

**STAFF REPORT AND PROPOSED FINDINGS OF FACT  
REGARDING  
VOICES COLLEGE-BOUND LANGUAGE ACADEMY  
AT WEST CONTRA COSTA**

**I. Introduction**

**A. Background**

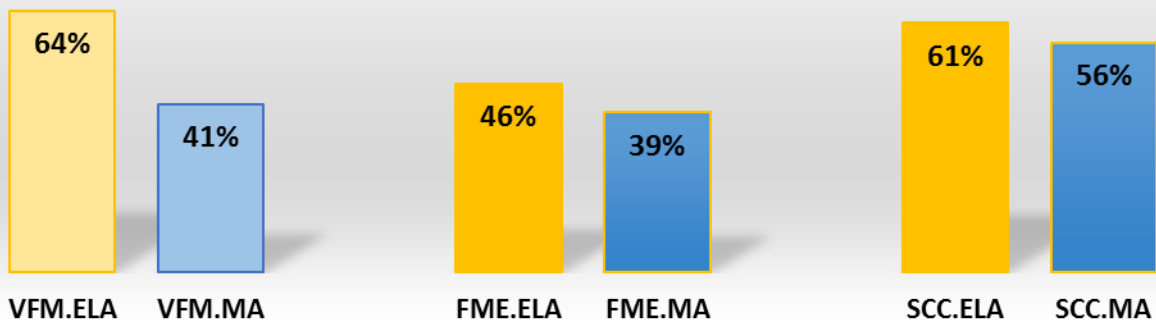
On January 18, 2017, the West Contra Costa Unified School District received a charter petition from Voices College-Bound Language Academies, Inc., a California nonprofit public benefit corporation operating as a charter management organization (“Voices CMO” or “Petitioner”). The Petition seeks to establish a public charter school to be called Voices College-Bound Language Academy at West Contra Costa (“Voices WCC” or “Charter School”) for a five year term, from July 1, 2018 through June 30, 2023. Petitioner anticipates that the Charter School would commence operations in the 2018-2019 school year, with a Year 1 enrollment of 112 students in transitional kindergarten (“TK”), kindergarten and first grade. At full enrollment in Year 8, the Charter School would serve 504 students in grades TK to 8 (Petition, p. 23). In addition to review of the Petition, District staff held a Capacity Interview with Petitioner on February 28, 2107.

Voices CMO currently operates three other charter schools located in Santa Clara County. Voices College-Bound Language Academy was authorized by the Franklin-McKinley Elementary School District in 2006 and now enrolls 456 students in grades K through 8. Voices College-Bound Language Academy at Mount Pleasant and Voices College-Bound Language Academy at Morgan Hill were chartered by the Santa Clara County Board of Education in 2014 and 2015, respectively, and are currently serving students in TK through second grade. As with a number of CMOs, the Voices organization has grown from a business model rather than growing organically from a programmatic model. The Voices model has been replicated, but Voices’ operation of multiple charter schools is recent. It is not clear if it can be successfully replicated in the proposed Charter School.

Petitioner’s three other charter schools offer a dual immersion (Spanish/English) program similar to the program that will form the cornerstone of the educational program to be offered at the proposed Charter School. The Petition states that “Voices outperforms WCCUSD schools in regards to school-wide and subgroup CAASPP scores” and further states, “Voices’ flagship also outperformed the state of California in both ELA and Math on the CAASPP.” (Petition, pp. 9, 15.) However, a comparative analysis of assessment data from Voices Franklin McKinley as compared to its chartering district, Franklin McKinley Elementary School District and Santa Clara County as a whole, is likely a better gauge for forecasting the success of the educational program that would be offered at Voices WCC.

The graph below shows Voices Franklin McKinley (VFM) CAASPP scores for 2015-2016 as compared to those reported by the Franklin McKinley Elementary School District (FME) and Santa Clara County (SCC), in which both are located.

## Voices FM, Franklin Mckinley ESD, Santa Clara County



Each column in the graph represents student performance at grade level. Yellow represents English Language Arts (ELA), and blue represents Math. Voices Franklin McKinley data are represented in the two left columns, followed by Franklin McKinley Elementary School District, and Santa Clara County.

Voices Franklin McKinley (VFM) outperformed Franklin McKinley Elementary School District (FME) in ELA by 18 percentage points; however, the Charter School outranked Santa Clara County overall by only 3 percentage points. In Math, the Charter School outperformed Franklin McKinley Elementary School District by only 2 percentage points, and scores for Santa Clara County exceeded those reported by the Charter School by 15 points. With ELA and Math taken together, the scores reported by Santa Clara County were higher than VFM by 12 points, followed by Franklin McKinley Elementary School District.

The student population of Voices Franklin McKinley included 44.5% English Learners (“ELs”), in contrast to Franklin McKinley Elementary with 48.6% ELs. The English Only (“EO”) numbers were also higher at the Charter School than at Franklin McKinley Elementary (29.40% v. 22.60%), although the numbers for both Initial Fluent English Proficient students and Reclassified Fluent English Proficient students were slightly higher in the District.

### B. Timeline for Board Action

Petitioner submitted the Petition on January 18, 2016. Subsequently, the parties agreed to extend the date for Board action until March 29, 2017. The District’s Board held a public hearing on the Petition on February 15, 2017. The Board intends to take action regarding the approval or denial of the Petition, and if denied, issue written factual findings, on March 29, 2017.

### C. Standard of Review

The Charter Schools Act of 1992 (“Act”) governs the creation of charter schools in the State of California. The Act includes Education Code section 47605, subdivision (b), which provides the standards and criteria for petition review. The Act provides that a school district governing board considering whether to grant a charter petition “shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged.” (*Id.*)

Specifically, the Board may not deny a petition unless it makes written factual findings setting forth specific facts to support one, or more of six findings:

1. The charter school presents an unsound educational program for the students to be enrolled in the charter school;
2. The petitioner is demonstrably unlikely to successfully implement the program set forth in the petition;
3. The petition does not contain the number of signatures prescribed by Education Code section 47605, subdivisions (a)(1)(A) or (a)(1)(B);
4. The petition does not contain an affirmation of each of the conditions set forth in Education Code section 47605, subdivision (d), including that the charter school: (1) will be nonsectarian in its admission policies, employment practices and all other operations; (2) will not charge tuition; and (3) will not discriminate against any student on the basis of the characteristics set forth in Education Code section 220;
5. The petition does not contain reasonably comprehensive descriptions of 15 certain elements in its program and operations as set forth in Education Code section 47605, subdivisions (b)(5) (A-O), which describes the elements that must be addressed in every petition to establish a charter school. These elements include a description of the school's governance structure, admissions policy, health and safety and student discipline policies; or
6. The petition does not contain a declaration of whether the charter school shall be deemed the exclusive public employer of the employees of the charter school for purposes of Chapter 10.7 of Division 4 of Title 1 of the Government Code.

Charter school petitions are also required to include discussion of the impact on the chartering district, including the facilities to be utilized by a proposed charter school, the manner in which administrative services will be provided, potential civil liabilities for the school district, and a three-year projected operational budget and cash flow (Ed. Code § 47605, subd. (g)).

## **II. Summary and Recommendation**

This Staff Report and Finding of Fact sets forth factual findings based upon a review by District staff and legal counsel of the Petition, its appendices, and Petitioner's projected educational, operational, and financial performance during the proposed term of the Charter. Through this review process, substantive deficiencies have been identified in the Petition itself, related to the Charter School's anticipated educational and operational performance during the proposed Charter term. District staff has concluded that these deficiencies and concerns are sufficient to warrant a recommendation to deny the Petition consistent with Education Code section 47605 based on the following grounds:

1. The Charter School presents an unsound educational program for the students to be enrolled in the Charter School.
2. The Petitioner is demonstrably unlikely to successfully implement the program set forth in the Petition.

3. The Petition does not contain reasonably comprehensive descriptions of all required elements as set forth in Education Code section 47605, subdivisions (b)(5)(A-O).

Consequently, District staff recommends that the Petition be denied. If the Board elects to deny the Petition, it may do so on the basis of the proposed Findings of Fact set forth below, after adopting those Findings of Fact as its own.

### **III. Petition Review and Findings of Fact**

The following Findings of Fact have been grouped for convenience under the aforementioned grounds for denial of a charter petition. However, certain Findings of Fact may support more than one ground for denial.

#### **Finding 1: The Proposed Charter School Presents an Unsound Educational Program for Students to Be Enrolled in the Charter School**

For purposes of Education Code section 47605, a charter petition is “consistent with sound educational practice” if it is likely to be of educational benefit to pupils who attend (5 CCR § 11967.5.1). The description of the Charter School’s educational program should, at a minimum, include the instructional approach that the Charter School will utilize, including, but not limited to, the curriculum and teaching methods, or a process for developing the curriculum and teaching methods that will enable students to master the State’s content standards and achieve the Charter’s stated objectives (Ed. Code, § 47605(b)(5); 5 CCR § 11967.5.1(f)). As discussed below, District staff has identified a number of concerns with the Charter School’s proposed educational program.

- A. The Petition does not adequately describe the proposed curriculum or teaching methods to be employed by the Charter School.
- B. The Petition does not describe the Charter School’s plan for providing special education and related services and Section 504 services to eligible students.
- A. The Petition does not adequately describe the proposed curriculum or teaching methods to be employed by the Charter School.

#### *1. English Learner/English Only Ratios*

As an initial matter, the “dual immersion” program described in the Petition does not meet the standards for two-way language immersion programs as recommended by the California Department of Education (“CDE”). Petitioners state that the proposed Charter School will serve “over 50 families” but does not specify what percentage of the proposed student body will be English Learners (50%) and what percentage will be English Only (50%) students. (Petition, p. 7.) As stated in the Petition: “Historically, Latino Spanish-speaking students make up the majority of Voices’ student population.” (Petition, p. 23.) A chart at page 24 indicates that 94% of the students enrolled in Voices’ three charter schools are Hispanic or Latino. (Petition, p. 24.)

In addressing the desired balance between English Learners and English Only students in dual immersion programs, the CDE states: “The ideal ratio of English learners to English speakers is 50:50, but to stay within the program design, the recommendation of many practitioners is that

the ratio should never go below 33 percent for either language group.” (See Two-Way Language Immersion Program FAQ at <http://www.cde.ca.gov/sp/el/ip/faq.asp>).

As reported by the CDE, the student population at Voices Franklin McKinley for the 2015-2016 school year included only 29.4% English Only students, while 44.5% of the charter school’s students were English Learners. The remaining 26.1% of students were classified as either Initial or Reclassified Fluent English Learners. The enrollment of English Learners and English Only students at Voices’ Mt. Pleasant campus was even more disproportionate, with an English Only cohort of only 24% as compared to the 75% of English Learners enrolled in the charter school. Because the percentage of English Only students at the Voices’ Franklin McKinley and Mt. Pleasant campuses is less than 33%, the instructional program currently offered at those two sites does not meet the CDE’s recommended ratio of English Learners and English Only students for a dual immersion program.

According to the Petition, teachers provide “deliberate opportunities for students learning language (both ELs and SLs) to interact linguistically with native speaking peers for optimal language development.” (Petition, p. 42.) It is not clear how this type of interactive instruction can succeed when the number of English Learners is disproportionately high in comparison to the number of English Only students. Of particular concern, the Petition does not describe how the Charter School intends to recruit, at a minimum, 33% of English Only students (“Spanish Learners”) from the Richmond and San Pablo areas it intends to target.

## *2. Curriculum and Instructional Design*

The Petition describes an 80:20 dual immersion program, with “80% of the instruction in Spanish and 20% of the instruction in English in Kindergarten.” (Petition, p. 7.) The percentage of English instruction increases by 10% per year until reaching 50:50 for third through eighth grades. (*Id.*) A graph at Figure 1.9 shows an increasing percentage of Spanish language instruction in kindergarten through fifth grade. The Petition states: “50% of yearly instruction in Spanish and 50% English in Science, Social Studies, Math and Writing,” but does not explain what is taught in each language at each grade level. (Petition, p. 61.) For example, it is not clear what will be taught for the 20% of English programming designated for kindergarten students. (Petition, pp. 45-47.)

The Petition provides for an instructional program aligned with the Common Core State Standards, the Next Generation Science Standards, the National History Standards and the State Content Standards for History-Social Science using the Understanding by Design Framework. (Petition, pp. 39, 44-47.) However, descriptions of the proposed instructional programs in Literacy, Literacy in Upper Grades, Math, Math in Upper Grades, and Science and Social Studies do not address how the dual immersion program will be incorporated in the curriculum. (Petition, pp. 43-47.) The Curriculum/Program Guide, attached at Appendix A, references use of EL Achieve for Systematic ELD but does not include any Spanish language curriculum for math, science, and social science, or any Spanish as a Second Language curriculum for Spanish Learners. The Petition includes a discussion of research regarding literacy and a framework for teaching English Language Arts, but does not describe how Spanish Language Arts will be taught. (Petition, pp. 36-8, 43-45, 73-74.)

A review of the “Typical Day” scenarios at pages 73 to 78 does not clarify the proposed instructional program. For example, a typical day for an English Only kindergarten student includes Spanish Language Arts, but does not include any instruction in Spanish Language

Development. (Petition, pp. 73-74.) It is not realistic to expect that a kindergarten English Only student, without prior exposure to the Spanish language, would have the vocabulary necessary to participate in the Spanish Language Arts class as described in the Petition. (*Id.*). In another example, the typical day for a third grade student with an IEP does not appear to include any instruction in Spanish, although the Petition describes a 50:50 program for third through eighth grades. A second grade English Learner's day includes "Spanish Literacy" as part of the "Balanced Literacy" portion of her day, but it is not clear whether any Spanish Learners are included in the instructional group. Also unclear is whether language instruction in the various subject areas alternates monthly, weekly, or on another schedule.

### *3. Support for Spanish Learners*

The Petition describes an instructional program that "meets the needs of our English Learners by implementing a Dual Immersion Program." (Petition, p. 33.) However, the purpose of a dual immersion program is not only to serve English Learners but for English Only students to become bilingual and biliterate. Petitioner cites to research regarding the achievement of native English speakers in dual immersion programs, but provides scant information as to how Spanish Learners will be supported in the proposed program. (Petition, pp. 33-47.) Spanish Learners receive "Spanish Language Development" but the Petition does not describe this component of the program, does not reference any specific curriculum for Spanish as a Second Language, and does not describe how Spanish Language Development is integrated into the school day. (Petition, pp. 35-36.) The EL Achieve curriculum referenced in Appendix A is not a Spanish as a Second Language curriculum.

### *4. Support for English Learners*

The Petition generally discusses assessment and reclassification procedures for ELs, but does not identify classification categories of ELs (i.e. CELDT levels 1-5), explain how EL eligibility and levels of proficiency are to be determined, or describe how its EL programs and services will be differentiated for ELs of varying proficiency levels. Reclassified Fluent English Proficient ("RFEP") students must also be evaluated twice each year, for two years following their RFEP designation, to ensure that they are receiving adequate support for transitioning into the mainstream classroom after termination of targeted ELD support. In lieu of a substantive discussion demonstrating that Petitioners understand their obligation to reclassify students, Petitioners simply promise to use the CDE's general reclassification criteria to reclassify EL students as English proficient when appropriate.

#### **B. The Petition does not adequately describe the Charter School's plan for providing special education and related services to eligible students.**

As a whole, the Petition does not adequately address how the Charter School's educational program will serve special education students. (Petition at pp. 63-72).

Page 63 of the Petition provides that the Charter School will apply for membership as an LEA to the Sonoma County Charter SELPA and that a letter to the Sonoma County Charter SELPA will be sent to the District "following charter approval." (*Id.*) Nonetheless, admission to a SELPA is not a certainty. As acknowledged by Petitioner, if not accepted by the SELPA, the Charter School may be characterized as a public school of the District for purposes of special education. (Petition, p. 63.) Accordingly, the Petition should include a comprehensive plan for serving its

special education students in the event that the Sonoma County Charter SELPA does not accept the Charter School as a member, or SELPA membership is delayed.

Petitioner has not consulted with the WCCUSD SELPA Director regarding the Charter School's special education responsibilities in the event that it does not secure membership in the Sonoma County Charter SELPA. A copy of the Sonoma County Charter SELPA Policies and Administrative Regulations (Appendix Z) accompanies the Petition, but the plan does not describe how special education services will be provided consistent with the WCCUSD SELPA Plan and its policies and regulations.

Also missing from the Petition is a realistic budget for special education. The Petition states that, in the event Voices WCC remains a public school of the District, the District will forward all state and federal special education funds to the Charter School and the Charter School "will use the LCFF to make up any shortfalls from the special education revenues received." (Petition, pp. 63-64.) The Petition does not include discussion of the allocation of actual and excess costs or account for the Charter School's responsibility for a fair share of the District's encroachment. (Petition, p. 72.)

Of particular concern, the Charter School has not budgeted for the costs of securing a sufficient number of service providers, including a psychologist, speech and language providers, a physical and occupational therapist, and resource specialist, to cover the needs of special education students at all of its school sites. During the Capacity Interview, the Voices team suggested that the service providers currently serving its schools in Santa Clara County would "commute" to the proposed Charter School. This plan is unrealistic given the distance and traffic patterns to and from San Jose and Richmond.

The Petition contains general "assurances" as to Petitioner's understanding of its legal duties and responsibilities under both the Individuals with Disabilities Education Improvement Act of 2004 ("IDEA"). (Petition, pp. 66-69.) Petitioner briefly addresses some of the elements of a comprehensive plan, including but not limited to, FAPE, Child Find, assessment, least restrictive environment, IEP development and implementation, and timelines, but the brevity of these discussions does not demonstrate that the Charter School understands its responsibilities and obligations with respect to serving students with disabilities.

## **Finding 2: The Charter School Is Demonstrably Unlikely to Successfully Implement the Program**

Based upon the information provided in the Petition, District staff believes that the Petitioner is demonstrably unlikely to successfully implement the proposed Charter School educational program for the following reasons:

- A. The Charter School's recruitment strategies are unlikely to attract its targeted population of underrepresented students or a student body with a racial and ethnic balance reflective of the population residing within the District's territory.
- B. The Petition does not adequately describe the Charter School's proposed staffing plan and employee qualifications.
- C. The Petition fails to provide certain policies and procedures that demonstrate that Petitioner is familiar with the requirements of law applicable to charter schools.

- A. The Charter School's recruitment strategies are unlikely to attract its targeted population of students or a student body with a racial and ethnic balance reflective of the population residing within the District's territory.

As discussed above in Finding 1, it is not clear how the Charter School plans to recruit a sufficient percentage of English Only students from the Richmond and San Pablo areas in order to meet the CDE's recommended ratios for English learners and English speakers in a dual immersion program when the largest percentage of English Language Learners resides in the communities of Richmond and San Pablo, the target areas for the proposed charter school.

During the Capacity Interview, the District asked the Voices team to address data indicating that more than 50% of the parents/guardians of families with student attending Voices FM have, at a minimum, an Associate's degree, suggesting that students from backgrounds with parental educational attainment were enrolling at a disproportionate rate. While the Voices charter petition made mention of the education gap and SBAC scores in selected WCC schools, it does not appear that they were familiar with the Parent Education levels in the District, particularly in the geographical region identified by the petitioners. As parent educational levels are significantly associated with student attainment, this raises serious concerns about the Charter School's ability to successfully implement the proposed program given the demographics.

Concerns with the Charter School's plan for attracting a student body with a racial and ethnic balance reflective of the population residing within the District's territory are discussed in detail in Finding 3.

- B. The Petition does not adequately describe the Charter School's proposed staffing plan and employee qualifications.

As discussed in Finding 1, the Charter School does not have a viable plan in place for securing and funding the provision of special education services to its students. Without a realistic plan in place, the District cannot be assured that special education students will receive the services and supports to which they are entitled under the law.

Appendix AI includes job descriptions for Teacher, Parent Liaison, and Principal, but does not include any job descriptions for special education staff, non-certificated instructors, or support staff. The Petition provides that instructional support staff are not required to hold a teaching credential, so long as the prospective staff person "has an appropriate mix of subject matter expertise, professional experience, and demonstrated capacity to work successfully in such capacity." (Petition, p. 110.) This standard is vague and highly subjective. While charter schools have "flexibility" when hiring instructors for non-core classes, the qualifications for these positions should be high and clearly articulated.

Also of concern is the Charter School's ability to attract and retain qualified staff given the national teacher shortage, the extra responsibilities and training associated with the dual immersion program, and the extended teaching day.

- C. The Petition fails to provide certain policies and procedures that demonstrate that Petitioner is familiar with the requirements of law applicable to charter schools.



Education Code section 47605, subdivision (b)(5)(F) requires the Petition to include “the procedures that the school will follow to ensure the health and safety of pupils and staff.” However, no policies or procedures designed to protect the health and safety of students or staff are included with the Petition. Instead, the Petition provides that the Charter School “will adopt site-specific comprehensive safety and health policies and procedures.” (Petition, pp.114.). This oversight is puzzling given that Petitioners are operating three charter schools. A complete set of all of the Charter School’s health and safety policies—including sexual harassment prevention, a school safety plan, and its Emergency Preparedness Handbook—should have been provided to the District for review. In addition, Education Code section 48907 requires charter schools to give their students freedom of the press and expression in what they say, wear, and write in official school publications and to adopt a written policy that includes reasonable restrictions for conducting such activities. A policy addressing Section 48907 was not provided with the Petition. Without a complete set of the Charter School’s policies and procedures, the District cannot confirm that the proposed Charter School program can be successfully implemented.

### **Finding 3: The Petition Does Not Contain Reasonably Comprehensive Descriptions of Certain Required Elements**

The Petition does not contain reasonably comprehensive descriptions of certain elements set forth in Education Code section 47605, subdivisions (b)(5)(A-O), as set forth below.

#### *1. Element 4: Governance.*

##### *a. District Representative*

Pursuant to Education Code section 47604, subdivision (b), the District has the right to appoint a single voting representative to the Charter School’s Board of Directors. The Petition states: “All directors shall be designated by the existing Board of Directors.” (Petition, p. 96.) This is incompatible with section 47604, subdivision (b), which does not place any limitations on the District’s right to designate its own representative to the Board. This language is also inconsistent with the Voices CMO Bylaws which provide: “Except for the authorizer appointed representatives, all directors shall be designated by the existing Board of Directors.” (Appendix AD: Bylaws, art. VII, § 3.) The Petition should align with the Bylaws and provide for the District to designate its own representative.

The Bylaws provide that if a charter authorizer does not appoint a representative in any year, before April 15, the Board may appoint an additional director to fill that seat. (Appendix AD: Bylaws, art. VII, § 3.) The Bylaws further provide that any director may be removed, with or without cause, by a majority of the members of the Board of Directors. (Appendix AD: Bylaws, art. VII, § 6.) Again, these provisions are inconsistent with section 47604, subdivision (b). The Charter School has no authority to remove, or abridge the power of the District’s appointed representative to the Charter School’s Board. The Bylaws should clarify that the District may appoint a representative to the Board of Directors at any time and should exempt the District’s representative from the removal process.

##### *b. Parental Involvement*

The Education Code requires every charter petition to address “the governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.” (Ed. Code, § 47605(b)(5)(D).) The proposed governance structure of the Charter

School provides limited avenues for parental involvement in the actual governance and operation of the Charter School.

As a preliminary issue, the Bylaws provide that regular meetings will be held at least quarterly at the Board's principal place of business or at other locations as designated by the Board. (Appendix AD: Bylaws, art. VII, §§ 11, 13.) The Petition states that all of the charter schools operated by the Voices CMO are governed by a single governing board that meets "regularly" in each of the counties in which the Voices CMO operates charter schools "in order to ensure local participation from each charter school that it operates." (Petition, p. 101.) However, as currently drafted, the Petition does not ensure such local participation.

A review of the posted agendas on the CMO's website indicates that all of the regular Board meetings held during the first three quarters of the 2016-2017 fiscal year (July 31, 2016; October 13, 2016; December 9, 2016; and March 3, 2017) have been held at the CMO's principal place of business at 14271 Story Road, San Jose. The meetings have been scheduled during working hours, at times varying from 12:30 pm 3:00 pm. A review of the Petition and Appendices, as well as the Voices CMO website, did not locate an annual schedule of upcoming Board meetings. Lack of sufficient advance notice and meetings scheduled during working hours will likely create significant access barriers for Charter School families, as many parents will need to schedule attendance in advance and others may not be able to rearrange their work schedules in order to attend meetings held during working hours. It is also unclear how often the Board will actually meet within the District's boundaries, as all three of the charter schools currently operated by Voices CMO are located within Santa Clara County. Having to arrange transportation in order to attend Board meetings in San Jose will likely pose challenges for Charter School parents residing within the District, as well.

Because the opportunity for parents to serve on the Board of Directors is limited, it is important that the Charter School offer other legitimate opportunities for parental participation. The Petition lists "formal" opportunities for parent participation in the English Learner Advisory Committee ("ELAC"), the special education-focused Community Advisory Committee ("CAC"), the Voices Parent Advisory Committee ("VPAC"), Safety Team, Parent Leadership Development and Training, and the Schools Advisory Committee. (Petition, p. 105.)

VPAC is described as a "local group composed of parents, teachers, and administrators that are responsible for school level matters as fundraising, review of parent surveys, review of parent involvement opportunities, community celebrations and activities, audit of instructional practices, etc." (Petition, p. 105, fn. no. 27.) The Schools Advisory Committee is "comprised of at least one parent leader from each charter school in the network and the Executive Director or designee." (Petition, p. 107.) However, there is no description of the process for appointment/election to the VPAC or the Schools Advisory Committee, the term of office for officers, or the processes by which the VPAC and the Schools Advisory Committee will provide input to the Charter School administration. Further, there is no assurance that either committee will comply with the Brown Act.

Other "informal" parent opportunities, such as field trips, parent-teacher conferences, and family orientation sessions, offer only limited avenues for parent participation in the governance and oversight of the Charter School. (Petition, pp. 105-108.)

## 2. Element 7: Means to Achieve Racial and Ethnic Balance

The Education Code requires a charter petition to include a reasonably comprehensive description of the means by which the school will achieve a racial and ethnic balance among its students that is reflective of the territorial jurisdiction of the school district to which the charter petition is submitted. (Ed. Code, § 47605(b)(5)(G).) In meeting this requirement, the Petition should include a detailed description of the practices and policies designed by the Charter School to attract a diverse applicant pool/enrollment that is reflective of the demographics of the population residing within the District’s territorial jurisdiction.

In this case, the Petition provides only a broad generalized description of its plan for achieving a racial and ethnic balance reflective of the general population residing within the District, noting that the Charter School will “strive to reflect West Contra Costa’s diversity from socioeconomic, racial, linguistic, and cultural perspectives.” (Petition, p. 23.) The Petition also indicates that it will be targeting “underserved” students from the Richmond and San Pablo areas. (Petition, p. 25.)

Petitioner states: “Historically, Latino, Spanish-speaking students make up the majority of Voices’ student population [at its existing charter schools].” (Petition, p. 23.) A graph on page 24 shows that in 2015-2016, the overall Voices student population was 94% Latino. As shown below, enrollment data for the 2015-2016 school year, retrieved from the CDE’s Dataquest program, indicates that Voices’ flagship campus (“Voices Franklin McKinley” or “VFM”), which opened in 2007, does not reflect the racial and ethnic demographics of the population residing within the boundaries of its chartering district, Franklin-McKinley Elementary School District:

### Voices Franklin-McKinley 2015-2016

Hispanic/Latino	Amer. Ind., Alaska Native	Asian	Pacific Islander	Filipino	African-American	White	2 or More	Not Reported	Total
417	0	9	1	4	7	9	8	1	456
91%	0%	2%	>1%	>1%	2%	2%	2%	>1%	

### Franklin-McKinley Elementary School District 2015-2016

Hispanic/Latino	Amer. Ind., Alaska Native	Asian	Pacific Islander	Filipino	African-American	White	2 or More	Not Reported	Total
6,805	10	3,369	37	408	152	174	146	13	11,114
61%	>1%	30%	>1%	4%	1%	2%	1%	>1%	

The significant over-enrollment of Hispanic and Latino students and under-enrollment of Asian students at Voices Franklin-McKinley raises questions about the seriousness of the Charter School’s proposed recruitment and outreach efforts for Voices WCC. The Petition acknowledges the District’s racial and ethnic student population for 2014-2015, which consisted of 51% Hispanic/Latino students, 11% White students, 11% Asian students, and 18% African-American students. (Petition, p. 23.) The Petition also notes that, pursuant to 2010 U.S. Census

data, the populations residing in the Richmond and San Pablo areas include 49% Latinos, 15% African-Americans, 15% Asians, and 14% Whites. (Petition, p. 23.) Despite the inclusion of this data, the Petition does not provide any detail as to how its pupil recruitment and outreach plan for Voices WCC is tailored to recruit the various racial and ethnic groups—particularly African-American, Asian, Pacific Islander, and Filipino students—that are represented within the territorial jurisdiction of the District. (Renewal Petition, pp. 23, 118-119.)

The Capacity Interview with Petitioner, which included CMO Board members and organizational leadership, further underscored a lack of specificity in the Charter School’s outreach plans beyond “walking the neighborhoods” where diverse populations of students may reside. The Voices team were unfamiliar with the location such neighborhoods. Further, the Voices team suggested that they had achieved a successful balance of ethnicities at their other schools, an assertion that runs counter to the data presented with regard to the Voices Franklin-McKinley campus.

As reported by the CDE for the 2015-2016 school year, significant student populations in District schools were as follows:

### **West Contra Costa Unified School District 2015-2016**

<b>Hispanic/Latino</b>	<b>Amer. Ind., Alaska Native</b>	<b>Asian</b>	<b>Pacific Islander</b>	<b>Filipino</b>	<b>African-American</b>	<b>White</b>	<b>2 or More</b>	<b>Not Reported</b>	<b>Total</b>
16,597	55	3,142	215	1,580	5,528	3,104	596	156	30,973
54%	>1%	10%	>1%	5%	18%	10%	2%	>1%	

In sum, the Charter School’s plan for achieving a racial and ethnic balance that is reflective of the population residing within the District’s boundaries should explain how the Charter School intends to recruit a student body that includes approximately 54% Hispanic/Latino students, 16% Asian/Pacific Islander/Filipino students, 18% African-American students, and 10% White students.

The Petition also states that the special education population of its charter schools is “consistently at 7-10%, which reflects our current home districts.” (Petition, p. 23.) Petitioner notes its commitment to serving “students from disadvantaged socio-economic backgrounds” as well as students with disabilities. (Petition, p. 25.) However, the Petition fails to describe any specific procedures for recruiting special education students, economically disadvantaged students, and other student subgroups.

### *3. Element 8: Admission Requirements*

A petition must include a reasonably comprehensive description of the charter school’s admission requirements, if applicable. (Ed. Code, 47605(b)(5)(H).) The Education Code further provides: “If the number of pupils who wish to attend the charter school exceeds the school’s capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing.” (Ed. Code § 47605(d)(2)(B).) As set forth in the Petition, some of the Charter School’s procedures and timelines are unclear and require further explanation.

For example, the Petition does not describe how notification of admission will be made to families of students whose names are drawn during the public lottery. Specifically, it is not clear if notification is made by phone or email, or both, and whether the District does follow-up calling and emailing in the event the family is not initially contacted. The Petition should also indicate how long families will have following notification to accept admission to the Charter School. Further, the Petition does not indicate how long families of students who are admitted from the wait list will have to respond to an offer of enrollment. (Petition, pp. 120-122.)

The process for a public random drawing as described in the Petition also needs further clarification. It is common practice for charter schools to provide for either exemptions, or weighted admissions for particular subsets of students. The Petition provides for guaranteed admission to the following groups of “exempted students”:

1. Students currently enrolled in the Charter School
2. Siblings of students already enrolled or admitted into the Charter School
3. Children of teachers or staff, not to exceed 10% of the total Charter School enrollment. (Petition, p. 121.)

It goes on to provide that if the number of these “exempted students” exceeds available capacity at any grade level, the Charter School will hold a lottery for the impacted groups of exempted students to determine admission and begin a wait list. (Petition, p. 121.)

In describing the lottery process, the Petition then states that the Charter School will give admission preferences to: (1) students who reside in the District; and (2) students who qualify for free or reduced price meals.<sup>1</sup> (Petition, p. 121.) It is not clear how these additional preferences are implemented. Presumably, these students are admitted as capacity at each grade level allows, but the Petition does not indicate if these students are also waitlisted in the event of over-enrollment at a specific grade level. Petitioner goes on to state: “At the conclusion of the public random drawing, all students who were not granted admission due to capacity shall be placed on the wait list in the order selected according to their draw in the lottery.” (Petition, p. 121.) It is not clear whether these students follow the exempted students and/or students granted admissions preferences on the wait lists. Further confusing matters, the Petition states:

“The Charter School will accept applications for a specified period after the conclusion of the public random drawing. At the conclusion of this period, the Charter School will conduct a subsequent public random drawing and place students at the end of the waiting list in the order drawn.” (Petition, pp. 121-122.)

The Petition does not indicate the time period during which the Charter School will continue to accept applications and does not explain whether students who submit applications for grade levels that are not at capacity will be admitted immediately, or whether they must wait for this subsequent public random drawing.

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<sup>1</sup> As discussed in Finding 2 the Voices team changed the lottery weight to give access to students eligible for free or reduced meals in an effort to attract the intended demographics. However, the Voices team offered no data indicating that, since the change in admission preferences, the percentage of underrepresented students enrolling in its schools has increased.

#### *4. Element 10: Suspension and Expulsion Procedures*

##### *a. Standards for Suspensions and Expulsions*

Charter petitions must include a description of the “procedures by which students can be suspended or expelled.” (Ed. Code, § 47605(b)(5)(J).) The Petition sets forth the grounds upon which students may be suspended or expelled. (Petition, pp. 125-133.) However, the “Discretionary Suspension Offenses” and the Discretionary Expellable Offenses” are identical and there is no standard that provides notice to students as to whether a student who commits such an offense should be expelled, as opposed to being simply suspended. (Petition, pp. 125-128; 129-132.) Although not required to adhere to the Education Code’s disciplinary procedures, constitutional due process requires that the Charter School make clear the circumstances under which a student may be eligible for expulsion, as opposed to simply suspended. Further, the suspension and expulsion procedures set forth in the Petition fails to provide Charter School administrators with guidance with regards to standards for meting out discipline.

##### *b. Notification of Expulsions and Student Exits from Charter School*

The Education Code requires that a petition state that if a pupil is expelled or leaves the charter school without graduating or completing the school year for any reason, the charter school will “notify the superintendent of the school district of the pupil’s last known address within 30 days and shall, upon request, provide that school district with a copy of the cumulative record of the pupil, including a transcript of grades or report card, and health information” (Ed. Code, 47605(d)(3).) This required statement is included in the Affirmations section of the Petition. (Petition, p. 19). However, the Charter School’s Suspension and Expulsion Procedures provide that notice of the Charter School’s decision to expel a student will be sent “to the student or parent/guardian” rather than to the school district of the pupil’s last known address, as is required by law. (Petition, p. 137.)

#### *5. Element 12: Public School Attendance Alternatives*

The Petition must include a description of the public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools. (Ed. Code, § 47605(b)(5)(L).) As required by law, the Petition provides that no student may be required to attend the Charter School. (Petition, p. 143.) However, at page 105, the Petition states that parents are expected to exhibit, among other things, a “[c]ommitment and willingness to fulfill the parent agreement.” (Petition, p. 105.) The Parent Agreement, attached as Appendix AF, requires parents to “promise and agree” to a number of obligations, including a requirement to “do everything possible to keep my child at Voices College-Bound Language Academy for the long term (K-8).” This requirement is misleading in that it suggests that, once enrolled, parents must promise to “do everything possible” to keep their child in the Charter School, and is contrary to the legal requirement described in Section 47605(b)(5)(L).

#### *6. Element 14: Dispute Resolution & Uniform Complaint Procedures*

Education Code section 47605(b)(5)(N) requires a petition to include “the procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.” The Petition includes a process for resolving internal disputes as well

as dispute resolution procedures related to disputes between the Charter School and the District. (Renewal Petition, pp. 145-146.)

a. Dispute Resolution Procedures

The Petition requires the District to “promptly refer all complaints regarding Voices WCC operations to the Charter School principal or Voices Executive Director for resolution in accordance with Voices’ adopted policies.” In addition, the District is prohibited from interfering in internal disputes without the consent of the governing board of the Board of the Charter School.” (Petition, p. 146.) Because the District will serve as Voices WCC’s chartering authority, there may be instances where the District must become involved in the resolution of internal disputes so as to ensure the Charter School is in compliance with the law and in order to conduct effective oversight of the Charter School.

b. Uniform Complaint Procedures

Implementing regulations also require the Charter School to adopt Uniform Complaint Procedures that include a process for parents to appeal the Charter School’s decision to the California Department of Education. (5 Cal. Code Regs. tit. 5, §§ 4600 *et seq.*) The Petition references the annual distribution of the Charter School’s Uniform Complaint Procedures to parents via the Family Handbook. (Petition, p. 146.) An explanation of the proposed complaint resolution process and Uniform Complaint procedures is included in the sample Family Handbook included in the Appendices, but no copies of the Board-adopted Uniform Complaint Procedures were located in the Petition or Appendices. (Appendix AG: Sample Family Handbook, pp. 18-19, 29-33.)

7. *Transitional Kindergarten*

The Charter School intends to offer a transitional kindergarten (“TK”) program, but the Petition includes only a single paragraph describing the TK enrollment process, schedule, and curriculum. (Petition, p. 73.)

**VI. Staff Recommendation**

Based on this review, District Staff recommends that the Board deny the Voices College-Bound Language Academy West Contra Costa Petition based on the following grounds:

1. The Charter School presents an unsound educational program for the students to be enrolled in the Charter School.
2. The Petitioner is demonstrably unlikely to successfully implement the program set forth in the Petition.
3. The Petition does not contain reasonably comprehensive descriptions of all required elements as set forth in Education Code section 47605, subdivisions (b)(5)(A-O).

If the Board elects to deny the Petition, Staff recommends that the Board adopt the proposed Findings of Fact set forth above as its own findings.