

EXHIBIT "A"
FINDINGS OF FACT
(East Bay Tech Academy Antioch Middle School)

I. THE PETITIONERS ARE DEMONSTRABLY UNLIKELY TO SUCCESSFULLY IMPLEMENT THE PROGRAM SET FORTH IN THE PETITION

A. Unrealistic Financial and Operational Plan.

The petitioners have presented an unrealistic financial and operational plan for the proposed Charter School for reasons, including the following:

1. The Budget Narrative submitted with the petition represents that the Charter School will meet its cash flow needs for Year 1 with the use of the “California School Finance Authority’s Charter School Revolving Loan *facility*.” It then states “This *facility* is made available for new charter schools wishing to borrow up to \$250,000 at low interest rates for up to two years.” Although it is unclear what “facility” this is referencing, we presume it is referencing the Charter School Revolving Loan. The Planning Budget submitted with the petition includes as start-up revenue “Loan Financing (e.g., Charter School Revolving Loan)” in the amount of \$250,000. A charter school must apply to the California School Finance Authority to receive this loan and an award is not guaranteed. The Charter School does address whether it has an alternative funding plan in the event the Charter School does not receive this Loan.
2. To meet its cashflow needs in Year 1, the Budget Narrative states that the petitioners have secured a “cash flow promise of funding” from a recognized finance company. The letter from CSMC (enclosed as Appendix J to the petition) addressed to both East Bay Tech Academy Antioch Middle and High Schools states that “we formally propose to offer East Bay Tech Academies – Antioch “a cash flow financing facility (loan) for \$250,000...” Not only is it unclear whether CSMC is “promising” \$250,000 total for both schools to share, but the terms of this “loan” are not detailed, and this source of these funds is speculative/uncertain.
3. The petitioners did not submit a separate multi-year projected monthly cash flow statement with the petition, but for each of the first five years of operation, the projected Budget includes Federal Revenue for “ESSA (Title I)” in the amount of \$115,688 (5-year total: \$578,340 total) with the assumption that the Charter School will apply for and receive this funding. It is not a sound basic accounting practice to include this grant as a budget assumption.

4. While the Charter School's Planning Budget includes an expenditure for the first insurance for the first five years of operation, since the petition does not describe/specify the amounts of insurance coverage that will be maintained by the Charter School and does not identify where it will locate or the type of facilities that will be used, the District is unable to evaluate whether the Charter School has sufficiently budgeted for insurance costs.
5. Under Budget Assumptions item # 5 on page 4 of the Budget Narrative submitted with the petition, the Charter School specifies that it will contribute \$600 per ADA as a self-encroachment fee to ensure that students with special needs are well served. The equivalent amount for the contribution using the 498.50 ADA in year one will be \$299,100. There is not enough detail provided in the budget documents for the District to be able to verify whether all special education costs are included and whether the Charter School has sufficiently budgeted to cover the costs of these support staff. If special education costs are not properly budgeted there may be a significant impact on the Charter School's budget.
6. The District believes that the amount budgeted for Health & Welfare costs (average of \$10,000 per year per employee) is too low. By comparison, the District's Health Insurance Coverage costs are currently: Single-\$11,736, Two-Party-\$16,680, Family-\$19,800.
7. There is a discrepancy between the Charter School's budget and the LCFF Revenue Calculation using the FCMAT Calculator Version 18-2D and the Charter School has over budgeted by approximately \$560,000 total over five year period.
8. The petition does not sufficiently identify where the Charter School will locate within the geographic boundaries of the District or describe the facilities to be used by the Charter School. While the petitioners acknowledge the importance of identifying school facilities to the opening of a charter school, it is unclear where the proposed Charter School intends to operate or what type of facilities will be used.

The petition states that the petitioners have been actively seeking a viable location within the City of Antioch, and has partnered with commercial real estate agents, school facility developers and community leaders to vet both parcels of raw land and current commercial buildings, but then inconsistently states they "have also met with staff members at the City of Antioch to discuss feasible school locations, in the situation where Prop 39 is not identified as the desired."

This lack of specificity and uncertainty about where it will operate (and the type of facilities it will use) makes it impossible for the District to evaluate whether the Charter School has sufficiently budgeted for facilities costs.

Also, the budget submitted with the petition assumes receipt of uncertain/speculative SB 740 Facilities Grant Program funds as follows: Year 1 - \$374,063; Year 2 - \$374,063; Year 3 - \$374,063; Year 4 – 374,063; Year 5 - \$374,063 (5-year total: \$1,870,315). If the Charter School does not satisfy the requirements necessary to qualify for the SB 740 funding, then the assumed revenues would have to be removed from the budget which may significantly impact the ability of the Charter School to operate its program.

Also, per Education Code section 47614.5, SB 740 funds shall not be apportioned to charter schools receiving reasonably equivalent facilities from their chartering authority pursuant to Proposition 39. Therefore, to the extent the Charter School seeks and utilizes District facilities under Prop. 39, it will be unable to use SB 740 funds to cover its costs for utilization of District facilities.

9. The petitioners' enrollment projections represent enrollment amounts which the District staff believes are overinflated/unrealistic. The ability of the Charter School to be able to obtain these enrollment projections may be impacted by the following, but not limited to, circumstances:
 - (a) The Charter School's budget assumes enrollment of 525 in 2019-20 (Year 1). To support this projection, the petition states that Clayton Valley Charter High School's program is in high demand and the school's enrollment is impacted with a waitlist of 500 freshman students. Even if substantiated, it is unclear how the number of freshman (9th grade) students currently on CVCHS's waitlist is relevant to the projected enrollment of the Charter School that will serve students in grades 6-8. Furthermore, just because enrollment may be impacted at CVCHS in Concord that does not necessarily mean the same will occur in Antioch located 15 miles away with a different demographic student population than attending CVCHS.
 - (b) The petition states that enrollment "will be capped at the capacity of the facilities" but since the location or type of facilities the Charter School will utilize are not identified/described in the petition, it is uncertain how the anticipated enrollment projections will be impacted by the capacity of its facilities.
 - (c) Much of the proposed charter program appears to be a duplication of services already offered to District families and community. Although the petitioners plan to use research-based practices to substantiate their proposal, many of the main elements identified in the petition suggest action steps that are currently underway at the District or being planned for implementation by the District. For instance:

- “Equal access and opportunity” is also one of the District’s core values. Equal access and opportunity are part of the central tenet of Linked Learning model, which the District’s Board endorsed approximately 10 year ago.
- The PLC model the Charter School plans to adopt is currently practiced by District educational leaders.
- Similar to the Charter School’s proposed program, District students already have individual learning plans using the GFSF college and career planning tool. Plus, District counselors track student progress using their own form of academic plan/ILPs.
- “Expanded choices” highlighted in the petition are part of the District’s Linked Learning Academies and CTE pathways design at the secondary level. Also, moving forward, the District intends to scale its Linked Learning academies to include additional pathways (e.g., Fire Science, Culinary Academy, Building Industry and Trade, Teacher Education, etc.)
- Targeted interventions are the same (e.g., after school tutoring, bridge programs, credit recovery, etc.)

Since the Charter School's budget is premised on its unrealistic enrollment projections, the entire projected budget will be impacted when enrollment amounts are not realized, likely resulting in a deficit budget jeopardizing the ability of the petitioners to successfully implement and operate their program

10. Per the petition, parents of Charter School students must be “meaningfully and actively engaged in their children’s education” and must be “responsible and accountable for supporting their children’s learning at school and home.” Since active parent engagement is a critical component of the proposed Charter School’s program, there is concern that should the necessary level of parent involvement not be realized the success of the Charter School will be impacted. This is of particular concern since the Charter School anticipates serving a large socio-economically disadvantaged student population that will require greater supports.

B. Unfamiliar with Petition Contents or Requirements of Law.

For reasons, including the following, the petitioners are unfamiliar in the District’s judgment with the content of the petition or the requirements of law that would apply to the proposed charter school:

1. As evidenced by the petition content noted below and in other findings of fact contained in this document, the petitioners are unfamiliar with the content of the petition and/or the requirements of law that would apply to

the proposed charter school. For instance, at multiple locations throughout the petition it reference as controlling authority Education Code section “47605.6” which is applicable to countywide benefit charters authorized by county boards of education, not school districts. Similarly, the Board level Fiscal and Operating Policies enclosed with the petition under Appendix H, state that the Board of Directors shall have the sole authority to change the School’s name “with *CCCOE* pre-approval.” Also, the policies state that the fiscal manager or contracted business back office services provider “will provide access to the organization’s records to the *CCCOE* CFO or his designee...”

This not only causes the District concern with regard to the care that was used in preparing the petition which is intended to control the development and operation of the Charter School, but also calls into question the qualifications and experience of those proposing to open and operate the Charter School.

2. The petition fails to include a legally required assurance stating that the Charter School shall notify the parents and guardians of applicant pupils and currently enrolled pupils that parental involvement is not a requirement for acceptance to, or continued enrollment at, the Charter school.

C. Petitioners’ Past Unsuccessful History of Involvement with Charter Schools.

In determining whether petitioners are demonstrably likely to successfully implement their proposed educational program, the District may consider the success or failure of petitioners’ past history with charter schools. (Title 5, Cal. Code Regs., § 11967.5.1(c)(1).) The petitioners past unsuccessful history of developing charter school petitions and operating charter schools is demonstrated by the following, but not limited to, facts:

1. On September 23, 2016, the Contra Costa County Office of Education received a petition to establish the Clayton Valley Charter Tech Academy countywide charter school with a planned opening date of July 2017. At its meeting on November 9, 2016, the County Board denied the petition based on the County Office staff’s recommendation to deny due to the failure of the petition to meet the Education Code’s minimum threshold for approval. As noted in the County Office’s staff report, even had the petition met the threshold criteria, staff would have recommended denial due to deficiencies with the teacher signatures, petitioners’ failure to notify affected school districts as required by applicable law, and concerns regarding the use of county demographics criteria for countywide charter schools.
2. The petition identifies David Linzey as “Senior Advisor” to the proposed Charter School. Mr. Linzey is currently the Executive Director of Clayton Valley Charter High School. Mr. Linzey started a new charter corporation, Bay Area Charter Schools, out of the Clayton Valley District office, filing

Articles of Incorporation on August 31, 2016. The corporation was dissolved on December 15, 2017, less than two weeks prior to incorporation of the East Bay Tech Academies - Antioch on December 28, 2017. Kevin M. Davis signed the Articles of Incorporation for both corporations as “Incorporator.” There is concern that this new petition submitted to the District may be a new attempt to materially expand/revise the operations of the existing CVCHS charter without seeking and obtaining approval from the Contra Costa County Office of Education.

3. In 2014, the Knightsen Elementary School District Board denied a petition for a charter school submitted by an administrator of Clayton Valley Charter High School at that time. The Knightsen Board denied the petition based on staff recommendations that the petition did not meet requirements based on the intended location of the charter school and for special education issues.
4. The petitioners plan to implement the same educational program as it currently functions with the operation of Clayton Valley Charter High School (“CVCHS”). The petitioners also submitted a copy of the CVCHS Student and Parent Handbook as an Appendix to the petition, and state that a similar guide will be given to Charter School students. Lead petitioner Megan Moilanen is currently the Director of Guidance and Assessment at CVCHS and David Linzey, who will be a “Senior Advisor” to the proposed Charter School, is currently the Executive Director of CVCHS and Ms. Moilanen’s superior at CVCHS. At the public hearing on March 14, 2018, a current member of the CVCHS Board of Directors strongly urged support of the new petitions, and another individual who was present identified himself as a founding board member of CVCHS and also expressed his support for the petitions. Given the above, but not limited to, connections with CVCHS, it can reasonably be inferred that the proposed Charter School will not be fully independent/separate from CVCHS and may share some of the same administration and board members.

Therefore, the past operation of the existing CVCHS is relevant to whether the new proposed Charter School will be successful and it is reasonably foreseeable that concerns and issues which have arisen regarding the governance of CVCHS may arise at the new Charter School. In addition to other findings contained in this document, the following past history is relevant to whether the Charter School will be able to successfully implement its proposed program:

- A petition signed by over 500 people to terminate CVCHS’s Executive Director, David Linzey, was submitted to the CVCHS Board in November 2014. The signed petition summary stated: “*We, as the Concerned Stakeholders of CVCHS, no longer hold good faith in the executive director, David Linzey. We do not believe nor trust in his leadership, decisions, nor honesty. We feel he has grossly*

misrepresented truths and has made decisions that affect our learning community in a negative way. We are also concerned for the safety of our students. We are requesting that CVCHS terminate David Linzey's contract so that the community can move forward in a positive way." The list of concerns included: student safety; failed labor management practices; financial mismanagement; and lack of collaborative communication with all stakeholders.

<https://www.change.org/p/clayton-valley-charter-hs-governing-board-and-contra-costa-county-board-of-education-our-governing-board-needs-to-hear-our-concerns-and-terminate-dave-linzey>

- Hundreds of complaints about CVCHS' fiscal management, governance, employment practices, conflicts of interest practices, and lack of transparency resulted in an investigation by the Contra Costa County Office of Education. The County Office's investigation found serious concerns about the charter school's governance and other policies.
- In December 2014, the Contra Costa County District Attorney's office initiated an investigation into potential violations of the Brown Act in relation to the conduct of meetings of the CVCHS board.
- In December 2013, the Legal Aid Society-Employment Law Center alleged in a letter to CVCHS that the school had violated Title IX, the federal statute prohibiting schools that receive federal funding from discriminating against students on the basis of sex.

D. Teacher Signatures Do Not Support the Petition.

In support of the petition the petitioners submitted eleven (11) "Teacher Signatures." The signed sheets state: "The petitioners listed below certify that they are teachers who are meaningfully interested in teaching at the Charter School." Nine (9) of the eleven (11) signatures are from individuals who are currently listed as staff on the CVCHS' website. <https://www.claytonvalley.org/apps/staff/>

Of the nine (9) CVCHS staff persons, seven (7) are from the CVCHS athletics/physical education department, including two "Co-Athletic Directors." Given their current positions at CVCHS, the District questions whether these individuals, particularly the two Athletic Directors, are meaningfully interested in leaving their current employment to go work at the Charter School. Furthermore, these signatures are invalidated by the fact that the signature form does not identify when the Charter School proposes to commence operations. The individuals who signed the petition cannot be meaningfully interested in "teaching" at the Charter School if what they are signing does not identify when it intends to commence operation.

II. THE PETITION DOES NOT CONTAIN REASONABLY COMPREHENSIVE DESCRIPTIONS OF ALL THE ELEMENTS REQUIRED IN EDUCATION CODE SECTION 47605

A. The petition does not contain a reasonably comprehensive description of the Charter School's Educational Program (Element 1).

1. The petition does not sufficiently address how the Charter School will serve the needs of special education students, for reasons including the following:
 - The petition indicates it will operate as a school of the Antioch Unified School District ("District") for purposes of special education. However, the petition then indicates it reserves the right to apply and become an independent local educational agency ("LEA") in a SELPA for purposes of special education. Throughout the entirety of the petition's described plan for serving students with disabilities, the petition provides very brief descriptions of how it will discharge its various duties as either a school of the District or as an LEA member of a SELPA. This format is confusing and it remains unclear whether the Charter School truly intends on becoming its own LEA in the near future. Assuming the petitioners do intend for the Charter School to become its own LEA, they do not appear to understand the lengthy process and notice requirements associated with becoming its own LEA member of a SELPA.
 - While indicating it intends to start out as a school of the District for purposes of special education, the petition fails to provide a reasonably comprehensive plan for this model; namely, it is unclear whether the Charter School intends on acting as the primary provider of special education, or whether it expects the District to retain all special education funding and assume the primary responsibility for providing special education services, or some combination of both. For example, while the petition indicates the District is responsible for assessing Charter School students when it is acting as a school of the District, the petition later states each student's IEP will be implemented at the Charter School without any explanation as to who, or what agency is responsible for the IEP's implementation. The petition also states that the Charter School will collaborate with the District to provide specialized academic instruction ("SAI"), but again, it is unclear precisely what that arrangement will look like. Compounding this confusion is the petition's description of its intent to employ a special education teacher, alluding to the Charter School's intention to provide its own SAI. Ultimately, the plan is unclear and confusing.
 - The petition inaccurately states that a change in its status from school of the District to an LEA member of a SELPA is not a material revision to the charter. Due to the fact that the current petition does not provide a reasonably comprehensive description of the Charter School's plan for

serving special education students as an LEA member of a SELPA, nor does it identify or propose a SELPA willing to accept the Charter School as an LEA member, such a change, especially in light of its nature and scope, would be a material revision to the charter.

- The petition contains several misstatements of the relevant federal and state laws applicable to students with disabilities, questioning petitioners' knowledge of its legal responsibilities and obligations for serving this unique population. For example, the petition indicates that every student who is assessed will be provided an individualized education program ("IEP"), without any reference to the potential that an assessment may result in a finding that the student does not qualify for special education and related services. The petition attempts to recite the requisite components of an IEP, but notably fails to include several vital components including the requirement that the IEP indicate the manner in which the disability affects the student's involvement and progress in the general education curriculum and how the IEP will enable the student to participate in and be involved in the general education curriculum.
- The petition includes misstatements with respect to the Charter School's obligation under Section 504 of the Rehabilitation Act of 1973 ("Section 504"). Specifically, the petition states that any student with an objectively identified disability which substantially limits a major life activity is eligible for accommodation by the Charter School. However, while such students will qualify for protection against discrimination on the basis of their disability, a student is not automatically eligible for accommodations and/or services under Section 504 solely by reason of having a qualifying disability. Rather, the Section 504 team is charged with determining whether the student requires such services in order to access their education on an equal basis as their nondisabled peers.
- Several times throughout the petition, reference is made to a Director of Student Services/Assistant Principal as the individual responsible for ensuring the Charter School's obligations under the Individuals with Disabilities Education Act ("IDEA"). However, the petition does not reference the qualifications for a Director of Student Services or include any indication that the Charter School intends on filling this position in the near future. Further, the qualifications and experience for the Assistant Principal do not require this individual to have any background or credentials in special education. Overall, the petition is lacking a description of how the Charter School will deliver a substantive free appropriate public education to students with disabilities through its general educational program if their unique needs require adaptations, modifications, accommodations, or supplemental aids and services in that educational program. The fact that the individual responsible for

overseeing this delivery is not required to have any experience in special education is very concerning.

- Finally, the petition states that the Charter School will “acknowledge” any concerns or disagreements raised by parents within 5 days, however, it is entirely unclear what petitioners’ mean by acknowledging the disagreement and whether that satisfies the legal obligation to address a parent’s complaint. The petition also alludes to the requirement that the parent be required to meet with the Charter School and/or the District prior to initiating their right to file for due process. This is an inaccurate characterization of a parent’s rights under the IDEA, which includes the right to request a due process hearing without first having to notify or meet with Charter School or District representatives. In addition, while acknowledging a parent’s right to file a complaint with the California Department of Education, the petition does not provide any description of how such a complaint will be processed and resolved by the Charter School or whether the Charter School expects the District to handle such complaints.
2. The petition does not describe how the proposed Charter School will serve socioeconomically disadvantaged students. This is of particular concern considering the petition states that the East Contra Costa County communities it intends to serve “includes a large socioeconomically disadvantaged student population (69%).”
 3. The petition does not adequately address how the Charter School will serve the needs of English Learner (EL) students. For instance, the proposed Charter School will utilize Flipped Learning instructional strategy, however, research literature on the Flipped Learning model shows mixed results, and the petition does not describe what types of supports will be available for EL students given the mixed results and unproven effect of the model on EL students.
 4. While the proposed Charter School anticipates serving a community that includes a “sizeable English Learner demographic (20%)”, the California Department of Education Dashboard (Fall 2017 Release) Student Data Report for CVCHS only reflects enrollment of 2.6% English Learner students. The petition asserts that when compared to the District’s two comprehensive high schools (AHS & DVHS), CVCHS “performs statistically higher across all ethnicities.” Whatever progress CVCHS may have made with English Learners is not determinative of how they will perform in Antioch since they will be serving a significantly higher number of English Learner students.

5. The petition states the Charter School’s model will be a “college prep, dual enrollment program.” It is unclear how students in grades 6-8 will be able to participate in a college dual enrollment program. Furthermore, the petition does not include any description of the proposed college prep dual enrollment program.

6. The petitioners acknowledge that the demographics of CVCHS and the Charter School will likely be different, but assert that as demonstrated at CVCHS the “innovative education models and practices improved the academic achievement of *all* students, including subgroups” and the Charter School’s leaders will leverage the same programs and expect similar outcomes. In support of their claim the petitioners includes in the petition data to show that CVCHS students have outperformed District students in English Language Arts and Mathematics proficiency and CVCHS outperforms District individual schools “in most metrics.” The comparison presented by petitioners in support of their proposed program fails to take into account the significantly higher English Learner, Socioeconomically Disadvantaged, and Special Education student population enrolled in District schools skewing the data in favor of the petitioners. Below is data from the California Department of Education (CDE), California School Dashboard (Fall 2017 Release), Student Group Report and CDE DataQuest, 2016-2017 Enrollment by Subgroup:

| School | Clayton Valley Charter High | Antioch High | Deer Valley High | Antioch Middle | Black Diamond Middle | Dallas Ranch Middle | Park Middle |
|----------------------------------|-----------------------------|--------------|------------------|----------------|----------------------|---------------------|-------------|
| Enrollment | 2,197 | 1,947 | 2,156 | 742 | 376 | 1,050 | 1,069 |
| English Learners | 2.6% | 15.8% | 8.8% | 32.3% | 12.12% | 8.4% | 18.3% |
| Socio Economically Disadvantaged | 19.8% | 73% | 56.7% | 90% | 73.1% | 57.6% | 74.6% |
| Students with Disabilities | 6.2% | 14.9% | 14.4% | 15.0% | 15.7% | 12.7% | 13.7% |

B. The petition does not contain a reasonably comprehensive description of the Charter School's Governance Structure (Element 4).

1. The petitioners do not provide sufficient assurance that the East Bay Tech Academies - Antioch, corporate Board of Directors will comply with the Ralph M. Brown Act's open meeting laws. While the Charter School assures that it will comply with the Brown Act and all meetings of the East Bay Tech Academies – Antioch Board of Directors will be called, held, and conducted in accordance with the terms and provisions of Brown Act, the Board Bylaws submitted with the petition do not require that Board meetings

be held within the boundaries of District consistent with the requirements of the Brown Act.

2. The Bylaws submitted with the petition are not dated or signed certifying they were adopted by the Board of Directors.
3. On or about November 8, 2017, the Contra Costa County Office of Education sent David Linzey (Clayton Valley Charter High School Executive Director) a Notice to Cure regarding material amendments to the corporation's Bylaws. According to the Notice to Cure, CVCHS' 10/11/17 Bylaws made "material changes to who is entitled to serve on CVCHS's Board shifting control of Board seats away from stakeholders" and gave CVCHS's Corporate Officers "unfettered discretion to prevent candidates from running for open positions, and even to prevent classes of stakeholders from being represented as required under the Charter." Despite the petitioners' recent awareness of this concern/issue, they seem to be attempting to position themselves in a manner that would similarly allow them to materially revise their governance structure and operations without District approval.

Specifically, while the petition states that the non-profit corporation's Bylaws shall be consistent with the terms of the charter, it then qualifies the assurance by stating that the non-profit corporation may revise the corporate Bylaws "at any time" without the need for a material revision of the Charter – meaning without approval by the District. Similarly, the petition states that any changes to the Bylaws enclosed with the petition under Appendix H, will not be considered a material revision of the Charter "nor the Governance structure or oversight of the Charter School."

This would allow the non-profit Board to revise the Bylaws in a manner that is inconsistent with the terms of the Charter. It also would allow the non-profit Board to make changes to the Bylaws that may materially alter the governance structure of the Charter School without going through the Education Code material revision process which would work to usurp the District's oversight function and authority as authorizer, and potentially allow the Charter School to operate in a manner inconsistent with the terms of the Charter

4. The petition states: "All new directors, except for those filling vacancies (as outlined in the Bylaws), are to be designated at the corporation's annual meeting of the Board of Directors. The Board President shall appoint a committee to designate qualified candidates for appointment to the Board of Directors at least thirty (30) days before the date of any appointment of directors." The petition does not identify how many individuals will be on this "nominating committee" or anything about its composition, including whether stakeholders will be on the committee.

Also, while the petition states that the Board will utilize “an open process prescribed in the Bylaws and Board policies to appoint new members to ensure broad representation of the communities served by EBTA-A” the Bylaws do not prescribe such a process.

5. Even though the Charter School Board’s Bylaws submitted with the petition state that directors may not receive compensation for their services as directors or officers, the Board’s Conflict of Interest Policy inconsistently includes procedures for a director to follow when he/she receives compensation, directly or indirectly from the Corporation.
6. The petition and Conflict of Interest Policy submitted with the petition allow for practices that may run contrary to conflict of interest laws, and public policy and good practices aimed at preventing public officials from having any potential conflict of interest when conducting their official duties. For instance, the petition and corporate Board Bylaws state that no more than 49% of the Board can be held by “interested persons,” defined to include any person compensated by the corporation for services rendered to the corporation within the previous 12 months, whether as a full-time or part-time employee, independent contractor, or otherwise. Also, the Conflict of Interest Policy allows the Board to approve a transaction in which a Board director or officer has a direct or indirect financial interest in the decision. While such practices may be permissible pursuant to the rules governing nonprofit public benefit corporations, they are not consistent with conflict of interest laws and contrary to public policy and good practices which the Charter School, as part of the public school system, should follow.
7. In 2015, Executive Director David Linzey’s wife was hired as guidance counselor at CVCHS for four days per week at a salary of \$106,750. A 2015 investigation report questioned the contract as a potential violation of the CVCHS Bylaws which stated that CVCHS “shall not enter into a contract or transaction in which a non-director or designated employee (e.g., officer and other key decision-making employees) directly or indirectly has material financial interest.” On February 8, 2017, the Clayton Valley Charter High School board approved hiring the wife of Executive Director David Linzey in the position of chief program officer, despite prior warnings from the Contra Costa County Office of Education that her employment could be seen as a possible violation of conflict of interest rules. As a result, there is a concern that similar conflict of interest issues could arise under the new charter considering the same individual(s) will be involved with the governance and operations of the Charter School.

8. The petition states that the inaugural Board will be appointed by the “Incorporator of the Nonprofit Public Benefit Corporation.” The corporation’s Articles of Incorporation identify Kevin M. Davis as the Incorporator. While not specified in the petition documents, it is our understanding that Kevin Davis is an attorney with Procopio, Cory, Hargreaves & Savitch LLP. Both the petition and Bylaws state that the Board “will strive to reflect diversity of culture, academic, and professional expertise that is essential for fulfilling the Charter Schools unique mission.” However, nothing was provided with the petition regarding the qualifications and experience of the inaugural board.
9. The petition states that the Charter School’s Governing Board may delegate to an employee of the School “any” of its duties “with the exception of budget approval or revision, approval of the fiscal audit and performance report, and the adoption of Governing Board policies” but it retains responsibility over the performance of those delegated powers or duties. The petition allows for the delegation of several Board duties/responsibilities to unspecified employees that should be retained, including, but not limited to, fiscal oversight, approval of major contractual agreements, and confusingly, acting as a hearing body on recommended students expulsions.
10. The petition identifies the "Parent Faculty Club (PFC)" as an example of how it will ensure parent involvement in the operation of the Charter School. While the petition states that all parents/guardians of students currently enrolled in the Charter School are general members of PFC, the petition does not describe how PFC officers making up the PFC Executive Committee are selected, and how long officers hold office.

C. The Petition does not present a reasonably comprehensive description of Employee Qualifications (Element 5).

1. The petition does not sufficiently identify the qualifications for the various categories of employees the Charter School anticipates employing. For instance, the petition states that the Charter School will provide a “Parent Volunteer Coordinator” but it is unclear whether this will be an employee of the Charter School and no description or qualifications of this position are included in the petition. Also, the petition lists the qualifications of the Special Education Assistant position but does not specify what educational degree and/or certificate the individual having this position must possess.
2. The petition assures that the Charter School’s teachers and paraprofessionals “shall meet all applicable ‘highly qualified’ requirements under the Elementary and Secondary Education Act (ESEA, also known as the Every Student Succeeds Act (ESSA)).” The ESSA eliminated the “Highly Qualified” teacher requirements under the former No Child Left Behind Act.

3. The petition states that teacher credentials will be maintained by the “Human Resources Director (or similar role).” The responsibilities and qualifications of the Human Resources Director are not described in the petition.
4. The petition states that evaluation of Charter School personal will be performed annually, and specifies that the Executive Director/Principal is responsible for evaluating “Administrators,” teachers, and other non-teaching personnel, however, it does not describe/identify who is responsible for evaluating the Executive Director/Principal.

D. The petition does not present a reasonably comprehensive description of the Charter School's Health and Safety Procedures (Element 6).

1. While the petition indicates that immunizations will be a part of the Charter School’s health and safety policies, it does not assure that the Charter School shall require immunization of students as a condition of attendance to the same extent as would apply if the students attended a non-charter public school.
2. While the petition indicates that staff mandated child abuse reporting will be a part of the Charter School’s health and safety policies, it does not assure that Charter School staff shall comply with child abuse and neglect mandated reporting and training requirements.
3. While the petition indicates that TB Testing will be part of the Charter School’s health and safety policies, it does not assure that all faculty and staff of the Charter School shall be tested for tuberculosis as required by Education Code section 49406.
4. The petition does not describe the amounts of insurance coverage that will be maintained by the Charter School preventing the District from being able to ascertain whether such coverage will be sufficient enough to protect the students and staff of the Charter School and the District from potential liability of the Charter School and the acts, errors, and omissions of the Charter School’s board of directors.

DI. The petition does not present a reasonably comprehensive description of Means for Achieving Racial and Ethnic Balance (Element 7).

1. The petition does not provide a reasonably comprehensive description of the means by which Charter School will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the District. For instance, the petition states “those living near proposed school site locations” will be targeted with outreach efforts, but no proposed school site locations are identified in the petition. Also, the petition states that the Charter School “will seek opportunities to partner with *the local school district* to provide additional information sessions....” It is unclear what school district this is referencing.

F. The petition does not present a reasonably comprehensive description of Charter School's Admission Policies and Procedures (Element 8).

1. The petition does not include a reasonably comprehensive description of the manner in which the Charter School will implement a public random drawing in the event that applications for enrollment exceed school capacity. Among other things, the petition does not specify the date and time when the lottery will occur to ensure that all interested parties will be able to attend, how preference will be given to the student categories listed, the method the Charter School will use to verify lottery procedures are fairly executed, or the records the Charter School will keep on file documenting the fair execution of the lottery procedures.
2. The petition directs us to the “Nonprofit’s Public Random Drawing Policy in Appendix H to learn more about the process by which the Charter School will enroll its students.” However, the admission policies and procedures described in the Policy are inconsistent with the procedures specified in the petition. For example, the policies describe different lottery admission preference categories than those identified in the petition. Also, the petition states that any changes to the Board level policy regarding Student Enrollment and Public Random Drawing enclosed with the petition under Appendix H, will not be considered a material revision of the petition. This causes concern since it would seem to allow the Charter School revise the student admission procedures so that they are inconsistent with the terms of the Charter, and materially revise the Charter, e.g., to change lottery admission preferences, without first seeking approval from the District through the material revision process.
3. The petition lists items included in enrollment packets sent to students who have been admitted, including: “Proof of minimum age requirements, e.g., *birth certificate*.” By the Charter School only listing “birth certificates” as an example without clarifying to parents/guardians that they can provide alternative forms of documentation and/or explaining that non-citizens are eligible for enrollment, it could be perceived that providing a birth certificate is required to prove age of the student which could result in discouraging non-citizens from submitting applications for their children.

G. The petition does not present a reasonably comprehensive description of the Charter School's Financial Audit Procedures (Element 9).

1. The petition states that an annual financial audit will be conducted as required by “Education Code Section 47605.6(b)(5)(l) and 47605.6(m)” both applicable to countywide benefit charter petitions submitted to county boards of education, but not school district authorized petitions. As a result, the petition fails to assure the Charter School’s compliance with annual audit and reporting requirements.

2. The petition does not specify who from the Charter School is responsible for contracting and overseeing the independent audit. Also, the petition does not specify the timeline in which audit exceptions will typically be addressed, or sufficiently describe the process that the Charter School will follow to address any audit findings and/or resolve any audit exceptions.

H. The petition does not present a reasonably comprehensive description of the Charter School's Student Suspension and Expulsion Procedures (Element 10).

1. The petition inconsistently identifies how parents/guardians and students will be informed about the Charter School's discipline policies and procedures raising concern whether students will be notified of the discipline policies and procedures they should follow.
2. The petition inconsistently specifies whether parents/guardians of a suspended student will be notified of the date the student may return to school following the suspension.
3. For suspensions of 10 days or more and for all expulsions for disciplinary reasons, the petition must describe how the Charter School will comply with federal and state constitutional procedural and substantive due process requirements, including how it will provide a hearing adjudicated by a "neutral officer." The petition stated that a student may be expelled by the Charter School's Board upon the recommendation of an "Administrative Panel to be assigned by the Board as needed" but does not describe how members of the Panel are selected or how the Charter School will ensure the Panel is neutral to ensure that due process is afforded.
4. The Charter School will not afford students any appeal rights following a decision to expel which may impact their due process rights.
5. The petition does not sufficiently describe the responsibilities of the Charter School for facilitating post-expulsion placements for expelled students. For instance, the petition places the burden on parents/guardians to find an alternative placement for their child following expulsion and indicates that it will work cooperatively with parents/guardians to assist with locating alternative placements "as requested."

I. The petition does not present a reasonably comprehensive description of Employee Return Rights (Element 13).

1. Per Education Code section 47605, the petition under Element 13 is to describe: "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." The petition states that the content under Element 13 of the petition includes a "description of the rights of an employee of the *district office of education*,

upon leaving the employment of the *district office of education*, to be employed by the charter school, and a description of any rights of return to the *district office of education* that an employee may have upon leaving the employ of the charter school. California Education Code Section 47605.6(b)(5)(P).” Then the petition references/describes the rights of employees of “a school district” – not the District.

2. The petition inconsistently affirms whether the Charter School will be deemed the exclusive public school employer of the employees of the Charter School for purposes of the Educational Employment Relations Act.

J. The petition does not present a reasonably comprehensive description of the Charter School's Dispute Resolution Procedures (Element 14).

1. The dispute resolution procedures reference “the Authorizer” which seems to refer to the District even though the District is identified as “District” or “AUSD” at other locations in the petition. This inconsistency creates ambiguity regarding whether the content under Element 14 applies to the parties causing concern that the dispute resolution process described in the petition may inhibit the District’s right to pursue revocation of the Charter School for reasons allowable under applicable law.