



January 12, 2022

VIA EMAIL (jschultz@napacoe.org)

Napa County Board of Education
c/o Joshua Schultz
Deputy Superintendent
Napa County Office of Education
2121 Imola Avenue
Napa, CA 94559

Re: Response to the Napa Valley Unified School District's Demand for Remand of the
Mayacamas Charter Middle School Charter Petition

Dear Members of the Board of Education and Mr. Schultz:

We are in receipt of Mr. Schultz's email message dated January 11, 2022 regarding the Napa County Board of Education's ("County Board") consideration of the potential remand of the Mayacamas Charter Middle School ("MCMS") charter petition back to the Napa Valley Unified School District ("District"). As explained below, **there are no grounds under the law to remand the petition**. We respectfully request that the County ignore the unwarranted and constant attacks from the District, and process our charter petition in accordance with the timelines and procedures under the Charter Schools Act. To the extent the District desires to oppose us, it is free to do so as part of the County Board's statutory review process. We welcome the opportunity to prove ourselves to the County Board in due course after you have had a meaningful opportunity to review our petition, and after your staff's report and recommendation has been published at least 15 days prior to your action on the petition, as the law states.

As residents and parents in the Napa community, we are extremely disappointed with how we continue to be treated by District officials. The MCMS charter petition is unquestionably the most detailed, most thorough, and most comprehensive charter petition ever considered by the District. It is clear that the process to review our charter petition was never intended by the District to be fair and balanced. The District opposed the charter for political motivations having nothing to do with the merits of the petition, and did not hesitate to publicly disparage and disregard its own constituents in its process to deny the charter. This abusive, illegitimate effort to "remand" away from County Board jurisdiction is just more of the same bullying, and should be rejected.

The appeal process for County Board review has for decades been the backstop for wrongful denials of good charters by school districts. The District's demand for a "remand" here is an attempt to seize your ability to process and potentially approve our high-quality charter. We

are on track to open this summer for our first students, assuming the County Board approves the charter on the current statutory timeline. A remand would mean you'd give up your duty and opportunity to consider MCMS, and send it back to the District to further delay and obstruct the opening of our school. Then this outstanding charter petition, supported by hundreds of families, could wither on the vine. Another year delay is not acceptable. Our students and community deserve more. They deserve your attention, consideration, and up-or-down vote on the charter petition.

We have reviewed the letter submitted to the County Board by the District Superintendent on December 29, 2021. The District's letter raised two "matters of concern" in an effort to torpedo our appeal and continue to suppress parent choice in education in the Napa community. The first "concern" was an inadvertent technical submission error that has already been corrected. Under Education Code section 47605(k)(1)(A)(i), "[a]t the same time the petition is submitted to the county board of education, the petitioner shall also provide a copy of the petition to the school district." The MCMS petition was denied by the District on December 9, 2021. Our appeal was originally submitted to the County Board on December 21, but we inadvertently did not provide a copy of the petition to the District at the same time. Petitioners re-submitted our appeal to the County Board on December 31 and provided a copy of the entire appeal packet—not just "the petition" as required by law—to the District at the same time, all within the statutory 30-day timeline for appeals under Education Code section 47605(k)(1)(A)(i). This issue has been fully remedied.

The second "concern" raised in the District's letter was that the MCMS petition may need to be remanded because we dared to inform the County Board that even more families support MCMS now than did back in September. By law, remand is only appropriate "if the petition submitted on appeal contains new or different material terms." The petition that was submitted with our appeal is exactly the same as the petition that was submitted to the District—word for word. In fact, the version submitted with the appeal was downloaded directly from the District's website in an effort to avoid this exact situation. Petitioners did not alter the petition in any way, shape, or form. The District's letter noticeably did not cite to any specific pages of the petition that allegedly changed. Instead, relying solely on information in our press release, the District claims that the petition signatures may be new or different. **This is false.** The qualifying petition signatures are contained in Exhibit 2 of the appeal packet. The District expressly recognized in its adopted findings that "the Petition met the required number of signatures for both teachers and parents." (Exhibit 4 of Appeal Packet, p. 3.) They are the same signatures that were originally submitted to the District, and they were downloaded directly from the District's website. Our press release simply highlighted the recent and increasing support of MCMS in the community. We provided evidence of that support to the County Board as Exhibit 9 of the appeal packet. Exhibit 9 is a list of names and comments in support of MCMS. They are not, and cannot reasonably be interpreted to be qualifying signatures needed to validate the petition.¹

¹ Notably, a petition need only meet one of two signature requirements: (1) a number of parents equal to 50% of the number of students the charter's first year; **or**, (2) a number of teachers equal to 50% of the estimate to be employed the charter's first year. MCMS submitted both, and qualified under both. So even if we throw out all the parent signatures—MCMS still qualifies with its teacher signatures. Remand in this context is not only unsupportable, it's ridiculous.

There is nothing in the law that prohibits members of the public from communicating with elected public officials. In fact, numerous laws and public policy in California expressly encourage public participation in public affairs. The list does **not** constitute additional signatures on the petition, and does **not** constitute “new or different material terms.” Nothing in the petition has changed so there is no basis for remand.

Your email providing us notice of the County Board meeting references **only** “the letter submitted by Dr. Mucetti on December 30, 2021 [dated December 29],” which we have addressed above. We learned anecdotally that the District’s lawyers have raised other reasons in phone calls to County officials for why the County Board should “remand,” none of which are supported under the law. We have not been provided any formal notice of those reasons, and no one from the District has made any effort to contact us. We understand that the District’s lawyers allege that our Exhibit 5 of the appeal packet—responses to the District’s findings for denial—were not submitted as soon as the District would have preferred, so they should be disregarded. That complaint is irrelevant and completely unsupported by law. Petitioners, or any other person, may submit comments and materials to the District or any other agency up until the time of governing board deliberation and action. Petitioners presented its response letter hours before the District Board of Trustees even convened its meeting on December 9th. Nothing about that is a change to the petition—material or otherwise. In any event, it is within petitioners’ rights as members of the public to provide the County with a response to the District’s poorly-reasoned findings. In fact, many county boards of education² that process charters frequently, invite or even require petitioners-on-appeal like MCMS to submit written responses to the findings, likely so the county has the full picture, hears both sides of the story, and can make an informed decision on the appeal. This is a common practice throughout the entire state.

The District’s lawyers apparently also think that Exhibit 7 of our appeal packet is a new and material term. It is not. It is a cut-and-dry legal requirement. A description of changes to the petition necessary to reflect the County Board as authorizer is required under 5 C.C.R. section 11967(b)(4) for **every** charter appeal. We also included a minor clarification in light of an ambiguity with regard to the founding board. And to the extent the County Board wants to approve the MCMS petition with certain mutually-agreed upon conditions, that is consistent with sound practice by other county boards and districts throughout the state. And at least one trial court has recognized that conditional approval of that nature is well within a county board’s discretion.


We also note that the purpose of the remand requirement is for fairness if a petitioner really does change the petition in some material way (e.g., did not have enough signatures at submittal so more were added after denial to meet the minimum, or adding or removing grade levels, or changing the governance structure), so the local school district has a fair chance to

² This includes but is not limited to the Los Angeles County Board of Education (see “Required Documents: Appeal of a Denied Charter Petition”), the Santa Clara County Board of Education (see “Process for Considering a Charter Petition Received on Appeal”), and the Orange County Board of Education (see “Charter School Petition Appeal Process”). Collectively, these three county boards currently authorize 66 charter schools, the vast majority of which were approved on appeal. They either require or encourage as optional the responses to district findings. Again, this is standard fare throughout the state.

evaluate and approve the “new or different” petition. However, in light of the District’s unfair and vitriolic treatment of petitioners that is described in our cover letter submitted with the appeal, remand would be a useless exercise. Here, the petition on appeal is exactly the same as that presented to and denied by the District. None of the District’s actions thus far have been fair. The District’s barks and growls for remand are an attempt to further thwart our ability to open a unique program that is supported by hundreds of parents and other stakeholders in our community.

There is no support in the law for remand of the MCMS petition. To the contrary, this petition and District denial epitomizes why there is and must be a secure appeal process to the County Board, as has been the law for decades. Sending the petition back to the District would be a waste of time and resources, and it is not in the best interest of students. We respectfully request that the County Board do what is right and what is required by law, which is to process our appeal in accordance with the Charter Schools Act. Thank you very much for your time.

Sincerely,

DocuSigned by:

74FEF710ABDA463...

Jolene Yee

DocuSigned by:

F811B7F6077F48C...

Lauren Daley

On behalf of Petitioners for Mayacamas Charter
Middle School

cc: Members of the County Board of Education
Dr. Barbara Nemko, Superintendent of Schools
Ellen Sitter, Administrative Assistant