



## ORANGE COUNTY DEPARTMENT OF EDUCATION

### Staff Report for the Renewal of Suncoast Preparatory Academy

February 16, 2021

#### **I. INTRODUCTION**

The purpose of this report is to summarize significant findings based on a comprehensive review by Orange County Department of Education staff of the renewal petition for Suncoast Preparatory Academy in compliance with Education Code sections 47607 and 47607.2, and to provide recommendations for consideration by the Orange County Board of Education (the Board).

#### **II. BACKGROUND**

Suncoast Preparatory Academy is a Transitional Kindergarten through grade 12 non-classroom based, independent study charter school located within the boundaries of the Saddleback Valley Unified School District. Suncoast Preparatory Academy, formerly named National University Academy Home School/Independent Study Orange County Charter School, began as a combination of two existing programs that operated as resource centers for the National University Academy Lakeside Charter, which at the time, was authorized by the Lakeside Union School District in 2008. The two resource centers, located in Mission Viejo and Murrieta, were combined and the Murrieta location closed to comply with the 2016 Anderson Union High School District v. Shasta Secondary Home School decision.

The initial petition was denied by Saddleback Valley Unified School District governing board on July 12, 2018, and was submitted on appeal to the Board. After conducting the required public hearing and review, the Board approved the charter petition for a three-year term from September 26, 2018, to June 30, 2021. On December 1, 2020, Suncoast Preparatory Academy submitted a renewal charter petition. The Board held a public hearing on January 6, 2021, on the provisions of the charter to consider the level of support for the petition in accordance with Education Code section 47605.

#### **III. LEGAL STANDARD**

Pursuant to Education Code sections 47607 and 47607.2, a chartering authority may grant one or more subsequent renewals to a charter school. Charter school renewals are governed by the standards and criteria described in Education Code section 47605, and shall include, but not be limited to, a reasonably comprehensive description of any new requirements of charter schools enacted into law after the charter was originally granted or last renewed. The Board shall consider the school's fiscal and governance performance and whether the school is serving all pupils who wish to attend. Additionally, the chartering authority shall consider the performance of the charter school on the state and local indicators included in the California School Dashboard, giving greater weight to performance on measurements of academic performance. The California Department of

Education annually publishes a data file that provides the performance categories for all non-DASS charter schools to be used for charter school renewal. Based on standards outlined in Education Code section 47607 and 47607.2, in accordance with a three-tiered system based on the charter school's performance, Suncoast Preparatory Academy placed in the middle performance category and is eligible for a five-year charter term.

#### **IV. SUMMARY OF FINDINGS**

The factual findings outlined in this report, which are condensed to the most significant areas, should be addressed either in an Agreement between the parties should the Board approve the charter petition, or may be used as a basis for denial should the Board deny the renewal. Throughout the charter school's prior term, there have been ongoing concerns regarding the school's fiscal sustainability, governance, and educational program. These concerns were delineated in the initial staff report provided to the Board in 2018 and in subsequent notices to the school. To date, concerns remain regarding the school's cash flow, potential violation of applicable conflict of interest laws, lack of academic performance data, failure to meet legally mandated obligations to English learners, and failure to operate a legally compliant non-classroom based, independent study program.

##### **A. Systems Management Group Contract and Conflict of Interest Concerns**

As detailed in the 2018 staff report, there are ongoing concerns regarding the legality of a \$450,000 loan to the school from National University through an affiliate, Systems Management Group (SMG), to balance the budget and show a positive monthly cash flow. Without this loan, the cash flow is negative (expenses higher than revenues) each month, which means the school would operate at a deficit. At that time, staff expressed concern that a conflict of interest may prevent such a loan from being legal.

SMG governs all universities under the National University Systems umbrella, including National University. Nancy Rowland Heinrich and Nanette Fritschmann are employees of National University. Both are also on Suncoast Preparatory Academy's board and have approved SMG service agreements, SMG contract amendments, and an SMG repayment plan. Orange County Department of Education staff remain concerned with the validity of this agreement due to the potential conflict of interest, whether the amount billed and owed is appropriately documented, and whether charges include duplication of services provided to the school in exchange for five percent of the school's gross revenue.

Shortly after the charter school was authorized on September 26, 2018, SMG began charging for services and paying invoices on the school's behalf without prior charter school board approval. According to information received from Suncoast Preparatory Academy, the school continues to owe approximately \$538,000 to SMG from the \$1,600,000 initially owed for services provided by

SMG and invoices paid on behalf of the school. Although the charter school board retroactively approved several service contracts and invoices, there was no board approved promissory note for repayment until December 2020, and there remains concern of possible duplication of services for which SMG charged the school a fee. These concerns have been expressed to the school on numerous occasions from 2018 through 2020 in letters requesting information, Notices of Concern, and a teleconference meeting.

On March 4, 2020, as part of a notice of concern, Orange County Department of Education staff requested the school provide a comprehensive legal opinion from an attorney representing the school on whether a conflict of interest exists. The school submitted a legal opinion from Musick and Peeler attorney, Kristine E. Kwong, that stated in part:

*As stated above, there is an appearance of conflict for both Rohland-Heinrich and Fritschmann when they voted to approve the contract with SMG. Approving the contract furthers their personal interests in job security. This is especially the case where there is no evidence that the Charter School issued an RFP for the service contract or that SMG, in any way, competed for the contract. This lack of competition gives the appearance that the Charter School favored SMG over other service providers, and both Board Members had a personal interest approving the contract.*

The school severed ties with SMG and National University Systems on June 30, 2020. However, as recently as December 2020, Nancy Rohland Heinrich and Nanette Fritschmann participated in discussion and took action regarding an agreement for SMG repayment. Nanette Fritschmann resigned from the board on January 22, 2021. Given the school's submitted legal opinion, there continues to be concerns regarding the legality of all contracts with SMG.

## **B. Performance Data**

Suncoast Preparatory Academy reported that results for the 2017-18 California Assessment of Student Performance and Progress (CAASPP) test, used to measure student growth and progress, could not be found and current school leadership is unsure of the reason. Without explanation, this indicates the possibility that the school did not administer CAASPP in 2018. According to the 2018-19 CAASPP test results Suncoast Preparatory Academy tested only 51 of the school's 73 eligible students. Additionally, only one year of data is represented due to the suspension of CAASPP during the pandemic. The 2019-20 Annual Monitoring Report noted that the school used the Northwest Evaluation Association (NWEA) program to assess student progress internally and to inform instruction since the school lacked standardized testing data. However, to date, teachers have not been trained on the NWEA system, or on analyzing the data to drive instruction. Furthermore, in the two years that the school has used NWEA, it has only tested a small number of its students and an even smaller percentage of the same students. Staff is concerned that the

school does not collect adequate data from formative and summative assessments to differentiate instruction and monitor whether students are meeting academic standards.

### **C. Services to English Learners**

Suncoast Preparatory Academy has failed to meet its legally mandated obligations to English learner students for the second consecutive year in violation of California law and the school's charter. The 2019-20 Annual Monitoring Report for Suncoast Preparatory Academy noted that the school was not operating a comprehensive English learner program, and required the school to submit a legally compliant English Learner Master Plan, as well as a professional development plan detailing relevant training that teachers would receive during the 2020-21 school year to support English learner students. On July 27, 2020, then Executive Director Kim Kopp submitted an English learner plan. However, to date, there is no evidence that the school implemented the plan or that teachers have received, or will participate in, professional development to deliver a legally compliant ELD program. Furthermore, the school's most recent budget does not include any money for professional development for teachers and staff to attend training.

### **D. Non-Classroom Based, Independent Study Program Compliance**

During the 2019-20 and 2020-21 oversight visits, school personnel stated that parents of students in the TK-8 "homeschool" program are the main instructor of the curriculum, assign work to students, evaluate student work, and collaborate with the teacher of record to determine grades. School personnel stated that the teacher of record is a support person only and operates as a "tutor" for the student. The renewal petition states, "Suncoast Preparatory Academy requires that online attendance be completed by the parent/guardian each Learning Period." Additionally, the petition indicates that parents are the "daily teacher" for the homeschool program.

Suncoast Preparatory Academy is a non-classroom based charter school. Non-classroom based instruction includes, but is not limited to, independent study, home study, work study, and distance and computer-based education. Pursuant to Education Code section 47612.5, in all types of non-classroom-based instruction, the qualification of instructional personnel must comply with Education Code section 47605(l). Under Education Code section 47605(l), charter school teachers must hold the Commission on Teacher Credentialing certificate, permit, or other document. Moreover, under section 11963.1 of Title 5 of the California Code of Regulations, non-classroom-based instruction in charter schools must also comply with independent study requirements commencing with Education Code section 51745, et seq. Consequently, the charter school is subject to Education Code section 51747.5(a), which states, "The independent study by each pupil shall be coordinated, evaluated, and notwithstanding subdivision (a) of Section 46300, shall be under the general supervision of an employee of the school district, charter school, or county office of education who possesses a valid certification document pursuant to Section 44865 or an emergency credential pursuant to Section 44300, registered as required by law." Additionally,

Education Code section 51747.5(b) states that a school may claim apportionment credit only if a certificated teacher assigns and judges the time value of pupil work.

While parents of children enrolled in Suncoast Preparatory Academy may help educate their children at home through an independent study program of the school, parents may not be treated as if they filed a Private School Affidavit with the California Department of Education under Education Code section 33190, as that would prohibit the students from enrolling in a public charter school. A non-classroom based "homeschool" may give parents and students options for choosing a variety of curriculums, however, in order to comply with the Charter Schools Act, the independent study of each student must be coordinated, evaluated, and under the general supervision of an employee of the charter school who possesses a valid credential, permit or other document as provided in Education Code section 47605(1). The school's current practices and language in the submitted renewal charter petition are in direct violation of the above education code and call into question whether Average Daily Attendance (ADA) has been appropriately documented and claimed.

#### **V. NOTICE OF ALLEGED VIOLATIONS AND OPPORTUNITY TO CURE**

On January 20, 2021, staff issued a notice to Suncoast Preparatory Academy delineating the issues outlined in this staff report and requesting a corrective action plan to address the concerns. The school is scheduled to submit a plan of correction on or before February 20, 2021.

#### **VI. STAFF RECOMMENDATION**

Contingent on a satisfactory corrective action plan submitted on or before February 20, 2021, the Orange County Department of Education staff recommends that the Orange County Board of Education approve with conditions Suncoast Preparatory Academy charter school for a five-year charter term from July 1, 2021 to June 30, 2026 and require the execution of an Agreement to address the issues outlined in this Staff Report.

#### **VII. CONCLUSION**

The Board has three options for action regarding a charter petition renewal:

- Option One: Approve the charter petition as written for a five-year term from July 1, 2021 to June 30, 2026.
- Option Two: Approve the charter petition with conditions for a five-year term from July 1, 2021 to June 30, 2026. This action would result in the charter petition being approved and require the execution of an Agreement to address the issues outlined in this Staff Report.
- Option Three: Deny the charter petition.

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