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fresno county superintendent of schools

To: Fresno County Board of Education

From: Charter School Petition Review Committee

Subject: Charter Committee Report Regarding the Big Picture Educational Academy Material Revision to Current Petition (July 1, 2017 – June 30, 2022)

Date: April 6, 2022

The Fresno County Superintendent of School's ("FCSS") Charter School Petition Review Committee ("Charter Committee") has reviewed the Big Picture Educational Academy ("BPEA") Material Revision to its current petition (July 1, 2017 – June 30, 2022) ("Material Revision"). The purpose of this Committee Report is to provide a detailed discussion of the Charter Committee's review, concerns, and findings related to the Material Revision.

I. BACKGROUND

A. Material Revision Submission

The Fresno County Board of Education ("FCBE") first approved the BPEA Charter Petition for a three-year term (July 1, 2009 – June 30, 2012). FCBE renewed the BPEA petition for five-year terms in 2012 and 2017. The current BPEA charter term expires June 30, 2024. AB 130 (2021) extended the term of BPEA's charter by two years. Prior to AB 130, the charter term was set to expire June 30, 2022. BPEA operates a K-12 educational program at two sites and the Big Picture Adult Center for Training and Careers ("BPCTC") at four sites. Sites include:

- 1207 South Trinity Street, Fresno, CA 93706 (9-12, BPCTC)
- 735 North Glenn Avenue, Fresno, CA 93728 (K-8, BPCTC)
- 1901 East Shields Avenue, Suite 202, Fresno, CA 93727 (BPCTC)
- Mosqueda Center – 4670 East Butler Avenue, Fresno, CA 93702 (BPCTC)
- Van Ness – 1546 N Street, Fresno, CA 93721 (BPCTC)

BPEA submitted the current Material Revision on January 31, 2022. Each member of the FCBE received a copy of the Material Revision in their Board Packet prior to the March 17, 2022 FCBE meeting, at which time a public hearing was conducted regarding this Material Revision.

B. Summary of the Material Revision

The BPEA elementary campus is currently located at 735 North Glenn Avenue in downtown Fresno. The campus space is leased from the City of Fresno on the site of Ted C. Wills Community Center. The City of Fresno opted to not renew the lease with BPEA as they intend to use Measure P funds to increase green space by recapturing the entire community center lot. The lease between BPEA and the City of Fresno expires June 30, 2022.

BPEA seeks to relocate the elementary campus to Singleton Hall, (2811 Mariposa St, Fresno, CA 93721) in downtown Fresno. Singleton Hall is an education complex owned by the Catholic Diocese of Fresno. Singleton Hall is approximately 1.5 miles south and east of the N. Glenn campus. The BPEA Material Revision Request (Tab 2) includes a description of the plans for Singleton Hall. The description includes the use of the property, classroom and office assignments, Americans with Disabilities Act (ADA) considerations, student pick-up and drop-off, shared use of the facility with the Diocese, financial implications, and church-state considerations. BPEA has maintained a positive landlord-tenant relationship with the Diocese of Fresno for over thirteen years, as BPEA's high-school is located on the property of Saint Alphonsus Catholic church in southwest Fresno.

II. MATERIAL REVISION CRITERIA

The Charter Committee reviewed the BPEA Material Revision based on the requirements set forth in applicable laws, including Education Code ("EC") section 47605, 47607, and in the Memorandum of Understanding between FCBE and BPEA for the charter term of July 1, 2017 through June 30, 2022 ("MOU").

EC section 47607 provides in part:

(a)

...

(3) A charter school that, concurrently with its renewal, proposes to expand operations to one or more additional sites or grade levels shall request a material revision to its charter. A material revision of the provisions of a charter petition may be made only with the approval of the chartering authority. A material revision of a charter is governed by the standards and criteria described in Section 47605.

(4) The findings of paragraphs (7) and (8) of subdivision (c) of Section 47605 shall not be used to deny a renewal of an existing charter school, but may be used to deny a proposed expansion constituting a material revision. For a material revision, analysis under paragraphs (7) and (8) of subdivision (c) of Section 47605 shall be limited to consideration only of the impact of the proposed material revision.

(5) The chartering authority may inspect or observe any part of the charter school at any time.

(b) Renewals and material revisions of charters are governed by the standards and criteria described in Section 47605, and shall include, but not be limited to, a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed.

EC section 47605(a)(4) provides:

(4) After receiving approval of its petition, a charter school that proposes to expand operations to one or more additional sites or grade levels shall request a material revision to its charter and shall notify the chartering authority of those additional locations or grade levels. The chartering authority shall consider whether to approve those additional locations or grade levels at an open, public meeting. If the additional locations or grade

levels are approved pursuant to the standards and criteria described in subdivision (c), they shall be a material revision to the charter school's charter.

The Memorandum of Understanding (MOU) between FCBE and BPEA provides:

5.1.1 MATERIAL REVISION DEFINED. A "Material Revision" is any change to the Charter and/or MOU that is any of the following:

...

5.1.1.6 Addition of any new Charter School Site, or elimination of any Charter School Site listed on the Cover or in an amendment.

...

5.1.2 REQUEST FOR MATERIAL REVISION.

5.1.2.1 GENERALLY. Charter School may submit to Authorizer, and Authorizer will consider, any proposed Material Revision to the Charter and/or MOU in accordance with Authorizer's policies and procedures, if any, that are in effect at the time that Charter School submits the proposed Material Revision. Unless stated otherwise in Authorizer's policies and procedures, Charter School shall submit any proposed Material Revision at least 90 days before the date on which Charter School intends the Material Revision to take effect. The proposed Material Revision shall be in writing and state, at a minimum, the following: (A) a description of the proposed Material Revision; (B) the date on which Charter School anticipates the proposed Material Revision to take effect; and (C) the name and contact information of the person at Charter School with whom Authorizer is to communicate regarding the proposed Material Revision.

5.1.2.2 ADDITION OF CHARTER SCHOOL SITE. In addition to the requirements in Section 5.1.2.1 above, in any request for a Material Revision to add a new Charter School Site, Charter School shall allow Authorizer to inspect the new facility as part of Authorizer's consideration of such request.

5.1.3 AMENDMENT REFLECTING MATERIAL REVISION.

5.1.3.1 GENERALLY. Except as provided otherwise in this Article 5 in which case such provision shall apply, any Material Revision shall be set forth in an amendment, which must be approved and executed by the Parties. Any amendment to the Charter that requires County Superintendent to perform any services or assume any obligations must be signed by County Superintendent to be binding on County Superintendent.

5.1.3.2 ADDITION OF CHARTER SCHOOL SITE. In addition to the requirements in Section 5.1.3.1 above, the following shall apply to any amendment for a Material Revision to add a new Charter School Site:

5.1.3.2(A) The amendment shall state the full street address of the new Charter School Site.

5.1.3.2(B) At least 30 days before Charter School's first day of occupancy of the new Charter School Site, Charter School shall submit to Authorizer a certificate of occupancy or other documentation issued by the appropriate governmental agency(ies) authorizing Charter School to use the new Charter School Site for the purposes intended by Charter School.

5.1.3.2(C) Charter School shall submit evidence to Authorizer that the new Charter School Site complies with the provisions of Sections 7.2.1 and 7.2.2.

7.2.1 GENERAL REQUIREMENTS. Each Charter School Site that Charter School operates shall comply with the following requirements:

7.2.1.1 Health, safety and fire code requirements applicable to California charter schools.

7.2.1.2 Federal and California laws applicable to charter school facilities.

7.2.1.3 Requirements under the ADA.

7.2.1.4 California and local regulations governing the operation of charter school facilities.

7.2.1.5 One of the following unless a Charter School Site is exclusively owned or controlled by an entity (e.g., federal government) that is not subject to the California Building Standards Code: (A) the California Building Standards Code (Part 2, commencing with Section 101 of Title 24 of the CCR) as adopted and enforced by the local building enforcement agency with jurisdiction over the area in which Charter School is located; or (B) the Field Act, EC 17280 et seq. and 17365 et seq.

7.2.1.6 Location in an area properly zoned for operation of a school and has been cleared for pupil occupancy by local authorities with jurisdiction of the Charter School Site.

7.2.1.7 Local approvals, including but not limited to, applicable fire marshal clearance, certificate of occupancy or other documentation authorizing Charter School to use the facility for the purposes intended by Charter School, signed building permit inspections, and any approved zoning variances.

7.2.2 NUMBER OF CHARTER SCHOOL SITES. Charter School shall only operate at the Charter School Sites set forth on the Cover."

III. CHARTER PETITION REVIEW COMMITTEE ANALYSIS

The Material Revision went to public hearing at the regularly scheduled FCBE meeting on Thursday, March 17, 2022. Members of the BPEA leadership team presented their plan to execute the required move from 735 N. Glenn Ave., Fresno, 93728 to 2811 Mariposa St., Fresno, 93721. During the public hearing, BPEA leadership shared their plans for the improving the site, as well as their projected budget for site improvements.

Dr. Hunt and Jeff Becker, FCSS facilities Director, performed visits to the proposed site January 19 and March 21, 2022. Daniel Soto, Compliance Officer with the FCSS Charter SELPA attended the March 21 visit to assess the site for fitness to meet the needs of students with disabilities. Based on the facility review, the building is educationally adequate for BPEA.

During the site visits the committee made recommendations to BPEA leadership to ensure health and safety, educational adequacy, and compliance requirements are addressed. BPEA leadership provided the committee a timeline for addressing the recommendations. Necessary compliance requirements, health & safety inspections, negotiations with the Diocese over update costs, and requests for bids have been initiated. It is unlikely that **all** desired cosmetic and program related

updates will be made by the start of the school year, but it is the opinion of the committee that vital health & safety facility improvements are possible between now and the start of the school year.

In addition to a description of the proposed change, each Material Revision to a petition must include a reasonable description of any new requirement of charter schools enacted into law after the charter was originally granted or renewed. The Charter Committee analysis of the petition is provided in the following table based on the standards and criteria set forth in EC section 47605(c). The page numbers where supporting information can be found in the Petition documents are provided for each criterion. Charter Committee comments are provided where needed for clarity.

	Criteria	Committee Comments	Meets Criteria	
			YES	NO
1.	<i>The charter school presents a sound educational program for the pupils to be enrolled in the charter school.</i>	As is noted in the subsections, below, the Petition contains a complete description of a sound educational program, including application of the Local Control Funding Formula and corresponding Local Control Accountability Plan (LCAP).	X	
2.	<i>The petitioners are demonstrably likely to successfully implement the program set forth in the petition.</i>		X	
3.	<i>The petition contains the number of signatures required by subdivision (a)</i>	This standard does not apply to material revisions.	N/A	
4.	<i>The petition contains an affirmation of each of the conditions described in subdivision (e).</i>	Signed affirmations can be found in TAB 5 of the petition. The petition contains all required affirmations.	X	
5.	The Petition contains reasonably comprehensive descriptions of all of the following elements:			
	<i>(A) (i) The educational program of the charter school, designed, among other things, to identify those whom</i>	The description of the educational program contains the required components as noted in EC 47605(c)(5) as well as addresses annual goals and associated actions related to the eight state priorities	X	

	Criteria	Committee Comments	Meets Criteria	
			YES	NO
	<p><i>the charter school is attempting to educate, what it means to be an “educated person” in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.</i></p> <p><i>(ii) 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 subdivision (d) of Section 52060, that apply for the grade levels served, and specific annual actions to achieve those goals. A charter petition may identify additional school priorities, the goals for the school priorities, and the specific annual actions to achieve those goals.</i></p> <p><i>(iii) If the proposed charter school will serve high school pupils, the manner in which the charter</i></p>	<p>associated with the Local Control Funding Formula and Common Core State Standards.</p> <p>TAB A Pages 3-95.</p>		

	Criteria	Committee Comments	Meets Criteria	
			YES	NO
	<p><i>school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable and courses approved by the University of California or the California State University as creditable under the "A to G" admissions criteria may be considered to meet college entrance requirements.</i></p>			
	<p><i>B. The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes," for purposes of this part, means the extent to which all pupils of the charter school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the charter school's educational</i></p>	<p>Pupil outcomes aligned with the eight state priorities are found in Element B of the petition.</p> <p>TAB B Pages 96-156.</p>	X	

	Criteria	Committee Comments	Meets Criteria	
			YES	NO
	<i>program. Pupil outcomes shall include outcomes that address increases in pupil academic achievement both schoolwide and for all pupil subgroups served by the charter school, as that term is defined in subdivision (a) of Section 52052. The pupil outcomes shall align with the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served by the charter school.</i>			
	<i>(C) The method by which pupil progress in meeting those pupil outcomes is to be measured. To the extent practicable, the method for measuring pupil outcomes for state priorities shall be consistent with the way information is reported on a school accountability report card.</i>	Element C of the petition identifies the methods by which pupil progress will be measured. TAB C Pages 157-159	X	
	<i>(D) The governance structure of the charter school, including, but not limited to, the process to be followed by the</i>	Element D of the petition describes the organization structure, leadership structure, leadership duties, parent involvement, and compliance with the Brown Act.	X	

	Criteria	Committee Comments	Meets Criteria	
			YES	NO
	<i>charter school to ensure parental involvement.</i>	TAB D Pages 161-164		
	<i>(E) The qualifications to be met by individuals to be employed by the charter school.</i>	Element E of the petition describes the qualifications to be met by employees of BPEA. TAB E Pages 165-178	X	
	<i>(F) The procedures that the charter school will follow to ensure the health and safety of pupils and staff. These procedures shall require all of the following: (i) That each employee of the charter school furnish the charter school with a criminal record summary as described in Section 44237. (ii) The development of a school safety plan, which shall include the safety topics listed in subparagraphs (A) to (J), inclusive, of paragraph (2) of subdivision (a) of Section 32282. (iii) That the school safety plan be reviewed and updated by March 1 of every year by the charter school.</i>	Element F of the petition includes detailed procedures for maintaining a safe and healthy environment for pupils and staff. TAB F Pages 179-184	X	
	<i>(G) The means by which the charter school will achieve</i>	The petition describes a student recruitment strategy that attempts to achieve a balance	X	

	Criteria	Committee Comments	Meets Criteria	
			YES	NO
	<p><i>a balance of racial and ethnic pupils, special education pupils, and English learner pupils, including redesignated fluent English proficient pupils, as defined by the evaluation rubrics in Section 52064.5, that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted. Upon renewal, for a charter school not deemed to be a local educational agency for purposes of special education pursuant to Section 47641, the chartering authority may consider the effect of school placements made by the chartering authority in providing a free and appropriate public education as required by the federal Individuals with Disabilities Education Act (Public Law 101-476), on the balance of pupils with disabilities at the charter school.</i></p>	<p>in student demographics reflective of students residing within the territorial jurisdiction of Fresno County and the districts within which BPEA campuses are located. BPEA student demographics are generally proportional to the communities which they reside.</p> <p>TAB G Pages 185-186</p>		
	<p><i>(H) Admission policies and</i></p>	<p>Element H of the BPEA petition describes non-discrimination</p>	X	

	Criteria	Committee Comments	Meets Criteria	
			YES	NO
	<i>procedures, consistent with EC 47605 subdivision (e).</i>	statutes, open enrollment process, admission and enrollment procedures, and public random lottery process should it become necessary. TAB H Pages 187-188		
	<i>(I) The manner in which annual, independent financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority.</i>	Element I of the petition describes the process BPEA applies for conducting a financial audit annually. The petition describes the qualifications of the auditor and the timeline for completing and submitting the audit report to the County Superintendent. BPEA submits copies of completed internal audits to the County Superintendent's office each year. TAB I Page 189-190	X	
	<i>(J) 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.</i>	Element J (located in TAB J) of the petition describes the procedures by which pupils can be suspended or expelled for disciplinary reasons, or otherwise involuntarily removed from BPEA for any reason as required by EC 47605(c)(5)(J). TAB J Pages 191-211	X	
	<i>(K) The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.</i>	Element K of the petition describes how staff members of the charter school will be covered by the State teachers' Retirement System, the Public Employees Retirement System, or federal social security. TAB K Page 212-213	X	

	Criteria	Committee Comments	Meets Criteria	
			YES	NO
	<i>(L) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.</i>	Element L of the petition describes public school attendance alternatives for students residing within the school district who choose not to attend the charter school. TAB L Page 214	X	
	<i>(M) The rights of an employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school.</i>	Element M of the petitions describes the rights of an employee of the district upon leaving the employment of the school district to work at the charter school. TAB M Page 216-217	X	
	<i>(N) The procedures to be followed by the charter school and the chartering authority to resolve disputes relating to provisions of the charter.</i>	Element N of the petition describes the procedures to be followed by the charter school and charter authorizer to resolve disputes relating to the provisions of the charter. TAB N Pages 218-219	X	
	<i>(O) The procedures to be used if the charter school closes. The procedures shall ensure a final audit of the charter school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and</i>	Element O of the petition includes a description of the procedures to be used if the charter school closes. TAB O Pages 220-221	X	

	Criteria	Committee Comments	Meets Criteria	
			YES	NO
	<i>transfer of pupil records.</i>			
6.	<i>(6) The petition contains a declaration of whether or not the charter school shall be deemed the exclusive public employer of the employees of the charter school for purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.</i>	The petition includes a signed affirmation that BPEA declares that it shall be deemed the exclusive public school employer of the employees of BPEA for the purposes of the Educational Employment Relations Act. TAB #5	X	

Additionally, the committee is unaware of any facts that would support denial of the Material Revision based on EC sections 47605(c)(7) & (8).

IV. CHARTER COMMITTEE FINDINGS

Based on a review of the petition, supporting materials, and multiple facility visits, the Committee recommends that the Board **approve** the Material Revision.