



MEMORANDUM

TO: Terry Walker, Superintendent

FROM: *Various IUSD Departmental Staff and*
Ronald Wenkart & Sara Young with AALRR

DATE: January 23, 2023

RE: Staff Report: Irvine Chinese Immersion Academy Charter Petition Review

BACKGROUND

The Charter Schools Act of 1992 (“CSA,” Ed. Code, § 47600 *et seq.*), as amended in 2019, provides for persons interested in forming a charter school proposed to be located within the geographical boundaries of a local school district to submit a Charter Petition to that school district’s governing board for consideration upon receipt of a certain number of signatures of either parents/guardians or teachers supporting the proposed charter school.

On or about October 31, 2022, Irvine Chinese Immersion Academy (“ICIA”) submitted a Charter Petition (“Charter Petition”) to the District. The Petitioners submitted the Charter Petition based on gathering the required number of parents/guardians signatures.

As required by the CSA, within 60 days of receipt of the Charter Petition, the District Board held a public hearing on the provisions of the Charter Petition on December 13, 2022. At the public hearing the Board considered the level of support for the Charter Petition by teachers employed by the District, other District employees, and parents. (Ed. Code, § 47605(b).)

The Governing Board has 90 days from receipt of the Charter Petition, unless an extension up to 30 additional days is mutually agreed to, to make a decision on whether to grant or deny the Charter Petition. (Ed. Code, § 47605(b).) This Staff Report provides recommendations to the Board regarding approval or denial, which will be decided by the Board at the Board Meeting on February 7, 2023.

LEGAL STANDARD

California Education Code section 47605 sets out the statutory requirements for the establishment of charter schools. (See also, California Code of Regulations, Title 5, § 11967.5.1.) Section 47605(c)(1)-(5) provides that the governing board of a school district may only deny a Charter Petition if ***one or more*** of the following findings are made:

BOARD OF EDUCATION

PAUL BOKOTA / LAUREN BROOKS / JEFF KIM / KATIE MCEWEN / CYRIL YU
TERRY L. WALKER, Superintendent of Schools

JOHN FOGARTY, Assistant Superintendent, Business Services / BRIANNE FORD, Assistant Superintendent, Information Technology
EAMONN O'DONOVAN, Assistant Superintendent, Human Resources / CASSIE PARHAM, Assistant Superintendent, Education Services

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 Charter Petition;
3. The Charter Petition does not contain the number of signatures required by Education Code section 47605(a);
4. The Charter Petition does not contain an affirmation of each of the conditions described in Education Code section 47605(e);
5. The Charter Petition does not contain reasonably comprehensive descriptions of all of the elements required by law;
6. The Charter Petition does not contain a declaration of whether or not the charter school shall be deemed the exclusive public employer of the employees of the charter school;
7. The Charter School is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate; and/or
8. The school district is not positioned to absorb the fiscal impact of the proposed Charter School.

At the February 7, 2023 Board Meeting, in light of the information shared at the public hearing, independent review of the Charter Petition, and information including this report, the Board may select one of the following options:

- **Option 1:** Approve the Charter Petition
- **Option 2:** Approve the Charter Petition with conditions, thereby providing a timeline for the District and the Charter School administrators to develop a memorandum of understanding to resolve conditions and concerns with the Charter Petition
- **Option 3:** Deny the Charter Petition

BRIEF OVERVIEW

ICIA seeks to operate as a District authorized charter school for the term beginning July 1, 2023 through June 30, 2028. ICIA proposes to operate as a Mandarin immersion school. At the time it opens, ICIA plans to enroll 258 students in transitional kindergarten through third grade in 2023-2024 and increase enrollment every year for a total enrollment of 408 students in transitional kindergarten through fifth grade in 2027-2028. It is unclear why the school does not intend to expand to sixth grade, as other District elementary schools include sixth grade.

ICIA is planning a dual language immersion model in which the students will receive instruction in English and instruction in Mandarin. The instruction in each language varies as the student changes grades, with instruction in Mandarin comprising more of the day when the student is younger. There is no requirement for the student population to be comprised of 50% native speakers in the proposed immersion model. As outlined in the Charter Petition, ICIA's founders believe that students master core subjects by applying knowledge in a real-world context, and desire for students to be active participants in their education. The founders of ICIA are involved in the existing Irvine Chinese School, including the current Principal. They report that this is not a legally prohibited "conversion" of a private school to a charter school as there are no current plans to close the existing private school which will remain open and completely separate from the charter school.

The Charter Petition meets many of the legal requirements; however, there are areas that are unclear or require modifications because of errors in the Petition, incorrect citations, missing or wrong information, or lack of clarification. As further discussed in this Staff Report, there are concerns with the Charter Petition that should be clarified either through revision of the Petition or through a Memorandum of Understanding with the Petitions. These include, but are not limited to:

- While the Charter Petition defines tiers of interventions, it is unclear how these interventions will be woven into the school day and infused into the dual immersion model.
- The Charter Petition presupposes enrollment in the District SELPA. It did not include any alternative plan should this request be denied. As a result, the description of special education programming is minimal.
- The Charter Petition was unclear in how differentiated instruction would be provided. Petitioners were similarly vague in answers to staff questions exploring this. For example, when asked how ELD instruction would occur in addition to ELA instruction, the answer was: "Because ELD instruction includes both integrated ELD instruction in which the California [ELD] standards are used in tandem with the state-adopted academic content standard and designated ELD instruction provided (Title 5 California Code of Regulations [CCR] Section 11300[c]) and designated ELD instruction provided during a protected time in the regular school day for focused instruction on the state-adopted ELD standards, wherein English learners develop critical English language skills necessary for accessing academic content in English (5 CCR Section 11300[a]), the ELD program will need to accommodate both modes of instruction." This does not answer *how* staff will facilitate ELD instruction. This is common throughout the Petition.
- The budget proposed by ICIA did not include information about a large loan required to open the school. Additionally, while the salary may be competitive, it is unclear what the health benefits are, or that the salary provides sufficient funding

for the level of instructional assistant support necessary to implement the differentiation and individualized support described in the educational model.

- The Charter Petition's provision of instructional services to students lacks the specificity necessary to ensure that ICIA will be able to successfully implement the proposed instructional program. There are concerns with lack of specificity in attendance intervention practices, information about goals in curricular areas other than math and ELA, and physical education plans. Additionally, it is unclear how instruction and the high levels of proposed assessment will be integrated into the school day, and how the multiple instructional targets will be met with a 30:1 teacher ratio.
- The Charter Petition does not clearly address how ICIA will recruit qualified staff (both full-time staff and substitutes) or what qualifications the administrator will have.
- There are terms and language used in the suspension and expulsion section that are unclear. This can provide confusion to a family when student rights are impacted.
- The dispute resolution language binds the District to a process which may not best meet the District's needs as the oversight agency.

These concerns are not exhaustive. As demonstrated at the public hearing and in review of the Charter Petition, there are deficiencies with the Charter Petition. Through this Staff Report, we provide additional information related to how the ICIA Charter Petition meets or fails to meet legal requirements.

CHARTER PETITION REVIEW

I. The Charter School presents an unsound educational program for the pupils to be enrolled in the charter school [Education Code section 47605(b)(1)]:

The description of ICIA's educational program presents a sound educational program if modifications and revisions are made. Specifically:

A. Differentiation of Instruction:

The Charter Petition does not provide clear, educationally sound plans for addressing students who are performing above grade level expectations or who require intervention to meet grade level expectations. The Petition relies heavily on the District identifying and supporting special education students (notably, the District has not accepted the school as a school of the District for special education yet) and does not provide sufficient information about their own general education interventions. While the Response to Intervention (RTI) information is included, revisions are necessary and it is unclear how

RTI will be implemented during the school day and within the immersion model. Revisions and clarification are necessary.

While the ICIA Charter Petition includes a significant amount of information, it lacks detail in specific educational plans and fails to adequately describe the instructional methodologies and differentiation. The Petition and student outcomes address ELA and Math, but fail to address other areas of the educational curriculum, including Science, History/Social Science, and Physical Education.

II. The Petitioners are demonstrably unlikely to successfully implement the program set forth in the Charter Petition [Education Code section 47605(b)(2)]:

Based on the information in the Charter Petition, ICIA appears to be able to successfully implement the proposed program with additional clarification or modification.

A. Budget and Business Practices:

The budget and financial information provided by ICIA result in lack of confidence in the ability of the proposed budget to meet ICIA's needs and ensure quality education to students. Additional information is needed to supplement the budget in the Petition. Specifically:

1. The Petition did not provide any contracts or terms of loans. The Petitioners reference a \$450,000 loan. In response to staff questions, they provided information that this is a 0% interest rate loan from South Coast Chinese Cultural Association. The Petition did not include projected salary information. This was later provided (\$67,316). The budget included far less contribution for special education costs than the District experiences (5% as compared to 13%).
2. The budget fails to identify the amount or percentage of health and benefit costs which will be considered premiums paid for by the teachers, and thus impacting the proposed salary. Through the response to staff questions, ICIA clarified that the health and welfare costs per employee will be \$9,600 per year (District costs are \$12,400) and ICIA will pay \$800 per month toward health benefits for eligible employee.

B. Provision of Instructional Services to Students:

The concerns in the Charter Petition, as outlined below, indicate that ICIA can successfully implement the proposed instructional program with modifications or clarification.

1. The Petition describes a 30:1 student to teacher ratio. The Charter Petition is unclear how the multiple instructional targets can be met, including differentiating instruction, reaching learners in multiple languages, and addressing student needs when supporting 30 students with one certificated

staff member. While the Petition identifies that teaching assistants, language specialists, and technology tools are used, there is limited room in the budget for this staff (less than one assistant per teacher and no “language specialists”).

2. The Charter Petition references CAASPP in identifying high-achieving students. Petitioners then clarify that this is in error and they will rely on other measures of assessment. In response to questions about assessment, while recognizing assessment is of vital important, the answer was unclear. The Petition was not clear as to how assessments will be used, how these assessments will be purchased, how teachers will be trained to administer these assessments, and how these assessments will impact instructional time. This needs clarification.
3. The Charter Petition describes having a pool of day-to-day, at-will qualified substitutes with appropriate credentials and experience. It is unclear how this pool will be established to ensure appropriately qualified instructors for Mandarin instruction. While Petitioners report having success in finding these instructors, they were vague in how they have secured staff, though clarified potential pools of employees in their response to staff questions. This should be clarified in the Petition.

C. Parent and Student Participation:

The Charter Petition lacks clarity regarding parents’ participation. Specifically, the Charter Petition is unclear how ICIA will encourage parent participation and what strategies it will use to encourage parent participation, relying heavily on a single goal to “Provide resources and services to students, teachers, and parents to provide a sense of safety, school connectedness, and active participation in the school community” as proof of how parents will participate. The objectives, which ICIA referred to in responding to staff questions regarding how they will encourage parent participation rely on parent participation via an annual survey, four school site council meetings, hosting parent/student orientation, and then undefined and unclear school-wide events and parent workshop/family nights. It is unclear if English-only speaking parents will be provided with opportunities to learn Mandarin, to support their students, if parents will have a way to be involved despite living throughout District boundaries and perhaps being unable to commute to the school for a post-school brief activity, and how parents of non-traditional families will be included.

D. Qualifications of Teachers:

The qualifications of the teachers appear to be sufficient as Petitioners clarified teachers will need to have a BCLAD in addition to a credential. However, information is missing regarding how the requirement of fingerprinting and

background checks in the “qualifications” sections, while it is included in other sections of the Petition.

III. *The Charter Petition contains the number of signatures required by Education Code section 47605(a) [Education Code section 47605(b)(3)]:*

The Charter Petition contained a sufficient number of parent/guardian signatures.

IV. *The Charter Petition does not contain an affirmation of each of the conditions described in Education Code section 47605(d) [Education Code section 47605(b)(4)]:*

The Charter Petition did not include the required affirmations and affirmations included incorrect legal citations (Petition, pages 6-7). ICIA must correct the affirmations and add additional affirmations.

V. *The Charter Petition does not contain reasonably comprehensive descriptions of all of the elements required by law [Education Code section 47605(b)(5)]:*

The Charter Petition failed to contain reasonably comprehensive descriptions of all the required elements and requires modifications and revisions to meet legal requirements.

A. Adequate Description of the Educational Program:

See the analysis in Sections I and II above.

B. Measurable Pupil Outcomes Identified for Use by the Charter School:

See the analysis in Sections I and II above.

C. Method for Measuring Pupil Progress / Pupil Outcomes:

See the analysis in Sections I and II above.

D. Governance Structure of the School / Provisions for Parental Involvement:

See the analysis in Sections I and II above regarding Parent Involvement. As to Governance Structure, Petitioners clarified information about “key employees” subject to the Conflict of Interest policy through their answers. This should be included in the Petition directly.

E. Qualifications to be Met by Charter School Employees:

The Charter Petition, *after addressing the answers to staff questions*, provides an organizational plan and additional information about qualifications. However, there remain questions about the specific qualifications of individual positions. For example, related to the Principal, the Petitioners identified that a credential will not be required but is a “top criteria.” This is the same with fluency in Mandarin (“a very important criteria” but not required). Thus, it is unclear what *is* required. In

identifying how teachers will be evaluated, the Petitioners clarify “the charter school is not unionized and thus is not subject to the Labor Code.” Regardless of whether the Charter is unionized, the administrators must be able to evaluate certificated employees effectively, governed by portions of the Education Code, and further highlights the importance of identifying capable and qualified school leaders.

In the answers provided by the Petitioners, they highlighted areas where the Charter Petition uses incorrect job titles (e.g. Chief Business Offer instead of Director of Operations, or site administrator instead of Principal), the Petition should be corrected for consistency in language.

The Charter Petition lacks specificity as to how the ICIA will recruit teachers meeting the criteria, particularly given the specialized skills required (fluency in Mandarin), and the lower health and benefits contribution compared to local districts, as well as how substitutes will be recruited and compensated.

F. Procedures to Ensure Health and Safety of Pupils and Staff:

The required procedures appear to be addressed in the Charter Petition. Additionally, in the answers provided to staff questions, ICIA clarified that they will contract with a School Nurse for services (e.g., vision screenings) and will prepare required documents (e.g., develop a school safety plan, adopt required policies) upon approval.

G. Means to Achieve a Racial and Ethnic Balance Reflective of the School District Population:

As presented, the Charter Petition addresses how ICIA will attempt to achieve a racial and ethnic balance similar to the District while fulfilling its mission as a dual immersion school. Recruitment efforts include focused activities at community events, local community organizations, schools, social medial, local libraries, and via the website. (Petition, pages 120-121.)

H. Pupil Admission Requirements (if applicable):

This element (Petition, pages 122-128) appears sufficient.

I. Manner in which annual, independent financial audit will be conducted (which shall employ generally accepted accounting principles):

Element 9 of the Charter Petition regarding Financial Audits appears sufficient.

J. Procedures for Pupil Suspension and Expulsion:

While appropriately identifying students’ rights in the area of discipline, particularly students with disabilities, as clarified in the Petitioners’ response to staff questions, there were areas in this section of the Petition that require clarification. These areas should be revised in the Petition directly to identify the specific individual position responsible for each step in the discipline

process. There are other minor changes the District recommends to this section to clarify the process and ensure student rights are protected.

K. Staff Retirement Systems (STRS, PERS, or federal Social Security):

This element appears sufficient.

L. Public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools:

The public school attendance alternative appears to be sufficient.

M. Rights / Return Rights of School District Employees:

The District Employee Rights appears sufficient.

N. Dispute Resolution Procedures for charter school and school district:

As written, the Dispute Resolution procedures meet minimum requirements, but do not align with District preferences as it escalates directly from written notice including an issue conference to mediation and then arbitration. There is not an option to deviate upon mutual agreement. However, it is recognized that revocation does not require following these processes. These should be used as a discussion point for development of dispute resolution process and clarified and refined in the Memorandum of Understanding.

O. Procedures for Charter School Closure / Disposition of Assets and Liabilities / Transfer of Records:

The Charter Petition does not adequately describe the closure process and closure-related activities, in accordance with the “minimum” description of procedures required under Education Code section 47605(b)(5)(P). The Charter Petition explains that any notice of closure will include the “name(s) and contact information for the person(s) handling inquiries regarding the closure.” (Petition, page 154.) By failing to designate this entity, for purposes of assigning responsibility for the transfer of pupil records, including those relating to special education and all state assessment results, the Charter Petition poses significant set-backs to students’ educational experience in the event of a closure. (Ed. Code, § 47605(b)(5)(P); 5 C.C.R. § 11962.) While it is reasonable that this individual is not *certain* at this time, an anticipated position or title should be provided to ensure this task is completed and students are not harmed in any potential closure.

VI. Declaration of whether charter school shall be deemed exclusive public school employer of the employees of the charter school for purposes of the Educational Employment Relations Act (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code).

This affirmation is present on page 5 and supported again page 149. It appears to be sufficient.

STAFF RECOMMENDATION

Based on a thorough review of the Charter Petition, for reasons including, but not limited to those outlined above, District staff recommends the Board approve Option 2, approve the Charter Petition with conditions, and provide the District and the Charter School administrators time to develop a Memorandum of Understanding to resolve conditions and concerns with the Charter Petition. Staff has prepared Resolutions for each Option, recognizing that the ultimate decision-making authority rests with the Board.