. (pp. 18, 51.)
 - b. The Petition makes references to assistance from and reliance on undefined "constituent groups." There is no detail or further explanation of who these groups are, even though the Petition indicates they have "allow[ed] PDMSS to stand out among public schools." (p. 6.)
 - c. The Petition provides a chart to demonstrate how it will build the key elements of the PDMSCS instructional strategies at page 13 and 14. However, the key elements are not delivered to students until 2013-2014. The first year is devoted entirely to teacher training and the second year to standards. It is only in the third year that PDMSCS proposes "grade level development of core lessons," and to integrate art, technology, and enrichment programs.
 - d. Table 7 regarding curriculum resources identifies "core materials" for the current year but does not articulate what instructional materials will be used by the charter school. For 2011-12, Table 7 identifies "Possible Core and/or Supplemental Materials." Not all materials on this list are State approved texts. Petitioners attach "sample" instructional materials for second grade and sample 4th grade units for social science, science and math but do not identify

the specific instructional materials they plan to rely upon for each grade level. (See p. 36; Appendices C-L.)

5. Identifying and Responding to Student's Not Achieving At Expected Levels. The Petition promises enrichment programs, extended school days and school years, and use of intervention specialists, but it does not further describe how these things will be achieved or operated, and the Budget is silent as to them.
6. Meeting Needs of Students with Special Needs. The sections of the Petition addressing how the needs of students with special needs will be met is not substantive, and is mostly listing of topics with little elaboration. Although there are numerous educational and legal aspects to addressing these student populations, the Petition uses boilerplate, stock provisions from template charter petitions to address only broad, selected aspects of complex compliance issues. No staff members have been identified nor given the responsibility to address the needs of these students.
 - a. English Language Learners (pp. 42-43):
 - The Petition does not sufficiently describe how the charter school will meet the needs of English Learner ("EL") students, nor does it adequately address the required component of involving and providing outreach to the parents of EL students and ensuring their participation.
 - There are no criteria for students to be identified as EL, no established standards/rubrics/metrics for these students, and no reclassification criteria described in the Petition. There does not appear to be any established standards/rubrics/metrics for EL students.
 - The Petition contains no information as to when and how reclassification would be initiated, and instead just defines reclassification.
 - While the Petition promises to monitor progress towards proficiency, it does not detail how that will be achieved.
 - Basic instructional materials are listed, however, no minimum levels of English Language Development (ELD) time are provided, and only one methodology is described (SDAIE).
 - The Petition does not provide an adequate plan or understanding of the requirements for serving English Language Learners. For example, the Petition refers to EL "standards" as opposed to EL services.
 - The Petition does not recognize the need to communicate with parents in their native language, or a plan to do so.
 - The Petition does not describe how parent education will be provided, and does not provide for the requisite level of parent involvement.
 - The Petition refers to the P-16 Initiative to close the achievement gap only in the context of EL students and fails to provide for the components of the P-16 Initiative.
 - b. Section 504:
 - The Petition summarily promises to comply with Section 504 without evidencing any understanding of what that operationally and practically requires. (Petition, p. 43-44.)
 - The Petition does not describe or otherwise account for any additional personnel, types of services or accommodations that are necessary to ensure eligible students are appropriately evaluated and provided with 504 plans and services, when determined necessary through evaluation.

- The Budget narrative and monthly cash flows attached to the Petition fail to specify the costs associated with fulfilling the promises made in the Petition in terms of complying with Section 504, and there is nothing in the Petition which indicates what supports, services, and accommodations the charter school is willing, qualified, and able to make available in order to provide the promised free, appropriate public education (“FAPE”) to PDMSCS students with 504 plans.
 - The Petition provides no plan for resolving disputes with parents of 504 eligible or potentially eligible students or dealing with complaints filed surrounding such issues.
- The 504 policy fails to identify who is responsible for identification and reporting of 504 status or suspected eligibility.

7. Special Education Plan. In evaluating the “reasonably comprehensive” description of the educational program, the SBE regulations point to the specificity of the charter school’s “special education plan, including, but not limited to, 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 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.” (Cal. Code Regs., tit. 5, § 11967.5(f)(1)(H).)

- a. The Petition does not adequately describe the charter school’s plan to serve students with disabilities, and it is primarily described in boilerplate terms. (pp. 44-50.) The Petition’s description misstates the law and demonstrates a lack of understanding of their obligations and responsibilities to ensure a FAPE is provided to eligible charter school students.
- b. The special education sections are boilerplate and require the District to hire site special education staff for the charter school which is inconsistent with the requirements of law.
- c. The Petition says nothing about how it will comply with suspension and expulsion federal and state laws and regulations. The Petition does not explain what this entails or evidence any understanding of accomplishing such compliance. The student discipline section fails to recognize or explain even the basic procedures necessary to ensure students with disabilities are appropriately and lawfully disciplined.
- d. A foundational promise of the Petition is to “Provide the typical student not receiving any special services, the opportunity to be challenged in a new direction.” (p. 7.) This suggests that the program limits the opportunities available to students with special needs.

Element B – Measurable Student Outcomes

The student outcomes should, at a minimum:

- (a) **specify skills, knowledge, and attitudes that reflect the school’s educational objectives and can be assessed by objective means that are frequent and sufficiently detailed enough to determine whether students are making satisfactory progress:**

- (i) **the frequency of the objective means of measuring student outcomes should vary according to such factors as grade level, subject matter, the outcome of previous objective measurements, and information that may be collected from anecdotal sources; and**
 - (ii) **objective means of measuring student outcomes must be capable of being used readily to evaluate the effectiveness of and to modify instruction for individual students and groups of students.**
- (b) **include the school's API growth target, if applicable. (5 C.C.R. § 11967.5.1(f)(2).)**

The method by which progress toward meeting the student outcomes is measured. (Subd. (b)(5)(C).) The method should, at a minimum:

- (a) **utilize a variety of assessment tools that are appropriate to the skills, knowledge, or attitudes being assessed, including, at a minimum, tools that employ objective means of assessment;**
- (b) **include the annual assessment results from the STAR program; and**
- (c) **outline a plan for collecting, analyzing, and reporting student achievement data to school staff and parents, and for utilizing the data to monitor and improve the charter school's educational program. (5 C.C.R. § 11967.5.1(f)(3).)**

Based on the following enumerated findings, staff concludes the Petition does not contain a sufficient description of the charter school's measurable pupil outcomes.

1. School and Student Outcomes. The Petition does not provide measurable pupil outcomes or any identification of the frequency of measuring outcomes. The Petition provides that there will be assessments using Data Director but they have not budgeted for this cost. The Petition does not identify how assessments will be used to measure pupil outcomes, or how frequently, other than indicating "periodic." (pp. 55-60.) The Petition speaks to taking the majority of students to proficient or higher, however this would not meet the accountability measures as required by NCLB Adequate Yearly Progress (AYP). (p. 52.) In order to meet AYP standards the school must achieve 100% proficient by 2013-2014.

The Petition proposes vague, immeasurable, and insufficiently frequent goals to describe desired school and student outcomes, simply described as "periodic." (p. 59-60.) While the broadly stated goals are followed up by some additional detail, no concept is broken down by grade level and there is no curricular or standards explanation, and more importantly, no explanation as to how the information will be used to inform instructional decision making and close the achievement gap.

Careful review of Table 9 shows that little is expected to achieve the school outcomes/goals. For example, students "will develop and show growth towards grade level proficiency, or higher . . ." but are not expected to achieve proficiency or better despite the fact that the majority of students attending PDMSS rated "advanced" in all categories of SARC testing in 2010. Students will "acquire knowledge" and "utilize technology." These goals lack meaningful metric or qualitative and quantitative description. The goals fail to recognize and strive to maintain the high level of performance in the current program.

2. Curriculum Design. The design of curriculum, student assignments, and measurement of student progress are discussed only in broad philosophical terms. The student goals are not sufficiently specific to allow for "periodic" assessment of

student progress and the outcomes lack specificity or meaningful metric. The expected learning results are simply not sufficiently frequent to inform curricular decisions, and they do not account for a student's educational baseline in determining educational progress. The descriptions lack curricular scope and sequence for each grade level and subject matter, or the identification of essential standards to be taught. There is no specific curriculum designed in the Petition for the core subjects, other than a general description of each subject matter. The Petition speaks to working with the District to develop the 6th grade curriculum but Petitioners have not identified the curriculum or sought to consult with the District regarding curriculum or transition of 6th grade students. The specific instructional materials to be used for each grade level are not identified and indicate the use of materials that are not state approved.

Element D – Governance

The Statute 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); Cal. Code Regs., tit. 5, § 11967.5.1, subd. (f)(4).) The Statute and Regulations also provide for evidence that parental involvement is encouraged in various ways. (*Ibid.*)

Based on the following enumerated findings, staff concludes the Petition does not contain a sufficient description of the charter school's governance structure.

1. **Nonprofit Corporation.** The Petition reads as though PDMSCS will become a corporation if the Petition is granted, not one that has existed for over a year. The Petition does not reference or include any minutes from previous meetings of the governing board or information regarding past or current members of the governing board. It is disconcerting that the Petition would not disclose that its proposed operating entity is currently operational and has been conducting business of some kind for a period of time.
2. **Board Legal Compliance.** The Petition fails to include any substantive description of which laws the Board intends to observe and follow, such as Government Code section 1090, the Political Reform Act, and the California Public Records Act, or how the charter school plans on ensuring compliance. Further, while the Petition and Bylaws promise compliance with the Brown Act, the Bylaws are in fact inconsistent with the requirements of the Brown Act with regard to when and where the Board will hold meetings, the means for calling a special meeting, and the requirements for meetings of committees. These inconsistencies demonstrate a lack of understanding of the requirements of the Brown Act. With regard to conflict of interest, Petitioners assert the Bylaws comply with the Political Reform Act, however, the Bylaws allow for board members to receive compensation for their services as board members and for board officers to have administrative duties by "employment contract or job specification" and otherwise allow for the board members to participate in decisions which affect their financial interests, contrary to the Political Reform Act. The conflict of interest provisions further fail to comply with Government Code section 1090 which precludes any board member or public employee from being financially interested in any contract made by them in their official capacity, or by any body or board of which they are members.

3. The Principal both reports to and advises the charter school's governing board. The Principal's job duties are also extremely broad and varied. The Petition and the Bylaws do not consistently describe how much involvement the governing board will have versus delegation to the Principal or other committees, and the Bylaws do not appear to meet oversight obligations for boards spending public dollars.
4. The Petition and Bylaws describe different advisory councils and committees, but there is no information as to how these groups will be constituted or operated. The organization chart also includes an Honorary Board of Directors that has no governing authority, yet is on the same level as and appointed by the majority of the Board of Directors. How Honorary Board Members will participate in board meetings is not addressed generally or specifically with regard to compliance with the Brown Act.
5. The Bylaws are inconsistent with the governance structure set forth in the Petition, as they describe a more corporate structure than the Petition. The Bylaws refer to a Chief Financial Officer (CFO) and other officers but the Petition does not provide for these positions. (Appendix P.) The CFO is charged with handling all collection, expenditure and accounting of the charter school funds although the Petition does not account for a CFO position. It is unclear whether CFO and other officer positions listed in the Bylaws are board positions or are involved in the day to day operations of the charter school.

Element E – Employee Qualifications

The Statute and Regulations require 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); Cal. Code Regs., tit. 5, § 11967.5.1, subd. (f)(5).)

Based on the following enumerated findings, staff concludes the Petition does not contain a sufficient description of the charter school's employee qualifications.

1. Descriptions Unrealistic. The Petition's description of personnel is inconsistent with the Budget documents submitted with the Petition, and does not appear realistic or sustainable. There are no certificated classroom personnel other than teachers as the Petition or included in the budget documents, very few classified staff, and no money for instructional aides. (Please see Table in Section A, above; pp. 6, 16, 39.)
2. Compensation Structure. The Petition places a substantial amount of responsibility on classroom teachers, including planning, designing, creating, implementing, and monitoring efficacy of the program, exchanging ideas in cross grade planning, but only budgets meager salaries for teachers. The Petition makes other promises of longer school days and school years without more pay or benefits. This is in addition to the issues created by Petitioners promise to compensate existing teachers substantially more than new teachers, and consistent with the District's compensation package. The Petition promises benefits for retirees only for Founding Teachers, and other disparate compensation, which does not appear wise, budgeted, or sustainable. (p. 66; See Section A.3, above.)

3. Professional Development. Similarly, the Petitioners propose substantial professional development, without funding or adequately describing how and when it will be provided to such a busy and small group of teachers. (pp. 13-16, 19, 22-23, 39.) The Petitioners promise to align with the P-16 Initiative but fail to budget any funds for the required professional development.
4. Teacher Qualifications. The Petition promises highly qualified staff, but then fails to meet those requirements. The Petition has non-credentialed teachers slated to teach in courses that would require a credential, for example physical education and social studies. (Appendix S.) It also refers to interns as highly qualified even though they are not. (p. 65.) Charter schools may hire non-credentialed staff for non-core subjects, however the Petition incorrectly identifies several subjects as “non-core” e.g., health, music, performing arts, physical education.

Element F – Health and Safety

The Statute requires the Petition to describe the procedures that the school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the school furnish the school with a criminal record summary as described in Education Code section 44237.

Based on the following enumerated findings, staff concludes the Petition does not contain a sufficient description of the charter school’s health and safety assurances.

1. The Petition improperly allows for hire before Department of Justice clearance. (p. 67.)
2. The Budget only allocates \$10k for a nurse which does not cover the cost of a nurse to administer medication on a daily basis. The School currently has diabetic students requiring a nurse to administer insulin.
3. The safety policies are boilerplate and refer to 7th grade even though the charter program is limited to grades K-6. Other than promising to implement the District’s safety plan, the charter school provides little other information about policies or implementations. The Petition calls for reports to be made to the “school nurse” though the charter Petition does not include a nurse in its FTE personnel. (Appendix T.)
4. There is no disaster plan included in the materials despite the fact that the site is identified.

Element G – Racial and Ethnic Balance

The Statute requires the charter petition to identify the means whereby 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).)

Based on the following enumerated findings, staff concludes the Petition does not contain a sufficient description of the charter school’s means of ensuring racial and ethnic balance consistent with the District’s demographics.

1. Racial and Ethnic Balance. The Petitioners identify the racial and ethnic balance as currently exists at the school site which does not meet the legal requirement to seek to achieve racial and ethnic balance commensurate with the District-wide demographic. (p. 12.) The Petition identifies inadequate outreach efforts and refers

to serving “academically diverse” students as opposed to racially or ethnically diverse students. (p. 11.)

2. Recruitment Efforts. The recruitment efforts that will be used to achieve racial and ethnic balance are also vaguely described, if at all. The listed strategies are not defined with any particularity or reflection upon the District’s racial and ethnic make-up or demography and do not identify outreach through means that will reach a diverse student population. (pp. 75-76.)
3. Food Service. As discussed above, the Petition and Budget do not reflect a food service offering. Although charter schools are not required by law to provide food service to students, the failure to provide such may limit the charter school’s ability to recruit and serve children of diverse means. Approximately 28% of the District’s students are served by the Free and Reduced Lunch Program.

Element H – Admission Requirements

The Statute and Regulations provide for the charter petition to identify admission requirements that are in compliance with applicable law. (Ed. Code, § 47605, subd. (b)(5)(H); Cal. Code Regs., tit. 5, § 11967.5.1, subd. (f)(8).)

Based on the following enumerated finding, staff concludes the Petition does not contain a sufficient description of the charter school’s admission requirements.

Admissions policy is confusing as it provides for a single weighted lottery but then identifies six categories of preferred admissions.

1. Admissions Preference. Petitioners need to achieve racial and ethnic balance consistent with the District’s demographic. Although the preference to students of siblings, and faculty in and of itself may not appear inconsistent with law, to the degree they are discriminatory in practice because of the disparate affect on students of protected classes, they may violate the law. (pp. 72-73.)
2. School Agreements. The Petition requires family school agreements, parent volunteer hours, and parent attendance at meetings, without a sufficient explanation of how the charter school will handle students whose parents are unable or unwilling to sign such an agreement or participate in meetings and volunteer opportunities. (p. 63.) Contracting and parent volunteer requirements such as those described in the Petition may violate the free school guarantee, even though the Petition promises that no student will be turned away. While the charter school is free to encourage such a level of parent involvement in the admission process and ongoing education of their child, it cannot require it. Charter schools, “shall admit all pupils who wish to attend.” (Ed. Code, § 47605(d)(2)(A).) To the degree admission of students is discouraged based upon a parent’s inability or unwillingness to do work for the school, and singles out parents who are unable to pay the required monetary donation, such requirements are in violation of law.⁶

⁶ It is important to note that charter schools, as public schools, may not charge tuition or otherwise require any payments or other consideration including performance of work. Like other public schools, charter schools are required to provide free public education. To the degree students are discouraged from attending based upon a parent’s inability or unwillingness to make a donation or work for the school, such policy is inconsistent with the requirements of law are violated.

Element J – Suspension and Expulsion Procedures

The Statute 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. (Cal. Code Regs., 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); Cal. Code Regs., tit. 5, § 11967.5.1, subd. (f)(10).)

Based on the following enumerated findings, staff concludes the Petition does not contain a sufficient description of the charter school's student discipline process.

1. Generic Education Code Language. The Petition essentially incorporates the Education Code disciplinary scheme, but contains some inconsistencies and generic language rendering the description inadequate. For example, the Petition recognizes only one of the five mandatory expellable offenses. (p. 77.) As described, the disciplinary scheme does not appear to meet minimum due process requirements when expulsion is a consideration. (p. 88.)
2. Confusing and Inconsistent Descriptions. The Petition's description of student discipline policies and procedures, which admittedly are not yet developed or attached, is confusing and inadequate to ensure due process for pupils facing discipline. The Petition indicates that varying and different individuals and groups of individuals will preside over expulsion hearings, including some who would not appear impartial, and does not contain any description regarding the hearing procedures or how the hearing officer will be selected from the different options contained in the Petition in any given case. For example, the Petition indicates the Executive Director is responsible for suspension and expulsion procedures (but the Petition does not identify an Executive Director in the Petition), yet later refers to hearing panels. Thus, from the description it is impossible to tell how the hearing will be conducted and by whom. Appeal rights are also undeveloped, confusing, and incorporate administrative processes that do not recognize the level of impartiality required.
3. Discipline of Disabled Students. The discipline for students with disabilities fails to comply with IDEA and 504. The Petition does not commit to reinstate a student whose behavior was determined to be a manifestation of his or her disability. The Petition provides only a boilerplate description and demonstrates little understanding or explanation of the unique and critical differences in federal law required in discipline of disabled students, and the procedural safeguards that must be employed. This undermines staff confidence as to the ability of the Petitioners to successfully manage the complexities of public school student discipline.

Element K – Retirement Coverage

The Statute requires the Petition to contain a description of the manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.

Staff finds the Petition does not contain an adequate description of retirement coverage because although Petitioners promise to make special commitment to higher level of salary and benefits for "Founding Teachers," the Budget does not support the commitment to this level of compensation. The Petition also fails to describe how this disparity in pay and benefits between Founding Teachers and new teachers would be handled and ensured lawful. (p. 66.)

Element N - Dispute Resolution Procedures

The Statute requires the Petition describe the procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter. (Ed. Code, § 47605, subd. (b)(5)(N).) The Regulations require a description of how the costs of the dispute resolution process, if needed, would be funded, and also a recognition 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, it will be handled in accordance with that provision of law and any regulations pertaining thereto.

Staff concludes the Petition does not contain a sufficient description of the charter school's dispute resolution process in that it requires mediation with third party mediator which is not provided for by statute and which is very costly. Petitioners cannot unilaterally impose mediation and the costs associated with mediation on the District. The Petition also fails to identify a process related to use of a mediator. (pp. 70-71.)

Element P – Closure

The Statute requires the Petition to include a description of the procedures to be used if the charter school closes. The procedures shall ensure a final audit of the school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of pupil records.

The Petition provides that the charter school will retain "assets of charter school" however closure requirements are to identify assets, and provide for disposition of assets to another qualifying agency in California. (pp. 97-99.) As stated by California Department of Education:

The closeout audit must determine the disposition of all liabilities of the charter school. Charter school closure procedures must also ensure disposal of any net assets remaining after all liabilities of the charter school have been paid or otherwise addressed. Such disposal includes, but is not limited to:

1. The return of any donated materials and property according to any conditions set when the donations were accepted.
2. The return of any grant and restricted categorical funds to their source according to the terms of the grant or state and federal law.
3. The submission of final expenditure reports for any entitlement grants and the filing of Final Expenditure Reports and Final Performance Reports, as appropriate.

Net assets of the charter school may be transferred to the authorizing entity. However, net assets may be transferred to another public agency such as another public charter school if stated in the corporation's bylaws or through an agreement between the authorizing entity and the charter school.

If the charter school is a nonprofit corporation and the corporation does not have any other functions than operation of the charter school, the corporation should be dissolved according to its bylaws. The corporation's bylaws should address how assets are to be distributed at the closure of the corporation.

Because the nonprofit corporation does not have functions other than operation of the proposed PDMSCS, the Petition should address closure and disposition of all assets and liabilities.

V. STAFF RECOMMENDATION

As set forth above, staff finds that the Petition fails to meet applicable legal requirements and standards. For all of the foregoing reasons, staff recommends that the Petition be denied for the following reasons:

- **The Petitioners are demonstrably unlikely to successfully implement the program presented in the Petition within the meaning of Education Code section 47605(b)(2); and,**
- **The Petition fails to provide a reasonably comprehensive description of all required elements of a charter petition within the meaning of Education Code section 47605(b)(5).**

Staff findings with respect to each identified deficiency appear in numbered paragraphs in Section IV and may be adopted by the Board as the written factual findings as required by Education Code section 47605(b).