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MEMORANDUM

TO: Terry Walker, Superintendent
FROM: Ronald Wenkart & Sara Young
DATE: September 11, 2020
RE: Staff Report: Irvine International 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 July 8, 2020, Irvine International Academy (“IIA”) submitted a Charter Petition (“Charter Petition”) to the District. The petitioners submitted the Charter Petition based on gathering the required number of teachers’ 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 September 1, 2020. 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 60 days from receipt of the Charter Petition, unless an extension up to 90 total 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 October 6, 2020.

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, §

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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:

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(d);
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 October 6, 2020 meeting, in light of the information shared at the public hearing, independent review of the Charter Petition, and information and 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

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IIA seeks to operate as a District authorized charter school for the term beginning July 1, 2021 through June 30, 2026. IIA proposes to operate as a Mandarin immersion school. At the time it opens, IIA plans to enroll 384 TK-5 grade students in 2021-2022 and increase enrollment every year for a total enrollment of 512 TK-6th grade students in 2025-2026.

IIA is planning a 50/50 immersion model in which the students will receive instruction in English for half the school day and instruction in Mandarin for half of the school day. There is no requirement for the student population to be comprised of 50% native speakers in the proposed immersion model. As outline in the Charter Petition, IIA's philosophy is that every child deserves a good education, parents are our partners, and a good education is based on cultivating good manners, human decency, and morality.

As further discussed in this Staff Report, some of the key concerns with the Charter Petition as proposed include, but are not limited to:

- The Charter Petition does not adequately describe or define “inquiry based method integrating Math,” a key element in its instructional model. Additionally, it refers to an “integrated learning approach” without clarifying what this means and how this will look in a TK-5 classroom.
- The Charter Petition identifies that visual and performance arts content will be based on old and inapplicable framework from 2001.
- While the Charter Petition defines tiers of interventions, it does not adequately describe the actual interventions and learning strategies and supports to be provided at each tier designed to assist and support student learning.
- The Charter Petition includes a number of vague or unmeasurable goals. Other goals are internally inconsistent as to levels of mastery. For example, under Sub-priority B (Instructional Materials), IIA asserts a goal of 90% of students will meet or exceed standards on state exams. However, in Sub-priority A, this goal is set for 75% for English Language Arts and 80% for Math. Further, some goals do not represent an accurate use of assessment results. For example, IIA aims to “demonstrate one or more years of growth on the SBAC.” Years of growth is not a reported metric on the SBAC.
- The budget and financial information provided by IIA has resulted in a lack of confidence in the ability of the proposed budget to meet IIA's needs and ensure quality education to students. The proposed budget does not provide information regarding the terms and conditions of the sale of IIA's future state apportionments to Charter Asset Management. The District did not receive any documents outlining the terms and conditions of the sale despite a request by the District for

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the documents. IIA has not provided a Letter of Intent from Charter Asset Management to the District or any supporting documentation that would indicate that IIA has secured the borrowing. It is unclear how IIA will have the capital necessary to open and operate a new school.

- The proposed budget does not ensure the viability of IIA and raises questions about the school's finances. From the budget, it is unclear what the salary and total compensation for the Executive Director, Michael Scott, will be. Despite statements from IIA, a comparison to neighboring districts identifies that the salary and benefits budgeted for teachers and other employees are insufficient to recruit and retain qualified employees. The salary and benefits are not comparable to the salary and benefits paid by the District and other school districts in Orange County. Further, IIA has indicated it will contribute only \$6,000 toward employee benefits. This is far less than the amount the District contributes and will result in a large premium contribution by IIA employees or a medical insurance policy with large co-pays and a large deductible.
- The budget proposed by IIA does not include expenses for food services. When asked about this, IIA asserted that the food services program is cost neutral. However, that has not been the District's experience and there should be a line item in the budget for the cost of providing food services to students.
- The Charter Petition's provision of instructional services to students lacks the specificity necessary to ensure that IIA will be able to successfully implement the proposed instructional program. Concerns include, but are not limited to, the failure to clarify attendance expectation, 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 32:1 teacher ratio.
- The Charter Petition projects enrollment of 384 students in TK-5th grade the first year. It is unclear how IIA determined this projected enrollment. Further, the Charter Petition lacks specificity as to what outreach strategies, recruitment practices, and implementation plans IIA will utilize to ensure racial and ethnic balance in the student population.
- The Charter Petition includes an organizational chart which appears to be far more developed than the proposed plan regarding how to open the school, calling for an Executive Director, a Principal, an Assistant Principal (if funded), an Office Manager, an Operations Manager, and a Director of Mandarin. IIA intends to recruit and secure appropriately qualified teachers. However, the Charter Petition lacks specificity as to how IIA will recruit teachers meeting the criteria.

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- The Charter Petition does not clearly address how IIA will achieve a racial and ethnic balance.
- The Charter Petition provides, “No student shall be involuntarily removed by the Charter School for any reason unless the parent/guardian of the student has been provided written notice of intent to remove the student no less than five (5) school days before the effective date of the action.” The term involuntary removal is broadly defined as: “disenrolled, dismissed, transferred, or terminated, but does not include removals for misconduct which may be grounds for suspension or expulsion as enumerated below.” Thus, the ability for the Charter school to “involuntarily remove” a student is nearly limitless. By failing to adequately describe situations which may lead to involuntary dismissal with specificity, the procedures for discipline are unclear. Further, the District has concerns that while IIA references a restorative practices approach, IIA does not commit to utilizing “other means of correction,” as an alternative to suspension.

These concerns are not exhaustive. As demonstrated at the public hearing and in review of the Charter Petition, there are notable deficiencies with the Charter Petition. Through this Staff Report, we provide additional information related to how the IIA 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 IIA’s educational program fails to present a sound educational program. 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 requires intervention to meet grade level expectations.

While the current IIA Charter Petition is much improved compared to the prior Charter Petition, it continues to fail to adequately describe the instructional methodologies and differentiation. The inquiry-based learning model was not sufficiently defined and, while the Charter Petition clearly defines tiers of intervention, how these will be integrated into instruction and what interventions will be utilized remains unclear. This concern is heightened when considering

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how students who are English Learners and those who have special education needs.

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, IIA appears unlikely to be able to successfully implement the proposed program.

A. Budget and Business Practices:

The budget and financial information provided by IIA result in lack of confidence in the ability of the proposed budget to meet IIA's needs and ensure quality education to students. Specifically:

1. The terms and conditions of the contract between IIA and Charter Asset Management Company ("CAMM") are vague. CAMM will apparently provide IIA with funds from the sale of IIA's future state apportionments, but the terms and conditions for repayment are unclear, making IIA's financial condition unclear. Without more information about the terms of this agreement, or with how IIA plans to have capital to operate, it is impossible to determine that IIA is financially viable.
2. In the Charter Petition, the names of the principal officers and employees of IIA's back office provider are unknown; from the Charter Petition, it cannot be determined if a conflict of interest exists between the officers and employees of IIA and the back office provider in violation of state law.
3. Michael Scott's role, position, duties, responsibilities, salary, and total compensation is unclear. Dr. Scott's salary is not clear from the budget, thereby calling into question the viability of IIA's budget.
4. 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. IIA commits to funding only \$6,000 per year toward employee health benefits.

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B. Provision of Instructional Services to Students:

The concerns in the Charter Petition, as outlined below, call into question whether IIA can successfully implement the proposed instructional program.

1. The budget describes a 32:1 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 32 students with one certificated staff member.
2. The Charter Petition lists a large number of assessments, but does not clearly state how these 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.
3. It is unclear how many instructional aides IIA intends to hire and whether these aides will be bilingual in English and Mandarin, and how these aides will be utilized effectively in the educational environment. “Non-certificated Staff” are defined in the Charter Petition as those possessing “experience and expertise appropriate for their position with the Charter School and as specified in the job description.”
4. 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.

C. Parent and Student Participation:

The Charter Petition lacks clarity regarding parents and student participation. Specifically:

1. The Charter Petition is unclear on how IIA will encourage parent participation and what strategies it will use to encourage parent participation, relying heavily on a single parent volunteer to organize others.
2. The Charter Petition is unclear as to what outreach strategies, recruitment practices, and implementation plans IIA will utilize to ensure racial and ethnic balance in the student population. The Charter Petition limits the “outreach plan” to public presentations.

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3. The Charter Petition is unclear as to how the community will be informed of the open enrollment period and process. Further, this process is very limited in the time period for enrollment, calling into question the viability of IIA's program and ability to recruit the numbers of students anticipated.
4. It is unclear how IIA determined a projected enrollment of 384 students based on the data related to interest that was included with the Charter Petition.

D. Qualifications of Teachers:

The qualifications of the teachers appear to be sufficient.

III. *The Charter Petition does not contain 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 teacher 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 includes the required affirmations on 5-7.

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.

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.

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E. Qualifications to be Met by Charter School Employees:

The Charter Petition provides an organizational chart. The chart appears to be far more developed than the proposed plan regarding how to open the school, calling for an Executive Director, a Principal, an Assistant Principal (if funded), an Office Manager, an Operations Manager, and a Director of Mandarin.

The Charter Petition outlines the teacher qualifications as being “Bilingual and bi-literate in both Mandarin Chinese and English (except for English-only positions),” having “Bachelor degree or California Teaching Credential suitable for the grade level,” and “1+ year working with students as a teacher, teacher intern, or teaching assistant.” The Charter Petition describes the hiring process as “rigorous” and using a “multiple-stage approach” consisting of resume screening, interviews, writing samples, demonstration lessons with students, and reference checks. The Charter Petition lacks specificity as to how the IIA will recruit teachers meeting the criteria. While the Charter Petition includes the minimum number of signatures, the plan to recruit teachers remains limited in its specificity.

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

The required procedures appear to be addressed in the Charter Petition.

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

As presented, the Charter Petition does not clearly address how IIA will achieve a racial and ethnic balance.

The Charter Petition states “IIA will work with neighborhood associations and community groups to provide information about the availability of the charter school in the area. We will actively recruit students from traditionally underserved areas in order to enroll a student population that reflects the rich diversity in race, ethnicity, and economics, which exists in the Irvine area.” (Charter Petition, p. 143.) It is unclear what these “traditionally underserved areas” are within the District.

Additionally, the outreach “plan” and strategies are limited to public presentations. The Charter Petition includes strategies, such as “Parent Zoom meetings,” “Social Media,” “Earned Media,” and professionally designed brochures in English, Mandarin, and “other languages as necessary,” but does not identify how these strategies will target students within the District or will ensure the necessary racial and ethnic balance reflective of the District.

H. Pupil Admission Requirements (if applicable):

This element appears sufficient.

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- 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, the Charter Petition also provides, "No student shall be involuntarily removed by the Charter School for any reason unless the parent or guardian of the student has been provided written notice of intent to remove the student no less than five schooldays before the effective date of the action." The parent has the right to request a hearing to challenge the involuntary dismissal. Involuntary dismissal includes when a student is "disenrolled, dismissed, transferred, or terminated" for any reason other than misconduct that is grounds for suspension or expulsion. The procedures permit a hearing by an Administrative Panel, but fail to adequately describe who would participate in this panel.

By broadly defining "involuntary dismissal" as for any reason other than those explicitly identified in Education Code as grounds for suspension and expulsion, the Charter Petition fails to adequately describe the situations which may lead to involuntary dismissal which is concerning.

- 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:

The Charter Petition identifies that the dispute resolution procedures are "recommended," but are intended as a discussion point for development of dispute resolution processes and IIA is open to considering changes through a Memorandum of Understanding. As written, the Dispute Resolution procedures meet minimum requirements, but do not align with District preferences.

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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)(O). Phrased in future tense, the Charter Petition explains that any notice of closure “will also include the name(s) of and contact information for the person’s to whom reasonable inquiries may be made regarding the closure.” (p. 178) 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. (Education Code § 47605(b)(5)(O); 5 CCR § 11962.)

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 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 3 and deny IIA’s Charter Petition. Staff has prepared Resolutions for each Option, recognizing that the ultimate decision-making authority vests with the Board.