

**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**  
**MINUTES**

**December 2, 2010**

A special meeting of the Santa Monica-Malibu Unified School District Board of Education was held on Thursday, December 2, 2010, in the Malibu City Council Chambers: 23815 Stuart Ranch Road, Malibu, CA. The Board of Education called the meeting to order at 6:45 p.m.

**I. CALL TO ORDER**

**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.**

- *There were no general 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.

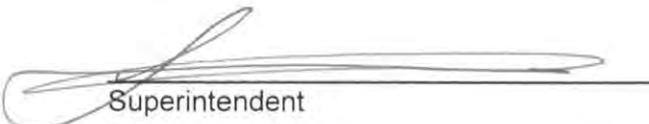
- A.01 Point Dume Marine Science Charter School Petition (180) ..... 1-3

**IV. ADJOURNMENT**

It was moved by Mr. de la Torre, seconded by Ms. Leon-Vazquez, and voted 7/0 to adjourn the meeting at 12:03am. The next regularly scheduled meeting will be held on **Thursday, December 9, 2010**, at 6:00 p.m. at the district office: 1651 16<sup>th</sup> Street, Santa Monica, CA 90404.

Approved: 1-13-11

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
Superintendent

**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 <sup>st</sup> Thursday	2 <sup>nd</sup> Thursday	3 <sup>rd</sup> Thursday	4 <sup>th</sup> 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
<b>December 18 – 31: Winter Break</b>					
January through June 2011					
<b>January 1 – 2: Winter Break</b>					
January		1/13 DO			
February	2/3 M		2/17 DO		
March	3/3 DO		3/17 DO	3/31 (5 <sup>th</sup> Thurs.)	
<b>April 16 – May 1: Spring Break</b>					
April	4/6* DO	4/14 <del>DO</del>	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 <del>DO</del>	6/30* DO	Last day of school: 6/22 *6/30 replaces 6/16

District Office (DO): 1651 16<sup>th</sup> 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**

6:45pm

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

*Elizabeth Wilson – Malibu High School*

B. Pledge of Allegiance

*Led by Mr. de la Torre*

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## **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.<sup>1</sup> 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

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<sup>1</sup> 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.

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Public Comments:

- *Pamela Conley-Ulich, Ali Thonson, Roohi Stauk, Robyn Ross, Kris Jennings, Christine Cullen, Cindy Johnson, Margo Dunn, Paula Heintz, Ken Harris, Niel Armstrong, Janelle Ruley, Skully Cloete, Anne Payne, Laura Rosenthal, Teresa Earle, Rick Ross, Karen Farrer, Lou LaMonte, Kerry Hernandez, Brent Spiner, Peter McNulty, Marla Hartsuyker, Melanie Goodwaard, Jeff Mazzella, Shari Latta, Suzy Forman, Laureen Sills, Ryan Embree, Warren Wilson, Mary Tafi, Kisha Lynn Elliot, Sharon Weir, Caprice Young, and Colleen Baum spoke in favor of the charter petition.*
- *Paul Silvern, Ismael Morales, Susan Baltrushes, Harry Keiley, Anthony Fuller, and Liz Cowgill spoke against the charter petition.*

- Zoe Langley, Kim Bonewitz, and Yalile Pieper addressed the board regarding the charter.

The staff's presentation can be found under Attachments at the end of these minutes.

The board asked the following clarifying questions:

Ms. Leon-Vazquez asked about enrollment projections. Ms. Maez explained that in order to estimate a potential sixth grade at Point Dume, staff took the current K-5 students, rolled them up one grade (without attrition), and added a Kindergarten class using projections from DecisionInsite.

Dr. Escarce asked if there were reserve requirements for charter schools. Ms. Maez said the law does not prescribe reserve requirements for charter schools, but a sound operational plan, especially one for a small school, should have an even greater reserve than a larger district in order to endure financial fluctuations.

Mr. de la Torre asked about a potential two-tier teacher system. Ms. Maez said the arrangement for salaries and benefits for the founding teachers is between the petitioners and the staff. Those teachers who decide to join the charter will no longer be members of the collective bargaining unit. The two-tier system mentioned in the staff's report refers to founding teachers being promised their existing salaries and benefits, but no such promise has been made for new teachers, thereby creating two separate salary and benefit scales for charter teachers. Mr. de la Torre asked if the petition allowed for step and column. Ms. Maez said founding teachers were eligible for step and column.

Mr. Mechur asked about current classified staff levels and employee rights. Ms. Maez referred to a staffing chart in the staff's complete report. Ms. Washington explained that classified staff who stay with the district would maintain their seniority rights and longevity status.

Mr. Allen asked about the petitioners' response letter that states budgeted salaries were based on payroll stubs. Ms. Maez replied that if petitioners used payroll stubs for their proposed budget, the records do not match those of the district. She recalled information from the petition that the petition budget uses the district's 2009-10 salaries; however, the furloughs began in that year, and could explain why the petition's expenditures do not match the district's in a non-furlough year.

Mr. Snell asked about PTA funds. Ms. Maez replied that staff's examination of the petition did not reveal sufficient funds to support the services as promised in the petition. It is staff's opinion that the petition budget left out the revenue and expenditures necessary to maintain the current district program.

Ms. Leon-Vazquez suggested the petitioners have a chance to present their response letter to the board, which was emailed just that morning. Mr. Mechur and Sue Ann Evans, the district's attorney in the charter matter, cautioned against violating the Brown Act. The board agreed to allow the petitioners fifteen minutes to summarize their response letter, and remove the Request to Speak cards for those individuals who present.

The petitioners' legal and fiscal representatives highlighted the petitioners' response letter. The letter is under attachments at the end of these minutes.

Following public comments, the board conducted the following discussion:

Ms. Snell asked Ms. Evans, if her evaluation of the petition had changed in light of the petitioners' public comments regarding funding commitments. Ms. Evans said a district must use set guidelines and regulations to evaluate and verify a petition's proposed budget. This petition does not include PTA funds in its budget, but does mention "Community Support" money. Staff's Scenario 1 budget, as presented at the beginning of the agenda item, incorporated all soft money revenue in its assumptions.

Mr. de la Torre asked Ms. Evans if it was normal for district staff to contact and meet with petitioners after an application has been submitted. Ms. Evans replied that, in her experience, staff does not meet with petitioners regarding a proposed charter budget. She reiterated that a petition must be evaluated as submitted. Dr. Escarce asked if there were any provisions for modifications or amendments to a petition after being submitted. Ms. Evans said such modifications are not in the statute that sets forth the petition review process. Dr. Escarce asked what it means to approve a petition with conditions. Ms. Evans said Ed Code does not provide for approval with conditions, but there are recent, isolated cases. Mr. Mechur asked about a memorandum of understanding between a district and petitioners. Ms. Evans said an MOU is not necessary, given that a charter program is governed by the charter petition; an MOU can, however, outline the details of an agreement if a district approves a charter. Mr. Mechur asked: If a district approves a charter with conditions, but the petitioners do not meet the conditions, can the petitioners appeal? Ms. Evans explained that an appeal cannot occur if there is no denial in place.

In response to the petitioners' comments that the district is taking credit for PTA-funded positions, Ms. Maez pointed to the staff's full report in which all current positions are listed along with the funding sources. She called attention to the fact that when the petition's funding for services was called into question, the petitioners said teachers would be providing those services. She said she had not heard a clear reconciliation between the promises made by the petition and the existing program. For example, the petitioners' financial representative mentioned that in order to balance the budget, the charter would, if necessary, alter the founding teachers' health benefits. Ms. Maez reminded the board that charter law requires staff to evaluate a petition as submitted. It is not the district's responsibility to seek out answers from petitioners; rather, it is their responsibility to provide full information in the petition document.

Mr. Snell thanked Ms. Ross and Ms. Thonson for their hard work in preparing the petition. He commented that he was not comfortable approving the petition as written, noting the proposed fundraising required to maintain services does not seem sustainable. He expressed his concern that the charter would not be able to provide a diverse student population. He said he wished the petition did a better job explaining how cash flow and the debt service would be addressed. Mr. Snell asked about the proposed sixth grade curriculum and how it would differ from the current sixth grade curriculum. Dr. Chou said the petition did not provide a complete curriculum, but rather a sixth grade program with descriptions of subject matters, in which sixth graders are encouraged to continue in the marine science program and develop a project.

Mr. de la Torre wondered what options the district had to extend the deadline to make a decision on the petition. Ms. Evans said districts have to take action on a petition within sixty days of officially receiving the document. If the district wished to ask for a thirty-day extension, that would need to be an agreement with the petitioners. She added that there were no legal ramifications if a board takes action to extend the timeline.

Mr. Allen asked the petitioners if they would be open to a thirty-day extension in order to have the opportunity to rectify the discrepancies between staff's and the petitioners' budget numbers. The petitioners' attorney said the petitioners cannot agree to an extension due to the timeline for an appeal to the county if the school board were to deny the petition, unless possibly a majority of the board made a verbal commitment to the concept of the charter. Mr. Allen assured the audience that neither he nor any of his fellow board members have spoken on the dais about closing Point Dume Marine Science School.

Dr. Escarce summarized the petitions' increasing reliance on local funding in future years to meet payroll and basic services. He wondered if such substantial local fundraising was sustainable. He commented on how remarkable a school Point Dume is under the district's stewardship. He suggested staff examine returning sixth grade to the elementary schools in Malibu. He expressed his concern as to whether or not the charter school could provide a diverse student population or as comprehensive a music program as currently offered. He supported the staff's recommendation.

Ms. Pye said she shared Mr. Snell's concerns, especially when the expenditures are added up, including nurses, legal services, health benefits; etc. She worried local funding would not be sufficient nor sustainable. She expressed her concern about the petition's overstated enrollment, attendance, and plans for outreach and recruitment.

*Mr. Mechur agreed with the staff's findings regarding the petition's financial issues. He was also concerned about the charter's heavy reliance on private donations, its ability to ensure diversity, and the effects a charter would have on the other Malibu schools. He suggested putting the charter petition aside and discussing what is best for all the students in Malibu and the district as a whole.*

*Mr. de la Torre wondered what it is the petition is attempting to fix. He said he understood that Point Dume families and teachers fear the school might be closed due to budget cuts, and he agreed that self determination is important, but he wondered if converting the school to a charter was the best route. He said he did not feel comfortable approving the charter as written. He suggested staff examine the inclusion of sixth grade in all Malibu elementary schools.*

*Ms. Leon-Vazquez said she believes the community can raise the money necessary to support the proposed services. She reminded the board that the legislative intent of charter schools was to bring low performing schools up. She expressed her concern that people might perceive the charter as a small, private school in SMMUSD. She worried discrimination against minority students and their families. She said it might be interesting to refer some of Santa Monica's low-achieving Latino and African American male students to Point Dume in order to learn in a new environment with a marine science curriculum. Ms. Leon-Vazquez expressed interest in approving the charter with conditions, specifically a more detailed sixth grade curriculum and the potential impact the charter would have on the other Malibu schools.*

*Mr. Allen repeated his request for an extension to take action on the petition now that the petitioners had heard from the board. The petitioners were not given an opportunity to formally respond to this proposal.*

MOTION MADE BY: Mr. Mechur

SECONDED BY: Ms. Pye

STUDENT ADVISORY VOTE:

AYES: Four (4) (Mr. Snell, Ms. Pye, Mr. Mechur, Dr. Escarce)

NOES: Two (2) (Mr. Allen, Ms. Leon-Vazquez)

ABSTAIN: One (1) Mr. de la Torre

# 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**

The Board of Education of the Santa Monica-Malibu Unified School District ("District") received a petition to 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, § 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.<sup>1</sup> 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.

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<sup>1</sup>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.

- 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 6<sup>th</sup> 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.<sup>2</sup> (Appendix S.)

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<sup>2</sup> 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.)

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

<b>Projections</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>
<b>Petitioners</b>	328	352	352
<b>District</b>	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 6<sup>th</sup> grade<sup>4</sup>. 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.

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<sup>4</sup> According to Petitioners, 70% of the current 5<sup>th</sup> grade students indicated interest in continuing for 6<sup>th</sup> grade, not the entire 5<sup>th</sup> 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.<sup>5</sup> (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.)

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<sup>5</sup> 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 6<sup>th</sup> 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 6<sup>th</sup> 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 6<sup>th</sup> 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

- 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 4<sup>th</sup> 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 6<sup>th</sup> grade curriculum but Petitioners have not identified the curriculum or sought to consult with the District regarding curriculum or transition of 6<sup>th</sup> 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.<sup>6</sup>

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<sup>6</sup> 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).

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## **ATTACHMENTS**

ATTACHED ARE THE FOLLOWING DOCUMENTS:

- Presentation: "Point Dume Charter Petition: Staff's Findings and Recommendations"
- Document: Petitioners' response letter to staff's recommendation
- Document: Letter stating Financial Oversight Committee's official position on the Point Dume Marine Science Charter Petition
- Document: Letter and supporting documents stating Santa Monica-Malibu Classroom Teachers' Association official position on the Point Dume Marine Science Charter Petition

# POINT Dume Charter Petition

Staff Findings and Recommendation  
December 2, 2010

## Charter Petition Legislation Intent

- ▶ Improve student learning
- ▶ Increase learning opportunities for all, with emphasis on academically low-achieving pupils
- ▶ Encourage use of innovative teaching methods
- ▶ Create new professional opportunities for teachers

## Charter Petition Legislation Intent

- ▶ Provide parents and pupils with expanded choices in the types of educational opportunities
- ▶ Hold schools established accountable for meeting measureable pupil outcomes
- ▶ Provide vigorous competition within the public school system to stimulate continual improvement

## Petition Procedural Steps

- ▶ Receipt of the Petition
  - October 7, 2010
- ▶ Public Hearing
  - November 4, 2010
- ▶ Board Action
  - December 2, 2010

## Petitioners' "Compelling Argument" for Conversion

- ▶ Point Dume Marine Science School is a highly successful District program; the Petition seeks to replicate the current program.
- ▶ The Petitioners fear that PDMSS will be closed. The Petitioners' fear is unfounded; neither the District nor its Board has taken any action to initiate a closure of PDMSS.

## Review of the Petition

- ▶ Factual findings to deny a petition must support one or more of the following:
  - The charter school presents an unsound educational program.
  - The Petitioners are demonstrably unlikely to successfully implement the program set forth in the Petition.
  - The Petition does not contain the number of signatures required by statute.
  - The Petition does not contain affirmation of each of the conditions required by statute.
  - The Petition does not contain reasonably comprehensive descriptions of the required 16 elements of a charter petition.

## Findings Used For Denial

- The Petitioners are demonstrably unlikely to successfully implement the program set forth in the Petition.
- The Petition does not contain reasonably comprehensive descriptions of the required 16 elements of a charter petition.

## Factual Findings

- ▶ Educational Program
  - The Petition fails to provide a meaningful and detailed description of curriculum and course of study.
  - The Petition does not provide for enhancements from the District's current program and fails to articulate any enrichment programs.
  - The instructional approach is no different than what is already being provided.
  - Promises of teaching specialists, art and technology integration, and professional development are not included in the budget.

## Factual Findings

- ▶ **Educational Program** *(continued)*
  - The Petition does not sufficiently describe how the charter school will meet the needs of English Learner students. No staff has been identified to oversee and provide services to these students.
  - The Petition promises to comply with Section 504 without evidencing any understanding of what the law requires, which includes what supports, services, and accommodations the charter is willing, qualified, and able to make available.

## Factual Findings

- ▶ **Measurable Student Outcomes**
  - The Petition does not provide measurable student outcomes or any identification of the frequency of pupil assessment.
  - The Petition proposes vague, immeasurable, and insufficient “periodic” assessments to determine student growth and outcomes.
  - The design of curriculum, student assignments, and measurement of student progress are discussed only in broad general terms.

## Factual Findings

- ▶ Employee Qualifications
  - The Petition promises highly qualified staff, but fails to meet those requirements.
  - The Petition proposes non-credentialed teachers to teach courses that the Petitioners have misidentified as non-core.
  - These positions are not represented in the budget.

## Factual Findings

- ▶ Lack of a realistic and sound financial operating plan
  - Enrollment and attendance
  - Grants and fundraising
  - Salaries and benefits

## Factual Findings

### ▶ Enrollment

- Petitioners' enrollment projections are inconsistent with demographer's projections.
- Petitioners rely on student growth in an attempt to balance the budget.
- Petitioners' recruitment plan for enrollment growth to reflect District diversity is unrealistic and vaguely described.

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

## Factual Findings

### ▶ Attendance

- Attendance rate significantly effects revenues and expenditures
  - School's attendance enrollment history is 93%
  - Petition reflects various rates from 90% to 95%
  - Petitioners rely on 95% for calculating revenue

## Factual Findings

- ▶ Grants and fundraising
  - Public Charter School Grant
    - Petition does not properly identify, disclose, nor document grant and fundraising assumptions
      - Impact: \$200,000 year one; \$22,000 year two
  - “Community Support” – i.e., fundraising and donations
    - Local revenue is also unsupported
      - Impact: \$375,000 year one; \$475,000 year two; \$575,000 year three

## Factual Findings

- ▶ Teacher Salaries and benefits
  - Petitioners do not allocate sufficient funds for the promised compensation for the founding and additional teachers.
  - Petitioners under-budget costs by \$188,373
- ▶ Other implications
  - Two-tiered teacher salary schedule
  - Longer work year
  - No sick days
  - No paid holidays
  - Fewer personal leave days

## Factual Findings

- ▶ Support Staff Salaries and benefits
  - Petitioners do not allocate any funds for support staff currently serving at the school, including:
    - Reading teachers
    - Art teachers
    - Music teachers
    - Instructional assistants
  - Petitioners under-budget by an additional \$190,000

## Factual Findings

- ▶ Other expenditures inadequately budgeted
  - Supply allocations
    - Petitioners' budget worksheets do not add up correctly
    - Expenditures are understated by \$19,500
  - Other operating services
    - Petitioners have budgeted insufficiently for legal services
    - Expenditures are understated by \$10,000

**Budget 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
<b>TOTAL REVENUES</b>			
Petition Budget	2,411,114	2,503,627	2,630,776
Adjusted Budget	2,411,114	2,503,627	2,630,776
Difference	-	-	-
<b>TOTAL EXPENDIUTRES</b>			
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)
<b>INCREASE(DECREASE) FUND BALANCE</b>			
Petition Budget	36,621	36,347	44,487
Adjusted Budget	(371,252)	(380,607)	(381,928)
Difference	(407,873)	(416,954)	(426,415)
<b>BEGINNING BALANCE</b>			
Petition Budget	97,778	134,399	170,746
Adjusted Budget	97,778	(273,474)	(654,081)
Difference	-	(407,873)	(824,827)
<b>ENDING FUND BALANCE</b>			
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)

**Budget 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
<b>TOTAL REVENUES</b>			
Petition Budget	2,411,114	2,503,627	2,630,776
Adjusted Budget	2,036,114	2,028,627	2,055,776
Difference	(375,000)	(475,000)	(575,000)
<b>TOTAL EXPENDIUTRES</b>			
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)
<b>INCREASE(DECREASE) FUND BALANCE</b>			
Petition Budget	36,621	36,347	44,487
Adjusted Budget	(746,252)	(855,607)	(956,928)
Difference	(782,873)	(891,954)	(1,001,415)
<b>BEGINNING BALANCE</b>			
Petition Budget	97,778	134,399	170,746
Adjusted Budget	97,778	(648,474)	(1,504,081)
Difference	-	(782,873)	(1,674,827)
<b>ENDING FUND BALANCE</b>			
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)

**Budget 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
<b>TOTAL REVENUES</b>			
Petition Budget	2,411,114	2,503,627	2,630,776
Adjusted Budget	1,854,409	1,666,800	1,646,977
Difference	(556,705)	(836,827)	(983,799)
<b>TOTAL EXPENDIUTRES</b>			
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)
<b>INCREASE(DECREASE) FUND BALANCE</b>			
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)
<b>BEGINNING BALANCE</b>			
Petition Budget	97,778	134,399	170,746
Adjusted Budget	97,778	(752,679)	(1,812,113)
Difference	-	(887,078)	(1,982,859)
<b>ENDING FUND BALANCE</b>			
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)

## Impact of Understated Budget

- ▶ The Petition does not present a sound, realistic financial and operational plan.
- ▶ Adjusted fund balances:

Scenario	Range - years 1 -3
1	(\$273,500) - (\$752,700)
2	(\$654,000) - (\$1,812,000)
3	(\$1,036,000) - (\$3,015,900)

## Summary of Findings

- ▶ The proposed budget fails to provide for the staffing and resources identified in the Petition and is deficient by approximately \$400,000 in year one.
- ▶ The petitioners exhibit a lack of experience and understanding, particularly with regard to public entity and school district finance.
- ▶ The Petition lacks a realistic and sound financial and operating plan

## Summary of Findings

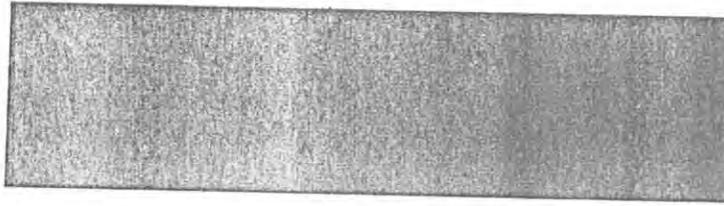
- ▶ Failure to clearly define and build upon the current curriculum and teaching methods to ensure all students meet state and federal accountability standards
- ▶ Failure to demonstrate the ability to address the needs of pupils who are not achieving at or above expected levels
- ▶ Failure to provide a plan for addressing diversity commensurate with District demographic

## Staff Recommendation

- ▶ The 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.
  - The Petition fails to provide a reasonably comprehensive description of all required elements of a charter petition.

## District Vision

- ▶ As a community of learners, the Santa Monica-Malibu Unified School District works together in a nurturing environment to help students be visionary, versatile thinkers; resourceful, life-long learners; effective, multilingual communicators and global citizens. We are a rich, culturally diverse community that values the contributions of all its members and strives to promote social justice. **We exist to assist all students in their pursuit of academic achievement**, strength of character, and personal growth, and to support them in their exploration of the intellectual, artistic, technological, physical and social expression.



DECEMBER 2, 2010

Via Electronic Mail

PAUL C. MINNEY  
JAMES E. YOUNG  
MICHAEL S. MIDDLETON  
LISA A. CORR  
SUZANNE A. TOLLEFSON  
JERRY W. SIMMONS

Members of the Board of Education  
Santa Monica-Malibu Unified School District  
1651 Sixteenth Street  
Santa Monica, CA 90404

**Re: District Staff Recommendation No. A.01  
Point Dume Marine Science Charter**

CHASTIN H. PIERMAN  
JULIE D. ROBBINS  
KIMBERLY RODRIGUEZ  
ANDREA C. SEXTON  
SARAH J. KOLLMAN  
JANELLE A. RULEY  
ANDREW G. MINNEY  
MICHAEL E. HERSHER

Dear Members of the Board of Education:

Our office represents the Petitioners for the Point Dume Marine Science Charter ("PDMSC" or the "Charter School") in its charter submission to the Santa Monica-Malibu Unified School District (the "District"). As you are aware, the District Board will take action to approve or deny the PDMSC charter petition on December 2, 2010. On November 29, 2010, with less than seventy-two (72) hours before the meeting, past the time frame required by law, the Petitioners gained access to over 40 pages of the District staff findings and recommendation for denial of the charter petition ("Staff Findings"). The purpose of this letter is to respond to the Staff Findings.

**OVERVIEW**

• **Summary Response**

Pursuant to Education Code Section 47605(b), in order to deny a charter, the District Board must adopt factual findings to support one or more of the grounds for denial. These findings must be based upon facts specific to the Petition. The Staff Findings do not present *facts* specific to the findings; the information contained therein mistakes facts, mistakes law, spins information against the Petitioners unnecessarily, and uses conjecture in place of actual facts. Accordingly, the District Board has not been presented with legal grounds to support a denial of the charter. Without legal grounds to deny the charter, in accordance with the Education Code, the PDMSC charter must be approved.

• **Lack of Encouragement**

The Petitioners, and our Office, have made repeated overtures to District staff to request meetings to discuss the PDMSC petition, address any questions of District staff, develop a memorandum of understanding ("MOU") and to engage in a

*Members of the Board of Education*

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cooperative relationship in order to best serve students. All such overtures have been rejected or ignored by District staff. Your legal counsel will undoubtedly argue that no such meetings were required under the law. But such response, omits an important part of the law related to charter schools. Specifically, Education Code Section 47605 states that school districts, in reviewing charters, should be guided by the intent of the legislature that the creation of charter schools shall be *encouraged*.

Had any of the findings contained in the Staff findings been discussed with the Petitioners, we are confident that concerns could have been assuaged, and compromise reached as needed. The Petitioners strenuously believe the charter exceeds legal requirements without further revision. However, it is also the Petitioners' belief that such a discussion where concerns can be addressed and compromise can be reached is exactly the type of encouragement that the Legislature expected of this District and the Petitioners. Had District Staff truly wanted their questions or concerns answered, the Petitioners presented them with multiple opportunities to raise concerns, to seek answers, and reach compromise. Instead, the District Staff chose to remain uninformed in order to create the Staff Findings aimed at the District's Board's denial of the charter.

The Petitioners have the utmost respect for the District Board. District Board meetings on the PDMSC charter have been conducted fairly and the Petitioners remain keenly interested in maintaining a relationship with the District as its charter authorizer; as you heard repeatedly, parents who intend to send their children to the Charter School similarly intend to send their children to District high schools.

However, the obstructionist measures engaged in by District staff have been shocking and disappointing, especially given the level of community involvement in the Point Dume conversion.

As you recall, the Petitioners followed the written advice of the Superintendent and submitted the PDMSC charter petition on September 20, 2010, receiving a date-time stamp from the Superintendent's assistant. Despite the fact that a District Board meeting was scheduled for September 23, 2010, the Superintendent elected to inform the Petitioners that the charter would not be deemed "submitted" until it was received by the District Board during its meeting on October 7, 2010. Thus, the District had the charter in its possession for a full 17 days before it was deemed submitted.

We argued that this would violate the timeline required for action on the charter under Education Code Section 47605(b). In response, District staff convinced District Board members that it could not complete its review of the charter petition within the legally-required statutory timeline. In exceeding the statutory timeline, District staff prepared a meandering, repetitive set of "factual findings," spanning over 40 pages, to support a recommendation for denial of the charter. But, with its additional 17 days, it failed to answer the District Board questions (or if it did, it failed to post it on its website), and it failed to engage in any dialogue with the petitioners. Certainly, this is not the "encouragement" contemplated by law.

Even after the Staff Findings were released, the District Staff rejected the Petitioners offer to meet in order to respond to Staff concerns. *If the District Board supports the concept of the Charter Petition and wants to support the desire of the community, but is concerned about the findings presented by staff, we would ask that you approve this charter, but condition the operation of the charter on the development of a mutually agreeable MOU, and the Petitioner's resolution of the concerns raised by Staff.* This is typical practice, employed throughout the State and particularly by the State Board of Education to approve a charter, but ensure that any concerns are addressed prior to operation.

- **Response Format**

This response letter has been prepared in extremely short-order to provide the Board with as much affirmative information about the charter and the Petitioners as possible in the extremely short time we have been given. As such, we have focused on what the District Staff has labeled as the four "major deficiencies" in the Petition; and we have grouped our responses after the Staff Finding that appears most applicable, recognizing that there is overlap among them. The Staff Finding is in a text box with the Petitioner's responsive information immediately following. Should the District Board adopt any or all of the Staff findings in support of a denial, we will as part of our appeal to the County Board of Education prepare a point by point response.

## RESPONSES

*District Finding 1:*

*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.*

The District Staff reaches this conclusion based upon inaccurate information as to the current resources supporting PDMSS, and faulty conclusions regarding the proposed program that do not align with the charter or the multi-year financial plan. Accordingly, the District Staff have not provided facts specific to the petition to support one or more of the grounds for denial pursuant to Education Code Section 47605(b).

- **The Petitioners' Fears of the District Closing Point Dume Marine Science School Are Legitimate and Supported by Past Precedent**

As the District has predicted ongoing declining enrollment, as well as continual loss of funding, the Petitioners' only option to preserve and protect their school is to become a charter school. The Superintendent specifically stated in a meeting in November 2009, that small schools, and specifically Point Dume, would be in danger of closure if the bleak financial picture of the state did not change.

In addition, the Staff Findings claim incorrectly that programs paid for by PTA funds are District provided programs. At the same time, the Staff recommends that PTA fundraising

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cannot be counted as revenue for the Charter. This is in spite of the fact that the Charter has over Five Hundred Thousand Dollars (\$500,000) in written, signed and dated pledges. It is an insult to the parents who signed those pledges that their promise of funds is being ignored. The Petitioners treated the PTA revenue correctly. They did not count the PTA funds as revenue nor did they show it as expenses. Programs offered such as marine science, technology, art, music, copiers, supplies and more are currently funded by the PDMSS PTA, not the District. Providing all of the PTA funded programs is always a year by year scenario, as the PTA must fundraise annually. After charter conversion, all existing programs will continue to be funded by the Parent Teacher Organization.

- **The Charter School Has Made Prudent, Well-Founded Enrollment Estimates**

The Petitioners believe the estimates of 328 / 352 / 352 for enrollment for the first three years are reasonable, and even conservative assuming the addition of a 6th Grade (see table on page 9 of charter).

The current enrollment is 274. Adding 46 students for 6th Grade, which accounts for 84% of the projected growth, leaves only 9 additional students across K-5 in Year 1 in order to meet the enrollment projection of 328. This is 3.2% growth on base of current 274 students.

With the evident community interest displayed for having 6th grade in an elementary school setting, the enrollment estimates may prove to be very conservative.

PDMSS enrollment grew this year by approximately fifteen students. Thus, it is not unreasonable to plan for further growth of +9 students across grades K-5 post-conversion.

Finally, PDMSC has 19 letters of interest from private school families, representing 36 children who are meaningfully interested in attending PDMSC.

- **The Charter School Will Not Decrease Staff**

The staff for PDMSC will not be fewer in numbers than the existing staff. Again, the District staff report did not take in to account that PTA funds many of the staff positions, and will continue to do so. If PTA cannot raise enough money to cover these positions, cuts will have to be made in order to have a prudent budget. This is the same scenario PDMSS has lived with each year, as PTA is required to fund more and more as the state and District funds less and less.

Additionally, Petitioners have budgeted an increase in hours for the marine science teacher knowing that there will be more students to serve.

Class size ratios used in the petition mirror those currently in place by the District. PDMSC has planned for combo classes as necessary to maintain appropriate ratios.

- **As a Charter School, PDMSC Will Enhance Existing Programs and Add New Ones**

The District staff appears to have confused what the District actually pays for at the existing school, and what the PTA pays for. There is no talk of dismantling successful programs, rather enhancing them, and exploring new and innovative programs for PDMSC students. In this case, any new opportunities for teachers and parents is not self-serving in the least, but, rather, directly results in better educational opportunities for students, who are truly the ultimate beneficiaries of the charter school.

District staff has made inconsistent statements with regard to the proposed curriculum. District staff simultaneously accuses the Petitioners of “dismantling a successful District program,” and also of “doing nothing new or innovative.” However, on page 10 of the Staff Findings, the report lists a litany of new, innovative things the Charter will undertake, including, “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 expand public school choice...”

*District Finding 2:*

*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.*

The Staff findings fail to provide any facts specific to the Petition to support this conclusion. The Petitioners are a well-rounded group of individuals who have the expertise necessary to the success of the school. The Charter has been comprehensively described to demonstrate this expertise and understanding of the laws regarding public entities and school district finance. As a result, no facts have been provided to support one of the legal basis for denial of the charter pursuant to Education Code Section 47605(b).

- **The Petitioners Have The Support Of Teachers, Staff Members, PTA Members And Parent Volunteers.**

This charter was developed through the concerted efforts of teachers, staff, PTA members and parent volunteers. Table 1 on pages 8-9 clearly shows the expertise of the Petitioning group and its consultants, along with Appendix B which provides biographical information for each. The combined expertise of this group, certainly compares favorably to the administration of any public school statewide.

- **The PDMSC Development Team Has the Professional Experience to Design a Charter School and Budget Appropriate for Trying Fiscal Times**

On the Development Team, the petitioners have individuals eminently qualified and experienced in California K-12 public education finance and budget management. The reputations of the members of the Team are recognized statewide for depth, breadth and currency in all aspects of school finance administration.

The thirty-six members of the Founding Group have extensive experience in the fields of education, finance, fundraising, government, non-profit and human resources. Many have multiple specialties. The breakdown is as follows:

AREA	FOUNDING GROUP WITH EXPERTISE IN AREA
Curriculum	16
Instructional Methodology	15
Teaching	13
Charter School Business Development	7
Legal	7
Finance	5
Government	3
Public Relations	4
Fundraising	2
School Non-Profit Association/Governance	16
Human Resources	1

Among the Founding Group there are numerous MBA's, attorneys, PhDs., a law school professor, fourteen teachers and persons who have served as commissioners of Public Works, Public Safety and Planning in the City of Malibu. (Please refer to pages 8 and 9 of Petition, as well as Appendix B). These numbers do not include consultants, who have extraordinary experience and expertise with regard to Charter Schools in California.

Members of the Development Team will continue to work with the Charter School to ensure fiscal equilibrium of the Charter School. Further, as evidence of the understanding of public entity and school finance, throughout the Charter School Multi-Year Budget Plan statements are clearly and in a transparent manner made about the unknown state funding of all CA K-12 education, that the Governing Board of the Charter will monitor this unknown factor on a continual basis, and that there is high recognition that this Board, similar to every other school board in the state, will have a few primary options to maintain a balanced budget. The primary options are:

- o increase revenues;
- o decrease expenditures;
- o combination of the two.

- **PDMSC Is Properly Incorporated as a Nonprofit Public Benefit Corporation and Provides Comprehensive Information on the Board**

The nonprofit public benefit corporation, Point Dume Marine Science Charter School, was incorporated on April 16, 2010 in preparation for the submission of the charter petition to the District. As such, the nonprofit has not been in existence “for over a year,” as the District Staff states, but rather, for less than 8 months, aligned with the development of the charter school. (Please see Appendix P of the petition for the date stamped Articles of Incorporation from the State of California.)

It is disconcerting that the District Staff does not appear to have read the charter petition. The petition does contain information regarding current members of the Board, in that the petition includes a list of the names of the initial Board of Directors, the date their term of service on the Board expires, and the Board category the individual fills (community member or parent member) (see charter, page 58). Additionally, the Board members’ biographies are included with the “Founders’ and Consultants’ Bios” attached the charter petition as Appendix B.

- **The Charter Petition Contains a Substantive Description of the Laws the PDMSC Board Intends to Follow, Including the Political Reform Act, the Brown Act, and the Public Records Act**

The Charter School has clearly affirmed in numerous locations in the charter its commitment to comply with the laws applicable to the Charter School. Specifically:

- In the charter Affirmations/Assurances (page 5):
  - “The Charter School shall comply with the Public Records Act.”
  - “The Charter School shall comply with the Ralph M. Brown Act.”
- The Governance section of the charter also states no less than twice that the Charter School shall comply with the Brown Act (page 60).

The Governance section of the charter clearly states that in addition to complying with the conflict of interest protections required of the Board of a nonprofit public benefit corporation, the Charter School will also adopt a conflict of interest code compliant with the Political Reform Act and, therefore, comply with the Political Reform Act (pages 60-61).

- **The PDMSC Bylaws do Comply with the Brown Act**

The District staff’s general concerns in this regard lack any specificity or facts and are without merit. The bylaws have been written by our Office, as legal counsel for the Charter School to be Brown Act compliant, but should the District offer specific concerns, we would be glad to address them.

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- **The PDMSC Board Will Strictly Abide By Its Conflict Of Interest Code And All Applicable Laws. Government Code Section 1090 Does Not Apply To Charter Schools.**

The Board of Directors is composed of parent and community members. The charter clearly states that the Charter School Board of Directors will conduct an annual in-service for the purposes of training individual board members on their responsibilities with topics to include at minimum Conflicts of Interest, and the Brown Act (page 61).

The provisions of the charter and the corporate bylaws align with current applicable law, the Corporations Code Section 5227 requirement that no more than 49% of the board members be "interested" members; the Political Reform Act requirements, and common law conflicts of interest provisions.

The Staff Findings criticize the charter for not affirming compliance with Government Code Section 1090. Currently, this provision does not apply to charter schools. Pursuant to Education Code Section 47610, charter schools are exempt from "the laws governing school districts," with only a few minor exceptions, not applicable here. This Section is known as the "mega-waiver." School districts themselves are not directly governed by Government Code Section 1090. Absent Education Code Section 35233, which directs school district governing boards to comply with Government Code Section 1090, the provisions of Section 1090 would not apply to school districts.

As it is only through Education Code Section 35233 that Government Code Section 1090 applies to school districts, charter schools are necessarily exempt from Section 1090 by virtue of the "mega-waiver" described above. Since Education Code Section 35233, by its terms, does not apply to charter schools, and no other California statute states that Section 1090 applies to charter schools, there is no statute that applies Government Code Section 1090 to charter schools. The Legislature is presumed to have been aware of Education Code Section 35233 when it enacted the Charter Schools Act. It made no exception in the "mega-waiver" for Section 1090 when it adopted Education Code Section 47610, although it expressly made a number of other exceptions. Thus, Section 1090 is not applicable to charter schools.

Further, the Legislature attempted to make the substantive requirements of Section 1090 applicable to charter schools by voting to approve Assembly Bill ("AB") 572 in the most recent legislative session. However, on September 23, 2010, Gov. Arnold Schwarzenegger vetoed AB 572. The Governor noted in his veto message, "A careful reading of the bill reveals that the proposed changes apply new and contradictory requirements, which would put hundreds of schools immediately out of compliance, making it obvious that it is simply another veiled attempt to discourage competition and stifle efforts to aid the expansion of charter schools."

Had it been the case that Government Code Section 1090 clearly applied to charter schools, then the Legislature would not have drafted or passed AB 572. We believe it is even clearer now, after the veto of AB 572, that Section 1090 does not apply to charter schools.

- **The PDMSC Board Will Be Supplemented With Additional, Non-Governing Advisory Councils And Committees Which Are Comprehensively Described In The Charter.**

Page 63 of the charter states: "PDMSC will have an Honorary Board to recognize individuals who bring expert skills or knowledge to enhance the work of PDMSC, and those who

have actively participated in the development of PDMSC. **The Honorary Board will not have any governing authority**, but may provide support, expertise, and resources to the Charter School. **Members of the Honorary Board shall be invited to join by the current Board of Directors, and shall be appointed by majority vote of the Board.**" (Emphasis added.)

- **Statutorily Prescribed Corporate Officers Are Not Additional Employees or Staff Who Would be Noted in the Charter Petition**

As a matter of law, nonprofit corporations must have a chair of the board or a president (or they may have both), a secretary, and a chief financial officer (or treasurer). (See Corporations Code section 5213.) Because this is a requirement of the Corporations Code, these officers are included in the bylaws. The Charter School Board has the authority to determine who will hold these officer positions, and there are two valid and legally supportable options available. In some charter school boards, the volunteer board members ("directors") also serve as officers of the Board. However, an officer does not have to also be a director. In an alternative option, many charter school boards often delegate to staff the day-to-day management of the nonprofit, and members of the staff hold the positions of officers of the Board as required by statute. Either option is valid.

The Charter School bylaws currently allow for either option to be implemented stating, for example, that the "Chief Financial Officer shall keep and maintain, or cause to be kept and maintained..." (See PDMSC bylaws, Article VIII, Section 13.)

The statutorily prescribed corporate officers are not, therefore, additional employees or staff that would be separately enumerated in the charter petition (Appendix P). The officer roles will either be filled by existing volunteer Board members or existing Charter School staff, as appropriate, and as done in the regular course of operation by charter schools throughout the state.

*District Finding 3:*

*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.*

The Petitioners presented a realistic and sound financial and operating plan. There are no facts provided to support a conclusion that the multi-year budget is deficient by approximately \$400,000 as the District Staff did not differentiate or demonstrate an understanding of the

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positions funded currently by the District and those of the PTA, and did not based its salary estimates on the proposal presented by the Petitioners. Accordingly, there are no facts to support a basis for denial of a charter.

- **The Charter Petition and Multi Year Budget Present a Realistic and Sound Financial and Operating Plan**

The budget projection exceeds the requirements of law. It provides in great detail each and every financial projection variable. There is a budget projection for 2010-11, the start up year; for Year I 2011-2012; Year II 2012-2013; and Year III 2013-14.

There is a detailed description of the Special Education service structure and the accompanying financial structure in the Petition and in the Budget Plan.

All major assumptions and variables ranging from student enrollment to revenues per student to expenditures for business services are provided in great detail.

Within the requirements of state law, a three year Cash Flow Plan has been included and there is a monthly projection of cash in and cash out. The projection of the timing of state funding was in accord with current state provisions.

The Charter School has a responsible plan that lists various sources of Working Capital it will pursue. These pledges have been conservatively shown in the Cash Flow projection. The community commitment to the Charter School is similar to the District's community support of the Parcel Tax. There are opportunities for certain constituencies to opt out of the Parcel Tax; however there is no commitment or statement how this potential shortfall might impact the District.

The Multi Year Financial Plan submitted does present a sound and balanced budget for all years; the citing of a deficiency of 'approximately \$400k' without specificity as to how this number was derived is too general to elicit a detailed response. We have reviewed the budget projections, including but not limited to salaries and benefits and continue to stand by all projections as fiscally sound; particularly taking into consideration the more than \$400,000 in annual pledges obtained by Petitioners and set aside by District Staff. However, we are committed to sitting down with the District with our experts to identify how the District numbers and those presented in the Petition differ.

- **Teacher Compensation Structure**

In the last several weeks, and including the District evaluation of the Petition, there are tremendous misconceptions and questions directed at the adequacy of the budgeted funds as well as who and how staff positions in the budget will be paid. These questions are critical and are easily answered in a straight-forward manner.

- *All positions* noted within the Budget Plan are paid for with revenues included in the Multi Year Budget Plan;
- *NO outside funding sources*, outside those included in the Budget Plan are assumed to provide funding for ANY position;
- All salary costs were provided by verification of payroll stubs of each staff member; the gross salary was the base and an average teacher cost was determined and integrated into the expenditure plan;
- Salary costs were cross checked against records provided by the District;
- Employee benefit costs were determined in the same manner that was used to determine the average teacher compensation;

Within the charter school community, the number of days worked and the number of hours per day allow far greater flexibility than those of traditional school districts. The staff who signed the Petition had input into the budget, were provided copies of the budget, and their comments in no way reflect the subjective comments stated above by the District.

Page 19 of the Multi Year Budget Plan states: "School and Work Calendars shall be presented each spring to the PDMSC Governing Board; updates shall be presented with Budget Updates and Revisions are prepared. The actual Staff Work Year Calendar will be further refined mid Spring 2011."

The District staff's comments do not consider the number of highly qualified teachers who are eager to work at the Charter School; many of these teachers are not at the highest range of pay of the average teacher in the District or in the surrounding Districts. With the reduction of instructional staff throughout California, the pool of outstanding and talented teachers now available provides an opportunity to recruit and hire individuals who are at their beginning teaching careers.

The Charter School values the founding teachers who have elected to join the staff at Point Dume Marine Science Charter School and has agreed to pay them in accordance with their current salaries and benefits. New staff will be hired at competitive rates at the time of hire. This is a common practice among conversion charter schools.

#### **PDMSC Assumes Enrollment Growth Due to Ability to Recruit More Broadly and Addition of Sixth Grade**

The Charter School will be able to recruit outside of District boundaries for additional students, thus providing choice for additional students who will not be required to obtain an inter-district transfer to attend the Charter School. The support for the Charter School has been overwhelming.

Further, the inclusion of the 6<sup>th</sup> grade in an elementary school is a concept supported by many parents in the community, as evidenced by many of the public speakers at the public

hearing. We anticipate and have documentation from many private school families that the option of the 6<sup>th</sup> grade will attract them back into the District, where they will remain through high school.

- **Food Service Will Be Offered And Vendors Are Currently Being Reviewed**

The law does not require a charter to contain specific information as to food service providers within the charter. The Petitioners are reviewing potential food services providers currently; and will enter into a contract for the same after charter approval. There are several viable options under consideration. The commitment to healthy eating habits is shown in the continuance of the school garden project.

The Parent Teacher Organization will fund meal costs for any students who meet Federal Free and Reduced Lunch Guidelines that are not covered by the lunch fees paid by other students.

- **PDMSC Plansto, and Has Budgeted for Outsourced Business/Administrative Services**

Within the Budget Plan it is clearly stated that “PDMCS will provide for all business-administrative service costs, including budget development, budget management, accounting, financial reporting, accounts payable, accounts receivable, payroll and retirement reporting and coordination via outsourcing.” In fact, a monthly fee projection for such services is shown to range from \$5,800 to \$6,200 on a monthly basis.

- **PDMSC Will Apply for the Public Charter School Grant Program**

Charter Schools statewide have been successful recipients of the Public Charter Schools Grant Program. The application is not competitive; the charter has been specifically written in compliance with grant requirements; and thus, we are confident in the ability of PDMSC to obtain these funds.

- **PDMSC Has Signed Pledge Commitments From Individual Donors**

Current commitments, prior to the opening of the school are a firm indication of support for the school. These pledges were made in anticipation of the approval of the charter as follows:

- ongoing annual pledges in the amount of \$417,450
- one time donations for the first year of operation (2011-2012) in the amount of \$100,750
- approximately \$120,000 for start up costs

The current pledges, not only exceed those included in the PDMSC budget, but have been garnered prior to the opening of the Charter School. As stated in the commitment letter, all pledges are contingent upon the approval of the Charter School. The pledges provide a dual

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benefit to PDMSC. They provide support to the instructional program and provide a source of working capital to the school until such time as the monies are used for the actual payment of expenditures.

Failing to consider the long, proud history of PDMSS parents support for the school is an insult to their past contributions and to their signed pledges for future support. It also means the Staff Findings used unrealistic and unsupportable assumptions to try to find a reason to deny this Charter. The Petitioners have SIGNED commitment letters.

- **The Multi Year Budget Accurately Represents State Lottery Funds**

Independent auditors (on the State Controller's List of Approved Education Auditors) have opined that the Lottery monies that are earned in Year I but not received until Year II are legitimate revenue items in Year I and further that accruals (Accounts Receivables) for lottery are appropriate for Year I.

- **The Petitioners Have Knowledgably Considered Class Size Reduction**

The Petitioners clearly understand the funding entitlements of CSR. The Staff Findings fail to acknowledge that the school has historically utilized combo classes. Combo classes can maximize CSR entitlements.

- **The Charter School Will Offer Fair and Reasonable Salaries and Employee Benefits**

The Charter School does not plan to decrease the work year of staff. This factor was never an assumption nor was it listed as an assumption in either the Petition or in the Budget Plan.

Staff had direct input on the Budget Plan and understood that there would be a combination of new teachers who would have a lower rate of pay as well as the Founding Teachers who would have a higher rate of pay.

The statement that there are no sick days is not true. The use of the term 'personal leave' is intended to include sick leave. The 1.0 day per month of optional paid leave includes the total allocation for staff members; the budget assumes that, of the annual leave allowance, 50% of the leave allowance (5 days) will be utilized and that substitutes will be called in for those days.

There is no legal requirement that Health Plans be included in a charter petition. Costs of health benefits are indeed rising; no prudent public or private organization would pledge to commit to escalating costs outside of the agency's ability to pay. The budget plan does include a COLA for annual increases for health benefit costs; it does not guarantee that the Charter School will pay the increases.

The Charter School has interested individuals who want to work in the marine science and environmental programs of PDMSC under the conditions contained in the Budget Plan.

- **The Multi Year Budget Appropriately Provides for More Than Sufficient Books and Supplies**

It would be highly unusual for a Budget Plan to identify a specific text, a specific work book, a specific type copy paper to be purchased each year. The School is employing an administrator who will manage such functions. There is no requirement that allocations be delineated by grade level or any cost factor.

A conversion charter school does expect that items in inventory at the end of the year would remain at the charter school. It would appear that the Staff Findings are assuming that if the Board approves this Charter, the Board will then order a truck to back up to PDMSC and strip every existing book from the Charter. Then, the Staff Findings assume that PDMSC will have to again buy all the books just taken. We believe that if this Charter is approved, it will be done with the Board rooting for its success and we believe this Board would not act in the manner the Staff Findings have assumed.

- **The Petitioners Have Accurately Taken Into Account the Cost of Special Education Services and Other Operating Expenditures**

The assumed District pro rata calculation for Special Education excess costs far exceeds those of entities statewide which provide comparable services to students. While the Charter School has already researched the possibility of joining a SELPA as an LEA member, as a conservative measure, the high cost of the District pro rata share is maintained over the three year Budget Plan.

It is premature to enter into a contract for any professional services until the Charter Petition is approved. The Charter School has been conferring with various providers of service terms and conditions that would be available to meet the needs of the Charter School.

- **The Charter School Reasonably Estimated the Cost of Rents, Leases, Repairs and Noncapital Improvements Based on Proposition 39**

The facilities cost estimate is based upon the provisions of Proposition 39 relative to parameters for lease fees. The lease rate included in the budget correlates to that which the District is charging the other tenant on site. It would be blatantly unfair to charge a public Charter school within the District boundaries more than a rate that it is currently charging a non-public entity.

- **PDMSC Accurately Budgets for Debt Service**

The current interest rates are pegged off of the prime interest rate, which is at an all-time low.

*District Finding 4:*

*Petitioners Educational Program Is Inconsistent with Sound Educational Practice*

The teachers at PDMSS drafted the educational program sections of the charter. They used the already successful program that they have spent years developing, implementing, and polishing into an already successful program as the foundation for PDMSCS. What has been provided in the charter is far more than the legal standard of a “reasonably comprehensive description” and far more than what is industry standard for a charter petition. The law does not require the level of detail that the Staff Findings insinuate is required information. Accordingly, there are no factual findings presented to support a legal basis for denial of a charter.

• **Curriculum and Teaching Methods are Clearly Defined to Meet State Standards:**

The curriculum for PDMSC is clearly defined in pages 13 through 37 of the charter petition. Appendices C, D, E, F, G, H, I, J, K & L are detailed sample units and lesson plans by subject and grade level

Table 5 (pg. 13) outlines the Implementation Timeline (Year 1 – Year 3) of each Instructional Strategy:

- Data Driven Standards
- Research Based Instructional Strategies
- Integration of the Arts
- Integration of Environmental and Marine Science
- Integration of Technology
- Community Service/Teaching Garden

Following this outline is a detailed description of each Instructional Strategy listed above illustrating how each of these methods are used to ensure student’s are meeting state standards. “At PDMSC, a comprehensive assessment system, including state, District and site measures, serves to effectively monitor and evaluate student achievement”

• **The Charter Demonstrates the Ability to Address the Needs of Low Achieving Pupils**

Please see pages 38-39 of the charter that demonstrate the ability of the Charter School to identify and address the needs of pupils who are not achieving at or above expected levels.

“Students who are not meeting grade level benchmarks will be provided additional interventions within and beyond the regular school schedule. The interventions, using research-based programs, will focus on building and supporting basic reading, writing and math skills for success in regular grade-level curriculum.....PDMSC will follow the guidelines for a Student Study Team (SST) intervention.....PDMSC teachers have been trained in the use of Response to Intervention (RTI) as a means of addressing student’s needs before and during the SST process. For example, we practice a three-tiered model consisting of classroom intervention,

intervention specialists and focused individualized instruction.” The Charter School intends to continue with current programs being used, which are Reading Naturally and Reading Recovery.

- **The Charter Demonstrates the Ability to Address the Needs of High Achieving Pupils**

Please see pages 39-40 of the charter that demonstrate the ability of the Charter School to identify and address the needs of pupils who are high achieving.

“Those students identified as working above grade level will benefit from accelerated study and peer clustering as well as individual and group lesson extensions that demand creative uses of high-level thinking skills in terms of scope, sequence, depth and complexity.”

As indicated by the 2008-2009 SARC the majority of our student population is proficient or advanced in English/Language Arts, Math and Science.

- **The Charter Demonstrates the Ability to Address the Needs of Students with Disabilities under Section 504 of the Rehabilitation Act**

The charter demonstrates a complete understanding of the requirements of Section 504 in its description of Section 504 on pages 43-44 of the charter and its attached policies and procedures in Appendix O. The language directly aligns with legal and operational requirements, and the policy and procedure has been reviewed and approved by the Office of Civil Rights. A review of District Board Policy and Administrative Regulation 6164.6 shows almost identical language to that provided within the charter and Appendix O. The Charter School has assigned a 504 Coordinator in its policy, just as done by the District. Further, the Petitioners have allotted for the same (or more) staffing as a charter. As such, the District’s conjecture as to the ability of the Petitioners to serve students under Section 504 or the comprehensive nature of the charter it attached documents is completely non-factual and without merit.

- **The Charter Demonstrates the Ability to Address the Needs of Students with Disabilities under the Individuals With Disabilities in Education Act (“IDEA”)**

The charter clearly outlines a plan for serving students with disabilities under the IDEA. The language aligns with State and Federal law. Pages 42-50 are dedicated to outlining how the

school will operate as a public school of the District for special education purposes in accordance with the law. The topics covered include but are not limited to staffing, identification and referral, assessments, IEP team meetings, IEP development, IEP implementation, and funding/ The Staff Findings make overarching statements that the language of the charter is “boilerplate”. Indeed, the language in this charter, as it aligns with State and Federal law does appear in many charters approved throughout the State, including by the State Board of Education. Using language that has been reviewed for legal compliance and which has been successful throughout the State is not a basis for denial. The District uses GAMUT Board Policies through the California School Board’s Association, and certainly, the Staff would not be critical of that practice nor recommend that they recreate the wheel.

Further, the Staff Findings are inaccurate. First, they state that the provisions misstate the law, but fail to provide a specific provision which does so. Second, they state that the charter does not provide information as to the manner in which students with disabilities will be lawfully suspension or expelled. The Staff Findings specifically state that there is “nothing” in the Petition on this topic. However, pages 89-91 are dedicated specifically to that topic, leading our Office to conclude that the Staff Findings were completed by multiple people, each having separate pieces of the charter, with none having a global view of the entire charter.

- **The Charter Demonstrates the Ability to Address the Needs of English Learners**

The charter provides a comprehensive description of the manner in which English Learners will be served. Pages 40-42 of the charter are dedicated to this description. The plan is very clear and includes detailed descriptions of the following:

- Home Language Survey
- CELDT Testing
- Reclassification Procedures
- Strategies for English Learner Instruction and Intervention
- Monitoring and Evaluation of Program Effectiveness
- Appropriate credentialing for all teachers.

District criticisms about the lack of information on parent education or the need to communicate with parents in their native language goes far beyond what the requirements of the Education Code, the regulations which guide the State Board’s review of charters, and the level of detail considered “industry standard” for charters.

- **The Charter Comprehensively Describes A Set Of Measurable Pupil Outcomes That Are Objective And Capable Of Frequent Measurement Along With The Means For Measuring The Same**

PDMSC’s plans to identify measurable pupil outcomes and means for assessment are outlined in explicit detail on Pages 51-57 of the petition. The detail is so extensive; it is astonishing that the Staff Findings could possibly make the statement that “the Petition does not provide measurable pupil outcomes or an identification of the frequency of measuring outcomes.

Tables 8 and 9 describe *exactly* what the Staff Findings allege to be missing from the charter as follows:

- Table 8 (pg. 52) details Measurable School Outcomes
- Table 9 (pg. 52-53) details Measurable Pupil Outcomes

Measuring Student Progress through the use of Data Director and how that Data is collected, analyzed and reported is all detailed in the petition. In addition, PDMSC will facilitate the following:

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- Parent-Teacher Conferences
- Standards Based Report Cards
- School Accountability Report Card
- Annual Parent Survey
- Annual Performance Report
- District/Authorizer Visitation Inspection
- Response to Inquiries

- **The Charter Comprehensively Provides A Description Of The Course Of Study For Students In PDMSC**

Please see Appendices E, F, G, I, J, K, L for a comprehensive course of study descriptions for the following subjects:

- 4<sup>th</sup> Grade ELA
- 2<sup>nd</sup> Grade Social Science
- 5<sup>th</sup> Grade Math
- 4<sup>th</sup> Grade Social Science
- 4<sup>th</sup> Grade Math
- 4<sup>th</sup> Grade Themes

The State Board adopted a “Model Charter Application” and recommended that the curriculum for at least one course or one grade level be included as an attachment to the charter. As you can see, PDMSC has gone far beyond the minimum recommendations of the State Board of Education in its charter.

- **The Charter Does Provide For New And Innovative Programs And Instructional Techniques**

The law does not require a charter to describe new and innovative programs. The compelling need for the charter is described on pages 6-8 of the charter and it is was based upon that need that the charter was developed. That said, the Staff Findings gloss over the new and innovative things this charter will do, mentioning once in passing on page 10 of the Staff Finding. However, the programs include, “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 expand public school choice...”

To recognize new elements described within the charter, please refer to Table 5 (pages 13-14). These pages outline the timeline implementation for the new Community Service Program, Teaching Garden, and the integration of Arts and Technology over a three year period. We’ve also included a 6<sup>th</sup> grade in the charter, which clearly goes beyond that which already exists at PDMSS.

- **The Grade Level Descriptions Are Accurate, Comprehensive and Illustrate Clearly How the Marine Science Curriculum Builds at Every Grade Level**

The charter comprehensively provides grade level descriptions that align with State Standards, and illustrate exactly how the marine science focus will be included in all grades, including the newly added 6<sup>th</sup> grade component. The charter, on page 29, provides the following:

“Sixth grade students will continue to be encouraged to learn about and be stewards of the environment – especially of the ocean that they have been studying and visiting during their elementary years.....They will work in cooperative groups and will choose an ocean related research project, such as the impact of global warming and pollution. Students will then create a project/activity that can be utilized in the Marine Science Lab by other students/visitors.”

- **The Instructional Materials Meet Legal Requirements Applicable To Charter Schools**

As a charter school, PDMSC is required to teach to the state standards but have no legal requirement to use State approved instructional materials. Therefore, PDMSC will utilize a combination of State approved and non-State approved core and supplemental materials for instruction.

- **The Charter Provides a Comprehensive Description of the 6<sup>th</sup> Grade Curriculum**

The Petitioners have incorporated the Earth Sciences, Humanities, College Preparatory Math and Study Skills into the 6<sup>th</sup> grade, all of which are consistent with the Middle School curriculum.

The Petitioners have met with MHS President Dr. Kelly and PTSA President, Wendy Sidley to discuss the 6<sup>th</sup> grade option at Point Dume and how the two schools could possibly work together to share programs.

- **No Employee May be Hired Prior to Department of Justice Clearance**

The Charter clearly requires compliance with Education Code Section 44237 on p. 67, which would prohibit hiring prior to clearance. There is no factual basis for the Staff Findings conclusion otherwise.

- **The Charter School Based Its Projections for a Nurse on Current District Coverage**

The Charter School will provide nursing services and has estimated its costs based upon the District's current coverage at PDMSC, which is three hours weekly. However, should a need exist that exceeds that currently being provided by the District, the Charter School is certainly aware of its obligation to meet that need and will do so.

- **The Diversity of PDMSS Can Only Improve by the Approval of the Charter**

By implementing a strong outreach plan as presented in the charter, and by conducting outreach to neighboring school districts, the Petitioners are seeking to further diversify the population of the school. It cannot legally guarantee a specific demographic breakdown of the pupil population, as such a practice would constitute unconstitutional affirmative action, and discrimination in violation of Education Code Section 47605(d). However, the Charter School can be bound by the outreach it has promised within its charter document. The District argues that the outreach plan is insufficient without providing any factual basis for that conclusion. The Petitioners plan to implement the outreach plan in the charter and then monitor the results to consider the sufficiency of the outreach plan on an annual basis. If the District Staff has additional outreach it would like considered, of course, the Petitioners are happy to do so.

- **The Admissions Section of the Charter is Written to Comply with State Law and Public Charter School's Grant Requirements**

The charter was specifically and deliberately written to be in compliance with State law and the requirements of the Public Charter School's Grant Program Requirements (see Charter, p. 72). Appendix J of the Request for Applications ("RFA") for the Grant describes the alignment of admissions preferences with State law and the Grant requirements which are based upon Federal Non-Regulatory Guidance. The Staff Findings indicate that they found this Section confusing, but a review of the Appendix J of the RFA from this year or last year would have led them to an understanding of the necessary alignment.

- **The Suspension and Expulsion Policy Meets Legal Requirements for Due Process**

The Charter School is not required to comply with the Education Code with regard to suspension and expulsion of students; but it does have to provide for constitutional due process rights. The Charter School's policy was developed to ensure due process, and also to meet the high standards set forth by the State Board of Education in its regulations regarding the review of charters on appeal. As such, this same policy has been approved in charters throughout the State and by the State Board of Education and has undergone legal review of the legal counsel for California Department of Education.

- **The Dispute Resolution Procedure does not Unilaterally Impose Any Requirements on the District and Meets the Requirements of Law**

The Staff Findings insinuate that the Petitioners can and are binding the District to a costly resolution process. On pages 70-71 of the Charter, the dispute resolution provisions state as follows, "The Charter School recognizes that it cannot bind the District to a dispute resolution procedure to which the District does not agree. The policy below is intended as a starting point for a discussion of dispute resolution procedures. The Charter School is willing to consider changes to the process outline below as suggested by the District...All timelines and procedures in this section may be revised upon mutual written agreement of the District and the Charter School." It is unclear how the District Staff could argue that the Petitioners are attempting to

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“unilaterally impose” anything upon the District, here. Further, the language proposed by the Petitioners very clearly and specifically meets the requirements of the State Board of Education regulations in its review of charters on appeal.

- **The Charter Language Clearly Addresses the Closure of the Nonprofit in Accordance with Regulatory Requirements**

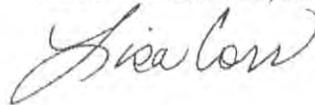
The language of the charter directly aligns with Title 5 California Code of Regulations Section 11962 and 11962.1. Pages 98-99 discuss the dissolution of the nonprofit and the distribution of assets.

### CONCLUSION

As you can see from the above, should you adopt any or all of the Staff Findings, the District Board will be acting outside of legal parameters in its consideration of the charter. The Charter presented by PDMSC presents a sound educational program, exceeds legal requirements, and presents reasonable financial projections with sufficient resources to ensure success. The Petitioners include teachers at the School, and a team of parent and community leaders with the expertise necessary to ensure success. The integrity of this group is unquestionable.

The Petitioners treasure their relationship with this Board, and the dialogue that has opened throughout the community as to the provision of the best educational opportunities for all students. The Petitioners trust that this District Board will follow the law in approving the PDMSC charter and want to thank everybody throughout the community who has taken their time in consideration of this charter.

Very truly yours,  
LAW OFFICES OF MIDDLETON,  
YOUNG & MINNEY, LLP



Lisa A. Corr  
ATTORNEY AT LAW

December 1, 2010

Barry Snell, President  
and Members of the Board of Education  
Santa Monica-Malibu Unified School District  
1651 16<sup>th</sup> Street  
Santa Monica, CA 90404

Re: FOC Comments on the Multi-Year Fiscal Plan for the  
Pt. Dume Marine Science Charter School Petition

Dear Mr. Snell and Board Members:

At the direction of the Financial Oversight Committee (FOC) of the Santa Monica-Malibu Unified School District (“SMMUSD” or “District”), of which I am a member, I write to summarize the views of the FOC with respect to the Multi-Year Fiscal Plan (“Fiscal Plan”) contained in the Pt. Dume Marine Science Center Charter School Petition. (“Petition”).<sup>1</sup> Based on our review, it is the FOC’s opinion that the Fiscal Plan exhibits material deficiencies which raise significant question about whether the proposed charter school would be a viable enterprise under California public school financial criteria.

As you know, the FOC, now in its tenth year of operation, is a nine-member committee of professionals (including accountants, lawyers, management consultants and financial managers) and community members appointed by the Board of Education (“Board”) to provide the Board and District management with advice, counsel, and recommendations on a variety of financial matters. Copies of the Petition, including the Fiscal Plan, were provided to all members of the FOC by District staff soon after the Petition was presented to the District. We also reviewed the petitioners’ recent responses to certain questions posed by the Board. FOC members discussed the Petition and its Fiscal Plan at three separate regularly scheduled FOC meetings on October 19, November 16 and November 30, 2010. In addition, a four-member FOC ad-hoc committee met with the District’s Chief Financial Officer on October 28, 2010 to review and discuss the Fiscal Plan. At the November 30 FOC meeting, we discussed the staff report to the Board for the public hearing on the Petition that is scheduled for December 2. The FOC found that that the report’s analysis of the Fiscal Plan reflected many of the FOC’s own concerns.

The FOC concurs, in general, with the conclusions in the staff report with respect to the Fiscal Plan. Overall, the FOC found that the Fiscal Plan lacks sufficient detail in many areas, making it difficult to determine the accuracy of the financial presentation. As to the information included, the Fiscal Plan is materially and negatively affected by a combination of unsubstantiated and questionable enrollment projections and a severe underestimation of salary and benefits, among other expenditure categories. For example, if salaries and benefits paid to current employees in a stabilized year (i.e., without the current furlough days) are assumed, the Fiscal Plan appears to result in negative fund balances in each of the three analysis years. We believe it is unrealistic to assume that the charter school could successfully recruit faculty and

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<sup>1</sup> The Fiscal Plan and its Appendices are included as Appendix V to the Petition.

staff with credentials and skills comparable to the employees currently working at the school if the proposed charter school were to offer the lower average salaries and benefits included in the Fiscal Plan. These salaries and benefits could be perceived as even more unattractive due to the proposed longer school days, a longer school year, and less classroom support than is provided at the school today.

It also appears that funds currently donated to the school, which provide essential classroom support and teaching positions for the arts, music and physical education, would no longer be available for those uses, because significant private funding will be required, instead, to pay for general operations. In addition, supplemental financial support provided to the existing school by the District would no longer be available to a charter school. Without that additional private and District financial support, it is unclear how the proposed charter school could maintain the high quality of the current school program. And finally, the Fiscal Plan's heavy reliance on parent and/or other private financial contributions is not supported with evidence of specific commitments or even a fundraising strategy. Were this high level of donated and other external support to fall below projections, the Fiscal Plan would be even more out of balance.

Among the specific concerns about the Fiscal Plan that were identified by the FOC are:

#### Enrollment Projections Issues

- No source for the enrollment projections.
- No enrollment recruitment plan for 2<sup>nd</sup> and 3<sup>rd</sup> year enrollment increases.
- No substantiation for the assertion that students now attending private schools could be attracted to the proposed charter school.
- No substantiation for an anomalous increase in 2<sup>nd</sup> grade enrollment in Year 2 (i.e., inconsistent with grade progression from the prior year's 1<sup>st</sup> grade).
- No substantiation for the assertion that the proposed charter school could recruit and serve a more diverse student population than exists at the school site today.
- Enrollment projections are inconsistent with the expert and highly detailed projections for the existing school site, which are prepared for the District by DecisionInsite.
- Based on the DecisionInsite projections for the existing school site, the proposed charter school would be under-enrolled in each year of operation.
- Unclear what Average Daily Attendance (ADA) factor the Petition relies on to convert enrollment to attendance. The Fiscal Plan assumes 95%, while other parts of the Petition use values of 93% (the current ADA factor for the school site) and 90%.

#### Revenue Issues

- If the unsubstantiated enrollment projections are not achieved, State funding will be less than assumed.
- The assumed Class Size Reduction funding could be jeopardized if the class sizes relative to the number of credentialed teachers are implemented as proposed.
- The heavy reliance on private fundraising revenue is not supported by actual commitment letters and/or a detailed fundraising strategy.

### Expenditure Issues

- Salaries and benefits issues
  - The lower salaries, inferior benefits, longer school day, longer school year, and distance to commute to the school site for new employees could negatively impact faculty and staff recruitment.
  - Workers Compensation assumption appears high. The Fiscal Plan assumes a rate of 3.5%, but it is not uncommon that charter schools receive a rate between 2.5% and 3.0%.
  - Health and Welfare costs appear under-estimated. The Fiscal Plan assumes a 5.0% inflation factor, whereas District experience suggests it should be at least 8.0%
  - Benefits related to reemployment rights, retirement health benefits, and sick leave appear to be substandard, which will be another impediment to faculty and staff recruitment.
- Insurance costs appear slightly over-estimated.
- No explanation provided for the assumed facilities rental and facility maintenance costs.

### Annual Cash Flow Issues

- Annual cash flows will clearly require interim financing from an additional financial resource that is not specified.
- Although the proposed charter school may be eligible for a revolving loan from the State, no commitment to pursue this source, and no accounting for its borrowing terms, are included in the Fiscal Plan.
- Alternative cash flow financing sources, such as a line of credit, are mentioned, but without any supporting details or commitments, including consideration for guarantees and interest payments.
- The cash flow schedules do not appear to tie to the multi-year budget summaries.

For all of the above reasons, and the additional financial deficiencies discussed in the District staff's report to the Board, the FOC concludes that the Fiscal Plan contains material weaknesses which raise serious questions about the financial viability of the program envisioned in the Petition. This could mean that students attending the proposed charter school would receive something less than the high-quality program provided by the District today. The FOC urges the Board to give these concerns great weight in rendering its decision about whether to grant the charter as requested by the petitioners.

Sincerely,



Paul J. Silvern, Member and Past Chair  
SMMUSD Financial Oversight Committee

cc: Tim Cuneo, Superintendent  
Jan Maez, Asst. Superintendent and Chief Financial Officer

## SANTA MONICA MALIBU CLASSROOM TEACHERS ASSOCIATION

To: SMMUSD Board of Education  
Cc: Senior Staff  
SMMCTA Rep Council  
From: SMMCTA Board of Directors  
Re: Pt. Dume Charter Petition  
Date: December 1, 2010

Pt. Dume Marine Science School (PDMSS) is a very successful elementary school; with an API consistently well above 900. The success can be attributed to many factors, including parental involvement, support (financial/other) from the school district, community partnerships and the high quality of teachers and staff currently employed at the school.

As stated in the Introduction to the Charter Petition, *“For years, Point Dume Marine Science School (“PDMSS”) has successfully operated with a foundation of parent and community involvement at school as well as steady, consistent attendance, to improve student achievement, and to allow our students to emerge as responsible human beings and compassionate citizens. PDMSS is ranked in the top 5% of schools in the state of California. PDMSS has performed well under the guise of the District and became a California Distinguished School in June of this year”.*

It’s indisputable, Pt. Dume works exceptionally well for students. It would be irresponsible to dismantle a successful school program. Moreover, based on the financial facts, the Charter is **not financially viable** and therefore, **we concur with the staff recommendation to deny the application.**

The following list identifies some of our additional concerns and or observations:

- ✓ The district currently provides added financial support for PDMSS, above what the school generates in per pupil funding.
- ✓ This demonstrates the district’s commitment to support PDMSS and refutes the premise that the school is facing imminent closure.
- ✓ If approved, the Charter would forfeit considerable ongoing local funding.
- ✓ The budget as proposed cannot sustain the current level of services and operates in a deficit starting in year one. This will undermine the quality of programs currently being offered at PDMSS.
- ✓ The deficit grows in outer years further compromising the quality of the programs and services offered students.

- ✓ The Charter is overly dependent on private fundraising and donations. Often referred to as “soft or one time” funds. This is an irresponsible way to budget for ongoing-fixed costs, which dominate school district budgets.
- ✓ The over dependence on private fundraising will perpetuate inequities and conflict with SMMUSD’s core values and beliefs.
- ✓ The current projections underestimate the costs of employee salaries.
- ✓ If approved, a two-tiered compensation package will be implemented. This will inevitably lead to serious morale issues and lower productivity, which will negatively impact student outcomes.
- ✓ Based on the analysis of Decision Insights, the school will experience declining enrollment, placing additional downward pressure on the budget.
- ✓ The enrollment projections provided in the petition are exceedingly aggressive, potentially over estimating future ADA dollars.
- ✓ If approved, non-certificated / or credentialed educators will be employed to provide some services, including core and non core subjects. This too could compromise the quality of the program and diminish the service provided to students.
- ✓ If approved, how will the student enrollment at the Charter School reflect the ethnic diversity of the entire district? (As required by Ed Code) The Charter Petition fails to adequately outline how the recruitment of ethnic and racial minority students will occur. Attached to this memo is a SMMUSD document which provides the Ethnic and Racial makeup of our students.
- ✓ The petition fails to demonstrate the ability to address the needs of pupils who are not achieving at or above expected levels, students with disabilities or English learners.
- ✓ If approved, there would be a myriad of unintended consequences, which may interrupt and compromise the educational experience of other students in the district.
- ✓ With the exception of adding a sixth grade, we do not believe the Charter will provide new opportunities, choice and innovative practices.
- ✓ Article XVII (Consultation) of the SMMCTA/SMMUSD Collective Bargaining Agreement provides an appropriate process for teachers and other school employees to engage in school reform efforts and innovative practices. (See Attachment)

In summary, we concur with the SMMUSD staff analysis and recommend you deny the application.

**Attachments:**

1. SMMUSD Ethnic and Racial Data
2. SMMCTA/SMMUSD Contract – Article XVII – Consultation

## ARTICLE XVII

### CONSULTATION PROCEDURES

#### A. Definition of Consultation

"Consultation" means that, prior to adopting or changing policy with regard to new and existing programs, elementary textbooks and unit member job descriptions, the District will seek the expert advice of the Association.

#### B. The District shall consult with the Association on the following matters:

1. The definition of educational objectives, the determination of content of courses and curriculum and the selection of textbooks, to the extent such matters are within the discretion of the District under the law.
2. New and existing educational programs.
3. The following District policies:
  - a. Physical examination requirements
  - b. Policies with respect to utilization of practice teachers.
  - c. Supervision of aides
  - d. Procedures for recommendation of sabbatical leave candidates.
  - e. Cafeteria fringe benefits carriers other than health and dental plans, as specified in Article XXV - Health & Welfare, A.

#### C. Restructuring

##### 1. Restructuring/Educational Reform Plans

The restructuring reform process shall involve proposals that impact the teaching/learning process of the school as determined by the FAC.

##### 2. Restructuring Process

- a. There shall be an initial presentation to the school staff as a whole at a regularly scheduled faculty meeting and/or during staff development days.
- b. Following the initial presentation, the staff may engage in any of the following activities or others:
  - 1) divide into issue-oriented groups which will study and report back to the staff as a whole;

- 2) schedule inservice sessions for certificated staff with presentations from the District and Association;
  - 3) self-educate through reading and discussion along with observation of classes and visitations of programs at other schools.
- c. When a proposal is thoroughly developed and discussed by all unit members as a whole at a site, the site unit members will declare whether or not they are affected by the proposal. FAC shall conduct a secret ballot vote for affected members to be held within a five (5) working-day period to determine whether or not the proposal will be approved for implementation. The proposal shall be implemented if a minimum of sixty-six percent (66%) of those voting indicate that they concur with the proposal.
3. Recognizing that restructuring/educational reform activity may require collective bargaining flexibility on a continuing basis, the District and the Association adopt the following guidelines to assist in the implementation of the joint commitment:
- a. The District and the Association recognize the need for flexibility in any restructuring effort and will, where appropriate, consider waiving or modifying any contract provisions.
  - b. Any unresolved disputes shall be referred to the District Council on Educational Reform. This District Council on Educational Reform shall consist of four (4) members appointed by the Superintendent and four (4) members appointed by the SMMCTA President. In the event that a majority of the Council is unable to decide an issue, the Council will select a mutually acceptable mediator to render a final decision.
  - c. All agreements to modify, amend or otherwise change contract provisions will be by mutual written agreement of the parties. Each party will determine its own procedures for ratifying any written agreements which modify existing contract provisions.

D. Methods of Consultation

1. District-Level Consultation

a. Subject Area Committee

1) Purpose

The District shall form a representative K-12 subject area committee to serve as a coordinating body for each specific area.

2) Suggested guidelines for the committee are:

- a) One (1) certificated representative elected from each elementary, middle school, Malibu High School and the Continuation High School. (In a textbook adoption year, elementary members must represent each of grades K-5.)
- b) Two (2) elected certificated representatives from Santa Monica High School.
- c) One (1) certificated representative elected from Special Education and Bilingual/ESL respectively.
- d) One (1) elementary administrator.
- e) One (1) secondary administrator, counselor, or central office personnel.
- f) The committee may invite additional teachers or administrators to participate in the consultation as expert assistants.
- g) The committee shall select one member to be a liaison to the Association.
- h) The committee shall select a chairperson.
- i) Minutes will be kept by the committee with copies to be furnished to the Superintendent, the Association, and each school site.
- j) The Association reserves the right to appoint a voting member to any of these committees.

- 3) The District and the Association may recommend new District-wide programs. The introduction, development and pilot testing of new programs and textbooks will involve teachers who will be implementing the programs upon adoption.
- 4) The committee will study the objectives, content, and evaluation procedures for the program, operational feasibility and the District's financial support of the proposed programs.
- 5) The committee's task is to recommend changes or adoption of new programs and textbooks with suggestions as to pilot schools, departments and monetary costs.
- 6) In order to insure teacher involvement and commitment to suggested new programs/textbooks, committee members will solicit feedback from all affected unit members at least twice before any program is implemented and provide a written response to that feedback.
- 7) If the committee recommends a proposed program or textbook to the Superintendent, unit members who participated in the committee consultation will recommend who pilots the program.
- 8) Written recommendations for adoption of a program shall be forwarded to the Superintendent for action with a copy to the Association.

b. Ad Hoc Committees

In the case of Superintendent-or-his-designee-initiated ad hoc committees, teacher members shall be nominated and elected by the teachers:

- 1) at the site;
- 2) by the department; or
- 3) by the curriculum area involved.

Temporary or first and second year probationary teachers, new to the profession, shall be nominated in consultation with the site FAC.

- c. The Association may, at any time, request from any of the above committees, and receive, an accounting of progress regarding planning for new or existing programs.

SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT

Human Resources Department

Racial & Ethnic Distribution

October, 2009

SCHOOL	MINORITY											WHITE		TOTAL Enrollment	MINORITY				
	AMERICAN INDIAN ALASKAN NATIVE		ASIAN		PACIFIC ISLANDER		FILIPINO		HISPANIC		BLACK not of Hispanic Origin		Multiple or no Response		not of Hispanic Origin				
	N	%	N	%	N	%	N	%	N	%	N	%	N		%	TOTAL	%	TOTAL	%
Cabrillo	0	0.00%	2	0.74%	0	0.00%	3	1.10%	53	19.49%	14	5.15%	4	1.47%	196	72.06%	272	72	26.47%
Edison	1	0.23%	10	2.31%	1	0.23%	0	0.00%	269	62.12%	18	4.16%	20	4.62%	114	26.33%	433	299	69.05%
Franklin	0	0.00%	80	10.30%	8	1.03%	2	0.26%	35	4.50%	15	1.93%	29	3.73%	608	78.25%	777	140	18.02%
Grant	1	0.16%	26	4.04%	7	1.09%	4	0.62%	165	25.66%	54	8.40%	38	5.91%	348	54.12%	643	257	39.97%
McKinley	2	0.47%	43	10.19%	5	1.18%	5	1.18%	165	39.10%	42	9.95%	13	3.08%	147	34.83%	422	262	62.09%
Muir	1	0.30%	16	4.75%	1	0.30%	3	0.89%	114	33.83%	49	14.54%	18	5.34%	135	40.06%	337	184	54.60%
Pt. Dume	1	0.38%	12	4.55%	3	1.14%	1	0.38%	14	5.30%	6	2.27%	1	0.38%	226	85.61%	264	37	14.02%
Rogers	2	0.39%	11	2.16%	3	0.59%	1	0.20%	240	47.06%	59	11.57%	68	13.33%	126	24.71%	510	316	61.96%
Roosevelt	3	0.39%	67	8.74%	8	1.04%	10	1.30%	69	9.00%	41	5.35%	63	8.21%	506	65.97%	767	198	25.81%
Webster	1	0.25%	24	6.00%	5	1.25%	0	0.00%	28	7.00%	4	1.00%	4	1.00%	334	83.50%	400	62	15.50%
SMASH K-5	1	0.56%	26	14.61%	0	0.00%	3	1.69%	10	5.62%	14	7.87%	1	0.56%	123	69.10%	178	54	30.34%
SMASH 6-8	0	0.00%	1	2.27%	0	0.00%	2	4.55%	5	11.36%	5	11.36%	2	4.55%	29	65.91%	44	13	29.55%
Adams	1	0.10%	29	2.85%	6	0.59%	6	0.59%	519	50.98%	109	10.71%	20	1.96%	328	32.22%	1,018	670	65.82%
Lincoln	7	0.61%	137	12.02%	5	0.44%	11	0.96%	194	17.02%	78	6.84%	0	0.00%	708	62.11%	1,140	432	37.89%
Malibu 6-8	0	0.00%	19	3.86%	5	1.02%	4	0.81%	45	9.15%	13	2.64%	3	0.61%	403	81.91%	492	86	17.48%
Malibu 9-12	3	0.42%	11	1.53%	4	0.55%	1	0.14%	68	9.43%	15	2.08%	0	0.00%	619	85.85%	721	102	14.15%
Olympic	0	0.00%	3	2.91%	1	0.97%	1	0.97%	55	53.40%	12	11.65%	4	3.88%	27	26.21%	103	72	69.90%
Santa Monica	3	0.10%	200	6.48%	39	1.26%	19	0.62%	1,014	32.86%	322	10.43%	53	1.72%	1,436	46.53%	3,086	1,597	51.75%
<b>TOTALS:</b>	<b>27</b>	<b>0.23%</b>	<b>717</b>	<b>6.18%</b>	<b>101</b>	<b>0.87%</b>	<b>76</b>	<b>0.65%</b>	<b>3,062</b>	<b>26.38%</b>	<b>870</b>	<b>7.50%</b>	<b>341</b>	<b>2.94%</b>	<b>6,413</b>	<b>55.25%</b>	<b>11,607</b>	<b>4,853</b>	<b>41.81%</b>
Elementary Schools Grades K-5	13	0.26%	317	6.34%	41	0.82%	32	0.64%	1,162	23.23%	316	6.32%	259	5.18%	2,863	57.23%	5,003	1,881	37.60%
Middle Schools Grades 6-8	8	0.30%	186	6.90%	16	0.59%	23	0.85%	763	28.32%	205	7.61%	25	0.93%	1,468	54.49%	2,694	1,201	44.58%
Secondary Schools Grades 9-12	6	0.15%	214	5.47%	44	1.13%	21	0.54%	1,137	29.08%	349	8.93%	57	1.46%	2,082	53.25%	3,910	1,771	45.29%

SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT  
Human Resources Department

DISTRICT -  
Grades K-12

Racial & Ethnic Distribution  
Historical Data - District

Changes 2005-2009

YEAR	MINORITY										WHITE not of Hispanic Origin	TOTAL Enrollment	MINORITY						
	AMERICAN INDIAN ALASKAN NATIVE		ASIAN		PACIFIC ISLANDER		FILIPINO		HISPANIC				BLACK not of Hispanic Origin	Multiple or no Response	TOTAL	%			
	N	%	N	%	N	%	N	%	N	%							N	%	
2005	18	0.15%	722	5.92%	25	0.21%	47	0.39%	3,283	26.93%	934	7.66%	197	1.62%	6,965	57.13%	12,191	5,029	41.25%
2006	21	0.18%	729	6.13%	18	0.15%	55	0.46%	3,161	26.56%	879	7.39%	270	2.27%	6,769	56.87%	11,902	4,863	40.86%
2007	19	0.16%	734	6.27%	16	0.14%	55	0.47%	3,148	26.90%	826	7.06%	311	2.66%	6,595	56.35%	11,704	4,798	40.99%
2008	21	0.18%	774	6.69%	17	0.15%	56	0.48%	3,101	26.81%	803	6.94%	347	3.00%	6,446	55.74%	11,565	4,772	41.26%
2009	27	0.23%	717	6.18%	101	0.87%	76	0.65%	3,062	26.38%	870	7.50%	341	2.94%	6,413	55.25%	11,607	4,853	41.81%
Change 2008-2009	6	0.05%	-57	-0.49%	84	0.73%	20	0.17%	-39	-0.34%	67	0.58%	-6	-0.05%	-33	-0.29%	42	81	0.70%
Change 2005-2009	9	0.07%	-5	-0.04%	76	0.62%	29	0.24%	-221	-1.81%	-64	-0.52%	144	1.18%	-552	-4.53%	-584	-176	-1.44%

SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT

Human Resources Department

PT DUME MARINE SCIENCE ELEMENTARY SCHOOL

Grades K-5

Racial & Ethnic Distribution

Pt. Dume Marine Science Elementary School

2005-2009

YEAR	MINORITY											WHITE not of Hispanic Origin	MULTIPLE or no Response	TOTAL Enrollment	MINORITY				
	AMERICAN INDIAN ALASKAN NATIVE	ASIAN		PACIFIC ISLANDER		FILIPINO		HISPANIC		BLACK not of Hispanic Origin	N				%	TOTAL	%		
	N	%	N	%	N	%	N	%	N	%	N	%	N	%					
2005	2	0.68%	17	5.80%	4	1.37%	3	1.02%	8	2.73%	4	1.37%	252	86.01%	3	1.02%	293	38	12.97%
2006	1	0.35%	14	4.91%	2	0.70%	4	1.40%	9	3.16%	5	1.75%	247	86.67%	3	1.05%	285	35	12.28%
2007	1	0.35%	17	5.99%	3	1.06%	2	0.70%	10	3.52%	6	2.11%	240	84.51%	5	1.76%	284	39	13.73%
2008	1	0.39%	13	5.12%	3	1.18%	2	0.79%	12	4.72%	7	2.76%	213	83.86%	3	1.18%	254	38	14.96%
2009	1	0.38%	12	4.55%	3	1.14%	1	0.38%	14	5.30%	6	2.27%	226	85.61%	1	0.38%	264	37	14.02%
Change 2008-2009	0	0.00%	-1	-0.39%	0	0.00%	-1	-0.39%	2	0.79%	-1	-0.39%	13	5.12%	-2	-0.79%	10	-1	-0.39%
Change 2005-2009	-1	-0.34%	-5	-1.71%	-1	-0.34%	-2	-0.68%	6	2.05%	2	0.68%	-26	-8.87%	-2	-0.68%	-29	-1	-0.34%