

**STAFF ANALYSIS, RECOMMENDATIONS, AND RECOMMENDED FINDINGS OF  
FACT REGARDING TUSTIN INTERNATIONAL CHARTER SCHOOL CHARTER  
PETITION**

**January 14, 2024**

**PROCEDURAL STATUS**

The Tustin Unified School District (“District”) received a charter petition (“Charter”) on October 30, 2023 , seeking approval of the Charter for Tustin International Charter School (“TICS”), to be operated and governed by Mandarin Immersion Schools, for a term of July 1, 2024, through June 30, 2030. The terms “TICS” and “Charter School” are used herein collectively and interchangeably to refer to both Mandarin Immersion Schools and/or the proposed Tustin International Charter School. The District Board’s consideration and action on the Charter is governed by the standards, criteria, and procedures set forth in Education Code Section 47605.

On December 11, 2023, per Education Code Section 47605, the District Board held a public hearing on the TICS Charter, consistent with the requirement to do so within 60 days of receipt of the submission of the Charter petition. During the public hearing three parents spoke in favor of the charter. No District teachers or other District employees spoke in favor of the Charter. Action on the Charter will be on the District Board’s January 29, 2024 agenda.

A copy of the Charter is available for review in the office of Maggie Villegas, Assistant Superintendent, Educational Services, at the District office.

**CRITERIA FOR ACTION ON A CHARTER PETITION**

In considering charter petitions, the District Board “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 the establishment of charter schools should be encouraged.” The District Board shall grant a charter if it satisfied that doing so is consistent with sound educational practice and with the interests of the community in which the school proposes to locate. The District Board shall consider the academic needs of the pupils the school proposes to serve. (Education Code Section 47605(c).)

The District Board shall not deny the Charter unless it makes written factual findings, specific to the particular Charter, setting forth specific facts to support one or more of the following findings (Education Code Section 47605(c)(1)-(8)):

1. The charter school presents an unsound educational program for the 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. The petition does not contain the number of signatures required by Education Code Section 47605(a).

4. The petition does not contain an affirmation of each of the conditions described in Education Code Section 47605(e).
5. The petition does not contain reasonably comprehensive descriptions of all the required elements.
6. The petition does not contain a declaration of whether or not the charter school shall be deemed the exclusive public employer of the employees of the charter school for purposes of the Educational Employees Relations Act (EERA).
7. The charter school is demonstrably unlikely to serve the interests of the entire community in which the school proposes to locate.
8. The District is not positioned to absorb the fiscal impact of the proposed charter school.

The District Board is also to require charter petitioners to provide information regarding the proposed operation and potential effects of the proposed school, including but not limited to, the facilities to be used by the school, including specifying where the charter school intends to locate; the manner in which administrative services of the school are to be operated; potential civil liability effects, if any, upon the school and the District; financial statements that include a first-year operational budget, including startup costs, cash flow, and financial projections for the first three years of operation; and the names and relevant qualifications of all persons whom the petitioner nominates to serve on the charter school nonprofit corporation's board of directors.

### **REVIEW OF THE TICS CHARTER PETITION**

District Staff's recommendations and recommended findings are set forth below and in the attached proposed Resolution No. 01-07-24.

The District administrative staff was given responsibility to make a recommendation to the District Board regarding the TICS Charter proposal. In analyzing the Charter and developing its recommendations, the District administrative team was 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 and has considered the academic needs of the students the Charter School proposes to serve. District staff reviewed the Charter using the criteria established in Education Code Section 47605, as described above, and assessed the Charter against the standards and requirements set forth in the California Education Code in order to develop final recommendations.

District administrative staff has noted omissions, issues, and concerns supporting the legal findings for denial of a charter petition, which are included as proposed factual findings in the recommended Resolution No. 01-07-24 (attached). For the reasons detailed in that proposed Resolution and supported by the recommended findings of fact set forth therein, District staff recommends that the TICS Charter be denied and that the District Board adopt Board Resolution No. 01-07-24 Denying the Charter School Petition for Tustin International Charter School.

As required by the Charter Schools Act, the staff recommendations, including the recommended findings, were published, as well as provided directly to the TICS petitioners, at least 15 days prior to the meeting at which the District Board will act on the Charter. As detailed in the attached proposed Resolution, staff's recommendations are based on the following findings:

1. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
2. The petition does not contain the number of signatures required by Education Code Section 47605(a).
3. The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.
4. The petition does not contain reasonably comprehensive descriptions of all the required elements.

Written factual findings, specific to the particular Tustin International Charter School Charter petition, setting forth specific facts to support each of these statutory findings for denial are set forth in detail in the proposed Resolution No. 01-07-24.

### **CONCLUSION**

The District staff reviewed the Tustin International Charter School Charter utilizing the criteria for consideration and action on a charter petition, as set forth in Education Code Section 47605. District staff recommends that the TICS Charter be denied and that the District Board adopt proposed Resolution No. 01-07-24 Denying the Charter School Petition for Tustin International Charter School by the Governing Board of the Tustin Unified School District and adopting the specific factual findings of denial set forth therein, in accordance with the requirements of the Charter Schools Act.

### **PROPOSED MOTION**

Move to deny the Tustin International Charter School Charter and adopt Resolution No. 01-07-24 Denying the Charter School Petition for Tustin International Charter School by the Governing Board of the Tustin Unified School District and adopting the specific factual findings of denial set forth therein.

**Resolution No. 01-07-24  
Denying the Charter School Petition for  
Tustin International Charter School  
by the Governing Board of the  
Tustin Unified School District**

**WHEREAS**, pursuant to Education Code Section 47600 *et seq.*, the Governing Board of the Tustin Unified School District (“District Board”) is required to review and consider authorization of charter schools; and

**WHEREAS**, on or about October 30, 2023, petitioners delivered to the District Office a Charter School Petition (“Charter”) and a certificate of completeness for the proposed Tustin International Charter School (“TICS”) to be operated and governed by Mandarin Immersion Schools, a nonprofit public benefit corporation. The terms “Mandarin Immersion,” and “Charter School” are used herein collectively, individually, and interchangeably to refer to both Mandarin Immersion Schools and/or the proposed Tustin International Charter School; and

**WHEREAS**, in accordance with the Charter Schools Act of 1992, the Charter was deemed received on the date of its delivery to the District Office with the certificate of completeness, thereby commencing the timelines for District Board action thereon; and

**WHEREAS**, the District Board conducted a public hearing on the provisions of the Charter on December 11, 2023, pursuant to Education Code Section 47605, at which time the District Board considered the level of support for this Charter by teachers employed by the District, other employees of the District, and parents. Three parents spoke in favor of the proposed charter school. No District teachers or other District employees spoke in favor of the Charter during the public hearing; and

**WHEREAS**, in accordance with the requirements of Education Code Section 47605(b), the District published its staff recommendations, including the recommended findings, regarding the Charter, including the proposed resolution of denial (collectively “Staff Recommendations & Findings”), by posting proposed Resolution No. 01-07-24 to the District’s website and providing this information to TICS on January 14, 2024; and

**WHEREAS**, the Charter proposes a TK-5 school that would open with grades TK-4 in the 2024-25 school year, with a total enrollment capacity at full roll out of 442 students, and TICS is seeking a term of July 1, 2024, through June 30, 2029; and

**WHEREAS**, in reviewing the Charter for the establishment of TICS, the District Board has been 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, and the District Board has considered the academic needs of the students the Charter School proposes to serve; and

**WHEREAS**, the District Board finds that, given the nature and operational structure of independent charter schools and the necessity that they operate independently outside of the

traditional noncharter public school system and the structure of a school district and in accordance with the law, it is imperative that any charter petitioner establishes its capacity to prepare a fully formed and compliant charter petition that comports with the requirements of the Charter Schools Act and establishes that approval is consistent with sound educational practice and the interests of the community where the charter school proposes to locate. The District Board further finds that it is not the role of the District to provide a “roadmap” to approval or substitute the District’s experience and expertise for that of the charter petitioners. Instead, charter petitioners must establish that they will be able to operate the proposed charter school independently and in a manner that serves students and provides them a sound educational experience by providing a clear, complete, fully developed and reasonably comprehensive charter petition that complies with the requirements of the Charter Schools Act; and

**WHEREAS**, charter schools are subject to the requirements of federal law, including, but not limited to, the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. § 1232g, the Individuals with Disabilities Education Improvement Act (“IDEA”), 20 U.S.C. §1400, *et seq.*, Section 504 of the Rehabilitation Act of 1973 (“Section 504”), and the Americans with Disabilities Act of 1990, as amended (“ADA”); and

**WHEREAS**, the District staff, working with District legal counsel, has reviewed and analyzed all information received with respect to the Charter and information related to the operation and potential effects of the proposed Charter School, and based on that review, prepared and published the Staff Recommendations & Findings, and made a recommendation to the District Board that the Charter be denied by adoption of this Resolution No. 01-07-24 adopting the findings of denial set forth herein; and

**WHEREAS**, the District Board has fully considered the Charter submitted for the establishment of TICS, statements and information presented at the public hearing, and the Staff Analysis and Recommendations, including the recommended findings set forth in the proposed Resolution No. 01-07-24; and

**WHEREAS**, the District Governing Board specifically notes that this Resolution No. 01-07-24 does not necessarily include findings relative to every defect in the submitted Charter, and that the findings set forth herein are sufficient to support denial of the Charter, and it is the findings set forth and adopted herein on which the denial findings are based.

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the Governing Board of the Tustin Unified School District finds the above listed recitals to be true and correct and incorporates them herein by this reference.

**BE IT FURTHER RESOLVED AND ORDERED** that the Governing Board of the Tustin Unified School District, having fully considered and evaluated the Charter for the establishment of TICS, pursuant to Education Code Section 47605, hereby denies the Charter and finds that approval of the Charter is not consistent with sound educational practice and with the interests of the community in which the Charter School is proposing to locate, based upon the following grounds and factual findings:

- A. The petitioners are demonstrably unlikely to successfully implement the program set forth in the Charter. [Education Code Section 47605(c)(2)]
- B. The Charter does not include the required number signatures of meaningfully interested teachers. [Education Code Section 47605(c)(1)]
- C. The Charter School presents an unsound educational program for the pupils to be enrolled in the Charter School. [Education Code Section 47605(c)(1)]
- D. The Charter does not contain reasonably comprehensive descriptions of all of the required elements. [Education Code Section 47605(c)(5)]

**BE IT FURTHER RESOLVED AND ORDERED** that the Governing Board of the Tustin Unified School District hereby determines the foregoing findings are supported by the following specific facts:

**I. THE PETITIONERS ARE DEMONSTRABLY UNLIKELY TO SUCCESSFULLY IMPLEMENT THE PROGRAM SET FORTH IN THE PETITION. [EDUCATION CODE SECTION 47605(C)(2)]**

- A. The Charter School’s enrollment projections do not appear realistic. The Charter anticipates first year enrollment at 234 students and anticipates growth of more than 30% for the second year of operations, and projects that enrollment will have nearly doubled to 442 students by its fifth year of operations. Additionally, the growth from grades second and third does not consistently increase in a cohort manner or along the projected growth pattern as shown in the other grade spans. These are very large enrollment numbers to start with, and increase at a dramatic rate, with no explanation provided as to the basis for the growth estimates other than the Petitioners statements that there is a need and desire for this type of educational program in the Tustin area. The students who reside within the District are its target population, but the District’s non-charter schools are among the top performing in the State of California and the nation, and generally there is a very high degree of satisfaction among residents with the District’s schools and programs, thereby providing a limited population from which this untried and unproven School would be drawing.

The overestimated projected enrollment indicates that TICS’s budget projections are unsound, and the proposal is likely to create an unworkable and unstable educational program for the proposed students. The Charter’s budget narrative only specifies, “Revenue for TICS will heavily rely on the number of students enrolled and their attendance.” Alarming, TICS has no contingencies in place should reality fall short of these projections. Unsound and unbalanced budgets lead to charter schools closing or failing to provide the program promised in their charter, at students’ expense. To wit, in its June 2023 publication, FCMAT's *Charter School Indicators of Risk* include “Enrollment and/or ADA projections and assumptions

not based on historical data, industry standards, and other reasonable considerations.”<sup>1</sup>

- B. TICS’s planned salaries are extremely low when compared to the District, and it is unrealistic that TICS will be able to successfully recruit and retain high quality certificated and noncertificated staff at these rates, particularly given the current teacher shortage. The budget is premised on an average teacher salary in Year 1 (2024-25) of \$66, 429 increasing to \$ 71,265 in Year 5 (2028-29). Even TICS’s Year 5 projection is considerably lower than the District’s *current* average teacher salary of approximately \$111,995. Additionally, the District’s Health and Welfare contribution is \$14,100 as compared to TICS’s proposed contribution of \$6063.75. The salaries proposed for noncertificated staff (e.g., teachers assistants, supervision aides, custodian, IT, transportation, and office assistant) also appear quite low.
- C. The Charter indicates TICS will employ an Executive Director, Principal, and Assistant Principal as part of the management team. However, the budget appears to support only 1 FTE in the amount of \$130,000 for 24/25 (for “Certificated ... Administrators’ Salaries”; there is no projected cost for “Classified ... Administrators’ Salaries”). It is unclear where the additional certificated management positions have been budgeted and therefore the budget only supports one of these positions for 24/25 and subsequent fiscal years
- D. The Charter does not provide an alternative cash flow that excludes startup grant funds in the event these funds are not awarded. The TICS budget contains funding from SB740 Charter School Facilities Grant in the amount of \$270,000 with a 3% annual escalation, and the Public Charters School Grant Program in the amount totaling \$600,000 or \$200,000 in each of the first three years. However, there is no description or assurance that these grants have been awarded or the basis for reliance on these funds.
- E. The Charter provisions on insurance and indemnification are not adequate to protect the Charter School or the District from potential liability for TICS’s acts or omissions, despite the fact that TICS will be operated by a 501(c)(3) nonprofit public benefit corporation. Likelihood of a charter’s success depends on whether its petition budgets for “general liability, workers compensations, and other necessary insurance of the type and in the amounts required for an enterprise of similar purpose and circumstance.” (Cal. Code of Regs., tit. 5, § 11967.5.1(c)(3)(C).) The insurance levels budgeted by the petitioners (see figures in the TICS budget for “insurance” (\$25K in Year 1), “pupil insurance” (\$1K in Year 1), WC insurance (\$16,335 in Year 1) and State Unemployment (\$47,520 in Year 1) are woefully inadequate for the school, and do not comply with current expectations, best practices, and realistic assessments of potential liabilities for a charter school and/or charter management organization. Thus, the District finds

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<sup>1</sup> *Charter School Indicators of Risk or Potential Insolvency* (last revised 6/28/23) available at: <https://www.fcmat.org/indicators-risk> and <https://www.fcmat.org/PublicationsReports/Charters%20Indicators%20of%20Risk.pdf> [last visited on 1/10/2024]

that the Charter does not contain adequate assurances that the Charter School will acquire and maintain coverage in amounts and types that comply with the District’s standards and expectations in order to protect the District and its stakeholders, as well as the Charter School and its students, employees, and community members, from potential liabilities created by TICS’s operations.

- F. Although TICS timely submitted a request for a facility from the District pursuant to Education Code Section 47614 (commonly referred to as “Proposition 39”), TICS failed to comply with California Code of Regulations, Title 5, Section 11969.9(e). This provision specifies (emphasis added)

(e) On or before January 2, the charter school shall respond to any objections expressed by the school district and to the district's projections provided pursuant to subdivision (d). The charter school shall reaffirm or modify its previous projections as necessary to respond to the information received from the district pursuant to subdivision (d). If the charter school does not respond by the deadline, the district's projections provided pursuant to subdivision (d) are no longer subject to challenge, and the school district shall base its offer of facilities on those projections.

TICS’s did not respond to the District’s objections to TICS’s ADA projections by January 2, 2024. As such, TICS is not entitled to a District facility and the District is not offering any facilities to TICS for the 2024-2-25 school year.

A description of the facility where the charter school is going to operate is required to be provided by the charter operator in its charter, and, of course, a plan for facilities, including location, terms, budget, and all related matters are necessary components of a charter and its budget projections. Because TICS does not have a right to occupy any District facilities for the 2024-2025 school year, TICS’s facility and budget assumptions included in the Charter are fatally flawed.

**II. THE PETITION DOES NOT INCLUDE THE REQUIRED NUMBER SIGNATURES OF MEANINGFULLY INTERESTED TEACHERS.**

- A. The teacher signatures supporting the Petition do not appear to reflect teachers who are “meaningfully interested” in teaching at the proposed Charter School, as required by law. When a petition is submitted based on teacher (not parent) signatures, the petition must be “signed by a number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the charter school during its first year of operation.” (Educ. Code § 47605(a)(1)(B).) The petition “shall include a prominent statement that “a signature on the petition ... means that the teacher is meaningfully interested in teaching at the charter school.” (Ed. Code § 47605(a)(3).) In this case, the Petition estimates that eight (8) teachers will be employed at the Charter School in Year 1.



- B. All of the teachers who submitted signatures reside in Northern California, mostly in the Bay area. No evidence or information was provided to establish that those individuals would leave their current employment in Northern California to teach at the proposed school, that will be located approximately four hundred miles from their current residences. It is not enough that the signatures are submitted under the required statements if the evidence clearly indicates the contrary. For these reasons, the District does not accept the teacher signatures as meeting the minimum requirements of Education Code Section 47605(a).

**III. THE CHARTER SCHOOL PRESENTS AN UNSOUND EDUCATIONAL PROGRAM FOR THE PUPILS TO BE ENROLLED IN THE CHARTER SCHOOL. [Education Code Section 47605(c)(1)]**

- A. The above-described concerns regarding the inability to successfully implement the program set forth in the Charter are incorporated herein by this reference. These concerns and deficiencies include the issues regarding how TICS would serve students with disabilities in accordance with state and federal law, and the unrealistic enrollment and ADA projections and corresponding budget concerns that would inhibit implementation of the proposed educational program. Each of these concerns establishes that the Charter presents an unsound educational program for the pupils to be enrolled in the proposed TICS Charter School.
- B. The Charter Petition does not adequately address the provision of services pursuant to the IDEA. The District is obligated to ensure that a proposed charter school will meet the needs of individuals with exceptional needs in accordance with state and federal law. (Ed. Code § 47605.7(b).) The District has numerous concerns regarding the proposed language in the Charter Petition related to the provision of services pursuant to the IDEA. The following discussion is not meant to provide an exhaustive list of the District’s concerns, but rather to highlight the Charter Petition’s most glaring deficiencies.
- C. The Charter Petition fails to account for the financial implications associated with designation of the Charter as a public school of the District for purposes of special education funding in Year 1. The Charter Petition states that “should TICS not secure SELPA membership in its inaugural year, it will, by default, be classified as a school of the district for special education purposes. . . .” This means that TICS’s special education services will initially be the responsibility of the District, and that in exchange, the District will directly receive the full amount of federal and state special education funding. Yet, according to its budget, TICS assumes \$191,351 of “Special Education – AB 602” state funding for its first year, 2024-2025. Further, charters that operate as schools of their district authorizer must contribute an equitable portion of their block grant funding to support district-wide special education services. (Ed. Code § 47646(c).) The Charter Petition, however, budgets no projected expenses whatsoever for “Special Education Encroachment” in the 2024-2025 year (or any year). The Charter’s financial projections are therefore miscalculated.

The Charter Petition also indicates that in the event the school opts to remain an arm of the District, it shall enter into an agreement with the District for the provision of special education and related services. It should be noted that there is not a draft or proposed MOU attached to the Charter. Therefore, the Charter Petition fails to present a coherent plan for the provision of special education and related services.

- D. The Charter Petition does not reflect compliance with transitional kindergarten staffing ratios, which would subject the Charter to fiscal penalties. “As a condition of receipt of apportionment for pupils in a transitional kindergarten program pursuant to Section 46300, a ... charter school shall do all of the following: (1) Maintain an average transitional kindergarten class enrollment of not more than 24 pupils for each schoolsite (Ed. Code § 48000(g)(1)); and “maintain an average of at least one adult for every 12 pupils for transitional kindergarten classrooms at each schoolsite.” (Ed. Code § 48000(g)(2).) If a “charter school fails to comply” with these requirements, “the [State] Superintendent shall withhold from the ... charter school's [LCAP] entitlement....” (Ed. Code, § 48000.1(b).)<sup>2</sup>

The Charter Petition states that for Year 1, 2024-25, the Charter will have “one Transitional Kindergarten, two sections each for kindergarten, 1st grade, and 2nd grade, followed by a single section for both 3rd and 4th grades.” The Charter Petition projects to serve 26 Transitional Kindergarten students in Year 1, 2024-25, and estimates that only eight (8) teachers will be employed at the Charter School in Year 1. It is therefore unclear how the Charter will meet the TK 12:1 staffing ratio and avoid further financial mismanagement.

**IV. THE CHARTER DOES NOT CONTAIN REASONABLY COMPREHENSIVE DESCRIPTIONS OF ALL OF THE REQUIRED ELEMENTS. [Education Code Section 47605(c)(5)]**

- A. DESCRIPTION OF THE EDUCATIONAL PROGRAM [Ed. Code §47605(b)(5)(A)]

All of the above-described concerns regarding the unsoundness of the educational program and the inadequacy of the Charter’s description thereof are hereby incorporated herein by this reference.

- B. DESCRIPTION OF THE GOVERNANCE STRUCTURE [Ed. Code §47605(c)(5)(D)]

The Charter and bylaws provide that a majority of Directors then in office constitutes a quorum, and further provide that any act by a majority of the Directors “in attendance” or “present” at a meeting at which there is a quorum is adequate to constitute an act of the Board. The result is that TICS may take any action with approval of *less than a majority* of the members of the Board of Directors then in office. For example, TICS currently has five Directors in office, so a quorum is

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<sup>2</sup> See also § 48000(g)(3) [Beginning in the 2025-26 school year, the adult-to-student ratio will be 1 adult to 10 students]; <https://www.cde.ca.gov/fg/aa/pa/tk/fiscalfaq.asp> [last visited 1/12/2024].

three. Pursuant to the Charter, if three Directors attend a meeting, TICS can take any action – including fiscal, educational, and/or operational decisions – with the approval of only two of the five Directors. Notwithstanding the legal minimum requirements applicable to nonprofit corporations, it is concerning for TICS to provide for action by a minority of the members of the Board of Directors of a public charter school, and the District Board finds this to be an unacceptable means of governing the proposed public charter school.

C. EMPLOYEE QUALIFICATIONS [Ed. Code §47605(c)(5)(E)]

The TICS Executive Director(s) shall perform all the duties and accept all the responsibilities usually required of a Superintendent as prescribed by the TCIS Board. Additionally, the Charter provides that the Executive Director will also act as the Principal of TCIS during the first or second year until the budget allows for the hiring of a Principal. However, there is no requirement that the Executive Director or the Principal have a teaching or administrative credential (although an administrative credential is “preferred” for the Executive Director position). The District Board finds that the job duties of the Executive Director and the Principal position require, at minimum, a teaching credential, and should also include an administrative credential.

Moreover, the Executive Director must be able to “[M]anage budgets, prioritize expenditures and seek innovate methods for providing school resources.” Despite these responsibilities and the complexities of charter school finance issues, the Charter Petition does not require the Executive Director to have any training or experience in finance generally or public or charter school finance specifically, other than a knowledge of budget preparation and control procedures. This lack of required school finance expertise for the individuals who will serve the two top level administrative position for the first two years of operations exacerbates the serious concerns implicated by TICS’s overly optimistic and unrealistic enrollment and ADA projections, given the direct fiscal consequences should TICS fail to meet those projections.

Additionally, the Principal – who is the day to day as well as the instructional leader at the Charter School with the responsibility for ensuring the Charter School and its students achieve the outcomes outlined in the charter – is not required to have an administrative credential. Similarly, there is no requirement for a teaching or administrative credential for the Assistant Principal. Thus, none of the three administrative positions require these important certifications. Again, the qualifications for these positions are not consistent with the duties.

D. STUDENT BALANCE [Ed. Code §47605(c)(5)(G)]

The Charter Schools Act requires that each charter include a reasonably comprehensive description of “[t]he means by which the charter school will achieve a balance of racial and ethnic pupils, special education pupils, and English learner pupils, including redesignated fluent English proficient pupils, as defined by the

evaluation rubrics in Section 52064.5, that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.”

The Petition states that the Charter School shall not discriminate on the basis of the characteristics listed in Education Code § 220, which include actual or perceived nationality, race or ethnicity. (Petition, pp. 8, 146, 170; Educ. Code § 47605(d)(1).) The Charter Schools Act provides that a charter school “shall admit all pupils who wish to attend the charter school,” subject to space limitations and a nondiscriminatory lottery process. (Educ. Code § 47605(e)(2).) Lottery preferences “shall not result in limiting enrollment access for ... English Learners ... or pupils based on nationality, race, ethnicity, or sexual orientation.” (Educ. Code § 47605(e)(2)(B)(iii).)

In conflict with these laws, the Petition describes an admission process that would require a Mandarin language review of students seeking admission into the 2nd grade or higher. Although the charter states that students will be enrolled (even if not proficient) at the grade level to which they are applying and that supports will be provided, such as “tutoring during class time by volunteers, [s]tudying in other classrooms for part of the day” and providing instruction to parents to help their child learn Mandarin, this requirement would preclude many students from attending the charter school and would have a discriminatory effect on students based on their nationality, race or ethnicity. As such, Petitioners are demonstrably unlikely to successfully implement the requirement to have nondiscriminatory admission practices, and to admit all pupils who wish to attend, space permitting.

E. THE PROCEDURES TO BE USED BY THE DISTRICT AND THE CHARTER SCHOOL FOR RESOLVING DISPUTES RELATING TO PROVISIONS OF THE PETITION. [Ed. Code §47605(b)(5)(N)]

The dispute resolution process between the School and the District is unacceptable and the District would not agree to such a process. There are multiple proposed steps of the process which could take many months to complete. Having disputes remain unresolved for such an inordinate amount of time impedes the District’s ability to properly exercise its oversight obligations as required by the Education Code. While the Charter states that it is amenable to changing the process if it is unacceptable to the District, it agrees to only change through the Memorandum of Understanding process to be mutually agreed upon. Thus, the Charter School is not committed to making any changes to this process that are not acceptable to the District and might interfere with its ability to properly oversee the school.

**BE IT FURTHER RESOLVED AND ORDERED** that the terms of this Resolution are severable. Should it be determined that one or more of the findings and/or the factual determinations supporting the findings is invalid, the remaining findings and/or factual determinations and the denial of the Charter shall remain in full force and effect. In this regard, the District Board specifically finds that each factual determination, in and of itself, is a sufficient

basis for the finding it supports, and each such finding, in and of itself, is a sufficient basis for denial.

The foregoing resolution was considered, passed, and adopted by this Board at its special meeting of January 29, 2024.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

**AYES IN FAVOR OF SAID RESOLUTION:**

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**NOES AGAINST SAID RESOLUTION:**

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**ABSTAINED:**

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Dated: \_\_\_\_\_

By: \_\_\_\_\_

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President, Governing Board  
Tustin Unified School District

Dated: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Clerk, Governing Board  
Tustin Unified School District