

**RESOLUTION APPROVING THE CHARTER FOR THE SAN BENITO COUNTY
POLYTECHNIC ACADEMY WITH REQUIREMENTS, AND, ALTERNATIVELY,
DENYING SAN BENITO COUNTY POLYTECHNIC ACADEMY’S CHARTER IF IT
FAILS TO COMPLY WITH THE REQUIREMENTS**

**SAN BENITO COUNTY BOARD OF EDUCATION
RESOLUTION NO. 23-24-10**

RESOLVED by the San Benito County Board of Education, County of San Benito, State of California, that:

WHEREAS, the San Benito County Board of Education (“County Board”) is authorized to consider and approve petitions for countywide charter schools pursuant to Education Code Section 47605.6; and

WHEREAS, pursuant to the procedures set forth in Education Code Sections 47605.6, on June 8, 2023, petitioners for the proposed San Benito County Polytechnic Academy submitted to the San Benito County Office of Education (“SBCOE”) a charter petition (“Charter”) requesting approval of San Benito County Polytechnic Academy as a countywide benefit charter school to be governed by Polytechnic Academy, a California nonprofit public benefit corporation, for a term of July 1, 2024, through June 30, 2029. San Benito County Polytechnic Academy and the Polytechnic Academy corporation are referred to herein collectively and interchangeably as “SBCPA”; and

WHEREAS, in accordance with Education Code Sections 47605.6, the County Board held a public hearing on the provisions of the SBCPA Charter on July 20, 2023, at which time the County Board considered the level of support for the Charter by teachers, parents or guardians, and the San Benito High School District (“SBHSD”) and the Aromas-San Juan Unified School District (“ASJUSD”), which are the districts where the Charter School proposes to place facilities. During the public hearing, local community members, including parents and students, and the SBHSD and ASJUSD Superintendents and another SBHSD administrator addressed the County Board to express their support or opposition to SBCPA’s Charter. Twenty public speakers expressed support for the SBCPA Charter, and four (including the three local school district representatives) spoke in opposition to the SBCPA Charter; and

WHEREAS, in considering the Charter, the County Board has been cognizant of the requirements and standards in Education Code Section 47605.6 for approval or denial of a countywide benefit charter; and

WHEREAS, SBCOE Staff has reviewed and analyzed the Charter and information related to the operation and potential effects of the proposed SBCPA, and, based on that review, has made a recommendation to the County Board of Education that it make the findings required by Education Code Section 47605.6 for approval of a countywide benefit charter school and approve the Charter subject to satisfaction of the requirements set forth below and in the written Staff Analysis and Proposed Findings of Fact, dated September 20, 2023, (“Staff Analysis,” attached hereto as Exhibit “A”). The Staff Analysis details that recommendation and proposed findings for

PROPOSED

approval and proposed requirements and conditions of approval necessary for the sound operation of SBCPA as a countywide charter; and

WHEREAS, in accordance with the requirements of Education Code Section 47605.6(b), the SBCOE published its Staff Analysis, setting forth Staff's recommendations, including the recommended findings regarding the Charter, and including the proposed resolution approving the Charter with requirements, and, alternatively, denying the Charter if SBCPA fails to comply with the requirements of approval, by posting these items to the SBCOE's website and providing copies to the Charter School on September 20, 2023; and

WHEREAS, all of the issues, requirements, and conditions noted in the Staff Analysis must be addressed and complied with in order for approval of the Charter to be consistent with sound educational practice and for the sound operation of SBCPA; and

WHEREAS, the County Board has taken into consideration the information and documents submitted, including the Charter, statements and information presented at the public hearing, and the Staff Analysis; and

WHEREAS, the County Board reviewed and deliberated on the Charter pursuant to the standards and procedures set forth in California Education Code Sections 47605.6;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the County Board 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 County Board hereby adopts and incorporates herein by this reference as though set forth in full herein, the Staff Analysis, including the written factual findings and specific facts supporting those findings, and the proposed requirements and conditions of approval as contained in the Staff Analysis.

BE IT FURTHER RESOLVED AND ORDERED that, for the reasons set forth in the Staff Analysis, the County Board finds that the educational services to be provided by the proposed SBCPA will offer services to a pupil population that will benefit therefrom and that cannot be served as well by a charter school that operates in only one school district in San Benito County, and the SBCPA petitioner has provided adequate justification for why it could not be established by petition to a school district.

BE IT FURTHER RESOLVED AND ORDERED that the County Board, having fully considered and evaluated the request for approval of the SBCPA Charter, hereby finds that compliance with each of the conditions and requirements set forth below and in the Staff Analysis is necessary to the sound operation of SBCPA and that approval of the Charter is consistent with sound educational practice only if SBCPA complies fully with each of these conditions and requirements to the County Superintendent or designee's satisfaction, and SBCPA's failure to comply with all of these requirements to the County Superintendent or designee's satisfaction is sufficient cause for termination and withdrawal of approval and instead denial of the Charter.

BE IT FURTHER RESOLVED AND ORDERED that the County Board of Education hereby approves the SBCPA subject to the following requirements, imposed pursuant to Education

PROPOSED

Code Section 47605.6(b). The Charter (including financial projections) that the Governing Board is hereby approving subject to compliance with these requirements, is attached hereto as Exhibit “B.” This approval is subject to SBCPA complying with all of the following requirements to the County Superintendent or designee’s satisfaction:

1. On or before December 15, 2023, or such later deadline as agreed to in writing by the County Superintendent or designee, San Benito County Polytechnic Academy, Polytechnic Academy, and, the SBCOE shall enter into and execute one or more memoranda of understanding (“MOU”) in the form and including the terms satisfactory to the County Superintendent and/or designee, in their sole discretion, that will govern the SBCOE’s oversight of SBCPA, and clarify and provide greater specificity regarding SBCPA’s operations pursuant to the Charter, and that will address Staff’s recommendations regarding the Charter, including but not limited to those specified in the Staff Analysis, and any additional concerns and requirements as noted by the County Board. The MOU(s) shall be coextensive with and remain in full force and effect throughout the current term of the Charter, unless revised by the parties in accordance with applicable law and provisions of the MOU(s). Further, the term of the MOU(s) shall continue in full force and effect beyond the current term of the Charter, including during the period of any renewal granted by the County Board or during the pendency of any challenge to a denial of a renewal request, unless and until such time as (a) SBCOE, San Benito County Polytechnic Academy, and Polytechnic Academy (SBCPA’s governing entity) agree in writing that a replacement MOU(s) shall supersede the MOU(s); (b) SBCOE, San Benito County Polytechnic Academy, and Polytechnic Academy specifically agree in writing that the MOU(s) is/are terminated; or (c) SBCPA ceases operating for any reason and relinquishes/loses its Charter. Upon termination of the MOU(s) any provisions of the MOU(s) that specify that they shall survive the termination of the Charter and/or MOU(s), and/or closure of the Charter School shall remain in full force and effect in accordance with their terms. The MOU(s) shall be incorporated into the Charter and made a part thereof as if set forth in full in the Charter itself for all purposes, including for purposes of Education Code Section 47607 controlling charter revocation. In the event of a conflict between the law and the terms of the MOU(s), the law shall prevail, and any such conflicting terms shall be revised by mutual agreement of the parties. To the extent that there are any inconsistencies or conflicts between the MOU(s) and the approved Charter, the terms of the MOU(s) shall control and prevail and shall be interpreted and deemed updates and clarifications to the Charter.
2. On or before a date to be specified in the MOU, and prior to the on-site commencement of professional activities for staff (e.g. professional development and/or training) or allowing students to be present at the site, (1) SBCPA must secure facilities and provide a facility plan sufficient to support all aspects of the program as outlined in the Charter; (2) SBCPA must provide SBCOE information about the total cost for acquisition of the facility, including payment terms, as well as a list of sufficient funding sources to demonstrate that adequate funding is available to cover the cost of the purchase/lease of the facility and its maintenance and upgrades; and (3) SBCPA must obtain and provide SBCOE proof of all authorizations for use – including certificates of occupancy and all safety clearances (including fire life safety clearances) – establishing that the

PROPOSED

facility is legally compliant and approved for operation of SBCPA in advance of opening. If SBCPA does not timely comply with each of these requirements, SBCPA shall be required to delay opening to students until it complies with each of these requirements, which, depending on the timing of compliance, may be a delay until a subsequent school year at the County Superintendent's discretion.

BE IT FURTHER RESOLVED AND ORDERED that the San Benito County Board of Education finds that if each of the requirements described above, including those incorporated by reference from the Staff Analysis, is not fulfilled to the satisfaction of the County Superintendent and/or designee in their sole discretion, and within the timelines specified or such extension as may be granted by the County Superintendent or designee in their sole discretion, approval of the Charter is not consistent with sound educational practice and the sound operation of SBCPA as a countywide benefit charter, based upon the grounds and factual findings, including each of the facts, findings, and recommendations, set forth in the Staff Analysis, which has been incorporated herein in full by reference.

BE IT FURTHER RESOLVED AND ORDERED that Charter School shall comply with the requirements for approval by the dates and times specified above and in the MOU(s). The County Board hereby delegates to the County Superintendent or her designee authority to extend in writing the deadline for compliance with a condition or conditions should the County Superintendent or designee determine that an extension of the timelines is consistent with sound educational practice.

BE IT FURTHER RESOLVED AND ORDERED that should SBCPA not comply with all of the requirements to the County Superintendent or designee's sole satisfaction, on or before the dates and times specified above and in the MOU(s), or such later deadline(s) as agreed to in writing by the County Superintendent or designee, the Charter is denied based on the written factual findings set forth above and in the Staff Analysis and adopted hereby, and the approval of the Charter is terminated and withdrawn, unless the County Board, in its sole discretion, deletes the requirement or extends the deadline for compliance therewith.

BE IT FURTHER RESOLVED AND ORDERED that the terms of this Resolution, and incorporated Staff Analysis, setting forth the factual findings supporting denial of the Charter are severable. Should it be determined that one or more of the findings is invalid, the remaining findings, and the approval with requirements or, alternatively, denial for failure to comply with the requirements, shall remain in full force and effect. In this regard, the County Board specifically finds that each factual finding is, in and of itself, a sufficient basis for denial.

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Passed and adopted by the San Benito County Board of Education at a meeting held on this 5th day of October 2023 by the following vote:

AYE:

NO:

ABSTENTION:

ABSENT:

San Benito County Board of Education

County Superintendent of Schools
San Benito County Office of Education

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EXHIBIT A

[LINK TO STAFF ANALYSIS](#)

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EXHIBIT B

[LINK TO SBCPA CHARTER](#)

[LINK TO SBCPA BUDGET PROJECTIONS and LCFE CALCULATOR](#)