

WILLIAM S. HART UNION HIGH SCHOOL DISTRICT  
Santa Clarita, California

March 1, 2017

STAFF REPORT  
Albert Einstein Academy for Letters, Arts and Sciences

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**I. EXECUTIVE SUMMARY**

The Board of Trustees ("Board") of the William S. Hart Union High School District ("District") approved a charter petition for Albert Einstein Academy for Letters, Arts and Sciences ("Charter School") for an initial two-year term on March 17, 2010. The charter was subsequently renewed for a five-year term ending on June 30, 2017. Charter School has submitted a renewal charter petition ("Petition") to continue to operate for a five-year term from July 1, 2017 to June 30, 2022. A public hearing on the Petition was held on February 1, 2017.

District Staff, in collaboration with legal counsel, conducted a review of the Petition. Staff considered increases in pupil academic achievement for all groups of pupils served by Charter School as the most important factor in its analysis of the Petition. Despite the performance of the educational program, Staff's analysis made the following major findings based on specific facts identified in this Staff Report:

Although the Petition includes some comparative data showing student academic achievement at Charter School, it does not explain how, nor is it clear that, Charter School has met the minimum statutory threshold for renewal under Education Code section 47607(b).

- Charter School is not serving a racially and ethnically balanced student population consistent with the demographics of the District. Charter School skews heavily White (~60% Charter School vs. 40% District), resulting in underrepresentation of Hispanic or Latino students (~15% Charter School vs. 40% District).
- Charter school's Hispanic or Latino students are underperforming their White peers on CAASPP testing by approximately 20% on average across grade levels and content area.
- Charter School's Hispanic or Latino students are underperforming their District Hispanic or Latino peers in English Language Arts by 10%.
- Charter School is not serving comparable numbers of English Learners or socioeconomically disadvantaged youth.
- Notably the Petition does not comprehensively describe Charter School's curriculum and how instruction will remedy the disparate performance levels across groups, nor does the Petition identify measurable pupil outcomes aligned with the state priorities set forth in Education Code section 52060(d).

Charter School is demonstrably unlikely to successfully implement the program and plans for future improvement based on the record of past performance.

- Charter School has not operated in compliance with its charter for several years.
  - The Board approved Charter School as a single charter school to operate within the District's boundaries, but Charter School has been folded into the larger Charter

Management Organization ("CMO") of AEALAS, Inc. ("AEALAS"), which has sought expansion and charter approval from other districts without oversight or input available to the District.

- Charter School failed to submit timely audit reports for 2013-14 and 2014-15, which were delinquent and sought by the state and District for several years, in violation of the reporting requirements in Education Code section 47604.33, and in violation of Charter School's obligation to promptly respond to oversight inquiries from the District under Education Code section 47604.3.

AEALAS has not been effectively managed or prudently operated.

- The Fiscal Crisis and Management Assistance Team ("FCMAT") conducted an extraordinary audit revealing that AEALAS lacked strong internal controls and/or knowledgeable staff to provide proper accounting of transactions.
- AEALAS was sued by its former CEO for wrongful termination, resulting in a \$215,000 settlement, and by another employee, resulting in a settlement of \$217,500.
- AEALAS obtained a state grant for a charter school in San Fernando that never opened and resulted in a grant repayment liability by the organization.
- AEALAS obtained a charter in Ventura County but failed to open, resulting in a deficit transfer of \$535,451 to the CMO.
- AEALAS has been sued by Los Angeles Unified School District, San Diego Unified School District, and Newhall School District for illegal expansion, and has been rejected by the Huntington Beach City School District and Orange County Department of Education as a result of that litigation. The San Diego County litigation resulted in a deficit of \$(327,089) following closure of an AEALAS charter school and a loan repayment of \$38,762 to the California Department of Education.
- AEALAS has been sued by its former lawyers for legal fees in the amount of \$419,358.

Charter School funds have been diverted from Charter School to other AEALAS activities, including failed charter schools and a defunct Foundation.

- At the public hearing, AEALAS admitted Charter School funds were diverted to activities outside of Charter School.
- Charter School's cash flow was compromised and it was forced to borrow money when the CMO took its assets and gave them to the AEALAS Foundation. Later, Charter School absorbed a \$584,777 write off because the Foundation was dissolved and could not pay back the loan.
- At the public hearing, AEALAS presented that Charter School's "financials are strong," while AEALAS's "financials are improving." AEALAS also presented a half million dollar gap in net income for Charter School between 2016-17 and 2018-19 and nearly \$200,000 gap between 2016-17 and 2018-19, despite a level enrollment at 450 students per year which should provide for steady net income were it to stay at Charter School.
- As of the current audit (2015-16), "AEALAS is recovering from large deficits in prior years totaling \$4,365,436 that has resulted in significant debt to AEALAS and currently has a negative working capital of \$3,196,394."
- As of the current audit (2015-16), "AEALAS obtained a \$247,595 loan on May 12, 2016, from a related party for paying off a prior loan that was in default."
- As of the current audit (2015-16), "AEALAS OF OHIO owes AEALAS for operating expenses paid by AEALAS totaling \$52,380."

- As of the current audit (2015-16), Charter School continued to have an intercompany receivable of \$907,091, while the CMO had a payable of (\$604,857) and the STEAM "Sister School" had a payable of \$(614,163).
- As of the current audit (2015-16), "Maintaining the current debt structure is dependent on maintaining the similar level of attendance and the ability to maintain its existing relationship to sell receivables to the Charter School Capital Company."

The Petition contains deficiencies in the comprehensive description of several charter elements, which are particularly concerning in light of past performance shortcomings of Charter School and the opportunity to address corrective action through the Petition. Indeed, the Petition is substantially similar to what was proposed and approved in 2010 and again in 2012, and does not comprehensively address changes in legal requirements as required by Education Code section 47607(a)(2). Nor does it adequately or accurately reflect the true governance structure of AEALAS and the CMO.

Charter School's troubled governance and management, together with a lack of transparency and conflicts of interest, result in a lack of accountability and unsatisfactory outcomes for students and the public. Accordingly, District Staff recommends denial of the Petition because Staff is not satisfied that granting the Petition is consistent with sound educational practice.

## **II. BACKGROUND**

Education Code section 47607(a) provides that a charter school authorizer may grant one or more subsequent charter renewals and that each renewal shall be for a period of five years. Charter School has submitted a renewal charter petition to continue to operate for a five-year term from July 1, 2017 to June 30, 2022. The Board formally received the Petition at its meeting on January 18, 2017.

Pursuant to Education Code section 47505(b), the Board must hold a public hearing on the renewal petition within 30 days after receiving it. The Board held a public hearing on February 1, 2017, to consider the level of support for the Petition from teachers employed by the District, other employees of the District, and parents.

The Board must approve or deny the renewal petition within 60 days after receipt. (Cal. Code Regs., tit. 5, ("5 C.C.R.") § 11966.4(c).) As such, the Board must act on whether to grant or deny the Petition at its meeting on March 1, 2017. Should the Board fail to act, the Petition will be deemed approved on March 17, 2017. (*Ibid.*)

If the Board grants the Petition, the Charter School will continue as a legal entity. If the Board denies the Petition, Charter School may appeal that denial to the Los Angeles County Board of Education ("County Board"). (Ed. Code, §§ 47607.5, 47605(j)(1).) If the County Board grants the Petition, the County Board becomes the supervisory agency over Charter School. If the County Board denies the Petition, Charter School may then appeal to the State Board of Education ("SBE"). (*Ibid.*)

## **III. STANDARD FOR REVIEW OF RENEWAL PETITION**

Charter renewals are governed by the same standards and criteria in Education Code section 47605 that are evaluated upon an initial charter petition submission. (Ed. Code, § 47607(a)(2).) Education Code section 47605, subdivision (b), provides that the chartering authority 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. As such, a school district governing board shall grant a charter for the operation of a school if it is satisfied that granting the charter is consistent with sound educational practice. Review and analysis of a charter petition may be guided by the regulations promulgated for the SBE's evaluation of charter petitions at Title 5, Division 1, Chapter 11, Subchapter 19 of the California Code of Regulations ("Regulations").

When evaluating a renewal petition, the authorizer must consider increases in pupil academic achievement for all groups of pupils served by the charter school as the most important factor in determining whether to grant the charter renewal. (Ed. Code, § 47607(a)(3)(A).) To be considered for renewal, the charter school must submit with its renewal petition documentation that it meets at least one of the criteria specified in Education Code section 47607(b):

(1) Attained its Academic Performance Index (API) growth target in the prior year or in two of the last three years both schoolwide and for all groups of pupils served by the charter school.

(2) Ranked in deciles 4 to 10, inclusive, on the API in the prior year or in two of the last three years.

(3) Ranked in deciles 4 to 10, inclusive, on the API for a demographically comparable school in the prior year or in two of the last three years.

(4) (A) The entity that granted the charter determines that the academic performance of the charter school is at least equal to the academic performance of the public schools that the charter school pupils would otherwise have been required to attend, as well as the academic performance of the schools in the school district in which the charter school is located, taking into account the composition of the pupil population that is served at the charter school.

\* \* \*

(5) Qualified for an alternative accountability system pursuant to subdivision (h) of Section 52052.

The renewal petition must also provide a reasonably comprehensive description of how the charter school has met all new charter school requirements enacted into law since the charter was granted or last renewed. (Ed. Code, § 47607(a)(2).)

In addition to consideration of pupil academic performance, the authorizer "shall consider the past performance of the school's academics, finances, and operation in evaluating the likelihood of future success, along with future plans for improvement if any." (5 C.C.R. § 11966.4(b).) Renewal may only be denied if the authorizer makes written factual findings supporting one of the grounds for denial in Education Code section 47605(b),<sup>1</sup> or that the charter school failed to meet one of the criteria in Education Code section 47607(b). (*Ibid.*)

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<sup>1</sup> Education Code section 47605(b) provides that a charter petition may be denied where "(1) The charter school presents an unsound educational program for pupils to be enrolled in the charter school. (2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition. (3) [Does not apply to renewals] (4) The

#### **IV. RECOMMENDATION**

Based upon a comprehensive review and analysis of the Petition by legal counsel in collaboration with District Staff, denial of the Petition is recommended because Staff is not satisfied that granting the Petition is consistent with sound educational practice. Findings with respect to the primary deficiencies appear in numbered paragraphs in Section V below. This Staff Report contains analysis of the Petition, and the written factual findings supporting the recommendation of denial. Denial of the Petition is recommended on the grounds:

- **Charter School is demonstrably unlikely to successfully implement the program presented in the Petition; and**
- **The Petition fails to provide a reasonably comprehensive description of all required elements of a charter petition.**

Factual findings regarding the most significant areas of concern with the Petition are described below. This Staff Report does not exhaustively list every concern, and focuses on those concerns believed to most greatly impact the Board's decision on whether to grant or deny the Petition. Should the Board take action to deny the Petition, it may adopt this Report as the written factual findings required to support its denial of the Petition.

#### **V. FINDINGS IN SUPPORT OF DENIAL**

Review and analysis of the Petition resulted in the following findings:

##### **A. Charter School Is Demonstrably Unlikely to Successfully Implement the Program. (Ed. Code § 47605(b)(2).)**

Education Code section 47605 ("Statute") requires Charter School to show it is demonstrably likely to successfully implement the program set forth in the Petition. (Ed. Code, § 47605(b)(2).) In determining whether Charter School is demonstrably likely to successfully implement the program, the Board "shall consider the past performance of the school's academics, finances, and operation ... along with future plans for improvement if any." (5 C.C.R. § 11966.4(b).)

Petitioners are demonstrably unlikely to successfully implement the program set forth in the Petition for the following reasons:

##### **1. Past Performance: Extraordinary Audit**

On December 11, 2014, FCMAT issued a report on its extraordinary audit into allegations of fraud, misappropriation of funds, and other illegal practices by AEALAS. Although FCMAT did not substantiate allegations of fraud, it did identify serious concerns related to AEALAS's fiscal and governance practices. Among other things, FCMAT found that AEALAS lacked strong internal controls and/or knowledgeable staff to provide proper accounting of transactions. As a result, FCMAT was unable to perform a complete audit due to problems with documentation, such as misidentification of vendor general ledgers, failure to formally

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petition does not contain an affirmation of each of the conditions described in subdivision (d). (5) The petition does not contain reasonably comprehensive description of all [required charter elements]."

document cash and checks collected and deposited and failure to present and/or provide documentation regarding donations accepted. According to FCMAT, AEALAS's policy manual and procedures were insufficient to meet the needs of the charter organization, and the policy manual was not consistently followed. Furthermore, the policy manual was missing information concerning inter-organization loans, funds transfers, federal and state forms and compliance procedures. Notably, FCMAT was unable to determine whether prohibited student fees were being charged to students. FCMAT also found that AEALAS failed to keep board meeting minutes; failed to maintain arm's-length relationships with affiliates; and failed to maintain adequate capital. As a result, FCMAT made recommendations based on a series of deficiencies identified in the report.

On February 20, 2015, the District sent AEALAS a letter outlining concerns about the FCMAT audit and requesting written verification of AEALAS's full compliance with FCMAT's recommendations. On April 17, 2015, AEALAS's legal counsel sent the District a letter responding to the FCMAT report and explaining the steps it had taken to address most, though not all, of the recommendations in the report. In particular, AEALAS defended its decision to expand its charter operations through charter petitions approved by other school districts while under a unitary charter board. This is referred to as the Charter Management Organization or CMO model. Despite promises made by AEALAS's legal counsel, financial performance and reporting were not brought current as set forth below under "Past Performance: Reporting Delinquencies."

Under the parameters defined in the Regulations, this history is regarded as unsuccessful.

## 2. Past Performance: Conflicts of Interest, Related Party Transactions, and Lack of Transparency

Under Education Code section 47612(c), a charter school functions as its own school district for purposes of school funding. As such, it is supposed to have an independent board dedicated to the charter school and reflective of the local community. (Ed. Code, § 47605(b)(5)(D); 5 C.C.R. § 11967.5.1(f)(4)(B)(2).) Charter School's board is responsible for ensuring that funds allocated to Charter School are spent to benefit the students of Charter School.

Until the release of the FCMAT audit in December 2014, the District was not aware that Charter School was operating under a CMO structure, as opposed to the structure approved by the Board in 2010 and at renewal in 2012. In approving Charter School's petition, the District approved a single charter school to operate within the District's boundaries. It did not approve an expansive charter school network. The FCMAT report identified troubling instances of funding meant for the District's authorized charter school being diverted either to the CMO, the Foundation, or other AEALAS schools. These issues have also been identified and described in the 2013-14 and 2014-15 audit reports.

To address the issue of the CMO structure, the District requested that AEALAS and Charter School assure the District that funds would be used exclusively for the District's authorized charter school and that the charter would be updated to reflect the CMO structure if it were to continue. Charter School's lawyers, who have since sued AEALAS for unpaid legal bills in excess of \$400,000, responded that the District approved charter already contemplated the CMO structure (which, as demonstrated by the organizational charts and petitions, it did not) and that the funding and governance issues raised by the District were not problematic, and therefore would not be changed.

The CMO structure is inherently problematic because it implicates lack of oversight, accountability and transparency, and potentially allows a public school to be run by an entity outside of the public's scrutiny. The long-delayed audit reports bear this out in particular for Charter School.

- On its own, Charter School purports to have a positive net worth; however, as part of the larger CMO, it has a negative net worth of \$(4,365,436), as of June 30, 2016.
- Ending 2015-2016, Charter School is owed an "intercompany receivable" of \$907,091 from an entity with a negative net worth of \$(4,365,436), as of June 30, 2016.
- As part of the CMO, Charter School is indebted on numerous bank, state, and individual loans. AEALAS's borrowing includes a number of related party transactions, including short-term borrowings to cover cash flow problems that were provided by the charter founder, charter board members, charter administrators, family and friends of these individuals, and parents of students. AEALAS also signed a \$350,000 promissory note secured by a Deed of Trust on a property owned by the founder.
- As part of the CMO, Charter School owes the state \$50,625 in grant money for a school that never opened.
- As part of the CMO, Charter School owes YMC \$419,358 in attorney's fees to defend litigation it was not a part of.
- Charter School's cash flow was compromised and it was forced to borrow money when the CMO took its assets and gave them to the Foundation. Later, Charter School absorbed a \$584,777 write off because the Foundation was dissolved and could not pay back the loan.
- As part of the CMO, Charter School owes the state \$157,500 for the abandoned Ventura charter school and also was forced to fund the associated net deficit of \$535,451 that was transferred back to the CMO.

The CMO structure raises serious concerns about the ability of AEALAS's board of directors to make decisions in the interests of the individual charter schools when it must juggle the interests of the other schools in the network, including at some points charter schools or proposed schools in Arizona, Florida, and Ohio. These situations often create legal conflicts of interest. For example, the movement of money under the auspices of a single board, which appears to have loyalties to the CMO, as opposed to independent loyalties to any one charter school operating within it, presents an issue of ethical conflict of interest and incompatible offices, as it is not possible for a board member to adequately represent the interests of both a lending and receiving entity at the same time. Again, these structures and operations were put in place without informing the District or seeking the necessary revisions to the charter.

Under the parameters defined in the Regulations, this history is regarded as unsuccessful.

### 3. Past Performance: Reporting Delinquencies

As Charter School's authorizer, the District has a direct interest in ensuring that Charter School is in compliance with all laws and its charter. Among other things, the District must ensure that Charter School complies with all reports required of charter schools by law and must monitor the fiscal condition of Charter School. (Ed. Code, § 47604.32.) Such reports include interim financial reports by December 15 each year as well as a final unaudited report for the prior year by September 15. (Ed. Code, § 47604.33.) In order to facilitate the District's oversight, Charter School is statutorily required to "promptly respond to all reasonable inquiries, including, but not limited to, inquiries regarding its financial records," made by the District. (Ed. Code, § 47604.3.)

Despite the FCMAT audit and promises to the District, Charter School has failed to meet reporting requirements and failed to promptly respond to reasonable inquiries as follows:

- On January 29, 2015, the state Controller's Office notified AEALAS and the District that it had not received Charter School's annual audit report for fiscal year end June 30, 2014, which was due by December 15, 2014.
- On February 18, 2015, the District requested that Charter School remedy the outstanding audit issue for fiscal year 2013-14.
- On March 4, 2015, the California Department of Education ("CDE") notified AEALAS and the District that it had not received Charter School's 2013-14 audit report.
- On March 25, 2015, the District notified Charter School that it still had not received the outstanding audit report for 2013-14 and requested a copy.
- In October of 2015 Hart District Officials met with Ms. Tricia Blum, AELEAS CEO to discuss a number of concerns, including the delinquent audits.
- On March 31, 2016, the District notified Charter School that it had not received Charter School's annual audit report for fiscal year end June 30, 2015, which was due by December 15, 2015.
- On April 28, 2016, the California Department of Education notified AEALAS and the District that it had not received Charter School's 2014-15 audit report.
- On May 4, 2016, the District notified Charter School that the CDE had not received Charter School's annual audit and requested Charter School take appropriate steps.
- On August 15, 2016, the District notified Charter School that it had not received either the 2013-14 audit report or the 2014-15 audit report despite repeated requests for compliance.
- On August 31, 2016, the District finally received AEALAS's 2014-15 audit report.
- A draft of the 2013-14 audit report was provided to the District during the last week of November 2016.

By failing to prepare and submit timely audit reports, Charter School violated the reporting requirements prescribed by Education Code section 47604.33. The extreme delay in reporting also inhibited the District's ability to monitor Charter School's fiscal condition and activities for no less than two years.

By failing to provide timely documentation requested by the state and District in the exercise of general and fiscal oversight and responsibility to monitor the fiscal condition of Charter School pursuant to Education Code section 47604.32, Charter School violated the mandate of Education Code section 47604.3 requiring that it "promptly respond to all reasonable inquiries, including, but not limited to, inquiries regarding financial records, from its charter authority."

By failing to provide timely documentation requested by the state and District in violation of Education Code section 47604.3, Charter School committed a material violation of the conditions, standards, and procedures set forth in its charter concerning fiscal and administrative operations.

Under the parameters defined in the Regulations, this history is regarded as unsuccessful.

#### 4. Past Performance: Financial Concerns (2013-14/2014-15)

AEALAS's untimely audit reports for 2013-14 and 2014-15 reveal troubling financial practices and status, including, but not limited to, the following:

- The 2013-14 audit report was completed on December 9, 2016, more than three months after the 2014-15 audit report completed on August 26, 2016, and four days after the 2015-16 audit report completed on December 5, 2016. The delay in the 2013-14 audit report resulted in an unexplained \$(280,425) discrepancy between the 2013-14 negative net asset ending balance as of June 30, 2014, totaling \$(2,281,378), and the 2014-15 negative net asset beginning balance as of July 1, 2014, totaling \$(2,000,953). This difference will presumably need to be addressed in a prior period adjustment to the 2016-17 beginning net asset balance, since it was not reflected in the 2015-16 audit report.
- The 2013-14 Independent Auditors' Report indicates the audit firm could not obtain sufficient appropriate evidence to provide a basis for an audit opinion "because of inadequacies of accounting records including support for disbursements and state compliance reports that are required to substantiate revenue and incompleteness of the accounting records." Accordingly, the audit firm did not express an opinion on the state compliance.
- Audit findings as of June 30, 2014 (\* indicates finding continued from prior 2012-13 audit):
  - 2014-1 60000 – Miscellaneous: not maintaining proper records, missing and/or incomplete employee documents.\*
  - 2014-2 10000 – Attendance: unable to provide contemporaneous records that document all pupil attendance in the AEA Endeavour average daily attendance calculations.
  - 2014-3 40000 – State Compliance: information on school calendars and bell schedules inconsistent.
  - 2014-4 60000 – Miscellaneous: CMO activities not budgeted and CMO lacking operating capital.\*

- 2014-5 30000 – Internal Controls: failure to review account balances leading to overstatement of account balances.
  - 2014-6 60000 – Miscellaneous: not maintaining proper records preventing auditors from obtaining sufficient evidence to form an opinion on the financial statements and on state compliance.\*
  - 2014-7 60000 – Miscellaneous: non-compliance with loan covenants, some loans and notes payable were delinquent as of June 30, 2014, and during the subsequent periods.\*
- AEALAS created a segment within the entity referred to as the CMO to process petitions for additional charter schools, including AEA Endeavour approved in November 2012 by Alpine Union School District and AEA Santa Clarita approved in May 2013 by Acton-Agua Dulce Unified School District.
  - AEALAS obtained a charter from Ventura County; however, it could not obtain an approved facility to house students and closed before the 2013-14 school year began. AEA Ventura received revenue from the state but it had to return all of the revenue since the school was closed. At June 30, 2014, AEALAS still had \$157,500 that was not returned to the state and reported as a liability. All AEA Ventura assets and liabilities at June 30, 2014, were transferred to the CMO with a net deficit of \$535,451. Although this was not Charter School's debt, it is now financially contributing to it.
  - The CMO processed but did not open three schools: AEA San Fernando, AEA Arizona, and AEA Broward County, Florida.
  - AEALAS obtained a grant from the State of California for the preparation of opening a charter school in San Fernando, California. The school was never opened and the \$50,625 grant amount is currently owed to the State of California.
  - AEALAS established a CMO within the entity without setting aside capital for its operations or budgeting for its activities. The CMO depended on Charter School's assets to conduct its activities, including providing loans to AEALAS Foundation, an affiliate, using the Charter School's assets. This resulted in limited cash flow for Charter School during the year because its resources were utilized by the CMO, and Charter School had to borrow funds to cover cash flows required for school expenses.
  - AEALAS has a number of outstanding loans from CDE, banks, and individuals. The charter school's borrowing includes a number of related party transactions, including short-term borrowings to cover cash flow problems that were provided by the charter founder, charter board members, charter administrators, family and friends of these individuals, and parents of students. AEALAS also signed a \$350,000 promissory note secured by a Deed of Trust on a property owned by the founder.
  - During 2013-14, AEALAS was not in compliance with some bond covenants. "AEALAS had financial transactions with the AEALAS Foundation, an affiliate, including lending money to the Foundation. These actions are in violation of the loan covenants." In total, the Foundation borrowed \$584,777, which was eventually written off as bad debt because the Foundation is no longer in operation and does

not have any funds to pay back the debt. Although this was not Charter School's debt, it is now financially contributing to it.

- AEALAS's legal counsel, Young, Minney & Corr ("YMC"), filed a civil lawsuit in Los Angeles Superior Court against AEALAS for unpaid legal fees in the amount of \$419,358. AEALAS entered into a settlement agreement with YMC in July 2016. Payments are being made monthly in the amount of \$20,000 per month. To the extent the settlement relates to past litigation in which Charter School was not directly involved, it is now financially contributing to it.
- AEALAS was sued by a former executive officer for wrongful termination. The case settled at mediation for \$215,000, with insurance to pay \$100,000 and AEALAS to pay \$115,000 over 33 monthly installments. To the extent the settlement relates to wrongful termination by the CMO in which Charter School was not directly involved, it is now financially contributing to it.
- According to the 2013-1014 Audit, AEALAS was sued by another former employee for wrongful termination. The case settled at mediation for \$217,500, with insurance to pay \$108,750 and AEALAS to pay \$108,750 over 36 monthly installments.
- As of June 30, 2015, AEALAS's total net assets were negative at \$(5,048,436) for the company as a whole. Standing alone, Charter School's total net assets were \$358,127. Every other AEALAS entity's standalone net assets were negative.
- At June 30, 2015, Charter School had an "intercompany receivable" of \$1,333,530 from other AEALAS entities, as well as an "intercompany payable" of \$(1,437,579) for the CMO and \$(828,299) for the STEAM "Sister School."
- "During the year ended June 30, 2015, AEALAS sold \$4,287,600 worth of receivables without recourse," the equivalent of 31 percent of its total revenues for the year. "The total cost of selling these receivables was \$282,510, including discount fees and program fees," or 6.6 percent of the amount borrowed for short-term cash flow needs. District staff notes the state paid the final remaining apportionment deferral with the close of 2014-15.
- Audit findings as of June 30, 2015:
  - 2015-1 10000 – Attendance: used an incorrect denominator when dividing days of actual attendance by number of school days resulting in understated ADA
  - 2015-2 40000 – State Compliance: Inappropriately claimed apportionment for an independent home school resulting in overstated apportionment
- AEALAS's 2014 Informational Returns for the fiscal year ending June 30, 2015, were filed late, subjecting it to a late filing penalty of \$24,500

Under the parameters defined in the Regulations, this history is regarded as unsuccessful.

##### 5. Past Performance: Financial Concerns (2015-16)

Though timely for the current year, AEALAS's audit report for 2015-16 continues to demonstrate troubling financial practices and status, including, but not limited to, the following:

- Negative net assets for AEALAS organization on combined statement of activities at the end of the year of \$(4,365,436).
- \$38,762 was held in the County Treasury to pay an outstanding loan to the CDE for the charter expansion in San Diego County, i.e., "Endeavour," a school which closed a year ago. Negative net assets of \$(327,089) for Endeavour as of June 30, 2016, will presumably fall to the rest of the AEALAS organization, and specifically Charter School, for repayment.
- "Currently AEALAS OF OHIO owes AEALAS for operating expenses paid by AEALAS totaling \$52,380. This balance was paid in November 2016."
- Charter School continues to have an intercompany receivable of \$907,091, while the CMO has a payable of \$(604,857) and the STEAM "Sister School" a payable of \$(614,163).
- In addition to previous related party transactions described above, "AEALAS obtained a \$247,595 loan on May 12, 2016 from a related party for paying off a prior loan that was in default."
- "During the year ended June 30, 2016, AEALAS sold \$5,313,553 worth of receivables without recourse," the equivalent of 40 percent of its total revenues for the year. "The total cost of selling these receivables was \$790,820, including discount fees and program fees," or 14.9 percent of the amount borrowed for short-term cash flow needs. AEALAS has a Receivable Purchase Agreement to sell up to \$30 million of its receivables to cover short-term cash flow needs until June 25, 2018. District staff note the state paid off all apportionment deferrals with the close of 2014-15, yet AEALAS continues to borrow significant amounts to cover cash flow needs.
- "Short-Term Loans – Some of the short-term borrowings to cover the cash flow problem caused by state deferrals are provided by related parties." Based on prior audit reports, District staff understands related parties to include AEALAS' founder, board members, AEALAS administrators, family and friends of these individuals, and parents of the students.
- "AEALAS is recovering from large deficits in prior years totaling \$4,365,436 that has resulted in significant debt to AEALAS and currently has a negative working capital of \$3,196,394."
- "Maintaining the current debt structure is also dependent on maintaining the similar level of attendance and the ability to maintain its existing relationship to sell receivables to the Charter School Capital Company." Based on outstanding debt and timing of debt service payments, it is not clear how long these payments can be sustained. Without the restructure of a portion of the existing debt, it may be difficult for AEALAS to keep making monthly payments, which may result in defaults of unsecured balances.

Under the parameters defined in the Regulations, this history is regarded as unsuccessful.

## 6. Past Performance: Litigation

AEALAS has an extensive litigation history, including, but not limited to, the various cases referenced in the financial statements. It was sued by San Diego Unified School District ("SDUSD") for operating a charter school authorized by Alpine Union School District within SDUSD's boundaries. That charter, AEA Endeavour, was eventually closed after a court ruling in SDUSD's favor. It was also sued by Los Angeles Unified School District and Newhall School District ("NSD") for operating, or planning to operate, charter schools authorized by Acton-Agua Dulce Unified School District. The charter school in NSD remains in operation under a substitute charter in the wake of the court's finding that the charter was not properly established and was approved as part of a revenue generating scheme; however, the litigation is not over and an attorney's fees appeal is pending in the Court of Appeal. Finally, AEALAS attempted to locate a charter school in Huntington Beach, but was denied by both the local district and the Orange County Department of Education on findings that the resource center was related to the shuttered charter implicated in the SDUSD case.

Under the parameters defined in the Regulations, this history is regarded as unsuccessful.

## 7. Failure to Comprehensively Describe the Required Elements

As set forth below, the Petition's failure to comprehensively describe Elements 1, 2, 3, 4, 5, 6, 7, 10, and 14 support the finding that the program is incomplete and does not pass pedagogical or legal muster. As such, it cannot be successfully implemented.

### **B. The Petition Fails To Set Forth Reasonably Comprehensive Descriptions of Charter Elements. (Ed. Code, § 47605(b)(5).)**

Education Code section 47605(b)(5)(A)-(O) and (b)(6) requires a charter petition to include "reasonably comprehensive" descriptions of numerous elements of the proposed charter school. The Regulations require the "reasonably comprehensive" descriptions required by Education Code section 47605(b)(5) to include, but not be limited to, information that:

- Is substantive and is not, for example, a listing of topics with little elaboration.
- For elements that have multiple aspects, addresses essentially all aspects of the elements, not just selected aspects.
- Is specific to the charter petition being proposed, not to charter schools or charter petitions generally.
- Describes, as applicable among the different elements, how the charter school will:
  - Improve pupil learning.
  - Increase learning opportunities for its pupils, particularly pupils who have been identified as academically low achieving.
  - Provide parents, guardians, and pupils with expanded educational opportunities.
  - Hold itself accountable for measurable, performance-based pupil outcomes.
  - Provide vigorous competition with other public school options available to parents, guardians, and students.

(5 C.C.R. § 11967.5.1(g).) In addition, a renewal charter petition must provide a reasonably comprehensive description of how the charter school has met all new charter school

requirements enacted into law since the charter was granted or last renewed. (Ed. Code, § 47607(a)(2).)

### **Element 1 - Educational Program**

The Statute and Regulations provide various factors for considering whether a charter petition provides a reasonably comprehensive description of the educational program of the school, including, but not limited to, a description of the following: the charter school's target student population, including, at a minimum, grade levels; approximate numbers of pupils, and specific educational interests, backgrounds, or challenges; the charter school's mission statement with which all elements and programs of the school are in alignment and which conveys the petitioners' definition of an educated person in the 21st century; belief of how learning best occurs; goals consistent with enabling pupils to become or remain self-motivated, competent, and lifelong learners; the instructional approach of the charter school; the basic learning environment or environments; the curriculum and teaching methods that will enable the school's students to meet state standards; how the charter school will identify and respond to the needs of pupils who are not achieving at or above expected levels; how the charter school will meet the needs of student with disabilities, English learners, students achieving substantially above or below grade level expectations; and the charter school's special education plan, to include the means by which the charter school will comply with the provisions of Education Code section 47641; the process to be used to identify students who may qualify for special education programs and services; how the school will provide or access special education programs and services; the school's understanding of its responsibilities under law for special education pupils; and how the school intends to meet those responsibilities. (Ed. Code, § 47605(b)(5)(A); 5 C.C.R. § 11967.5.1(f)(1).)

The Petition does not contain a sufficient description of the Charter School's educational program based on the following findings:

#### 1. Target Population

According to the Petition, Charter School's target population includes "students from all social and economic groups in the Santa Clarita Valley." The data presented, however, does not actually reflect the make-up of the District community. In particular, Charter School skews heavily White, resulting in underrepresentation of Hispanic or Latino students. Whereas the District is comprised of approximately 40% each of White and Hispanic or Latino students, Charter School is comprised of nearly 60% White and only about 15% Hispanic or Latino students. Additionally, the District serves a population of approximately 10% English Learners, while according to the Petition, Charter School serves only 3 English Learners in total, or just under ½%.

The demographic make-up of Charter School has been an issue since it opened in 2010, and this concern was included as a goal in the Memorandum of Understanding ("MOU") between the District and Charter School at renewal in 2012: "Einstein Academy will increase the diversity represented in their student population to more closely mirror the demographics of the Hart District." Accordingly, the purported "target population" expressed by Charter School in the Petition does not match and has never matched its actual population, calling into doubt the description put forth in the Petition to satisfy the requirements of Education Code section 47605(b)(5)(A).

#### 2. Curriculum & Academic Achievement

Although the Petition describes the general instructional approach of the Charter School, it does not identify the specific curriculum and instructional materials that will enable students to meet state standards in any content area at various grade and instructional levels. The general information provided in the Petition does not allow for a comprehensive evaluation of the educational program and how it will be implemented by the Charter School.

While Staff recognizes the academic achievement data proffered by Charter School in support of its renewal, that facial strength of that data does not obviate the need for a comprehensive description of the Charter School’s curriculum. This is particularly true where a deeper review of the numbers reveals significantly disparate academic performance across student groups in analyzing whether Charter School has satisfied the criteria specified in Education Code section 47607(b).

For the 2016 administration, CAASPP results show comparable overall achievement, with Charter School numbers slightly higher, when comparing Charter School’s English Language Arts/Literacy meets or exceeds (75%) with the District’s meets or exceeds (72%), and when comparing Charter School’s Mathematics meets or exceeds (66%) with the District’s meets or exceeds (66%). The overall achievement scores, however, mask a shortcoming in Charter School’s performance when taking into account the composition of pupil population served. In particular, Charter School’s Hispanic or Latino student population is underperforming the White population at Charter School. In addition, Charter School’s Hispanic or Latino population is underperforming their counterparts in the District in English Language Arts.

<b>CAASPP Testing Area</b>	<b>Student Groups</b>	<b>Percent Met or Exceeded</b>
English Language Arts	Charter Hispanic or Latino	50%
	Charter White	75%
	Charter Hispanic or Latino	50%
	District Hispanic or Latino	60%
Mathematics	Charter Hispanic or Latino	47%
	Charter White	65%
	Charter Hispanic or Latino	47%
	District Hispanic or Latino	37%

Of note, this data must also be interpreted in light of (1) the significantly smaller Hispanic or Latino population at Charter School as a percentage of overall enrollment and (2) the fact that the District serves a partially overlapping English Learner percentage of 10% while Charter School serves only .05% English Learner population in total and the home language of those three students is unspecified.

**Elements 2 & 3 – Measurable Student Outcomes and Methods of Measurement**

The Statute and Regulations provide for a charter petition to identify the specific skills, knowledge and attitudes that reflect the school’s educational objectives and that can be assessed frequently and sufficiently by objective means to determine satisfactory progress, and to provide for the frequency of the objective means for measuring outcomes to vary by factors such as grade level, subject matter, and previous outcomes. The pupil outcomes

shall align with state priorities. (Ed. Code, § 47605(b)(5)(B); 5 C.C.R. § 11967.5.1(f)(2).) To be sufficiently detailed, objective means of measuring pupil outcomes must be capable of being used readily to evaluate the effectiveness of and to modify instruction for individual students and for groups of students during the school year. (5 C.C.R. § 11967.5.1(f)(2)(A).)

The Petition does not contain a sufficient description of the Charter School's measurable student outcomes and methods of measurement based on the following findings:

1. State Priorities

The Petition does not identify measurable pupil outcomes aligned with the state priorities set forth in Education Code section 52060(d), including, but not limited to, basic services such as teacher assignment and credentialing, standards-aligned instructional materials, and properly maintained school facilities; implementation of Common Core State Standards; parental involvement; pupil achievement; pupil engagement; school climate; course access; and subject area outcomes. This is a fundamental component of charter school accountability.

#### **Element 4 – Governance Structure**

The Statute and Regulations provide for a charter petition to identify the governance structure including, at a minimum, evidence of the charter school's incorporation as a non-profit public benefit corporation, if applicable, the organizational and technical designs to reflect a seriousness of purposes to ensure that the school will become and remain a viable enterprise, there will be active and effective representation of interested parties, and the educational program will be successful. (Ed. Code, § 47605(b)(5)(D); 5 C.C.R. § 11967.5.1(f)(4).) The Statute and Regulations also requires evidence that parental involvement is encouraged in various ways.

The Petition does not contain a sufficient description of the Charter School's governance structure based on the following findings:

1. Identification of Charter School

The Introduction to the Petition misidentifies the Charter School as "The Albert Einstein Academy of Arts, Letters and Sciences, Los Angeles."

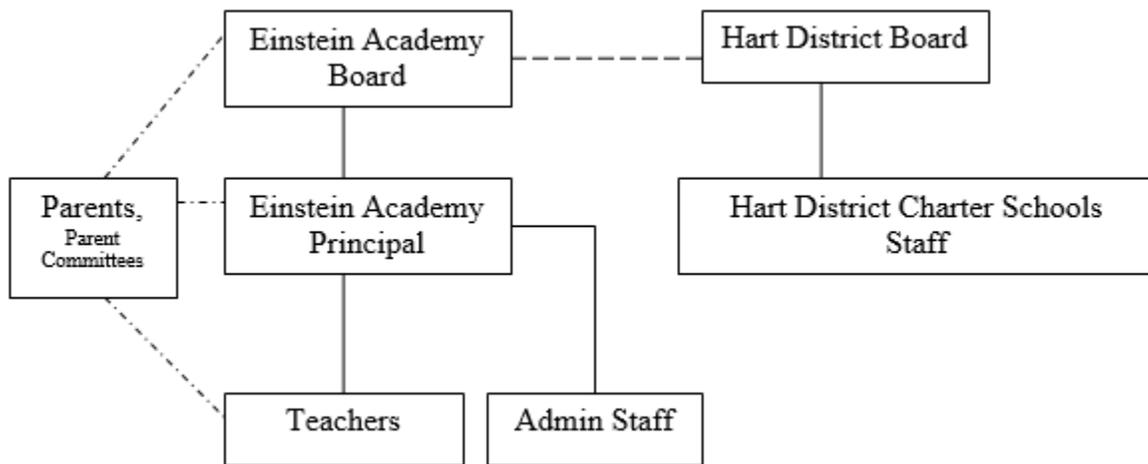
2. Conflict of Interest Policy

The Petition recites that Charter School will be operated as a California public benefit corporation, AEALAS, Inc., and that AEALAS will comply with the Brown Act, the Public Records Act, the Political Reform Act, and its adopted Conflict of Interest policy, a copy of which was not provided with the Petition. Notably, the Petition is silent as to the standards of Government Code section 1090, a law of general application to public entities. Because the purpose behind Government Code section 1090 is to ensure that public funds are protected from self-dealing in contract transactions, compliance with Government Code section 1090 is a critical part of any public school accountability and transparency plan. No information is offered to explain the basis for any exemption from that law. Further, California Legislative Counsel Opinion #1500934 dated January 20, 2015, confirms the applicability of Government Code section 1090 to California charter schools. The absence of this additional requirement raises concerns about the Charter School's ability to keep abreast of changing laws and to properly comply with legal responsibilities, including the

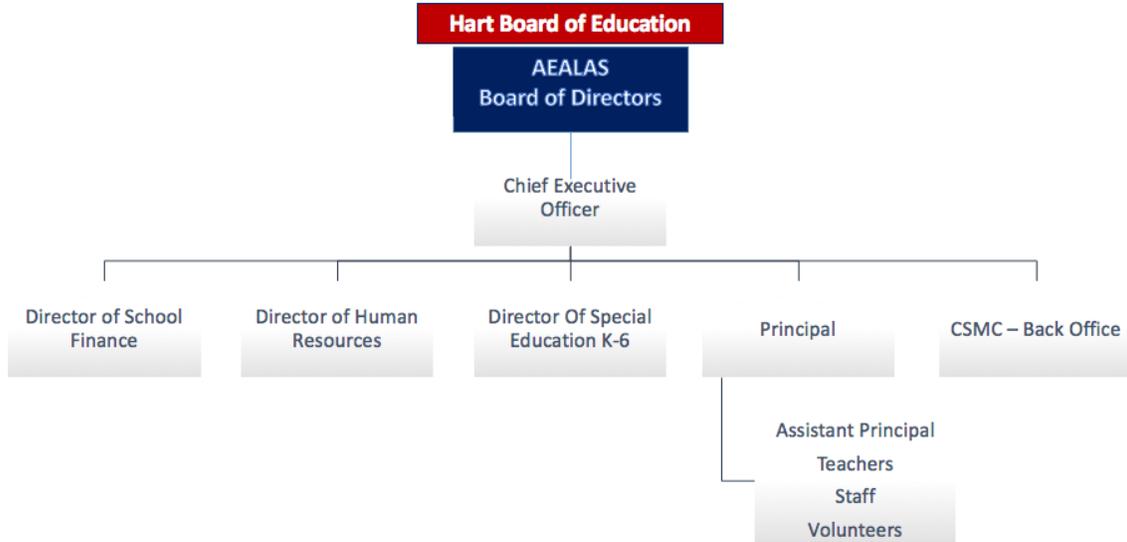
requirement to update the charter at renewal. (Ed. Code, § 47607(a)(2).) The absence of this additional requirement is also noteworthy in light of the significant related party transactions engaged in by AEALAS in an effort to avoid default and balance its books across multiple charter school operations.

### 3. CMO Structure

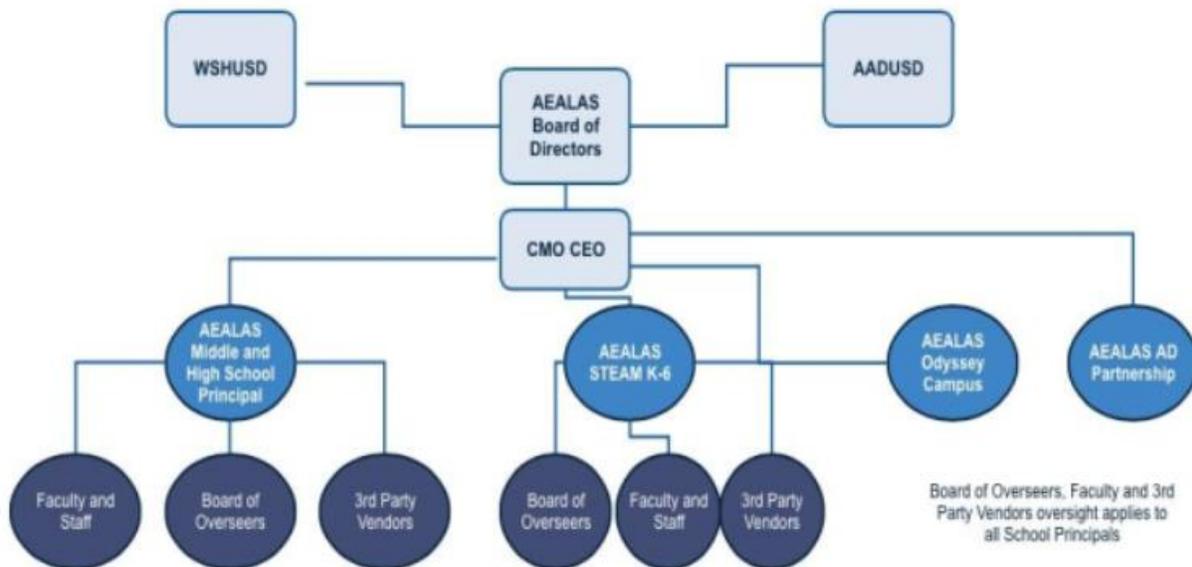
The Petition does not adequately or accurately reflect the true governance structure of AEALAS and the CMO. Until the release of the FCMAT audit in December 2014, the District was not aware that Charter School was operating under a CMO structure. In approving the charter school's original and first renewal petitions, the District approved a single charter school to operate within the District's boundaries. It did not approve an expansive charter school network. The structure in the original charter and 2012 renewal was as illustrated as follows:



Interestingly, the organizational chart structure in the Petition is somewhat similar and eliminates reference to the CMO. Indeed, though the CMO is referenced in the Petition in the context of the CEO's responsibility for overseeing the day to day operations and management of Charter School, the Petition does not describe or otherwise explain the CMO structure and Charter School's place in it.



Yet, the presentation given by Charter School at the public hearing provided a wholly different organizational structure:



Under this structure, the AEALAS Board purports to answer to not only District oversight, but the oversight of Acton-Agua Dulce Unified School District as well. From there, the AEALAS Board controls the CMO, which is not listed or described at all in the Petition, and the CMO then manages the various charter schools. This structure conflicts with the Charter Schools Act insofar as Education Code section 47612(c) provides that a charter school functions as its own school district for purposes of school funding. As such, it calls for the charter school to have an independent board dedicated to the charter school and reflective of the local community. (Ed. Code, § 47605(b)(5)(D); 5 C.C.R. § 11967.5.1(f)(4)(B)(2).)

The charter school's board is responsible for ensuring that funds allocated to the charter school are spent to benefit the students of the Charter School. However, the FCMAT report identified troubling instances of funding meant for Charter School being diverted either to the CMO, the AEALAS Foundation, or other AEALAS schools. These issues have also been identified and described in the 2013-2014 audit report and 2014-15 audit report.

The CMO structure raises serious concerns about the ability of the Charter School Board, such as it is, to make decisions in the interests of the individual charter schools when it must juggle the interests of the other schools in the network. These situations often create legal conflicts of interest. For example, the movement of money under the auspices of a single board, which appears to have loyalties to the CMO, as opposed to independent loyalties to any one charter school operating within it, presents an issue of ethical conflict of interest and incompatible offices, as it is not possible for a board member to adequately represent the interests of both a lending and receiving entity at the same time. As the financial data reflects, it is the William S. Hart authorized Charter School's funds that are shifted to other schools without the benefit of repayment. In fact, it appears that it is revenue generated by the William S. Hart authorized Charter School that is being used to repay debts incurred from failed operations of other schools/charters such that the students attending Charter School are not receiving the full benefit of the funds generated by their attendance.

#### **Element 5 – Employee Qualifications**

The Statute requires the Petition to describe the qualifications to be met by individuals employed by the Charter School. (Ed. Code, § 47605(b)(5)(E).) The Regulations provide that the qualifications should at a minimum, identify general qualifications for the various categories of employees; ensure the health and safety of the school's faculty, staff, and students, and the academic success of the students; identify the key positions in each category and specify the additional qualifications expected for those positions; and specify applicable legal requirements will be met, including but not limited to credentials as necessary. (5 C.C.R. § 11967.5(f)(5).)

The Petition fails to reasonably comprehensively describe this element, as follows:

The Petition provides a description of qualifications for the positions of teacher and principal, and a cursory description for the broader category of "support staff" without differentiation. Those descriptions notwithstanding, however, the Petition does not describe the qualifications of other key employees, including, but not limited to, the Director of Human Resources and the CEO. According to the Petition, the Director of Human Resources is responsible for monitoring and maintaining documentation of criminal investigation clearances. Further, the Principal has the authority to recruit, interview, and hire employees, but only "upon the approval of the CEO." It appears the Director of Human Resources and the CEO are employees of the CMO, yet they have direct operational control over the Charter School and their positions should be included in this section. Failure to include them contributes to the oversight problems and lack of transparency associated with the CMO structure proposed by Charter School and AEALAS. (See Element 4.)

#### **Element 6 – Health and Safety Procedures**

The Statute requires the Petition to identify the procedures that the Charter School will follow to ensure the health and safety of students and staff. (Ed. Code, § 47605(b)(5)(F).) The Regulations provide the procedures should, at a minimum, require that each employee

of the school provide a criminal records summary as described in Education Code section 44237, include the examination of faculty and staff for tuberculosis as described in Education Code section 49406, require immunization of students as a condition of school attendance to the same extent as would apply if the students attended a non-charter public school, and provide for the screening of students' vision and hearing and the screening of students for scoliosis to the same extent as would be required if the students attended a non-charter public school. (5 C.C.R. § 11967.5(f)(6).)

The Petition does not contain sufficient description of the Charter School's health and safety procedures based on the following findings:

1. Mandated Reporter Training

According to the Petition, "All classified and certificated staff will be mandated child abuse reporters and will follow all applicable reporting laws, the same policies and procedures used by the District." Missing from this statement is what the Charter School must do, which is provide annual training in accordance with Education Code section 44691(b), which became effective on January 1, 2015, and expressly applies to charter schools. The absence of this additional requirement raises concerns about the Charter School's ability to keep abreast of changing laws and to properly comply with legal responsibilities, including the requirement to update the charter at renewal. (Ed. Code, § 47607(a)(2).)

2. Vision, Hearing, Scoliosis Staffing

The Petition states that students will be screened for vision, hearing, and scoliosis, but does not identify who will conduct the screenings. Vision, hearing, and scoliosis screenings must be done by a credentialed School Nurse; however, the Petition does not indicate that the Charter School will either employ or contract with a credentialed School Nurse to perform this function.

3. Anti-Discrimination and Harassment Policies

Although the Petition states the Charter School will develop a comprehensive anti-discrimination and harassment policy, the policy was not attached, and in any event addresses employee to employee, employee to student, and student to employee harassment, but not student to student harassment.

**Element 7 – Racial and Ethnic Balance**

The Statute requires the Petition to identify the means by which the Charter School will achieve a racial and ethnic balance among its students that is reflective of the authorizing district's general population. (Ed. Code, § 47605(b)(5)(G).)

The Petition does not contain sufficient description of the Charter School's means of ensuring racial and ethnic balance consistent with the District's demographics based on the following findings:

1. Demographic Numbers

The Petition acknowledges that Charter School's racial and ethnic balance has historically not been consistent with the District's demographics. This concern was included as a goal in the MOU between the District and Charter School at renewal in 2012: "Einstein Academy

will increase the diversity represented in their student population to more closely mirror the demographics of the Hart District.” Racial and ethnic balance, however, remains a problem for Charter School. In particular, Charter School skews heavily White, resulting in underrepresentation of Hispanic or Latino students. Whereas the District is comprised of approximately 40% each of White and Hispanic or Latino students, Charter School is comprised of nearly 60% White and only about 15% Hispanic or Latino students. Additionally, the District serves a population of approximately 10% English Learners, while according to the Petition, Charter School serves only 3 English Learners, or just under ½%. CAASPP scores submitted by Charter School reflect so few students from socioeconomically disadvantaged backgrounds and with special needs as not to generate score data (i.e., 10 or less per cohort). According to the Petition, the number of students qualifying for free or reduced lunch stands at 4%.

CAASPP score data reflects that Charter School is not succeeding in increasing academic performance for students who are Hispanic or Latino, the percentage of whom met or exceeded across grade levels and content areas is far lower than their White counterparts:

<b>CAASPP Testing Area</b>	<b>Student Groups</b>	<b>Number of Students Tested</b>	<b>Percent Met or Exceeded</b>
ELA – Grade 7	All Students	86	72.09%
	Hispanic or Latino	15	46.67%
	White	44	70.45%
ELA – Grade 8	All Students	85	66.67%
	Hispanic or Latino	13	46.15%
	White	48	64.58%
ELA – Grade 11	All Students	66	90.91%
	Hispanic or Latino	<10	Sample too small
	White	51	90.2%
Math – Grade 7	All Students	86	70.93%
	Hispanic or Latino	15	53.33%
	White	44	70.45%
Math – Grade 8	All Students	84	60.71%
	Hispanic or Latino	13	46.15%
	White	48	56.25%
Math – Grade 11	All Students	66	66.67%
	Hispanic or Latino	<10	Sample too small
	White	51	68.63%

### **Element 10 – Suspension and Expulsion Procedures**

The Statute and Regulations require the Petition to describe the procedures by which students can be suspended or expelled. (Ed. Code, § 47605(b)(5)(J); 5 C.C.R. § 11967.5(f)(10).)

The Petition does not contain sufficient description of the procedures by which students can be suspended or expelled based on the following findings:

The Petition provides a lengthy discussion of student suspension and expulsion procedures, designed in part to track the requirements of Education Code section 48900 et seq.; however, it improperly reserves to the Charter School the ability to amend the policies and procedures without first requesting a material revision of the charter. Such changes are material to the operation of the charter (as indicated by inclusion of Element 10 in section 47605(b)(5)) and therefore cannot be made outside the material revision process.

1. Willful Defiance

The Petition identifies willful defiance as a possible reason for suspension or expulsion. Although Education Code section 48900 does not apply directly to charter schools, Assembly Bill No. 420 (Stats. 2014, ch. 660) expresses a public policy that no student should be recommended for expulsion for willful defiance, in part because discipline for willful defiance has been disproportionately used to discipline minority students. In light of Charter School's documented shortcomings in the area of achieving racial and ethnic balance in its student population, the inclusion of willful defiance as an available reason for recommending expulsion is troubling and raises concerns about the Charter School's ability to keep abreast of changing laws and to properly comply with legal responsibilities, including the requirement to update the charter at renewal. (Ed. Code, § 47607(a)(2).)

2. Expulsion Procedure

Although the Petition vests final authority to expel in Charter School's Board, the procedure to reach the Board is unclear. The determination whether an expellable offense has occurred is initially made by the Principal or designee. According to the Petition, the "hearing will be presided over by the charter school Principal who will make a recommendation to the expulsion panel." At the same time, the expulsion panel is responsible for deciding whether to recommend expulsion to the Board. Thus, the respective roles of the Principal and the expulsion panel in the context of the expulsion hearing are overlapping and confusing.

3. Appeal

Although the Petition states a student who is subject to expulsion will receive notice of the right to appeal the expulsion, the Petition does not define what the appeal right is and to whom the appeal is directed.

**Element 14 – Dispute Resolution**

The Statute requires the Petition to describe the procedures to be followed by the Charter School and the entity granting the charter to resolve disputes relating to provisions of the charter. (Ed. Code, § 47605(b)(5)(N).) The Regulations require a description of how the costs of the dispute resolution process, if needed, would be funded, and also a recognition that if the substance of a dispute is a matter that could result in the taking of appropriate action, including, but not limited to, revocation of the charter, it will be handled in accordance with that provision of law and any regulations pertaining thereto. (5 C.C.R. § 11967.5(f)(14).)

The Petition does not contain a sufficient description of the Charter School's dispute resolution process based on the following findings:

1. Cost

The Petition contemplates the use of a neutral, third party arbitrator where an impasse is reached; however, the Petition does not describe how the arbitrator will be engaged or who will be financially responsible for paying for the arbitrator's services.

2. Section 47607

Although the Petition purports to state that revocation issues will not be subject to the dispute resolution procedures, it subsequently recites procedures related to revocation. The District's obligations in the context of revocation are prescribed by Education Code section 47607, which Charter School may not expand, decrease, or alter through the Petition.

**Other**

The Petition purports to impose mutual indemnity provisions requiring the District to indemnify and hold harmless "Albert Einstein Academy." Not only is a mutual indemnity provision contrary to the requirements of the Charter Schools Act, in the context of the governance structure, it is impossible to know what "Albert Einstein Academy" is, i.e., Charter School, AEALAS, CMO?

**VI. CONCLUSION**

Staff considered increases in pupil academic achievement for all groups of pupils served by the charter school as the most important factor in its analysis. However, on balance, Charter School's academic achievement for some students is outweighed by the substantial deficiencies articulated in this Staff Report. For the reasons stated above, the Petition, as submitted, fails to provide a reasonably comprehensive description of several essential charter elements and indicates that Charter School is demonstrably unlikely to successfully implement the program presented in the Petition. Accordingly, it is recommended that the Petition be denied. Should the Board take action to deny the Petition, it may adopt this Report as the written factual findings required to support its denial of the Petition.