

Charter School of Morgan Hill School (CSMH) Renewal Petition
(South Valley Charter School Corporation)
Review, Recommendation, and Findings of Fact
to the Morgan Hill School District (MHUSD) Board of Education
September 29, 2015

BACKGROUND

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

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

- I. The charter school presents an unsound educational program for the students to be enrolled in the charter school;
- II. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition;
- III. The petition does not contain the number of signatures prescribed by Education Code section 47605 (a)(1)(a) or (a)(1)(b);
- IV. The petition does not contain an affirmation of each of the conditions set forth in Education Code section 47605 (d), including that the charter school: (1) will be nonsectarian in its admission policies, employment practices and all other operations; (2) will not charge tuition; and (3) will not discriminate against any student on the basis on the characteristics set forth in Education Code section 220;
- V. The petition does not contain reasonably comprehensive descriptions of sixteen certain elements in its program and operations as set forth in Education Code section 47605 (b)(5) (A-P), which describes sixteen separate elements that must be addressed in every petition to establish a charter school. These elements include a description of the school’s governance structure, admissions policy, health and safety and student discipline policies:
 1. A description of the educational program of the school. If the proposed charter school will serve high school pupils, a description of how the charter school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements must be included in the charter petition
 2. The measurable pupil outcomes identified for use by the school
 3. The method by which pupil progress in meeting those pupil outcomes is to be measured
 4. The school’s governance structure, including parental involvement

5. The qualifications to be met by individuals employed by the school
6. Procedures to ensure health and safety of pupils and staff
7. The means by which the school will achieve racial and ethnic balance among its pupils, reflective of the general population residing in the district
8. Admission requirements, if applicable
9. The manner in which annual financial audits will be conducted, and the manner in which audit exceptions and deficiencies will be resolved
10. The procedures by which pupils may be suspended or expelled
11. Provisions for employee coverage under the State Teachers Retirement System, the Public Employees Retirement System, or federal social security
12. The public school alternatives for pupils residing within the district who choose not to attend charter schools
13. A description of the rights of any employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school
14. A dispute resolution process
15. A declaration whether or not the charter school will be the exclusive public employer of the charter school employees
16. The procedures to be used if the charter school closes

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

Also, in accordance with 47605 (b), the governing board of the school district shall consider the level of support for the petition by teachers employed by the district, other employees of the district, and parents.

Timeline of Key Dates for the Charter School of Morgan Hill Renewal Petition:

08/05/15:	Petition submitted to MHUSD
08/13/15:	MHUSD requests a mutual extension in accordance with Ed Code 47605(b)
08/24/15:	CSMH Board of Directors declines extension request
09/01/15:	MHUSD hearing on CSMH renewal petition
09/02/15:	Onsite Staff visit to CSMH
09/14/15:	Superintendent meets with CSMH leadership team to review initial analysis
09/23/15:	Superintendent meets with CSMH leadership team to review terms of Memorandum of Understanding
09/29/15:	Staff presentation of review; MHUSD Board Action

The Morgan Hill Unified School District staff greatly appreciates the care and time dedicated by the Charter School of Morgan Hill staff to prepare and present their petition for the term of July 1, 2016 through June 30, 2021.

Charter school law charges a district to not only consider the merits of the petition, but administer oversight upon any agency for which the district has granted a petition to become a public school. It is this district's responsibility as the authorizing agent to assure that all components of petition are described, are legal, can reasonably be executed, are true to the intentions of the charter's mission, and in the best interest of the public education students within the boundaries of the district.

The petition lists all the appropriate affirmations required of a charter school in the State of California. A long list of very engaging activities was provided in the petition. It included the facilities enhancements, professional development, fundraising activities, parent participation opportunities and accomplishments, and highlights of many facets of the school operations for the benefit of students.

RENEWAL PETITION REVIEW

Element 1: Educational Philosophy and Program

The general instructional philosophies of CSMH are laudable and engaging to students. The petition declares Project-Based Learning (PBL) as its instructional program. The Project-Based Learning strategy aligns with the new Common Core standards. Research information was provided to support the construct of the instructional program.

The petition briefly states that CSMH "serves a diverse population of approximately 618 students." In Appendix D it states that in 2013-14 Free and Reduced Lunch population was at 7% and increased to 10% in 2014-15. The California Department of Education (CDE) DataQuest shows that in 2014-15 CSMH only enrolled a total of 24 low socioeconomic disadvantaged students or 4% of the student population. In comparison, MHUSD has a K-8 enrollment of 5,748 with a low socioeconomic disadvantaged student enrollment of 2,487 or 43%.

Appendix D also states that in 2013-14, CSMH enrolled 10% English Learners (EL) and it dropped to 8% in 2014-15; however DataQuest reports that in 2014-15 CSMH only enrolled 12 ELs or 2% of the student population. The percentages for low socioeconomic and EL groups are much smaller as reported to CDE than reported in the Petition. The levels reported in DataQuest are so small that the CDE does not consider them statistically significant to report a subgroup score.

During Staff's onsite visit, CSMH provided three different lists of EL students with conflicting information. The first was a language summary disaggregated by home language and EL or reclassified as Fluent English Proficient (FEP) category with a total of 14 students. The second list was sorted by student grade level and only listed 9 students, and the third list was sorted by student name by grade level with 18 students. During the visit, CSMH assured Staff that EL students did not receive any pull out ELD instruction and that the ELD instruction was all embedded in their regular classes. However, a document was later received stating that CSMH had 11 EL students enrolled, 2 of which were receiving ELD pull out services. Additional care should be taken to ensure EL students are clearly identified and placed in appropriate language

program (structured English immersion, mainstream, primary language instruction, etc) and ELD leveled instruction.

CSMH has consistently enrolled a high socioeconomically advantaged student population. The petition does not identify low socioeconomic disadvantaged or underserved students when it presents their Plan for Special Learners. The petition avoids the socioeconomic disadvantaged factor and focuses on learning disabilities. It states that CSMH “does not discriminate on the basis of the characteristics listed in Ed. Code Section 220 or income in its admissions policy and procedures.” While the reported enrollment reflects that it has drawn 39% non-White enrollment, it does not reflect the low socioeconomic disadvantaged students of MHUSD. Instead, it has succeeded in developing a population absent representative socioeconomic advantaged students.

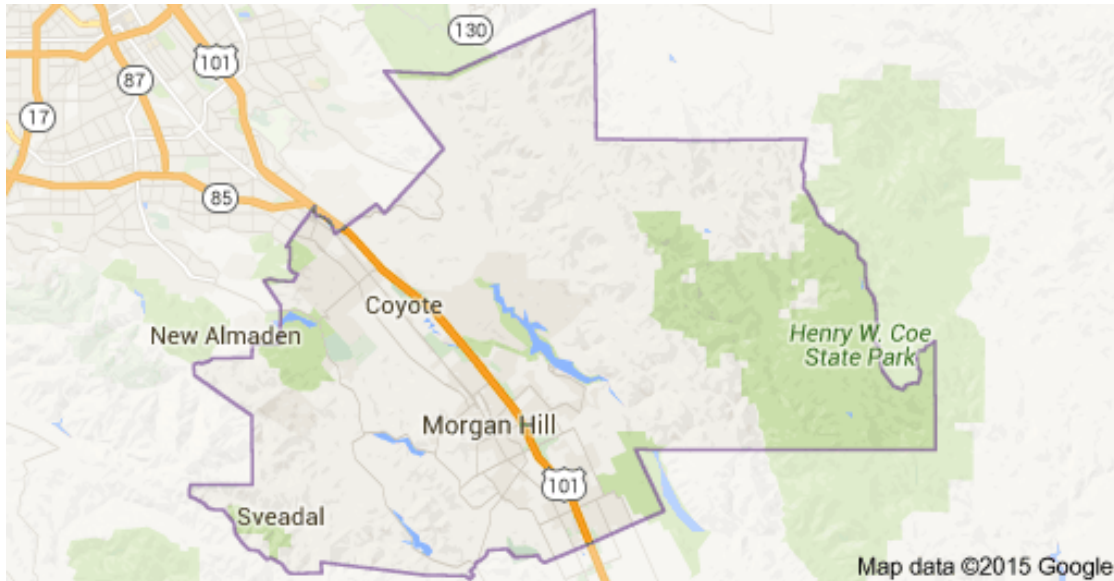
In light of this information, the first order of change is to acknowledge CSMH’s untargeted demographic and commit to an enrollment profile. In absence of a defined student population, Staff continues to insist that CSMH reflect the MHUSD enrollment population (Zimmer, 2009; & National Alliance for Public Charter School, 2012). It can create a limitation when charter schools do not reflect the demographics of the attendance area.

In discussions with CSMH, the leadership team believes the demographics should match the City of Morgan Hill’s general demographics instead of the public school student demographics of the entire school district even though CSMH is petitioning as a district charter serving students who are accessing public education within the Morgan Hill Unified boundaries. Since the area of the City of Morgan Hill is 12.88 square miles, and the District covers 296.77 square miles, the difference between the two arguments is about whether or not to include the difference of 283.89 square miles of people to reflect the demographics of CSMH’s numbers to the District’s numbers. Staff notes that CSMH does not limit their enrollment to the City of Morgan Hill’s territorial boundaries.

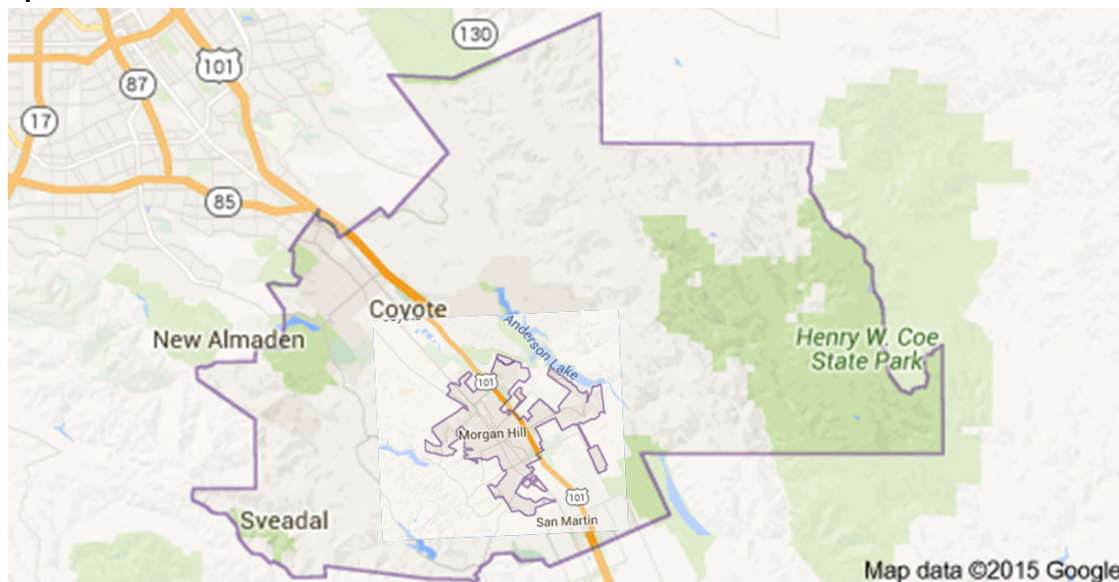
City of Morgan Hill Boundaries **12.88 square miles**



MHUSD School District Boundaries **296.77 square miles**



City of Morgan Hill Boundaries: **12.88 square miles**, MHUSD School District Boundaries: **296.77 square miles**. Difference: **283.89**



The petition rightly devotes lengthy discussion (five pages) for EL programs for students which constitutes 2% of the population. Only one paragraph is dedicated in the Plan for Students for Academically High Achieving. Absent from the petition are methods for meeting the “middle” student. Since the overwhelming amount of enrolled students are socioeconomically advantaged and accelerated learners, more should be developed to meet the academic needs of students in the middle or “C” average students. More planning should be conducted in order to create “challenging opportunities to the academically high achieving students,” and also identify how it intends to meet the needs of those students in the middle of the academic spectrum in order for them to exceed predicted outcomes.

The petition is successful in its focus on addressing the needs of underserved students and presents many programs. For example, the petition advocates for Response to Intervention, but should expand on Response to Intervention in their plan for students who are academically low achieving. Instead of referring to initial response to learning strategies, it refers to “Special Education evaluation or be scheduled for a Section 504 assessment.” The petition dedicates an appropriate amount of space to interventions for at risk students, English Learners, and special education students.

The petition provides a sufficient textbook description of the meaning of project-based learning (PBL). It presents examples of PBL curriculum in Appendix G, Sample Curriculum Scopes, Plans, and Maps. Under the Teaching Across Curriculum section of the petition, it briefly states that “Interdisciplinary/cross-curricular teaching involves a conscious effort to apply knowledge, principles, and /or values to more than one academic discipline simultaneously,” but the petition did not go on to present real examples of lessons or scenarios to explain the strategy.

After the interdisciplinary/cross-curricular section, the petition presents many different strategies, learning environment, and curriculum. The petitioners do not, however, reflect how they are used to create interdisciplinary learning environments. It is not until the Social Studies section that it mentions “thematic unit.” More authentic description is required to demonstrate how teachers are integrating their subjects across the curriculum within their own instructional program and in team-teaching.

CSMH uses PBL as a teaching method to engage students with problem solving, solutions, and learning. In lieu of an educational philosophy description, CSMH describes its principal method of instruction as PBL. Its intention to utilize PBL to consciously engage students with knowledge, principles, and /or values simultaneously in more than one academic discipline is based on pragmatism which is excellently demonstrated during Staff’s visits. A constructivist framework can be used to align the various education components to ensure a consistent program: values, principles, learning theories, curriculum, methodology, instructional strategies, learning environments, resources, assessment, and support systems.

Such a framework can enhance the program development with well defined myriad of practices. At one point, the petition describes “the education of the whole child.” Later, in the English Learner section, it briefly introduces Constructivist, Inquiry-Based Teaching. CSMH can

develop a more cohesive and effective instructional program if they frame it around a constructivist framework, rather than a methodology, PBL.

Staff recognizes that PBL is an engaging and dynamic methodology that can be effective in almost any curricular area. It is applicable every grade level kindergarten through adult education. The challenge for instructors is to plan and prepare a continuum of projects that cover standards across the curriculum and create continuity through horizontal and vertical articulation. Staff commend CSMH staff for their exhaustive efforts to implement PBL in an effective and vibrant manner.

Element 2: Measurable Student Outcomes, and
Element 3: Methods of Assessment

The petitioner's LCAP adequately delineates Annual Measurable outcomes for each LCAP goals. The outcomes identify metrics to be used and student achievement levels that will be attained as a result of that actions.

Subject Matter Competencies

CSMH states that they collect and analyze student achievement, behavioral data, and surveys to differentiate instruction. These metrics are also intended to ensure student mastery in the subject areas of ELA, math, history, science, performing arts, world language, fitness and health, and technology. Staff recommends that these metrics and assessments be shared with the District so as to promote interim monitoring of student achievement and to validate this claim as examples were absent from the petition documents.

In a number of references throughout the petition, CSMH referred to exceptionally high student achievement based on standardized test scores. These claims have the effect of distorting the public perception of actual student achievement relative to similar students in local public schools due to the demographic exclusivity of student enrollment at CSMH. When the data is broken down by subgroups, it is apparent that the differences in school comparison performance on exams contradict overall student achievement levels in many circumstances.

Presenting overall scores can be misleading and sets a tone of being satisfied with performance. There is value in data mining activities which can assist all institutions in considering improvement practices that will be useful toward enhancing instruction. Overall scores dilute the target groups' progress indicators. The following chart shows the California Assessment of Student Performance and Progress (CAASPP) scores disaggregated by non-socioeconomically disadvantaged students. The highlighted cells demonstrate that in most grade levels MHUSD schools are outperforming CSMH.

	Math					
Non SED Latino Students	3	4	5	6	7	8
Britton					2531.3	2543.8
Martin Murphy					2534	2489.9
Barrett		2449.2	2437.7			
El Toro	2438.3			2519.5		
Jamm	2431.9	2501	2502.5	2531.7	2542.3	
PA Walsh	2383.6		2453.9	2442.3		
San Martin Gwinn	2426.9		2506.1			
Paradise Valley	2491.1	2508.4	2527.9	2485		
Los Paseos	2449.3	2474.3	2473.7	2515.8		
Nordstrom	2443.2	2471.6	2497.6	2559.7		
Morgan Hill Charter	2453	2496	2529.5	2546.9		
State of California	2415.3	2458	2499.1	2522.8	2541.7	2559.2
	Math					
Non SED White Students	3	4	5	6	7	8
Britton					2586.5	2611.1
Martin Murphy					2590	2599.6
Barrett	2463.8	2464.6	2477.5	2489.3		
El Toro		2469.9	2557.2	2545.2		
Jamm	2489.9	2517.3	2492.6	2555	2630.5	2594.1
PA Walsh						
San Martin Gwinn				2563.5		
Paradise Valley	2500.3	2519	2557.7	2569.3		
Los Paseos	2477.2	2467.8	2523.5	2557		
Nordstrom	2481	2482.2	2551.7	2575.4		
Morgan Hill Charter	2472	2531	2520.6	2586.4	2617.2	2614.7
State of California	2461.1		2532.7	2560.3	2578.4	2594

The following example shows CAASPP results disaggregated by parent education level. Note that in the case of San Martin Gwinn (SMG), there is very little overlap of students with common parent educational backgrounds; however, where they do overlap it will be valuable to engage in collaborative pedagogical discussion between the school leaders and instructors so that we can learn from each other possible influences. Such collaboration to mine the data has the potential to influence and strengthen all student programs and instructional practices.

CSMH Math				
No High School				
High school				
Some College	2460.6	2501.8	2494	
College Grad	2466.5	2527.5	2529.5	2576.2
Grad/Post Grad	2485	2532.4	2548.3	2592.8
Declined to state				
Nordstrom Math				
No High School				
High school				
Some College	2437.3			2525.6
College Grad	2455.2	2488.4	2542.3	2582.5
Grad/Post Grad	2486	2494.4	2566.2	2600
Declined to state				
Paradise Math				
No High School	3	4	5	6
High school		2465.8		2476.5
Some College	2477.5	2472.5	2527.2	2529.6
College Grad	2500.1	2547.1	2551.7	2528.4
Grad/Post Grad	2509.3	2514.6	2586.9	2635.5
Declined to state				
San Martin Gwinn Math				
No High School	2399.6	2388.4	2491.8	2424.5
High school	2359.6	2433.3	2456	2489.5
Some College	2401.7		2504.9	2507.7
College Grad	2444.4			
Grad/Post Grad				
Declined to state				

Staff recommends that CSMH and MHUSD collaborate to produce common and fair data reporting protocols so as to provide parents and community an accurate picture of disaggregated student achievement.

Element 4: The School's Governance Structure

CSMH identifies its independence under Education Code 47604 as a directly funded organization through the South Valley Charter School Corporation. In accordance with Education Code 47604(a), charter schools may elect to operate as, or be operated by, a nonprofit public benefit corporation, formed and organized pursuant to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1) of the Corporations Code. CSMH has declared itself a non-profit benefit corporation and may operate as a separate legal entity apart from the authorizing entity.

The governance structure is clearly delineated in the petition. The board's make up, responsibilities, policies, duties, and roles are clearly defined and detailed. The Executive Director currently has a seat on the Board of Directors and is listed in the new petition as having a seat. Executive Director Paige Cisewski explained that, although she currently possesses a position on the Board as Director, that seat will expire and be eliminated with the new petition. Having a governing body exclusive of staff members is an effective practice to demonstrate a divide for matters which could be perceived as a conflict of interest.

In accordance with Education Code 47604(c), an authority that grants a charter to a charter school to be operated by, or as, a nonprofit public benefit corporation is not liable for the debts or obligations of the charter school, or for claims arising from the performance of acts, errors, or omissions by the charter school, if the authority has complied with all oversight responsibilities required by law, including, but not limited to, those required by Section 47604.32:

- (a) Identify at least one staff member as a contact person for the charter school
- (b) Visit each charter school at least annually
- (c) Ensure that each charter school under its authority complies with all reports required of charter schools by law, including the annual update required pursuant to Section 47606.5
- (d) Monitor the fiscal condition of each charter school under its authority
- (e) Provide timely notification to the department if any of the following circumstances occur or will occur with regard to a charter school for which it is the chartering authority:
 - (1) A renewal of the charter is granted or denied
 - (2) The charter is revoked
 - (3) The charter school will cease operation for any reason
- (f) The cost of performing the duties required by this section shall be funded with supervisorial oversight fees collected pursuant to Section 47613

The governing board of a school district that grants a charter for the establishment of a charter school formed and organized pursuant to this section shall be entitled to a single representative on the board of directors of the nonprofit public benefit corporation.

The recitals in the petition to support the laws allowing MHUSD to authorize CSMH demonstrate compliance. Staff clarifies to both governing boards and their constituents that implementing oversight responsibilities creates the statutory independent status and also protect the District from liability as specified in Education Code 47604(c).

Parental Involvement

There is very strong evidence of parent involvement at CSMH. The petition details parent involvement programs and it reflects practices. All regular parent or community volunteers must have background check clearances completed by CSMH and be kept on file in the office.

CSMH is a tuition free school in compliance with law. Parents are asked to sign up for volunteer hours and to contribute and they are not fined if they do not sign up or otherwise do not volunteer at the school. The level of parent involvement for school and school related activities is a very strong and positive feature of the CSMH. Executive Director Paige Cisewski explained that there is no pressure for families to volunteer or mechanism requiring donations or monetary contributions to the school or supporting Foundation. Thus, CSMH does meet the description of a free public school.

Element 5: Employee Qualifications

CSMH has an employee handbook and the policies or procedures related to fair hiring practices are stated on hiring paperwork. The employee contracts designate that employees are “at will.” CSMH provides professional development opportunities to staff and employee evaluations are completed on a timely and regular basis.

CSMH employs sufficient teaching staff to have a comparable teacher to student ratio to the county average. CSMH maintains personnel files and tracks the credentials of their teachers. Most teachers providing instruction in core academic classes have the required credentials and certifications to meet the criteria to be designated as Highly Qualified Teacher (HQT) for the area in which they are teaching. One teacher who has a multiple subject intern credential is misassigned to math classes requiring a single subject math credential. Another teacher who has a multiple subject credential is misassigned into Special Education without holding the recommended Education Specialist credential.

In addition, five teachers do not have the legally required CLAD or BCLAD certification to provide instruction to English Learners. Administration states that they comply with this credential requirement by not placing ELs in non-CLAD credentialed teachers’ classrooms. However, there was currently at least one misassignment when class lists were verified with EL placements.

The following areas have either misassigned teachers or non-CLAD certified teachers in place as of this review:

1. Science (non-CLAD)
2. Math (misassigned)
3. Special Education (misassigned)
4. Ag Science (non-CLAD)
5. 3rd grade (non-CLAD)
6. 4th grade (non-CLAD)
7. 6th grade (non-CLAD)

It is necessary that all teaching staff acquire EL authorization in order to allow equitable placement of ELs across grade levels and subject areas, especially since CSMH has acknowledged the need to intentionally increase recruitment efforts of this underrepresented subgroup. Since MHUSD reports to the Santa Clara County Office of Education for all misassignments, it is necessary that CSMH correct their misassigned teachers. To remedy a misassignment, CSMH can call the Santa Clara County Office of Education who can give specific direction on each situation.

The remaining staff members working with Special Education students, identified as paraprofessionals, appear to be NCLB compliant with the required 48 or more college units.

The non-core teaching staff in the areas of drama, music, nutrition, physical education, art, and photography are not credentialed. CSMH employs clerical, custodial, and lunch supervision classified staff adequate to maintain operations, although some of this work, such as custodial support, is contracted out.

Element 6: Health and Safety Procedures

As required, CSMH has documentation of Department of Justice background checks on all employees and maintains documentation of tuberculous test results for all employees. Employees receive annual training for mandated child abuse reporting. Employees are also first aide and CPR certified.

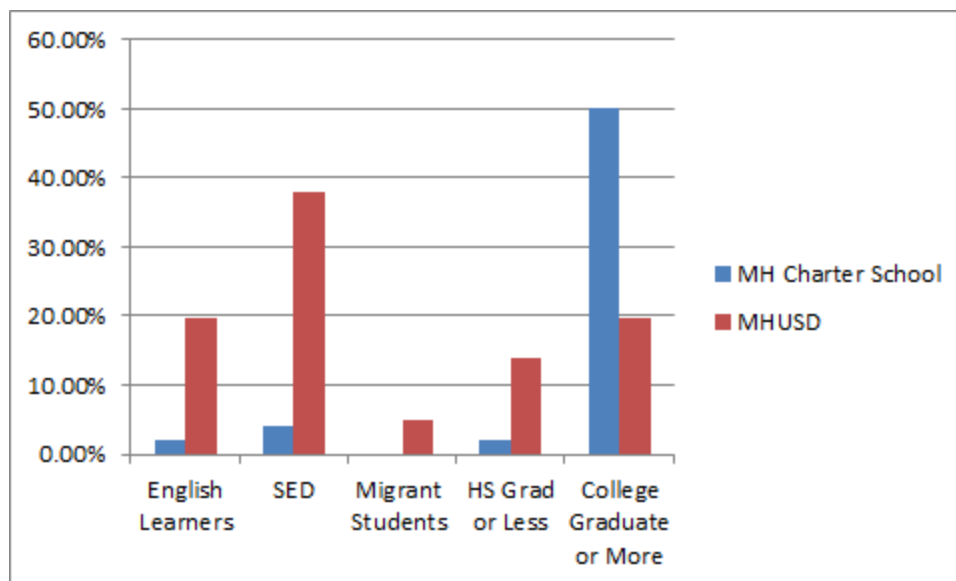
CSMH follows current state guidelines regarding required student immunizations.

CSMH provided a Safety Plan that included procedures for emergency and crisis response, child abuse reporting, and exposure to bloodborne pathogens. It is recommended that CSMH review the requirements contained in Ed Code 32280-32289. Several required elements may be completed by CSMH, but were not documented in the Safety Plan such as consultation with law enforcement and verification that the School Safety Plan be evaluated at least once a year, and revised by March 1st every year. The required elements of the Safety Plan are available online on the California Department of Education website. MHUSD will also provide a copy of the District's School Safety Plan template and the two parties should work together to determine a protocol for reporting safety issues.

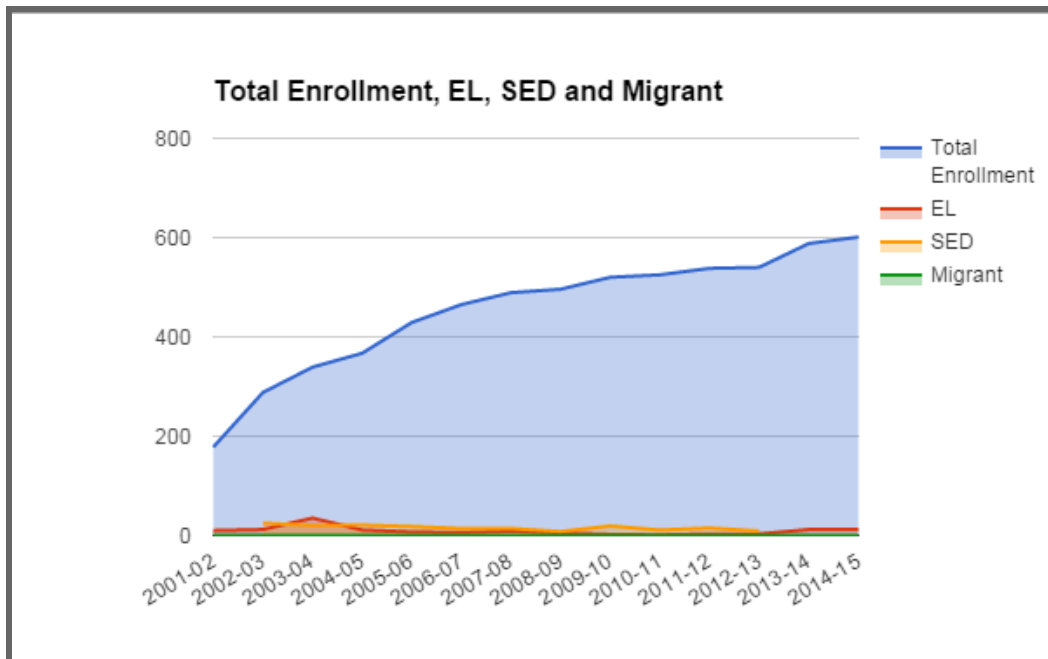
Element 7: Racial and Ethnic Balance

The petition states that the “Charter School of Morgan Hill remains committed to a racially and economically diverse student population reflective of the general population residing within the territorial jurisdiction of Morgan Hill Unified School District.” However, the current school does not reflect the demographic population of the District. There is a high correlation between socioeconomic levels of students, English Language Learners, and ethnic identification of students in the boundaries of the district which must be considered when analyzing the representation of students reflected in CSMH enrollment. CSMH disagrees with the District’s insistence that the demographics are supposed to reflect the demographics of the District rather than the demographics of the City of Morgan Hill (see maps in Element 1).

Enrollment at CSMH is extremely different from MHUSD; under-enrolled in high need groups and exceeds MHUSD in already high performing groups:



The enrollment trends over time have not shown change. This does not demonstrate that prior outreach or recruitment efforts to increase high need student enrollment have been effective.



In order to resolve this issue, California Charter School Act allows:

A charter school may use a weighted lottery, or a lottery that gives preference to one category of students over another, only when:

- The weighted lottery is necessary to comply with Title VI of the Civil Rights Act of 1964 (“Title VI”), Title IX of the Education Amendments of 1972 (“Title IX), Section (Title VI of the Civil Rights Act requires that public agencies take reasonable steps to ensure meaningful access by limited English proficient persons to programs and activities).
- The weighting is in favor of certain subgroups of educationally disadvantaged students and State law permits the use of weighted lotteries in favor of such students. “Educationally disadvantaged students” means the categories described in Section 1115(b)(2) of the ESEA, which include students who are economically disadvantaged, students with disabilities, migrant students, limited English proficient students, neglected or delinquent students, and homeless students.

Element 8: Admission Requirements

The petition identifies an order of admission preference for students to enroll after the guaranteed enrollment of previously enrolled students:

By order of preference:

- Children of Charter School employees (teachers and/or staff members) who are working half-time or more (limited to 5% total school enrollment)

- Siblings of existing students (it is not clear whether a sibling of an “existing student” excludes enrollment of a student who had a brother or sister who would not be attending CSMH the following year)
- Children of Charter School employees (teachers and/or staff members) who are working half-time or less (limited to the same 5% total school enrollment as identified in 1)
- Residents of the District
- All other applicants

In addition to the preference above, CSMH employees and siblings of CSMH current students have been admitted early and therefore exempted from public random drawing since the opening of the school. Students from these groups are granted admission ahead of students who reside in the district and ahead of students who are in certain subgroups of educationally disadvantaged students and state law permits the use of weighted lotteries in favor of such students. “Educationally disadvantaged students” means the categories described in Section 1115(b)(2) of the ESEA, which include students who are economically disadvantaged, students with disabilities, migrant students, limited English proficient students, neglected or delinquent students, and homeless students.

Each year, about 50% of the available kindergarten seats are filled with students exempt from public drawing, leaving about 50% of the spaces available and open for students who reside in the district, students who qualify for free or reduced price meals, and any other applicants. The admission process could be misleading to families who believe that their application will be considered based on a lottery. The lottery process must be clarified for applicants since half of the seats are already filled with students who have been given admittance preference.

Element 9: Annual Financial Audits

The petition correctly identifies the legal timeline for submission of the Annual Financial Audit as well the requirement that the auditor be approved by the State Controller’s Office. The Petition also identifies the process for resolution of any audit findings, exceptions or deficiencies to the satisfaction of the District.

Element 10: Suspension and Expulsion Procedures

CSMH has established a Pupil Suspension and Expulsion Policy in order to “promote the learning and protect the safety and well-being of all students.” This policy is communicated to families in the CSMH Family Handbook and to students in the Student Handbook.

As required, the CSMH Pupil Suspension and Expulsion policy identifies many offenses for which students must or may be suspended and offenses for which students must or may be expelled; however CSMH is exempt under the “mega waiver” from Suspension and Expulsion Ed Code.

CSMH appropriately identifies procedures for informing parents, guardians, and pupils about reasons for suspension or expulsion and of due process rights. However, the CSMH has reported zero expulsions to the California Department of Education in the last three years due to a data reporting issue that has since been resolved.

CSMH policy provides for due process for all pupils and demonstrates an understanding of rights of students, including those with disabilities, in regard to suspension and expulsion. It should be noted, however, that CSMH's policy states that expelled pupils have no right to appeal their expulsion from CSMH and that the Board's decision to expel is final.

CSMH's suspension and expulsion procedures make no mention of any role the District might play in disciplinary matters.

Element 11: Provisions for Employee Coverage Under the State Teachers Retirement System, the Public Employees Retirement System, or Federal Social Security

CSMH certificated employees participate in the STRS retirement system. CSMH also provides a 403(b) and 457 retirement program to all employees.

Element 12: Public School Alternatives for Pupils Residing Within the District who Choose not to attend Charter Schools

The petition met all compliance criteria for Public School Alternatives through its statement.

Element 13: Employee Return Rights

The petition met all compliance criteria for stating the rights of any employee of MHUSD upon leaving the employment of the District to work in a charter school, and of any rights of return to the District after employment at a charter school through its description.

Element 14: Dispute Resolution Process

The petition's description of the dispute resolution process is legal and fair. Staff acknowledge and accept the petitions description which identifies a procedure that brings both organizations together as early as possible to resolve matters of dispute in a cooperative manner.

Element 15: Exclusive Representative of Public School Employees

The petition appropriately declared that the charter school will be the exclusive public employer of the CSMH employees.

Element 16: Procedures to be Used if the Charter School Closes

The petition describes in detail the procedures to be used if CSMH closes. Section 6 of The Articles of Incorporation state that the assets "shall be distributed to a nonprofit fund, foundation or corporation which is organized and operated exclusively for charitable purposes and which has established its tax-exempt status under 501(c)(3) of the Internal Revenue Code."

Staff recommends that the petitioners investigate with their legal counsel the possibility of amending the Articles of Incorporation so that assets generated by student apportionment follow the students and are transferred to the District upon closure of CSMH. This will assure

that the public funds generated by students will be used to educate and support the students who generated the funds.

Supplemental Information: Budget

The budget contained within the petition presents a plan of how CSMH intends to manage the school's finances. Staff's role is to review the documents contained in the petition for fiscal impact or the personnel and materials required to implement the proposed program (e.g. salaries, instructional supplies, equipment, facilities, maintenance of facilities, professional development, and contract services). Secondly, Staff assesses whether the assumptions used both for revenue and expenditures are reasonable and realistic. Based on this assessment, Staff examines the three-year budget and cash flows projections included in the petition to determine if the school is likely to be financially viable.

One of the main differences between a new charter petition and a renewal charter petition is that there is historical information which indicates the financial viability of the organization such as audit reports and historical trend analysis of financial data. In the case of CSMH, the organization has fifteen years of successful operations including recent experience during a period of unprecedented reductions in State funding for education. CSMH has a strong finance team who have demonstrated credibility in managing the organization's finances.

The budget documents included in the petition were summative, so Staff reviewed the 2015-16 Local Control Accountability Plan (LCAP) and 2015-16 Adopted Budget documents and assumptions to obtain the level of detail needed to assess the reasonableness of the financial projections. Although full time equivalency (FTE's), salary ranges, and detailed line items expenses were not included in the petition budget, they were incorporated in other documents provided to the District such as the LCAP and Adopted Budget. Upon review of the LCAP, Staff believes that the budget has sufficient support for and alignment with the educational program contained in the petition. The revenue assumptions provided sufficient detail for Staff to analyze and conclude that they are sound.

Multi-year financial projections are based on assumptions that can fluctuate, but the underlying trends provide information on the financial viability of the organization as well as help identify underlying causes of fiscal distress and predict future financial outcomes. When looking at spending trends, analysis generally focuses on the difference between revenues and expenditures which may show whether a school district is operating with a deficit in any given year. Some deficit spending may be planned, for example, when balances have been built up to allow for a large one-time expenditure; however, most deficit spending is unplanned and reserves must be used to backfill the shortfall. If deficit spending continues long-term, eventually the reserves will be completely depleted.

Upon first review the petitioner's multi-year financial projections show that CSMH appears to be operating in a deficit position in all years. After detailed discussions with the petitioner the apparent deficit is the result of expenditures included in the operating budget which would only be incurred if funding is available from the Foundation. On page three of the Statement of

Revenues and Expenditures there was a line item for Foundation/Grant Expenses*; however, CSMH staff informed the District not all Foundation funded expenses are included in this line item. A summary is presented below:

CSMH Multi-Year Budget				
	2015-16	2016-17	2017-18	2018-19
Revenues	\$ 5,181,676	\$ 5,049,969	\$ 5,219,319	\$ 5,397,613
Expenses	\$ 5,373,776	\$ 5,180,775	\$ 5,406,530	\$ 5,718,429
Difference	\$ (192,100)	\$ (130,806)	\$ (187,211)	\$ (320,816)
Foundation Expenses*	\$ 89,500	\$ 90,932	\$ 93,478	\$ 96,161

The petitioner acknowledges the projected deficit spending in their analysis and indicates that “the projected deficit will be offset by donations from families and friends of the School as well as local businesses.” Historically, CSMH’s generous community provides financial support for the school, but the reliance on donations to balance its operating shortfalls is troublesome. As the operating deficit in the multi-year projections increases, it places additional pressure on the Foundation to generate funds for operations. Furthermore, the need to raise additional funds from the school community comes at a time when CSMH is striving to enroll more students from low socioeconomic backgrounds who will likely be unable to contribute financially to the school. This raises doubt that increased fundraising is likely to be achieved. Absent fundraising to backfill the projected deficit, the petition also indicates that CSMH “will work with the CSMH Budget Advisory Committee to reduce expenses...” Staff notes that reducing expenses would likely affect the ability of CSMH to support the education program described in the petition.

In the future, CSMH will continue to face increased pressures on its finances. Under the new funding formula (Local Control Funding Formula), schools who enroll fewer than average high-needs students (foster youth, socioeconomically disadvantaged, and english learners) will receive a smaller increase in funding. Currently, the unduplicated count of high-needs students at CSMH represents only 5.66% of CSMH’s enrolled population as shown in the 2014-15 P-2 Report. Beyond the annual cost of living adjustment and the increased funding due to the projected increase in enrollment of thirty students, State funding increases are minimal. The relatively small increases in revenue coupled with increased personnel costs as a result of compensation increases for staff, expansion of the class size reduction program to 24:1 school-wide, and increases in the STRS employer pension rates place are the main reasons for the structural deficit (permanent imbalance in revenues and expenditures).

As noted in the 2012 Legislative Analyst's Office report School District Fiscal Oversight and Intervention, "School districts with several consecutive years of operating deficits...tend to be most at risk for failing to meet their financial obligations in the near future. This is particularly true of school districts that run operating deficits during good economic times. These districts will have a smaller cushion to deal with unanticipated cost increases or reductions in funding during an economic downturn." Staff recommends that a budget reduction plan be created in order to avoid deficit spending over multiple years to support ongoing operating expenditures.

The Petition did not contain a monthly cash flow report, but cash reported at the end of each fiscal year shows a positive cash. Staff notes that as reserves are depleted this typically negatively affects cash balance. If needed, CSMH could access their credit line with Heritage Bank to address any short-term cash flow needs. Since monthly cash flow reports were not included in the petition, Staff recommends that they be provided at each reporting period.

On September 25, 2015 the petitioners provided a revised budget report that showed reduced expenditures of \$205,500 in 2015-16, \$153,050 in 2016-17, \$278,716 in 2017-18 and \$415,543 in 2018-19 and identified these reduced expenses as Foundation funded. They provided a detailed listing of those expenditure items except for \$122,000 in 2017-18 and \$255,000 in 2018-19 which have yet to be identified but could include some operational expenses primarily in the Services and Operating Expenses line item. The table below reflects the new presentation of the budget information provided by the Petitioner.

SUMMARY

Revenue	\$	5,181,676	\$	5,049,969	\$	5,219,319	\$	5,397,613
Expenses		5,168,276		5,027,726		5,127,814		5,302,886
Rev/Expense from Operations	\$	13,400	\$	22,243	\$	91,505	\$	94,727
Add'l Staff/Student Expense		(9,900)		(7,788)		(90,677)		(93,090)
Total Rev/Expense from Operations	\$	3,500	\$	14,455	\$	828	\$	1,638

Expenditures to be funded with Foundation Grants

Classroom Furniture	55,000	-	-	-
Field Trips	42,000	42,672	43,867	45,126
DC Trip	30,000	30,000	30,000	30,000
Classroom Supplies	45,500	46,228	47,522	48,886
IT Support	30,000	30,900	31,827	32,782
Pledge Card Contest	3,000	3,250	3,500	3,750
Additional Foundation Grants	-	-	122,000	255,000
Total Foundation Grants	205,500	153,050	278,716	415,543

The petitioner has provided the following additional information "expected grants from the Foundation are earmarked to fund specific, non-operational, expenditures. It is not our intent, nor has it been our practice, to use donations to fund ongoing operations. Amounts donated in the past have been raised, and used, for clearly identified expenditures such as our portable classrooms, playground structure, painting the school, facility improvements (new floor, ceiling

and paint in the multipurpose room, bathroom upgrades) and extensive field trips for all grade levels. This is the case with the Foundation grants described in this budget and projections.”

Given that the revised budget report was received Friday, Staff has not had sufficient time to fully analyze it or engage in deep discussions regarding its content. Staff recommends that CSMH and the District work to identify a budget format that allows for operational and non-operational expenditures to be broken out in the budget (similar to Unrestricted and Restricted Funds for the District) to allow for greater clarity and assist the District in its financial oversight.

RECOMMENDATION

Staff recommends approval of CSMH Renewal petition for a period of five years (July 1, 2016 - June 30, 2021) on the condition that District and Charter jointly develop and approve an operating Memorandum of Understanding that addresses the following Staff findings and actions prior to January 15, 2016:

- Address deficit spending by the Charter School Budget Committee and develop a written budget plan to be submitted to the District that provides a list of potential options for eliminating deficit spending for ongoing operating expenditures and provides for a balanced budget without the use of fundraising if not remedied prior to January 15, 2016;
- Develop monthly cash flow projections and multi-year projections and submit such reports to the District at each statutory financial reporting period;
- Develop a collaboration structure between CSMH and MHUSD to produce a common and fair data reporting protocols so as to provide parents and community an accurate picture of student achievement that reflects the educational program and considers the demographic makeup of the school;
- Provide for a lottery system that ensures that the student demographics of CSMH will be reflective of the Morgan Hill Unified School District with regard to percentage of low-socioeconomic families and English Language Learners. Progress must be sufficient to demonstrate that the demographics of CSMH will be reflective of District demographics within three years for grades K, 1 and 2;
- Use a weighted lottery and outreach or set aside seats reserved to favor under-represented and high needs groups. (Considerations: The incoming kinder class of 2016 has an expected minimum threshold of 20% socioeconomically disadvantaged students (15 students out of 72); the kinder class of 2017 has the expected threshold of 30% SED (22 of 72 students); and the kinder class of 2018 has an expected threshold of 40% SED (29 of 72 students). In the event that a weighted lottery and outreach fail to meet enrollment thresholds, a plan should be written to assist with promoting the placement of students from educationally disadvantaged subgroups;
- Ensure staff is not misassigned and provide a professional development plan for ensuring current staff become CLAD compliant;

- Ensure the enrollment of Special Education teachers who are not already appropriately credentialed in Education Specialist credential programs;
- Develop a process for all regular parent or community volunteers to have background check and clearances completed by CSMH with verifications of completions kept on file in the office;
- Develop a timeline for district oversight responsibilities, including the District's identification of at least one staff member as a contact person for the charter school, a schedule for district staff visitation of the school, a schedule for an annual update as required pursuant to Section 47606.5 to ensure that CSMH complies with all reports required of charter schools by law under its authority, and a schedule to monitor the fiscal condition of each charter school under its authority;
- Develop a timeline for the MHUSD Governing Board to name and place a single representative from MHUSD as a Board member on the Charter School Board of Directors.