

Resolution No. 20-19-20

**Resolution Denying
the Charter School Petition for
Orange County Classical Academy
by the Board of Education of the
Orange Unified School District**

WHEREAS, pursuant to Education Code Section 47605 *et seq.*, the Board of Education of the Orange Unified School District (“District”) is required to review charter petitions and consider the authorization of charter schools; and

WHEREAS, in accordance with the Charter Schools Act of 1992, a Charter Petition (“Charter”) for the proposed Orange County Classical Academy Charter School (“OCCA”) was received by the District Board of Education at its meeting of October 17, 2019; and

WHEREAS, a public hearing on the provisions of the Charter was conducted on October 17, 2019, pursuant to Education Code Section 47605, at which time the District Board considered the level of support for the OCCA Charter by teachers employed by the District, other employees of the District, and parents; and

WHEREAS, charter schools are subject to the requirements of federal law, including, but not limited to, the Individuals with Disabilities Education Improvement Act, 20 U.S.C. §1400, *et seq.* (“IDEIA”), Section 504 of the Rehabilitation Act of 1973 (“Section 504”), and the Americans with Disabilities Act (“ADA”); and

WHEREAS, in reviewing the OCCA Charter, the Board of Education has been cognizant of 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; and

WHEREAS, District staff has reviewed and analyzed all of the information received with respect to the revised Charter, and has recommended that the District Board of Education deny the OCCA Charter; and

WHEREAS, the Board of Education has fully considered the revised OCCA Charter and the recommendation provided by District staff;

WHEREAS, the Board of Education specifically notes that this Resolution No. 20-19-20 does not include findings relative to every defect in the Charter, but is limited to some of the most significant issues. Not only are the findings set forth herein legally sufficient to support the Board of Education’s denial of the Charter, but also it is imperative, should these petitioners ever decide to propose another charter, either to the District or elsewhere, that such petition establish that the petitioners themselves have the knowledge, understanding, and expertise necessary both to write an educationally, fiscally, and practically sound charter petition and to open and operate a sound charter school, not just respond directly to findings of this Board;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the District Board of Education finds the above-listed recitals to be true and correct and incorporates them herein by this reference.

BE IT FURTHER RESOLVED AND ORDERED that the District Board of Education, having fully considered and evaluated the Charter for the establishment of the Orange County Classical Academy Charter School, hereby finds granting the Charter not to be consistent with sound educational practice, based upon numerous grounds and factual findings including, but not limited to, the following, and hereby denies the Charter pursuant to Education Code Section 47605:

- A. The Charter School presents an unsound educational program for the pupils to be enrolled in the Charter School. [Education Code Section 47605(b)(1)]
- B. The petitioners are demonstrably unlikely to successfully implement the program set forth in the Charter. [Education Code Section 47605(b)(2)]
- C. The Charter does not contain reasonably comprehensive descriptions of all of the required elements. [Education Code Section 47605(b)(5)]

BE IT FURTHER RESOLVED AND ORDERED that the District Board of Education hereby determines the foregoing findings are supported by the following specific facts:

- I. **THE CHARTER SCHOOL PRESENTS AN UNSOUND EDUCATIONAL PROGRAM FOR THE PUPILS TO BE ENROLLED IN THE CHARTER SCHOOL.** [Education Code Section 47605(b)(1)]
 - A. The below-described concerns regarding the inadequacy and flaws in OCCA's budget and financial planning are hereby incorporated herein by this reference. OCCA's budgeting premised on best case scenarios rather than conservative expense projections, including the failure to provide for adequate funding to address enrollment shortfalls and unexpected expenses, creates an unacceptable risk that OCCA will be unable to implement the educational program described in the Charter, including compliance with the IDEIA, Section 504, and the ADA.
 - B. The OCCA Charter is premised on its proposal to collaborate and affiliate with Hillsdale College's Barney Charter School Initiative ("BCSI") and that association is fundamental to OCCA's plan. However, OCCA has not been accepted as a BCSI affiliate. In fact, OCCA provided a letter from Hillsdale College that specifies that while OCCA may use Hillsdale College's *Program Guide: Scope and Sequence*, may indicate that its curriculum and program were developed in consultation with and/or are similar to the curriculum used at BCSI-affiliated schools, and may use publicly available information from BCSI for training and professional development, OCCA is not and cannot represent itself as a "partner, collaborator, or formal affiliate of Hillsdale College or BCSI." Nothing in the letter from Hillsdale College indicates that this is a temporary limit on OCCA's association with BCSI or that OCCA will be made a partner, collaborator, or affiliate of BCSI if and when its Charter is approved. Simply obtaining curriculum is not adequate to the development, establishment and operation of an educationally sound school, rather, curriculum is just the starting point. OCCA is proposing a specific classical

education approach that relies heavily on classical texts and the Socratic method and will require different and extensive professional development. The Charter anticipates and is premised on the relationship with Hillsdale and BCSI in implementing its proposed program, so the lack of approval of that affiliation by Hillsdale and BCSI, and the supports that would come with it, undermines the entire educational program and the likelihood that OCCA could develop and implement an effective program in accordance with the terms of the Charter.

- C. The Charter does not include an adequate plan to serve students with special needs. Other than simply stating that it will comply with the ADA, OCCA has described no plan or funding for such compliance. OCCA’s sole plan for complying with the IDEIA is that OCCA will apply for status as an independent local educational agency member of the El Dorado County Charter Special Education Local Plan Area (“SELPA”). OCCA has not applied for or been accepted as a member of the El Dorado SELPA, and, as such, cannot at this time provide verifiable written assurances that it will be a separate LEA member of a SELPA. Nor is there any guarantee that OCCA would be accepted to the El Dorado SELPA upon applying. Unless and until OCCA is accepted to the El Dorado SELPA and provides the requisite verifiable written assurances, the default is that OCCA would be a school of the District for purposes of compliance with the IDEIA. However, OCCA has failed to include any alternative plan for how it would comply with the IDEIA as a school of the District for such purposes if it has not yet been accepted or is denied membership in the El Dorado SELPA.

Additionally, OCCA’s plan and funding for meeting the needs of students with special needs is inadequate and does not recognize and comport with its obligations to serve all students, regardless of disability. OCCA’s budget provides for only resource specialist program (RSP) teachers, and does not include any budget for special day class (SDC) teachers and the budget for itinerant services – including possible nonpublic school placements – is underestimated and inadequate, as described in greater detail below. In fact, the OCCA Charter fails entirely to mention any SDC programs and how they would be implemented at the proposed school. Nor does the Charter include any description of the qualifications required of special education staff. As such, OCCA has failed to plan and budget appropriately for compliance with the IDEIA, including its obligation to provide the full continuum of services and placements to all eligible students, including any and all options available and required pursuant to the IDEIA and the needs of the particular student (including but not limited to pull-out services, special day classes, etc.) and in accordance with Education Code Section 56361 and 24 C.F.R. Section 300.115.

- D. The proposed scope and sequence is not adequately aligned to the California State Standards. For example, there is a lack of alignment in the area of science.
1. OCCA’s proposal appears to be more focused on reading about science and scientists than actually “doing” science. The Next Generation Science Standards (“NGSS”), on the other hand, focus on students doing hands on, inquiry-based science.

2. The Charter references the use of Pearson’s Science Explorer, but the newest edition of this program is 2009, which does not align with NGSS.
3. Based on the program guides, the curriculum does not appear to be completely aligned to current state standards. Examples in science include:
 - a. It does not include Science and Engineering Practices and Crosscutting Concepts.
 - b. It is missing a number of the specific standards. The following is a sampling of some of the missing standards in science:
 - (1) Kindergarten
 - K-PS2-1. Plan and conduct an investigation to compare the effects of different strengths or different directions of pushes and pulls on the motion of an object.
 - K-PS2-2. Analyze data to determine if a design solution works as intended to change the speed or direction of an object with a push or a pull. OCCA’s scope and sequence only mentions magnets
 - (2) First Grade
 - 1-LS3-1. Make observations to construct an evidence-based account that young plants and animals are like, but not exactly like, their parents.
 - 1-PS4-1. Plan and conduct investigations to provide evidence that vibrating materials can make sound and that sound can make materials vibrate.
 - 1-PS4-2. Make observations to construct an evidence-based account that objects in darkness can be seen only when illuminated.
 - 1-PS4-3. Plan and conduct an investigation to determine the effect of placing objects made with different materials in the path of a beam of light.
 - 1-PS4-4. Use tools and materials to design and build a device that uses light or sound to solve the problem of communicating over a distance.
 - (3) Second Grade
 - 2-LS2-1. Plan and conduct an investigation to determine if plants need sunlight and water to grow.
 - 2-LS4-1. Make observations of plants and animals to compare the diversity of life in different habitats

- 2-ESS1-1. Use information from several sources to provide evidence that Earth events can occur quickly or slowly.
- 2-ESS2-1. Compare multiple solutions designed to slow or prevent wind or water from changing the shape of the land.
- 2-ESS2-2. Develop a model to represent the shapes and kinds of land and bodies of water in an area.
- 2-ESS2-3. Obtain information to identify where water is found on Earth and that it can be solid or liquid.

E. OCCA’s plan for supporting its English Learner (“EL”) population is not clear or adequate, and is internally inconsistent.

1. For example, the Charter initially specifies (emphasis added):

EL scholars **are not placed in sheltered or bilingual instruction classes** at Orange County Classical Academy.

Later, the Charter provides,

There are two English Language Development programs at Orange County Classical Academy: Structured English Immersion (“SEI”) and English Language Mainstream (“ELM”). SEI classrooms are designed for scholars with less than “reasonable fluency”. An English language mainstream classroom is designed for scholars with “reasonable fluency” or a “good working knowledge of English.”

* * *

An EL scholar shall be transferred from a [sic] SEI classroom to an ELM classroom when the Academy determines the scholar has acquired a reasonable level of English proficiency.

The California Department of Education uses the terms Sheltered English Immersion and Structured English Immersion interchangeably. The description of OCCA’s “SEI” classes as being for students with “less than ‘reasonable fluency’” and the facts that EL students are placed in those classrooms until OCCA determines that they have “reasonable fluency” or a “good working knowledge of English,” at which time the students are transferred to an ELM class, establish that OCCA’s EL students are, in fact, placed in sheltered English classrooms, notwithstanding OCCA’s statement to the contrary.

2. OCCA states, “Research shows that once a child achieves the intermediate stages of fluency, they begin to accelerate their progress on all of their

academic work.” However, OCCA fails to cite to any research for this proposition. On the other hand, research does show that in California, students often plateau at the intermediate stages, which leads to Long Term English Learners (“LTELs”). (Laurie Olsen, Ph.D., “Meeting the Unique Needs of Long Term English Language Learners” published by the National Education Association, estimates that between one-quarter and one-half of ELs who enter U.S. schools in the primary grades become LTELs and three out of five EL students in grades six through twelve are LTELs). OCCA’s Charter fails to explicitly address the needs of LTELs.

- F. OCCA’s Charter does not require any of the educational administrators – the Executive Director, Headmaster, and/or members of the Support Services Team – to hold even a teaching credential, much less an administrative credential. These are the positions responsible for oversight, planning, and implementation of the complex educational program proposed by OCCA, as well as hiring, supervising, training, and guiding teachers and other staff to ensure academic achievement by the proposed school’s students, including its student subgroups. However, the required qualifications for the Headmaster are quite minimal and there are no required qualifications for any of the other administrator positions, and the Charter does not require that any or all of these positions hold credentials. In order to protect the educational integrity of the proposed program, it is necessary that the senior administrative staff charged with oversight, planning, and implementation of the educational program, so at least the Headmaster, be required to hold, at a minimum, teaching credentials. This finding is not an assessment of the qualifications of the particular individual(s) currently proposed to serve as OCCA’s initial Headmaster or Executive Director, but is based on the Charter’s specification of the minimum required qualifications for anyone to serve in these positions.
- G. The first charter that OCCA submitted to the District, and subsequently withdrew, proposed a TK through twelfth grade program. Without noting or explaining the change, however, when OCCA submitted the current Charter, it had deleted all references to the TK program, and instead is proposing only a kindergarten through twelfth grade program. While the District does not understand why OCCA made this change, it is impermissible because charter schools that offer kindergarten are required to offer TK. Moreover, TK is a separate and distinct program from kindergarten, so OCCA would have to have a developed plan and program for that grade level in order to offer an educationally sound TK program.

II. THE PETITIONERS ARE DEMONSTRABLY UNLIKELY TO SUCCESSFULLY IMPLEMENT THE PROGRAM SET FORTH IN THE CHARTER. [Education Code Section 47605(b)(2)]

- A. All of the above-described concerns regarding the unsoundness of the educational program, including the failure to include an adequate plan to provide services to students with special needs in accordance with state and federal law, are hereby incorporated herein by this reference.
- B. Charter school petitioners are required to submit with their charter financial statements that include a proposed first-year operational budget, including startup

costs, as well as multi-year cashflow and financial projections. Central to the analysis of any charter petition is an assessment of these mandatory financial documents, as a charter school cannot be successful if it is not financially viable. Moreover, the budget documents must necessarily establish a clear understanding of the complexities of public school finance, specifically charter school finance, because, again, if the proposed charter school cannot manage its finances, it cannot be successful. Unfortunately, the budget documents submitted by OCCA are fundamentally flawed.

1. As an initial matter, OCCA inexplicably submitted two separate and conflicting budgets, with a difference in revenues of almost \$400,000, a difference in expenses of over \$50,000, and a difference in projected reserves of more than \$650,000 by the last year covered by the budgets. OCCA has not provided any explanation as to why it submitted two different budgets. As such, OCCA's budget and financial projections are facially invalid.
2. Nevertheless, the District analyzed and attempted to validate both of OCCA's budget proposals. This validation process included all of the following:
 - Review of budget narratives
 - Cross-referencing the budget narrative with the budget worksheets
 - Review of the calculations for reasonableness
 - Applying generally accepted budget guidelines from the California Department of Education and the Department of Finance
 - Aligning the educational program described in the Charter narrative with OCCA's budget assumptions and projections

This analysis established that, in both budgets, OCCA substantially overestimated revenues and underestimated expenses and the budget narrative does not align with the budget projections. Some specific examples of the defects follow.

3. The budget narrative specifies that OCCA is applying for a \$250,000 line of credit for cash flow purposes, but the budget projections fail to include provision for repayment of this substantial loan. Additionally, the budget projections include a separate long-term loan of \$425,000, but that loan is not described in the budget narrative. The cashflow document includes repayment of an unspecified \$375,000 in year one, though it is unclear which loan or loans are being fully or partially repaid in this amount.
4. OCCA projects paying teachers only \$60,000 per FTE, with resource specialists projected at \$105,000. The average salary for an elementary school teacher in Orange County for 2018-19 is approximately \$89,000.

Similarly, OCCA's projected administrator salaries are below the rate paid to experienced District teachers. Moreover, OCCA does not commit to having its certificated employees participate in the State Teachers Retirement System ("STRS;" though OCCA has budgeted for STRS participation), and OCCA has budgeted substantially less for health and welfare benefits than the District's costs, despite the fact that the District has significantly greater buying power than would OCCA, likely resulting in OCCA's benefits costs being higher for less coverage. As such, overall compensation is substantially lower than the District or other school employers in the area, which is likely to present a serious challenge to OCCA's efforts to attract and retain high quality and experienced certificated employees, particularly given the unique training and service requirements of OCCA's proposed classical education program and the high expense of residing within or near the District.

5. OCCA has substantially underestimated its facilities costs. OCCA bases its projected facilities costs on a per pupil cost, which is not reflective of the actual means by which a facility would be acquired and should be budgeted for, particularly since OCCA has not sought a facility pursuant to Proposition 39. Instead, commercial rent is based on property location, usable square footage, and amenities. Commercial real estate is in high demand within the District, property owners are demanding multi-year lease agreements, and the annual rent may fluctuate by the inflation index. Additional costs for facilities include possible tenant improvements in order for the site to serve as a school. Moreover, the total amount budgeted for facilities is not consistent with the prevailing cost to lease a facility within the District's boundaries. OCCA budgeted \$1,200 per pupil for facilities, meaning \$432,000 for 360 students in year one. However, based on the District's experience and investigation into realistic rental costs, the District projects that OCCA's costs for facilities in year one would be \$720,000.

A related point is that OCCA has not provided the legally required description of facilities to be utilized by OCCA, which is required to specify where OCCA intends to locate. (Ed. Code § 47605(g).) Rather, the Charter only notes that OCCA has not secured a facility but has had conversations with unidentified "local landlords." This is not a description of facilities, and does not identify where the school intends to locate. OCCA's low budget projections for facilities costs must necessarily assume that OCCA will be able to secure a school facility that has previously been approved for school use and will not require any costly improvements, including those necessary to make the facility compliant with the Americans with Disabilities Act and/or any California Environmental Quality Act (CEQA) requirements, despite the fact that OCCA has not identified an available school site that fits these requirements, or even thoroughly determined or described its facility needs. Thus, the facilities description does not comply with the requirements of the Charter Schools Act and also does not justify OCCA's underestimation of facilities costs based on typical pricing within the District.

- C. OCCA projects opening with 360 students and growing to 600 students by year five and 720 students by year seven. The program and budget are premised on this enrollment, and OCCA has not described or provided a plan for its successful operation, including its fiscal viability, should this large enrollment not materialize. OCCA's enrollment projections are overly optimistic and inconsistent with historical charter school enrollment patterns, including for the independent charter schools currently operating within the District's boundaries, as well as when compared to the various charter schools authorized by the Orange County Board of Education.

For example, the historical enrollment for new charters in Orange Unified since 2017-18 reflects that the charters only captured 40% to 50% of their projected enrollment. OCCA plans to open with three times the number of students projected by the other two charter schools referenced, and six to eight times the actual enrollment achieved by these schools in their respective first years of operation.

While the enrollment obtained by other charter schools located within the District and/or the County are not definitive, they do serve as indicators of recent enrollment patterns and interest in charter schools. Other than OCCA's assertion that its enrollment projections are "reasonable" and "realistic," OCCA has not provided a convincing factual basis for these projections. OCCA did submit a number of parent/guardian signature pages in support of the Charter. However, those signatures were gathered after the Charter was written and the projections made, so did not serve as the basis for OCCA's projections. Additionally, OCCA was unable to describe the information that was provided to parents/guardians from whom signatures were gathered, other than brief information included on general flyers. The lead petitioner specified that most of the signatures were gathered by knocking on doors or gathering signatures in front of stores. Such brief interactions presenting limited information about the proposed school makes it unreasonable to assume that there is a direct correlation between the signatures collected and the actual likely enrollment at OCCA in year one or the remainder of the proposed charter term.

As noted above, OCCA's budget is premised on these very high enrollment figures. OCCA did not present alternative budget scenarios establishing that the program could still be fiscally and educationally viable if this enrollment does not materialize. The District did an analysis to test the sensitivity of projected revenues and overall impact on reserve levels. For example, using OCCA's first set of budget documents, in 2020-21, if OCCA were to enroll 344 students instead of 360 or a reduction of 16 students, but maintain the level of spending as budgeted, then the reserves would be negative by approximately \$8,800. An analysis was performed for each subsequent year, and if actual enrollment came in at 25 to 36 fewer students, then the reserves would be negative for each year. The results were similar using OCCA's second set of budget documents.

There are a number of costs that OCCA would necessarily incur months in advance of opening in order to plan and prepare to open with this high enrollment number – including, for example, facility space, curriculum, furniture, technology, etc. These would be upfront expenses that OCCA would need to incur during the planning

stages. If the projected enrollment and corresponding funding do not materialize, OCCA would still have incurred these expenses based on its enrolment projections. OCCA's cashflow projections include only a nominal amount to be spent on startup costs, not the approximately \$500,000 that the District anticipates as realistic startup costs for items such as facility rental and tenant improvements, textbooks and supplies, technology equipment, and classroom furniture, which would need to be ordered several months in advance of opening to students.

- D. Overall, it appears that OCCA's financial projections are premised on a best case/least expensive scenario concept, with the Charter describing the program the petitioners desire to provide, and the budget assumptions presuming that OCCA will obtain the least expensive outcomes in most areas. For example, OCCA appears to assume that the enrollment lottery will not result in enrollment of special needs students who receive more expensive levels and types of services (including those who need 1:1 aides or similar services) and OCCA will not enroll any students who require special day class services or a non-public school placement. Further, OCCA does not have an adequate source of funds for uncertainties and the budget does not include a set aside for economic uncertainties related to program operations. OCCA states that it will "exceed the CDE recommended reserve of 3% of total annual expenditure." However, for a school of the size projected by OCCA, CDE recommends a 4% reserve. Even using OCCA's Budget Projection 1 (which would be the best case scenario for OCCA), in year one, after accounting for such a 4% reserve, OCCA is left with only approximately \$21,258 to cover any and all contingencies, which is inadequate to cover most potential needs or costs should OCCA's "best case scenario" projections prove to be incorrect in even relatively minor respects, and which is actually a negative amount should OCCA miss its enrollment projections by even a minor amount. Given that OCCA is proposed as a new school, it is unreasonable and fiscally unsound to presume that all of its projections will be accurate and that there is little need to plan for economic uncertainties.
- E. Based on the District's information and experience, OCCA has under-projected a variety of costs. The most notable example is the cost of itinerant services for special education students, which is the most costly non-personnel expense of a special needs program. The itinerant services included in the District's analysis consist of psychologist, speech and language, occupational therapy, adaptive physical education, counseling, transportation for one student, and a nonpublic school placement for one student. As a result, the District thoughtfully reviewed the proposed program and associated costs in order to project an appropriate budget amount of \$180,500 for itinerant services, taking into account the range of potential services and costs that will need to be provided and the limited in-house staff proposed by OCCA. OCCA, however, projected an annual cost of itinerant services of only \$72,000. The District's projection was based on a conservative itemization of a probable mix of services and lower frequency rates, including a projection of one student with transportation pursuant to IEP requirements, plus a normal mix of student services identified by the District's Special Education Division. These associated costs were supported with the lowest possible rates paid by the District for such services. The District also included a contingency in this itinerant services

budget to cover the cost of one non-public school (“NPS”) placement as the NPS generation rate is random. This contingency was also intended to cover the use of lower frequency rates and lower cost of services estimates used in the District’s analysis. The District recognizes that some of the expenses related to one NPS placement may be subsidized by the SELPA, but financial exposure should be recognized, and SELPAs determine locally annual distributions.

Legally, each special education student must receive a tri-annual full psychological review and assessment, which, if procured from an outside itinerant service provider (and OCCA does not propose or budget for a psychologist on staff), the costs could range from \$8,000 - \$10,000 per assessment. Approximately one-third (tri-annual) of the students with an IEP would have a full psycho-educational assessment by a licensed school psychologist each year – even using an exceptionally low cost of an assessment of \$4,000, multiplied by ten students (which is also low given the estimate of 40 special needs students), the annual costs would be \$40,000. There would be only \$32,000 left from OCCA’s proposed \$72,000 itinerant services budget to provide itinerant services for the whole student pool for the entire year, as may be directed in their IEPs (e.g. counseling, adaptive P.E., occupational therapy, speech and language, transportation, etc.).

- F. There are internal inconsistencies throughout the Charter and its attachments, as well as inconsistencies between laws that OCCA asserts that it will follow and the terms of the Charter and/or its appendices. For example, the Charter specifies that OCCA’s Board will consist of *three* to nine members who will serve *two* year terms, but the Bylaws specify that the Board will consist of *five* to nine members serving *three* year terms. OCCA’s Charter specifies that it likely will open with grades K-5, but may expand its first year grade levels. The Charter also specifies, “The Academy expects to expand a grade level each year to include all of grades K-12 by year eight (7) [sic] of the charter term, adding K in year two (2).” It includes a table showing students in kindergarten in year one and no students in grade 12 in year seven. Thus, while the District can speculate as to what OCCA intended, this description is internally inconsistent, unclear, and undefined. The Charter and its appendices, including its corporate governance documents, must be clear and consistent in order to clarify what OCCA is proposing and to establish OCCA’s obligations, as well as to avoid the creation of a situation in which the school and corporation are subject to conflicting and inconsistent legal obligations.

III. THE CHARTER DOES NOT CONTAIN REASONABLY COMPREHENSIVE DESCRIPTIONS OF ALL OF THE REQUIRED ELEMENTS. [Education Code Section 47605(b)(5)]

A. DESCRIPTION OF THE EDUCATIONAL PROGRAM [Ed. Code §47605(b)(5)(A)]

All of the above-described concerns regarding the unsoundness of the educational program, including the failure to include an adequate plan to provide services to students with special needs in accordance with state and federal law, and the inadequacy of the Charter’s budget and finances to implement the program set forth in the Charter, are hereby incorporated herein by this reference.

B. GOVERNANCE STRUCTURE [Ed. Code §47605(b)(5)(D)]

1. As noted above, the Charter specifies that OCCA will have three to five Board members, while its Bylaws specify that there will be five to nine Board members. There need to be clear provisions defining the governance structure, and the Charter and the Bylaws may not be in conflict.
2. Consistent with the requirements of the law, the Charter specifies that OCCA's Board will comply with the Brown Act, Government Code Section 1090, and the Political Reform Act ("PRA"), including adoption of a conflict of interest code that complies with the requirements of the PRA. Unfortunately, the Bylaws' description of notice and conduct of meetings is inconsistent with the Brown Act, and the discussion in the Bylaws of prohibitions against conflicts of interests is inconsistent with the requirements and prohibitions of the PRA and Government Code Section 1090. Additionally, OCCA's conflict of interest code omits a number of the required components of a valid conflict code.
3. The Charter specifies:

Day-to-day administration of the Academy is managed by the Headmaster as outlined in the respective employment contract, and to the extent practical, in collaboration with teams of Board members, Support Services Team, Executive Director, scholars, parents, teachers and administrators.

The governance structure, including the means by which OCCA would be operated, must be described in the Charter, and cannot be outlined in, and dependent upon, the Headmaster's contract, rather than being defined and mandated by the terms of the Charter.

Additionally, it is unclear what is intended by the reference to "teams" and precisely what those teams would be and do. Of particular concern is the inclusion of Board members on such teams, including the possibility of Brown Act issues and/or what authority might be granted to individual Board members, as well as questions whether these "teams" would be legislative bodies as defined in the Brown Act, in which case their meetings and actions would have to comply with all requirements of the Brown Act.

4. The governance structure includes assignment of a significant number of administrative and management tasks to the "Support Services Team," including finance, compliance, facilities, human resources, safety, and information technology. However, other than specifying that this Support Services Team will be responsible for these tasks in order to allow OCCA "to focus on scholar education," the Charter contains absolutely no other description of this Team, who would be on the team, or qualifications of the Team members.

C. QUALIFICATIONS TO BE MET BY INDIVIDUALS TO BE EMPLOYED BY THE CHARTER SCHOOL [Ed. Code §47605(b)(5)(E)]

1. The employment qualifications for the Headmaster are not consistent with the responsibilities of the position. The Headmaster “manages the Academy,” but the only employment qualification related to education is a Bachelor’s degree. The Headmaster is not required to have a teaching or administrative credential, or any teaching or administrative experience, nor any particular training in or familiarity with the unique classical educational program proposed to be offered at OCCA. The Headmaster is responsible for budget development and financial reporting, but is not required to have any general or public school specific finance knowledge, training, or experience. In fact, OCCA has not included a requirement that *any* of its employees have any experience or expertise in the areas of finance generally and public school finance in particular, despite the fact that they are charged with development and oversight of OCCA’s budget. Charter school finance is complex and challenging, and the issues with OCCA’s budget documents submitted with the Charter (described in detail above) establish the importance of having persons with the appropriate expertise and qualifications involved in charter school fiscal planning. The issue is not the qualifications of the particular individual that OCCA currently plans to employ for this position, but the employment qualifications specified in the Charter.
2. The Executive Director and “Support Services Team” are designated as serving in important leadership and administrative roles for OCCA. The Executive Director is the senior administrator of the school, who reports directly to the OCCA Board, and whose responsibilities include, among other essential responsibilities, “ultimate oversight and responsibility for an efficient management, staff, and infrastructure, including the annual operating budget, supervision of Headmaster and the Support Services team.” However, the Charter does not include any qualifications for the Executive Director or the members of the Support Services Team, or even any explanation of how many persons or what types of qualifications generally would be required for the Support Services Team. Thus, the only specified qualifications are general matters, such as criminal background check and TB clearance. These are patently inadequate qualifications for these positions and do not constitute a reasonably comprehensive description.
3. The only positions for which the Charter includes qualifications are the Headmaster and teachers. The Charter provides, “All other staff members shall meet the basic criteria for employment as identified by the Board and shall possess those qualities held by reference to ‘employees’ above.” The Charter Schools Act requires the Charter to set forth the qualifications to be met by employees of the charter school – this cannot be reserved for a subsequent determination by the Charter School Board.

4. The OCCA Charter provides for flexibility in credentialing for teachers of non-core, non-college preparatory courses, which will no longer be legally permissible at the time OCCA proposes to open. The bill changing this law had been enacted into law at the time the OCCA Charter was submitted to the District, and the legal change had been anticipated for months, but the OCCA Charter does not comply with the legal requirements governing teacher certification qualifications.
5. The Charter refers to work to be done by the Director of Finance, though that position is not mentioned elsewhere in the Charter and there are no qualifications provided for that position. Again, the only specified qualifications are general matters, such as criminal background check and TB clearance. These are inadequate qualifications for this positions and do not constitute a reasonably comprehensive description.

BE IT FURTHER RESOLVED AND ORDERED that the terms of this Resolution are severable. Should it be determined that one or more of the findings and/or the factual determinations supporting the findings is invalid, the remaining findings and/or factual determinations and the denial of the Charter shall remain in full force and effect. In this regard, the District Board of Education specifically finds that each factual determination, in and of itself, is a sufficient basis for the finding it supports, and each such finding, in and of itself, is a sufficient basis for denial.

The foregoing resolution was considered, passed, and adopted by this Board at its meeting of December 19, 2019.

[Signatures to Follow on Next Page]

AYES IN FAVOR OF SAID RESOLUTION:

NOES AGAINST SAID RESOLUTION:

ABSTAINED:

Dated: _____

By: _____

President, Board of Education
Orange Unified School District

Dated: _____

By: _____

Clerk, Board of Education
Orange Unified School District