

Staff Report, Findings of Fact & Recommendation Concerning Academy of Creative Technologies - Antelope Valley

ANTELOPE VALLEY UNION HIGH SCHOOL DISTRICT STAFF REPORT, PROPOSED FINDINGS OF FACT & RECOMMENDATION CONCERNING ACADEMY OF CREATIVE TECHNOLOGIES - ANTELOPE VALLEY.

Date Posted: July 3, 2024

The following provides a summary of the Antelope Valley Union High School District's ("District") staff report, proposed findings of fact, and recommendation concerning the Academy of Creative Technologies - Antelope Valley Charter Petition.

INTRODUCTION AND PROCEDURAL BACKGROUND

On or about May 15, 2024, Academy of Creative Technologies - Antelope Valley (or "Petitioner") submitted the Petition to the District to establish Academy of Creative Technologies - Antelope Valley ("Charter School" or "ACT-AV"), along with a signed certification from Keleen M. Wrighten, Lead Petitioner ("Lead Petitioner"), deeming the Petition to be complete.

Lead Petitioner seeks the approval of the Petition by the District's Board of Trustees ("Board") for a five-year charter term that would begin on July 1, 2024 and end on June 30, 2029, with the first year of the charter term to be utilized as a planning and implementation year. The Lead Petitioner and the proposed governing board of the Charter School (collectively, "Petitioners") desire to establish what will be a predominantly seat-based program for students in TK through twelfth grades.

According to the Petition and statements made during the review process, the Charter School would also offer an independent study program for up to 20% of the student population. The Petitioner indicate that the Charter School would start with TK-6 and 9th grade and phase in one to two grade levels each year, with 144 students projected for the first year of enrollment and increasing to 750 students by the fourth year of operation.

On June 6, 2024, the District's Board held a public hearing to determine the level of support for the Petition by teachers, other District employees, and parents/guardians. On July 18, 2024, the District's Board will hold a public hearing during which it will consider the admissions preferences in the Petition and will take action to either approve or deny the Petition.

EXECUTIVE SUMMARY

During the review process the District staff noted some issues and concerns and determined that certain changes and revisions to the Charter were necessary in order to support approval of the Charter. The District staff recommends that the District Board conditionally approve the ACT-AV charter conditioned upon the execution of a Memorandum of Understanding to address the concerns identified by District staff.

The District's administrative team has taken on the review process with a high degree of diligence, accuracy, and professionalism and is prepared to make a staff report to the District Board. The revised Charter has been assessed against the standards and requirements as set forth in the California Education Code, including those standards and considerations specified herein, to develop final recommendations. Working as a collaborative professional team, District administration submits that the recommendation to the District Board is well-documented and based upon solid criteria. The District administration has determined that approval of the ACT-AV Charter is consistent with sound educational practice and recommends that it be conditionally approved.

District staff, in consultation with legal counsel, has conducted an extensive analysis of the Petition and its accompanying exhibits. The District's review team carefully evaluated the legal grounds articulated in the Education Code for purposes of determining whether the Petition meets the minimum standards for approval. The District also held discussions with the Lead Petitioner and other representatives to learn more about the proposed program and to ask a series of questions concerning the proposed structure and operations of the Charter School.

Based on the District's comprehensive review of the Petition and supporting documents, as well as the information received during the discussion, District staff recommends that the Board approve the Petition.

LEGAL REQUIREMENTS FOR THE ESTABLISHMENT OF A CHARTER SCHOOL

The consideration of a petition to establish a charter school requires the District to determine whether the petition meets the standards and criteria set forth in Education Code section 47605. Specifically, under Education Code section 47605(c), in reviewing petitions for the establishment of charter schools, the governing board of a school district shall grant a charter for the operation of a charter school if it is satisfied that approving the charter is consistent with sound educational practice and with the interests of the community in which the school is proposing to locate. The governing board shall also consider the academic needs of the students that the charter school proposes to serve. The governing board of the school district shall not deny a petition unless it makes written factual findings specific to the particular petition, setting forth specific facts to support one or more of the following denial findings:

1. The charter school presents an unsound educational program for the students 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 subdivision (a) of Education Code section 47605.
4. The petition does not contain an affirmation of each of the required conditions.
5. The petition does not contain reasonably comprehensive descriptions of all required elements.

6. The petition does not contain a declaration of whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for purposes of the Educational Employment Relations Act.
7. The charter school is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate.
8. The school district is not positioned to absorb the fiscal impact of the proposed charter school.

An analysis of this information is provided below and includes District staff's corresponding findings of fact.

FINDINGS OF FACT

The District's review team performed a comprehensive evaluation of the Petition, which included an analysis of the proposed Charter School's educational program, measurable student outcomes, and methods for measuring student progress, fiscal and governance structures, employee qualifications, student admissions, facilities, and legal issues. Below, District staff presents its findings of fact addressing the general categories of review for the Petition, which correspond with the criteria set out in Education Code section 47605.

A. The Petition Presents a Sound Educational Program for the Students Enrolled in the Charter School

Overall, the Petition's proposed program is consistent with sound educational practice. The mission of the proposed Charter School is to provide a rigorous, relevant, inquiry-based, self-directed, and collaborative learning environment for learners in grades TK-12, inspiring them to become lifelong learners with the skills to lead in the 21st century. The Petition provides that the Charter School would accomplish its mission through the following best practices: constructivist methods and project-based learning, an international focus, individualized learning plans for all learners, connections to real world experiences, attention to the whole child, building a strong partnership with home and community, and a performing arts and technology focus. The Petition describes several instructional methodologies that the Charter School would utilize to educate its student population. The District review team finds that project-based learning and other methods of instruction can be effective for the target population within the District that they intend to serve.

While the District recognizes that the Charter will not contain every detail of the educational program and that further development is to be expected during the period prior to the school opening to students, there are areas of discussion of the educational program and curriculum that are not fully developed or described. These will need to be expanded upon prior to opening to students, and the descriptions need to be supplemented through a memorandum of understanding ("MOU") between ACT-AV and the District if the Charter is approved. Thus, ACT-AV would need to continue and complete the work of developing a comprehensive educational program for the proposed students.

Additionally, the District is concerned ACT-AV may also have difficulty recruiting staff to work at the proposed school. Although the salary for the proposed teachers is not comparable to District

salaries and benefits, the District recognizes that many committed educators are willing to and do work tirelessly for students, and compensation is not the sole factor school employees consider. ACT-AV gathered signatures from a number of teachers who have expressed meaningful interest in teaching at the Charter School. Nevertheless, the expectations for ACT-AV teachers appears to be quite high, and there is a concern that the Charter School may face challenges in recruiting and retaining staff to implement its vision and program, particularly during the current state- and nationwide teaching shortage.

The District staff believes that this element of the Charter is reasonably comprehensive if the issues described above are supplemented and refined through the MOU.

B. The Petitioners Are Demonstrably Likely to Successfully Implement the Program Set Forth in the Petition

The Petitioners are demonstrably likely to successfully implement the program set forth in the Charter, but there are items that need to be supplemented and refined through the MOU, including related to fiscal planning.

The District has concerns about ACT-AV's ability to fully staff the Charter School, particularly in light of the ongoing teacher shortage and the Charter School's high demands of staff. Additionally, the District's fiscal analysis indicates that reducing the enrollment below ACT-AV's aggressive projections would cause the Charter School to spend more than it receives and make it unlikely that the Charter School could reduce staffing and continue to run the program as designed in the Charter.

The Charter anticipates enrolling 144 students in its first year of operations and dramatically increasing to 750 by the fourth year of operation. The budgetary documents are premised on those enrollment projections. If there are any significant enrollment reductions, the corresponding decline in revenue would substantially compromise ACT-AV's ability to implement the program successfully. It would cause substantial harm to students for ACT-AV to open and be unsuccessful or for students who enroll at the Charter School to miss out on other school options should ACT-AV be unable to open and continue operating as scheduled. Therefore, the District staff recommends that, as a condition of any approval, the MOU include a requirement and agreement that ACT-AV must be fully staffed in accordance with the Year 1 staffing plan (consistent with student enrollment) and have enrolled at least 80 percent of the projected enrollment by no later than May 15 of the school year preceding its opening to students, unless the deadline is extended in the District's discretion in accordance with the requirements of the MOU and that if the projections of out years are not met, ACT-AV submit budgetary documents to the District setting forth how the school will continue to remain fiscally solvent.

C. The Petition Contains the Number of Signatures Required by Education Code Section 47605(a)

The Petition contains the required number of signatures. The Petition states that the Charter School expects to enroll approximately 150 students in its first year of operation and that the Charter School intends to employ eight teachers during the first year of operation. Therefore, the Petition would need to contain either: (1) at least 75 signatures of parents/guardians who are meaningfully

interested in enrolling their grade-level eligible students in the Charter School, or (2) at least four signatures of teachers who are meaningfully interested in teaching at the Charter School. The Petition includes four signatures of teachers meaningfully interested in teaching at the Charter School for the 2025/2026 school year, and thus has met the requirements.

D. The Petition Contains an Affirmation of Each of the Conditions Described in Education Code Section 47605(e)

The Petition includes all required affirmations and assurances of the required conditions.

E. The Petition Contains Reasonably Comprehensive Descriptions of all the Required Elements

This section of the Staff Analysis includes highlights regarding the various required charter elements. In order for the description of each element to be considered “reasonably comprehensive,” it is not enough that the petition includes a description, but, rather, the description should set forth plans or proposals that are acceptable to the District and be consistent with and not contrary to the District’s standards and expectations for charter schools under its oversight. Based on an analysis of the Petition by the District’s review team, the Petition provided reasonably comprehensive descriptions of the required elements set forth in Education Code section 47605, subject to the Charter School complying with the conditions set forth below.

1. Element One: Description of the Educational Program/Plan for Student Academic Achievement

ACT-AV plans to become an independent local educational agency (“LEA”) member of a special education local plan area (“SELPA”), but recognizes that if it does not do so, and provide verifiable written assurances of such membership, by default it will be a school of the District for purposes of compliance with the Individuals with Disabilities Education Improvement Act (“IDEIA”). Should ACT-AV be a school of the District for IDEIA compliance purposes, the means by which it could change status to become an independent LEA member of a SELPA must be addressed in the MOU. This includes, but is not limited to, the timing of notice, the procedure for the District Superintendent or designee to determine whether the change constitutes a material revision, and the Charter School’s obligations to indemnify, defend, and hold the District harmless. If were accepted as an LEA member of a SELPA for the first year of operation, these matters would need to be more fully addressed in the MOU with the District.

The Charter petitioners have acknowledged that the means of providing services to students with disabilities as described in the Charter is not a commitment but is provided for the sole purpose of providing a reasonably comprehensive description. Overall, it appears that ACT-AV is prepared to serve students with disabilities.

Regardless of whether ACT-AV is an LEA member of a SELPA or a school of the District for purposes of the IDEIA, the Charter School would be solely responsible for compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, and it would be necessary for ACT-AV to indemnify, defend, and hold the District harmless from claims related to its compliance with these laws.

The District staff believes that this element of the Charter is reasonably comprehensive if the issues described above are supplemented and refined through the MOU and/or a separate memorandum of understanding, specifically addressing IDEIA compliance.

2. Element Two: Measurable Student Outcomes

The Charter includes a description of ACT-AV's measurable student outcomes. The District staff believes that ACT-AV will need to develop a better understanding of its measurable pupil outcomes, the annual measurable outcomes, and how to develop those annual measurable outcomes with greater definition and precision.

The District staff believes that this element of the Charter is reasonably comprehensive, though the Charter School will need to refine its means of developing its annual measurable outcomes.

3. Element Three: Method by Which Pupil Progress in Meeting Outcomes Will Be Measured

The Charter describes assessments and methods for measuring student progress, but it does not describe how the assessments will align to ACT-AV's curriculum.

The District staff believes that this element of the Charter is reasonably comprehensive, but alignment of assessments to curriculum should be expanded upon and may need to be addressed through the MOU.

4. Element Four: Governance Structure

The Charter is to be operated as a California nonprofit public benefit corporation governed by a Board of Trustees. The Charter does not acknowledge the District's right to appoint a representative. The Charter must acknowledge that should the District appoint a representative, no limitations or requirements for service or terms apply to that representative, and ACT-AV will have no involvement in appointing or removing such a representative. The provisions of the corporate bylaws would require refinement to be consistent with this commitment. The Charter must include the names and relevant qualifications of the current members of the Board of Directors. The petitioners must also provide copies of the Articles of Incorporation and the Corporate Bylaws.

A District approved charter would require compliance with additional best practices and the District's oversight standards related to charter school governance, including appropriate updates to governance documents. Approval of the Charter would require compliance with all of the following:

- a. The Charter School provided evidence that it has been granted tax exempt status and would need to commit to maintaining that status throughout the term of its Charter.
- b. The Charter specifies that the Board of Directors will include with its posted agendas links to the backup materials for each agenda item for which there

are electronic versions of backup materials that are not excluded from public disclosure.

- c. Prior to any proposed revisions to the corporate articles of incorporation and/or bylaws, the Charter School shall provide at least three weeks' prior notice to the Superintendent or designee of the proposed revision(s). Should the Superintendent or designee indicate that the District considers the proposed revision(s) a material revision to the Charter, the Charter School may not adopt such revision(s) unless and until it first obtains approval of a material revision. The discussion of revisions in the bylaws must be updated to be consistent with these requirements.
- d. The Charter School must agree to require that all Board members and senior administrators undergo training on the Brown Act, the Political Reform Act, and Government Code Section 1090, at least annually and within 90 days of taking the position with the Charter School. This training shall be conducted by an individual or entity with professional knowledge and expertise in the law, regulations, and rules governing these provisions and not by the Charter School's own Board members or administrators.
- e. ACT-AV must adopt the Fair Political Practices Commission's (FPPC) Model Conflict of Interest Code and the related designation of employees and the formulation of disclosure categories as the Charter School's conflict of interest code. It should be required always to maintain its conflict code in compliance with the FPPC's model.

The charter specifies, "ACT-AV facilitates the development of a parent committee made up of parents and guardians of the students which act in an advisory capacity. The parent committee shall be governed by bylaws adopted by the parents involved in the parent committee and shall set its own goals and mission statement. ACT-AV promotes a parent participation program. Parents will be encouraged to express their concerns, to visit the school and meet with the staff."

While this is an important means by which parents has access to and may provide some input to the ACT-AV Board, this alone does not constitute an adequate "process to be followed by the charter school to ensure parental involvement" in ACT-AV's governance. Notably, the Charter does not fully explore or explain the areas of involvement and input from the parents that would be directly related to governance of the Charter School.

As a condition of approval of the Charter, the structure and role of the parent committee, including as specifically related to involvement in Charter School governance, should be clarified and refined prior to ACT-AV opening to students.

The District staff believes that this element of the Charter is reasonably comprehensive if the issues described above are supplemented and refined through the MOU.

5. Element Five: Employee Qualifications

The Charter specifies that all teachers are required to hold credentials required by law for their certificated assignment. The Charter also provides that the “overall qualifications” for the School Director that are desired/preferred, but not required include :

- Administrative Services Credential and/or Masters Degree in Education or equivalent;
- At least five year’s experience in the education field.

Although not required by the Charter Schools Act, at least one ACT-AV administrator should hold an underlying teaching credential and an Administrative Services Credential. Also, ACT-AV is reminded that while in many startup charter schools appropriately credentialed administrators may fill a variety of positions to support the Charter School consistent with the requirements of the Charter, such administrators may only teach classes for which they hold the appropriate credential.

The Charter lists the qualifications for a variety of other employment positions in addition to teachers and director-level administrators. The District understands this to mean, consistent with the requirements for charter contents, that the qualifications listed under each key position in the Charter are the minimum required qualifications for each position (unless a particular qualification is specifically identified as only optional or preferred) and ACT-AV may not unilaterally deviate from those minimum qualifications. If the Charter is approved, this commitment should be memorialized specifically in the MOU.

It is not clear which individuals, organizations or entities will facilitate the professional learning for teachers and any follow-up methods that will be utilized to assess the impact on student learning.

The Charter does not indicate who hires the School Director, but presumably the Charter School Board hires the School Director, and, in turn, delegates the School Director the authority to hire and terminate all other staff. The Charter must not invest the School Director with excessive discretion that does not require the Charter School Board to make or approve substantial decisions. At minimum, hiring decisions should be ratified by the Board and the Board should retain some authority over employee termination decisions. This should be clarified through the MOU if the Charter is approved.

District Staff believes this element of the Charter is reasonably comprehensive if the issues described above are supplemented and refined through the MOU.

6. Element Six: Health and Safety Procedures

The Charter states that ACT-AV will adopt and implement a comprehensive set of health, safety, and risk management policies in consultation with its insurance carriers and risk management experts. It commits to reviewing and updating these policies as necessary on an ongoing basis, and more formally on an annual basis. The Charter also specifies that all staff will be trained annually on health, safety, and risk management policies and procedures. The Charter School also commits to adopting and annually updating by March 1 a school safety plan that includes all of the required

topics. The Charter provides a summary and/or general reference to some of its planned health and safety procedures, though it does not refer to every health and safety policy or procedure with which the Charter School would be required to comply. Nor does it set forth the full health and safety procedures that it must ultimately develop.

The District staff believes that this element includes a reasonably comprehensive description, but that ACT-AV would need to expand on the health and safety procedures to ensure that all policies and procedures required by law are covered and that it actually develops and adopts substantive policies *prior* to opening to students and maintains its handbooks with updated policies and procedures.

7. Element Seven: Racial, Ethnic, English Learner, and Special Education Balance

The Petition does adequately address the means by which the Charter School will achieve a balance of students from different subgroups that is reflective of the general population residing within the territorial jurisdiction of the District.

Education Code Section 47605(c)(5)(G) requires that the Charter include a reasonably comprehensive description of:

The 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 [Education Code] 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.

(Emphasis added.)

The Charter Schools Act thus requires ACT-AV to describe the means by which it will achieve the specified student breakdown that is “reflective” of the general population residing within the District not that is “identical” to that population. There is no case law or other interpretation defining this terminology and what is required of a charter school. In this case, ACT-AV’s enrollment projections stem from its proposed design that endeavors to implement an innovative educational approach comporting with some of the statutory purposes for charter schools, such as encouraging the use of different and innovative teaching methods and providing expanded choices of educational opportunities.

The Petition includes references to targeting non-English speakers and “diverse” groups of learners and families. One of the overarching legislative purposes for the establishment of a charter school is to offer increased learning opportunities for students, with particular emphasis on expanded learning experiences for students who have been identified as academically low-achieving. In addition, when considering whether to approve or deny a petition, a district governing board is charged with the responsibility of considering the academic needs of the students that the charter school proposes to serve. Consequently, the District staff finds that the clear, focused assessment and understanding of the Charter School’s target population; the proposed program would

effectively address the educational and social-emotional needs of students in a manner that aligns with the District’s student demographics.

ACT-AV has outlined an extensive recruitment strategy that it deems crucial to its recruitment of a diverse student population inclusive of students with disabilities and English learners. This plan includes the use of strategies that have been designed and used by other schools that ACT-AV has vetted and determined to be effective in recruiting diverse families within the community. The Charter also includes an anticipated recruitment calendar with recruitment events aimed at achieving diverse enrollment.

The Charter explicitly acknowledges and affirms the need to use an enrollment lottery should there be more interested students than spaces, which may affect the ultimate enrollment demographics. ACT-AV also explicitly affirms that it will comply with the requirement that its admissions preferences will not result in limiting enrollment access for “pupils with disabilities, academically low-achieving pupils, English learners, neglected or delinquent pupils, homeless pupils, or pupils who are economically disadvantaged, as determined by eligibility for any free or reduced-price meal program, foster youth, or pupils based on nationality, race, ethnicity, or sexual orientation.” ACT-AV does not propose to give enrollment preference to students from districts other than AVUHSD, which may also result in the Charter School’s demographics more closely reflecting District residents.

Should the Charter be approved, it will be necessary for ACT-AV to monitor closely its recruitment strategies and enrollment to ensure that its approach complies with all requirements of the Charter Schools Act, including maintaining an appropriate student balance reflecting the District’s population, serving all students who wish to attend, and not taking any actions that limit enrollment access in violation of the law.

8. Element Eight: Admission Policy and Procedures

In the event there are more applicants than spaces at a particular grade level, the Charter specifies that ACT-AV will determine admission using a public random drawing. Pursuant to law, current students of the Charter School are entitled to remain enrolled and are exempt from the drawing process. In the event a public random drawing is required, ACT-AV specifies its intent to implement the following preferences in the following order:

1. Sibling of existing learners
2. Children of ACT-AV employees and Board members, not to exceed 10% of enrollment
3. Learners residing within the District

Other than the preferences for residents of the District, whether to permit the proposed preferences is within the discretion of the District.

The Charter does not provide any details or specificity regarding the public random drawing procedures generally and implementation of the preferences specifically. The lottery drawing process will need to be outlined, written, and described to be an equivalent and legal process. If

approved, the District staff recommends that ACT-AV be required to use an automated, computer-based process, including for its first year, unless the Superintendent or designee authorizes the use of a manual process. Additionally, ACT-AV must provide a detailed written description of the process to the Superintendent or designee's satisfaction, which is consistent with the preferences and procedures described in the Charter, *prior* to implementation.

To ensure that students are not improperly discouraged from attending or that families are not requested to provide protected information, and to be consistent with the prohibition against requesting pupil records before enrollment, the MOU should specify that the application is limited only to the specified information if the Charter is approved.

District Staff believes that this element of the Charter is reasonably comprehensive if the issues described above are supplemented and refined through the MOU.

9. Element Nine: Annual Financial Audit

The Charter includes appropriate information about the manner in which annual independent financial audits will be conducted.

The District staff believes that this element includes a reasonably comprehensive description.

10. Element Ten: Student Suspension/Expulsion Procedures

The Charter sets forth suspension and expulsion policies, which have been largely modeled on the procedures applicable to noncharter California public schools.

The District staff believes this element of the Charter is reasonably comprehensive .

11. Element Eleven: Employee Retirement Systems

The Charter specifies that eligible certificated employees participate in the State Teachers' Retirement System (STRS). At this time, ACT-AV will not participate in the California Public Employees' Retirement System (CalPERS), and non-STRS eligible employees will participate in a 403(b) plan and social security. The School Director, with support from the office manager and back office services provider, will be responsible for ensuring compliance.

The District staff believes this element of the Charter is reasonably comprehensive.

12. Element Twelve: Public School Attendance Alternatives

The Charter specifies, "Any student who resides in the District who chooses not to attend ACT-AV may attend school within the District in accordance with District policy and/or apply for an inter-district transfer in accordance with local school district policies."

The District staff believes this element of the Charter is reasonably comprehensive.

13. Element Thirteen: Description of the Rights of an Employee of the District , Upon Leaving the Employment of the District to Be Employed by the Charter School

The Charter specifies that employees of The District who leave their employment positions at District to work at ACT-AV have no automatic rights to return unless specifically granted by the District.

The District staff believes this element of the Charter is reasonably comprehensive.

14. Element Fourteen: Dispute Resolution

The Charter sets forth a proposed dispute resolution procedure for disputes between ACT-AV and the District, including a meeting between the District Superintendent and the Charter Director. The proposed procedure is not consistent with the District’s best practices and oversight requirements or how the District operates, and ACT-AV would have to agree to comply with the District’s preferred dispute resolution procedures.

The District staff believes this element of the Charter includes a reasonably comprehensive description, but the actual dispute resolution procedures would need to be revised through the MOU to comport with the District’s best practices.

15. Element Fifteen: Closure Protocol

The Charter describes legally compliant closure. Additional specificity regarding closure procedures and the handling and transfer of records, could be included in the MOU.

The Charter specified that revenues generated by students through state and federal apportionments will remain the sole property of Academy of Creative Technologies – Antelope upon the closure of ACT-AV. It is generally assumed that such monies would be disbursed to another charter or other public school.

The ACT-AV Board is designated as the entity responsible for closure related activities, and the Charter provides that all state assessment results, special education records, and personnel records will be transferred and maintained by that entity. However, it is likely that the corporation would dissolve upon closure of the Charter School, so ACT-AV needs to provide for another backup means of handling those records.

The ACT-AV staff believes this element of the Charter is reasonably comprehensive if the issues described above are supplemented and refined through the MOU.

7. The Charter School Is Demonstrably Unlikely to Serve the Interests of the Entire Community in Which the School Is Proposing to Locate

The Charter School is demonstrably likely to serve the interests of the entire community in which the school is proposing to locate. The Charter School plans to offer a visual arts-focused program to students and desires to locate its facilities within the boundaries of the District. Based on a detailed analysis of the proposed Charter School program, the District believes that the proposed

Charter School would not (1) substantially undermine existing services, academic/programmatic offerings for students, or (2) duplicate programs that are currently offered by the District that have sufficient capacity for the number of students that the Charter School proposes to serve within a reasonable proximity to where the Charter School intends to locate its facilities.

8. District Is Positioned to Absorb the Fiscal Impact of ACT-AV

The District staff recognizes that loss of enrollment can contribute to the loss of revenue for the District, but the District may also have lower costs due to fewer students. Thus, the District staff does not find that general fiscal concerns rise to the level required to find that District is not positioned to absorb the fiscal impact of ASA and deny the Charter on this basis.

F. Additional Required Information

The petitioner(s) are required to provide information regarding the proposed operation and potential effects of the school including, but not limited to, the manner in which administrative services of ACT-AV are to be operated.

ACT-AV will provide or procure its own administrative services, including, but not limited to, financial management, accounts payable/receivable, payroll, human resources, and instructional program development, through its own staff or appropriate qualified third-party providers. ACT-AV plans to contract/hire a business manager or enter into an agreement with a charter school “back office services” provider to provide these services.

1. Potential Civil Liability Effects, if any, upon ACT-AV and upon the District

The Charter includes appropriate language whereby it will indemnify the District “for the actions of ACT-AV under this charter.” It also specifies that ACT-AV will obtain insurance as recommended by the District’s and the Charter School’s insurance company for schools of similar size, location, and student population and “shall comply with all District requirements for insurance” and name the District as additional insureds on its general liability insurance. As a condition of any approval of the Charter, it would be essential that ACT-AV be required to carry out those intentions and commitments and enter into an MOU with the District fully committing to the District’s required insurance and indemnification, defense, and hold harmless requirements.

ACT-AV has also included language regarding potential revocation and renewal of the Charter. Any potential revocation would be conducted in accordance with applicable legal requirements, and nothing that ACT-AV has included in the Charter will serve to expand the District’s obligations relative to any such revocation. If the Charter is approved, the MOU should include provisions regarding processing of renewal requests, including confirmation of the timing of submission of such a request, which shall not be prior to the commencement of the last year of the charter term.

2. Facilities Description/Compliance with Location Requirements

The Petitioners have indicated that while they have not selected a site for operation of the proposed school, they will locate two within the territorial boundaries of the District. As a condition of approval, prior to the commencement of professional activities for staff (e.g. professional

development and/or training) or allowing students to be present at any site, the Charter School shall provide the District with certificates of occupancy, and any other permits/authorizations required to operate a school at each site, and shall provide evidence of compliance with all fire-life safety requirements and systems testing, including any fire marshal authorization for use of each site operated as a school.

3. Conditions of Approval

The District Staff finds that approval should be conditioned on ACT-AV complying with all of the following conditions:

1. On or before March 31, 2025, or such later deadline as agreed to in writing by the Superintendent or Designee, the Charter School shall provide the District with the address of the sites at which ACT-AV proposes to operate, as well as all lease documents for all sites at which ACT-AV will operate commencing in the 2025-2026 school year.
2. Prior to the commencement of professional activities for staff (e.g. professional development and/or training) or allowing students to be present at any site, the Charter School shall provide the District with certificates of occupancy, and any other permits/authorizations required to operate a school at each site, and shall provide evidence of compliance with all fire-life safety requirements and systems testing, including any fire marshal authorization for use of each site at which ACT-AV will operate as a school.
3. On or before March 31, 2025, or such later deadline as agreed to in writing by Superintendent or Designee, Charter School shall provide the District the plans and information in order to support the operations at multiple sites. Examples of the required plans include, but are not limited to, staffing plans, grade level configurations, plans for providing services to students with disabilities, site leadership plans, and plans for responding to teacher vacancies and/or short term absences, and shall include how the Charter School will address the impact of the operation at two sites on the academic program and Charter School operations.
4. On or before March 31, 2025, or such later deadline as agreed to in writing by the Superintendent or Designee, Charter School shall revise its Student/Parent Handbook, any employee handbook, and any other policies and procedures to ensure consistency with the terms of the approved charter petition and the law.
5. On or before March 31, 2025, or such later deadline as agreed to in writing by the Superintendent or Designee, Charter School shall provide the District evidence that Charter School will receive facilities reimbursement pursuant to SB 740, the Charter Facilities Grant Program, for 2025-2026, or will provide an updated budget and cash flow excluding such funding.
6. On or before March 31, 2025, or such later deadline as agreed to in writing by the Superintendent or Designee, Charter School shall provide the District a final budget including enrollment projections for the 2025/26 school year.

7. On or before March 31, 2025, or such later deadline as agreed to in writing by the Superintendent or Designee, Charter School and the District shall enter into a Memorandum of Understanding regarding the provision of special education services to ACT-AV students.
8. ACT-AV shall clearly indicate in writing to employees, contractors, vendors, and any and all other entities and individuals outside the District with which or with whom ACT-AV enters into an agreement or contract that the obligations of ACT-AV under such agreement or contract are solely the responsibility of ACT-AV and are not the responsibility of the District.

CONCLUSION/RECOMMENDATION

The District Staff reviewed the Charter for ACT-AV utilizing the criteria for consideration and action on the Charter, as set forth in Education Code Section 47605. It is the District staff's recommendation that the ACT-AV Charter be approved with conditions to address all the District's concerns, including those specified herein. The District's review team has concluded that the Petition does meet the minimum legal standards under the Education Code to qualify for approval for the requested five-year term, beginning on July 1, 2024 through June 30, 2029, if ACT-AV meets all conditions specified herein. For these reasons, District Staff recommends that the Board of Trustees take action to approve the Petition and that the District Board of Education adopt a Board Resolution approving the Charter for the Academy of Creative Technologies - Antelope Valley with conditions.

PROPOSED MOTION

Motion to conditionally approve the Academy of Creative Technologies - Antelope Valley Charter and adopt Resolution Conditionally Approving the Academy of Creative Technologies - Antelope Valley.