



ORANGE COUNTY DEPARTMENT OF EDUCATION
Staff Report for
California Republic Leadership Academy Capistrano
January 17, 2023

I. INTRODUCTION

The following is a summary of the review conducted by Orange County Department of Education (OCDE) staff of the California Republic Leadership Academy Capistrano (CRLA) petition submitted on appeal, following no action by the governing board of the Capistrano Unified School District (CUSD). The information in this report has been condensed to the most relevant areas and does not include items deemed less significant. In addition, commendations or suggestions for improvement are not included, as the review process is intended to highlight deficits.

Based on information gathered throughout the entire review process, which included a clarification meeting held with petitioners on December 20, 2022, OCDE staff is recommending approval with conditions of the California Republic Leadership Academy Capistrano charter petition. This action would result in approval of the charter and require the execution of an Agreement to address the issues outlined in this Staff Report and Findings of Fact and by the Orange County Board of Education (the Board), and establish appropriate timelines for the petitioners to meet the conditions as specified.

II. BACKGROUND

On November 16, 2022, the Board received a petition, after it was submitted to CUSD, proposing to establish CRLA as a seat-based charter school, serving 554 students from transitional kindergarten through grade eight. CRLA plans to operate within the boundaries of CUSD beginning in the 2023-2024 school year.

As background, on November 9, 2022, the CUSD Board held a public hearing in accordance with Education Code section 47605 to either grant or deny the charter within 90 days of receipt of the petition. CUSD voted 3-3 to adopt a resolution approving with conditions the charter school petition and then voted 3-3 to adopt a resolution denying the charter school petition. Because neither proposed resolution passed by a majority vote of the board, there was no action taken by the CUSD board.¹ According to the audio recording of the November 9, 2022 meeting, the CUSD Board was informed that “no action” on the petition could be appealed to the Board. In 2016, the Board approved a petition submitted by Orange County Academy of Sciences and Arts which was appealed from CUSD after its board similarly split on either approving or denying the charter petition.

Education Code section 47605(c) states that 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 [findings

¹ Since the November 9, 2022 meeting, a general election was held that filled a vacancy on the CUSD board that now has seven members.

required under Education Code section 47605(c)(1)-(5)]. Because the CUSD could not reach a majority consensus on either approving or denying the petition, the CUSD board did not make any written factual findings.² However, CUSD staff submitted to the CUSD board a written staff report recommending denial of the charter petition that may have served as the written findings of fact.

According to Education Code section 47605(k)(1)(A)(i), if the governing board of a school district denies a petition, the petitioner may elect to submit the petition for the establishment of a charter school to the county board of education. The petitioner shall submit the petition to the county board of education within 30 days of a denial by the governing board of the school district. Additionally, California Code Regulations, Title 5, section 11967(b) states that when filing a petition with the county board of education for the establishment of a charter school, petitioner(s) shall provide the evidence of the governing board's action to deny the petition (e.g. meeting minutes) and the governing board's written factual findings specific to the particular petition, when available, setting forth specific facts to support one or more of the grounds for denial set forth in Education Code section 47605(c).

From staff's perspective, and as acknowledged by the Petitioners in their letter dated November 17, 2022, the Education Code requires that the governing board affirmatively make written factual findings specific to the particular petition in accordance with Education Code section 47605(c)(1)-(5) to deny a charter school petition. Since the CUSD board has not done so, the CRLA petition may not be ripe for an appeal to the county board. However, neither the Education Code nor legal precedent specifically address whether an initial charter petition can be appealed to a county board when the district board does not take official action and make written factual findings denying the petition.

On January 4, 2023, the Board held a public hearing on the provisions of the charter petition and to consider the level of support for the petition by parents/guardians, teachers, and other employees of the school district which the charter school proposes to locate.

Generally, on appeal, the Board must take action to either grant or deny the charter within ninety (90) days of receipt of the petition unless this date is extended by up to an additional 30 days by agreement. Board action is scheduled for the Board's regular meeting on February 1, 2023.

III. LEGAL STANDARD

Education Code section 47605(k) indicates, "If the governing board of a school district denies a petition, the petitioner may elect to submit the petition for the establishment of a charter school to the county board of education." The county board of education shall review the petition pursuant to Education Code sections 47605(b) & (c).

² Education Code section 35164 requires the governing board to act by majority vote of all of the membership constituting the governing board.

IV. SUMMARY OF FINDINGS³

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 appeal.

A. The petition does not contain reasonably comprehensive descriptions of the required elements under Education Code section 47605(c)(5)(A-O).

1. The curriculum, units to be taught, and the scope and sequence incorporated into the petition and found in appendix H, are samples from three other schools. When asked about CRLA's curriculum during the clarification meeting, the lead petitioner responded that it would not be selected prior to approval and would instead be determined by teachers who have yet to be employed. (Education Code section 47605(c)(5)(A)(i))
2. The petition does not contain an adequate description of the services to be provided to students who are English language learners. The petition conflates English Language Development (ELD) with intervention services. ELD is a required course of study for all English learners and instruction is provided to students based on their proficiency level. The petition states that the school will assess a student's limited English proficiency and then determine what program and services the student will receive, for example designated English Language Development (ELD) or integrated ELD. The petition should make clear that students who are limited English proficient will receive both integrated and designated ELD and that designated ELD instruction will occur daily for all English Learners until they are Reclassified Fluent English Proficient, as required by law. While the petition lists the criteria for reclassifying students, it does not include the procedures for reclassification, process for monitoring reclassified students or how these students will be supported. Additionally, the petition does not delineate a plan to support Newcomer students with limited to no English proficiency. (Education Code section 47605(c)(5)(A)(i))
3. The petition identifies a dropout goal of under 10% for middle school pupils. The petition does not document any research used, community data or statistics analyzed for arriving at this percentage which is concerning because a dropout rate of 10% is extremely high. (Education Code section 47605(c)(5)(B))
4. The petition does not contain reasonably comprehensive descriptions under Education Code section 47605(c)(5)(A)(ii) of the annual goals for the charter school for all pupils and for each subgroup of pupils identified pursuant to Section 52052, to be achieved in the state priorities, as described in Education Code section 52060(d). Specifically, the following state priorities require additional information:

³ The legal basis for the reviewed items includes the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g; Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 *et seq.*; Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794; California Education Code §§ 47605, 47607, 52052, 49010 *et seq.*; Title V, California Code of Regulations § 11967.5.1.

- a) State priority #3- Parental Involvement does not describe the school’s efforts to promote parental participation for parents of unduplicated pupils and pupils with exceptional needs.
- b) State priority #5- Chronic Absenteeism fails to reflect the chronic absenteeism rate measure, which is the percent of pupils missing 10% or more instructional days.
- c) State priority #6- School Climate lists actions focusing on the school safety plan rather than measuring school connectedness or the sense of safety for students.
- d) State priority #7- Course Access lists unduplicated pupils and students with exceptional needs in the actions/goals; however, there is no detail regarding specific programs/services that will be developed and provided for these subgroups.

B. The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.

1. The charter petition does not comply with Education Code section 47605(l), which requires all teachers in charter schools to hold the Commission on Teacher Credentialing certificate, permit, or other document required for the teacher's certificated assignment. Although the petitioners clarified that they understood the requirements for a teacher’s certificated assignment, there are multiple references in the petition to Education Code section 47605.4(a), which does not apply to this charter school. Additionally, page 28 of the petition states that teachers serving English learner (EL) students will be CLAD certified, or in the process of obtaining CLAD certification, or the equivalent, which is out of compliance with Education Code section 47605(l).
2. Page 17 of the petition states that scholars attending CRLA will have the opportunity to simulate real-life situations and then use those principles learned and practiced in internships, community service, vocational programs, employment, travel, and becoming mentors for others. However, petitioners were unable to elaborate on what was meant by this and it is unlikely that the school can provide opportunities for internships, vocational programs or employment in a TK-8th grade setting.
3. There is no mention in the petition of instructing according to the Next Generation Science Standards, the State adopted standards for science, or administering science grade level assessments as required under Education Code sections 60605 and 47605(d)(1).

V. Staff Recommendation

Orange County Department of Education staff recommend that the Orange County Board of Education approve with conditions the California Republic Leadership Academy Capistrano charter petition for a term of five years from July 1, 2023, to June 30, 2028. This action would result in approval of the charter and require the execution of an Agreement that delineates the operational relationship between the school, the Board, and OCDE, addresses the concerns noted

in this Staff Report and establishes appropriate timelines for the petitioners to satisfy the conditions.

VI. Conclusion

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

- Option One: Approve the charter petition as written.
- Option Two: Approve the charter petition with conditions. This action would result in the charter petition being approved and require the execution of an Agreement to address the issues outlined in the Staff Report.
- Option Three: Deny the charter petition.

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