

**EAST NICOLAUS JOINT UNION HIGH SCHOOL DISTRICT  
BOARD OF TRUSTEES  
STAFF REPORT AND PROPOSED FINDINGS OF FACT  
REGARDING THE SPARTAN ACADEMY CHARTER SCHOOL**

**I. INTRODUCTION**

A. Background

On February 17, 2021, the Spartan Academy Charter School (“Charter School”) submitted a petition (“Petition”) to establish a dependent public charter school to be operated under the authorization of the East Nicolaus Joint Union High School District (“District”) Board of Trustees (“Board”). District staff (“Staff”) have reviewed and determined the sufficiency of the Petition, as discussed below.

Petitioners request a five-year term for the Charter School from July 1, 2022 through July 1, 2027. (Petition, p. 3.) The Charter School is focused on providing education to students in a Career Technical Education (“CTE”) model of instruction, and Petitioners anticipate that the Charter School would serve students in grades 9-12. (Petition, pp. 7-10.) Petitioners anticipate first year enrollment (2022-23) will be approximately 30 students, second year enrollment (2023-24) will be approximately 60 students, third year enrollment (2024-25) will be approximately 90 students, fourth year enrollment (2025-26) will be approximately 130 students, and the fifth year enrollment (2026-27) will be approximately 135 students. (Petition, p. 9.)

B. Timeline for Board Action

Petitioners submitted their Petition on February 17, 2021, and the Board held a public hearing on the same date to consider the level of support for the Petition. (Ed. Code, § 47605(c).) The parties agreed to a 30-day extension for the Board to take action regarding approval or denial of the Petition and the matter has been agendized for the Board to take action on June 10, 2021.

C. Standard of Review

The Charter Schools Act of 1992 (“Act”) governs the creation of charter schools in the state of California. The Act includes Education Code section 47605, subdivision (c), which provides the standards and criteria for petition review. A charter authorizer considering whether to grant a charter petition “shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged.” (Ed. Code, § 47605(c).) With this Legislative intent in mind, the Board should grant a charter “if it is satisfied that granting the charter is consistent with sound educational practice and with the interests of the community in which the school is proposing to locate.” (Ed. Code, § 47605(c).) In the judgment of the State Board of Education (“SBE”), a charter is consistent with sound educational practice if “it is likely to be of educational benefit to pupils who attend.” (5 C.C.R. §11967.51(a).)

Education Code section 47605, subdivision (c) provides that the governing board of a school district shall not deny a petition unless it makes written factual findings setting forth specific facts to support one or more of the following findings:

1. The charter school presents an unsound educational program for the students to be enrolled in the charter school;
  2. The petitioner is demonstrably unlikely to successfully implement the program set forth in the petition;
  3. The petition does not contain the number of signatures prescribed by Education Code section 47605, subdivision (a);
  4. The petition does not contain an affirmation of each of the conditions set forth in Education Code section 47605, subdivision (e), including that the charter school: (1) will be nonsectarian in its admission policies, employment practices and all other operations; (2) will not charge tuition; and (3) will not discriminate against any student on the basis of the characteristics set forth in Education Code section 220;
  5. The petition does not contain reasonably comprehensive descriptions of 15 certain elements in its program and operations as set forth in Education Code section 47605, subdivisions (c)(5)(A-O), which describe the elements that must be addressed in every petition to establish a charter school. These elements include a description of the school's governance structure, admissions policies, health and safety procedures, and student discipline policies;
  6. The petition does not contain a declaration of whether the charter school shall be deemed the exclusive public employer of the employees of the charter school for purposes of Chapter 10.7 of Division 4 of Title 1 of the Government Code;
  7. The charter school is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate. Analysis of this finding shall include consideration of the fiscal impact of the proposed charter school. A written factual finding under this paragraph shall detail specific facts and circumstances that analyze and consider the following factors:
    - a. The extent to which the proposed charter school would substantially undermine existing services, academic offerings, or programmatic offerings.
    - b. Whether the proposed charter school would duplicate a program currently offered within the school district and the existing program has sufficient capacity for the pupils proposed to be served within reasonable proximity to where the charter school intends to locate.
- or,
8. The school district is not positioned to absorb the fiscal impact of the proposed charter school. A school district satisfies this paragraph if it has a qualified interim

certification pursuant to Education Code section 42131 and the county superintendent of schools, in consultation with the County Office Fiscal Crisis and Management Assistance Team, certifies that approving the charter school would result in the school district having a negative interim certification pursuant to Section 42131, has a negative interim certification pursuant to Section 42131, or is under state receivership. Charter schools proposed in a school district satisfying one of these conditions shall be subject to a rebuttable presumption of denial.

Charter school petitions are also required to include a discussion of their impact on the chartering authority, including the facilities to be utilized by the proposed charter school, the manner in which administrative services will be provided, potential civil liabilities for the chartering authority, and a three-year projected operational budget and cash flow. (Ed. Code, § 47605(h).)

## **II. SUMMARY AND RECOMMENDATION FOR APPROVAL OF PETITION**

After review of the Petition, Staff has concluded that the Charter School’s proposed program is consistent with sound educational practice and meets all requirements outlined in Education Code section 47605. Specifically, Staff notes that the Petition is generally comprehensive and articulates a clear mission statement, as well as a concrete plan for carrying out the goals of the proposed Charter School. Therefore, **Staff recommends approval of the Petition.**

## **III. PETITION REVIEW PROCESS**

### **Finding 1: Whether the charter school presents an unsound educational program for the pupils to be enrolled in the charter school.**

In the judgment of the State Board of Education (“SBE”), a petition is consistent with sound educational practice if “it is likely to be of educational benefit to pupils who attend.” (5 C.C.R. §11967.51(a).) The Petition describes a program likely to provide educational benefit to the pupils, reasonably describing an educational program. The Petition indicates that the Charter School will provide instruction in all of the core subjects, and the instructional program will be focused on a CTE and kinesthetic approach. (Petition, p. 9.) As discussed in more detail under Finding 2, the educational program centers around CTE pathways in order to serve the small rural community and its students. (See e.g. Petition, p. 8.) **Staff have determined that the Petition presents a sound educational program for the pupils to be enrolled.**

### **Finding 2: Whether petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.**

In order to successfully implement the program described in the Petition, Petitioners must demonstrate that they are familiar with the contents of the Petition and the requirements of laws applicable to the proposed school; present a realistic financial and operational plan; have the necessary background in areas critical to the charter school’s success, or have a plan for securing the services of individuals with the necessary background, including curriculum, instruction, assessment, finance and business management. The Charter School’s administrative services, payroll, and fiscal services will be provided by the District. (Petition, p. 30.) The provision of

these services will be addressed in a separate operational memorandum of understanding between the District and Charter School. The Charter School shall occupy District facilities located on the East Nicolaus High School site, at 2255 Nicolaus Avenue, Nicolaus CA, 95659, and may co-locate with other District programs. (Petition, p. 30.) Provisions and terms regarding Charter School facility use, including shared facilities, shall be addressed in a separate facility use agreement between the District and the Charter School.

Additionally, the three-year budget plan and cash flow projections demonstrate fiscal responsibility necessary for ongoing success.<sup>1</sup> (Petition, Appendix A.) The Charter School's projected enrollment appears realistic for a start-up school, with an anticipated average daily attendance (ADA) of 28.5 in Year 1, and anticipated growth to 57 ADA in Year 2, and 85.5 ADA in Year 3. The Charter School anticipates positive ending fund balances, and a reserve for economic uncertainties, beginning in Year 1. The multi-year budget's expenditures incorporate reasonable expenditures for a school of this size, typically calculated as a percentage of the District's operating expenditures given the shared nature of the facilities, majority of the programs, and administrative expenditures (including but not limited to utilities, insurance, books, and equipment), based on the Charter School's share of overall District ADA (10% in Year 1, 19% in Year 2, and 29% in Year 3). Since teachers are employees of the District and will teach both District and Charter School students, and since District staff will provide administrative, payroll, and financial services to the Charter School, the Charter School's share of staff and teacher salaries and benefits are also accounted for as expenditures based on the Charter School's share of overall District ADA (10% in Year 1, 19% in Year 2, and 29% in Year 3).

**Overall, staff have determined that the Petitioners are demonstrably likely to successfully implement the program set forth in the Petition.**

**Finding 3: Whether the petition contains the required number of signatures.**

The Petition contains the required number of signatures pursuant to Education Code section 47605(a)(1)(B). The Petition includes sufficient signatures, equal to at least one-half of the number of teachers that the Charter School estimates will work at the Charter School during the first year of operation. (Petition, Appendix B.)

**Finding 4: Whether the petition contains an affirmation of each of the conditions described in Education Code section 47605, subdivision (e).**

The Petition includes an affirmation of each of the conditions described in Education Code section 47605, subdivision (e). (Petition, pp. 4-6.)

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<sup>1</sup> The Petition as originally submitted did not include a budget. However, Petitioners subsequently provided the District with the budget with sufficient time for the District to review.

**Finding 5: Whether the petition contains a reasonably comprehensive description of the specific elements described in Education Code section 47605, subdivision (c)(5)(A-O).**

On review, Staff finds that the Petition generally includes reasonably comprehensive descriptions of the required elements set forth in Education Code section 47605(c)(5)(A)-(O).

A. Element I: Educational Program

A petition should provide a reasonably comprehensive description of the educational program of the charter that includes a description of “whom the charter school is attempting to educate, what it means to be an educated person in the 21st century, and how learning best occurs.” (Ed. Code, § 47605(c)(5)(A)(i).) **Staff have concluded that this element of the Petition is reasonably comprehensive.**

The Petition includes a mission statement for the Charter School and describes how the instructional elements of the proposed Charter School are aligned with the mission statement, what it means to be an “educated person” in the 21st century, and how learning best occurs. (Petition, pp. 7-8.)

The Charter School is focused on providing education for its students in a CTE model of instruction, and students will choose amongst CTE pathways as they move toward their graduation with an externship and work based learning model in mind. (Petition, pp. 7-10.) The Charter School will offer a variety of CTE pathways for students to choose including, but not necessarily limited to:

- Manufacturing
- Welding / Fabrication
- Agriculture
- Culinary Arts
- Health Science

The first year includes multiple sequential courses that expose the student to multiple CTE pathways. As students enter their second year of study, they will begin to narrow down a particular pathway that will allow them to begin the sequencing of the CTE Capstone pathway. During students’ third and fourth years, they will continue to drill down into their respective pathways as they begin to explore the more intricate and nuanced nature of the CTE pathway they have chosen.

The special education plan in the Petition states that the Charter School will be a member of the Sutter County Office of Education Special Education Local Plan Area (“SELPA”). (Petition, p. 11.) The Petition offers additional explanation about the Charter School’s intended compliance with state and federal laws in serving students with disabilities, including, but not limited to, Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and the Individuals with Disabilities Education Improvement Act. (Petition, pp. 11-12.)

B. Elements II & III: Measurable Pupil Outcomes & Assessment of Measurable Pupil Outcomes

Every charter petition must identify measurable pupil outcomes and methods of measuring progress in meeting pupil outcomes. (Ed. Code, § 47605(c)(5)(B-C).) **Staff have concluded that these elements as set forth in the Petition are reasonably comprehensive.**

The Petition indicates that the Charter School’s “performance assessments use common benchmarks and rubrics,” and the “data collected from these assessments will be used to guide instruction and inform students and parents regarding the level of student performance, progress, challenges, and program evaluation.” (Petition, p. 15.) Methods for measuring, recording, and analyzing pupil outcomes will occur on a daily, monthly, semester, and annual basis. (Petition, p. 15.)

C. Element IV: Governance Structure

A Petition must provide a reasonably comprehensive description of the Charter School’s governance structure. (Ed. Code, § 47605(c)(5)(D).) **Staff have concluded that this element of the Petition is reasonably comprehensive.**

The Petition indicates that, as a dependent charter school, the Charter School will be governed by the District’s Board, which will have control over key elements of the Charter School’s operations. The Charter School Administrator and staff will carry out the day-to-day operations of the school. The Charter School will have a Charter Advisory Board (CAB), which shall serve in an advisory capacity in the operation of the Charter School.

D. Element V: Employee Qualifications

The Petition should identify the qualifications required of individuals who will work at the Charter School. (Ed. Code, § 47605(c)(5)(E).) **Staff have concluded that this element of the Petition is reasonably comprehensive.**

The Petition states that the Board will be the ultimate decision-making authority with respect to hiring, evaluating, disciplining, and releasing of employees working at the Charter School. (Petition, p. 17.) The Petition describes the key positions and the qualifications for those positions, and the Petition confirms that all Charter School teachers will have the appropriate California Commission on Teacher Credentialing (“CTC”) certificate, permit, or other document required for their certificated assignment. (Petition, p. 17.)

E. Element VI: Health and Safety Procedures

Pursuant to Education Code section 47605(c)(5)(F), the Petition must include the procedures that the school will follow to ensure the health and safety of students and staff. **Staff have concluded that this element of the Petition is reasonably comprehensive.**

The Petition states that the Charter School will comply with all procedures “applicable federal, state, and local requirements related to school and student health, safety, and emergency preparedness,” as well as “all District health, safety, and emergency procedures and requirements applicable to District facilities and related operations.” (Petition, p. 19.) The Petition also provides the Charter School “will adopt, implement, and maintain at all times a current, comprehensive, and site-specific Health, Safety, and Emergency Preparedness Plan (“Plan”).” (Petition, p.19.)

F. Element VII: Means to Achieve a Balance of Racial and Ethnic Pupils, Special Education Pupils, and English Learner Pupils

Education Code section 47605(c)(5)(G) requires that a charter petition include a reasonably comprehensive description of the means by which the school will achieve a balance of racial and ethnic pupils, special education pupils, and English learner pupils, including redesignated fluent English proficient pupils that is reflective of the general population residing within the territorial jurisdiction of the charter authorizer to which the charter petition is submitted. The Petition describes the student recruitment plan. (Petition, pp. 21-22.) **Staff have concluded that this element of the Petition is reasonably comprehensive.**

G. Element VIII: Admissions

The Petition must describe its admissions requirements, if applicable, pursuant to Education Code section 47605(c)(5)(H). **Staff have concluded that this element of the Petition is reasonably comprehensive.**

The Charter School will hold an open enrollment period during the month of May for the first year of operation and will only enroll students into the 9<sup>th</sup> grade, and it will open enrollment to more grades in subsequent years. (Petition. p. 23.) If the number of applications for admission exceeds the number of available openings, the Charter School shall hold a random public lottery to determine admission in accordance with the Act. (Petition, p. 22.)

H. Element IX: Audit and Fiscal Issues

The Petition must describe the manner in which annual, independent, financial audits will be conducted, which will employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies will be resolved to the satisfaction of the chartering authority. (Ed. Code, § 47605(c)(5)(I).) **Staff have concluded that this element of the Petition is reasonably comprehensive based on information contained on pages 23 and 24 of the Petition.**

I. Element X: Suspension/Expulsion Policies and Procedures

Education Code section 47605(c)(5)(J) requires that the petition contain a reasonably comprehensive description of the procedures by which pupils can be suspended or expelled from the charter school for disciplinary reasons, or otherwise involuntarily removed from the charter school for any reason. “Involuntarily removal” includes disenrollment, dismissal, and transfer.

Petitions must also describe, at a minimum, “how the charter school will comply with federal and state constitutional procedural and substantive due process requirements.” **Staff have concluded that this element of the Petition is reasonably comprehensive based on the information contained on pages 24-26 of the Petition.**

J. Element XI: Retirement System

The Petition must describe the manner in which staff members of the Charter School will be covered by the State Teachers’ Retirement System, the Public Employees’ Retirement System, or federal social security. (Ed. Code, § 47605(c)(5)(K).) **Staff have concluded that this element of the Petition is reasonably comprehensive.** Charter School employees are covered by both CalSTRS and CalPERS in the same manner as all other employees of the District. (Petition, p. 27.)

K. Element XII: Attendance Alternatives

The Petition must describe the public school attendance alternatives for pupils residing within the attendance area who choose not to attend the Charter School. (Ed. Code, § 47605(c)(5)(L).) **Staff have concluded that this element of the Petition is reasonably comprehensive.**

The Petition states that students choosing not to attend the Charter School may attend other schools within their districts of residence or pursue an inter-district transfer in accordance with existing enrollment and transfer policies and applicable law. (Petition, p. 27.)

L. Element XIII: Employee Return Rights

The Petition must include the rights of a Charter School employee upon leaving the District to work in the Charter School and any rights of return to the District after employment at the Charter School. (Ed. Code, § 47605(c)(5)(M).) **Staff have concluded that this element of the Petition is reasonably comprehensive.** Charter School employees will be employees of the District and do not need to leave the District to work at the Charter School. Individuals who choose to work exclusively at the Charter School thereafter will be given return rights back to non-charter District programs. (Petition, p. 27.)

M. Element XIV: Dispute Resolution

The Petition must include the procedures to be followed by the Charter School and the SCOE to resolve disputes relating to provisions of the charter. (Ed. Code, § 47605(c)(5)(N).) **Staff have concluded that this element of the Petition is reasonably comprehensive.**

The Petition generally provides that disputes arising between the District and Charter School will be addressed first by the District’s Superintendent or designee and the Charter School Administrator, during an informal meeting not later than seven (7) business days from receipt of a written dispute statement. (Petition, p. 28.) If in the event the dispute remains following the informal meeting, the District and the Charter School shall each identify two members from the District’s Board and CAB, respectively, who shall jointly meet with the Superintendent or

designee and the Charter School Administrator or designee and attempt to resolve the dispute within twenty (20) business days from receipt of the dispute statement. (Petition, p. 28.) If the dispute remains unresolved after this joint meeting, the dispute may proceed to mediation. (Petition, p. 28.)

N. Element XV: Closure Procedures

The Petition must include the procedures to be used if the Charter School closes. (Ed. Code, § 47605(c)(5)(O).) **Staff have concluded that this element of the Petition is reasonably comprehensive.**

As noted in the Petition, if the Charter School ceases operations, the Charter School shall designate an entity or individual to be responsible for conducting closure activities including, but not limited to, providing required notifications to students and parents, the California Department of Education, the Sutter County Office of Education, and the SELPA; transfer and retention of student and school records; financial close-out activities (including a final audit); and dissolution of the Charter School's assets. (Petition, pp. 29-30.)

**Finding 6: Declaration of whether the Charter School is deemed the exclusive public school employer for purposes of the Educational Employment Relations Act ("EERA").**

The Petition indicates that the District is the exclusive public school employer of Charter School employees. (See Petition at pp. 4 and 17.)

**The Petition meets this requirement.**

**Finding 7: Whether the Charter School is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate.**

The Petition includes a description of its anticipated community impact in light of the growing trend in education and expectation for public schools, especially high schools, to align with CTE programs and curriculum. The Petition explains that "[i]n order to fully capitalize on this expectation from the California Department of Education ("CDE") and to align funding streams, the Charter School will identify and align with multiple CTE pathways in order to serve our small rural community and its students." (Petition, p. 8) The Petition further indicates that the "Charter School's educational program will serve the interests of the rural community in Sutter County by providing rigorous and relevant career pathways that engage students in planning for their futures and will develop their academic, technical and employability skills." (Petition, p. 8.) **Staff has determined that the Charter School will serve the interests of the community.**

**Finding 8: Whether the District is positioned to absorb the fiscal impact of the proposed Charter School.**

A school district may deny a petition if it finds that it is not positioned to absorb the fiscal impact of the proposed Charter School. (Ed. Code, § 47605(c)(8).) **Staff has determined that the**

**proposed Charter School will not have a measurable fiscal impact on the District, and thus the District is positioned to absorb any potential fiscal impact.**

**V. RECOMMENDED FINDINGS OF FACT**

Based on a careful review of the Petition, Staff recommends that the Board adopt the above findings as its own and approve the Petition. The Petition meets the requirements for approval pursuant to Education Code section 47605. Staff recommends the Board make the following motion:

*Based upon a careful review of the Spartan Academy Charter School petition by District staff, I move the Board adopts the Findings of Fact presented in the staff report. I further move that the Board grant Spartan Academy Charter School a five year charter based upon these findings.*

*Second, then vote.*