



PROCOPIO  
525 B Street  
Suite 2200  
San Diego, CA 92101  
T. 619.238.1900  
F. 619.235.0398

JOHN C. LEMMO  
P. 619.515.3294  
john.lemmo@procopio.com

AUSTIN  
DEL MAR HEIGHTS  
PHOENIX  
SAN DIEGO  
SILICON VALLEY

April 24, 2017

VIA ELECTRONIC AND REGULAR MAIL  
[dharden@aalrr.com](mailto:dharden@aalrr.com)

Davina F. Harden, Esq.  
Atkinson, Andelson, Loya, Ruud & Romo  
12800 Center Court Drive South, Suite 300  
Cerritos, CA 90703-9364

Re: El Rancho Charter School is Renewed Through June 30, 2022

Dear Ms. Harden:

This letter responds to yours of April 20, 2017 seeking information from El Rancho Charter School ("El Rancho") pursuant to Orange Unified School District's ("OUSD") oversight authority under Education Code section 47604.3. Overall, your letter is based upon a glaring inaccuracy. El Rancho's renewal petition is deemed **approved** by operation of law, as explained in my letter to your firm last week. El Rancho's charter renewal term runs through June 30, 2022. In any event, we are further responding to your letter for purposes of respecting OUSD's oversight authority, not for purposes of renewal. The charter is demonstrably renewed, and OUSD has no opportunity at this juncture to "hear" or act upon the renewal. The remainder of this letter addresses several other factual and legal errors raised by you, and provides the information you requested to the extent that it exists or is relevant.

To be clear, the authority for charter renewal begins with Education Code section 47607, which unequivocally mandates in subsection (a)(2) that renewals "are governed by the standards and criteria in Section 47605". (See, Ed. Code §47607(a)(2); 5 Cal. Code Regs. §11966.4(a)(2)(A).) Moving to Section 47605 as is mandated by Section 47607, it sets forth the requirements for establishment of a charter school within a school district. Renewal petitions "shall" be considered by the district "in accordance with all the requirements set forth in [Regulation section 11966.4(a).]" The California Supreme Court has ruled that the Legislature and SBE have fully occupied **all** aspects of charter school petitioning and renewal—individual school districts are pre-empted from altering or imposing additional conditions or restrictions for renewals. (See, e.g., *UTLA v. LAUSD* (2012) 54 Cal.4th 504, 521-522 (holding that "the Legislature has plotted all aspects of [charter schools']

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existence”, and that Ed. Code section 47605(b) “prescribes the manner by which a [school district] is to approve or deny a charter petition”).)

The charter renewal regulations explicitly and unequivocally impose a 60-day timeline upon school districts to act on charter renewals. The timeline and consequence (automatic renewal by operation of law) are clear. The law plainly states that if a school district board has not made a written factual finding as mandated by Education Code section 47605(b) within 60 days of its receipt of a petition for renewal, “the absence of written factual findings shall be deemed an approval of the petition for renewal.” (5 Cal. Code Regs. §11966.4(c).) It is indisputable that OUSD did not make any written factual findings as mandated by Education Code section 47605(b) within 60 days of receipt of El Rancho’s petition for renewal (the time mandated to make the findings expired on March 18, 2017.) Therefore, we are confident that a court will agree that the El Rancho Renewal Petition is indisputably approved as submitted. There is no basis for any further OUSD hearing next month as you suggest.

Your letter inexplicably states that El Rancho “exceeded its authority” by reporting its charter renewal to the California Department of Education (CDE). Your statement is plainly incorrect. Education Code § 47605(i) expressly **requires** charter schools to notify their county superintendent, the CDE, and the State Board of Education when a charter renewal is approved, and provide them with a copy of the approved petition. El Rancho did just that after the renewal was approved by operation of law on March 18, 2017. This is a legislative **mandate**, not an “exceedance” of El Rancho’s authority. You also state that the CDE informed OUSD that it would not “take action” in response to El Rancho’s request. Of course CDE will not “take action”—there is no action for CDE to take. El Rancho simply provided statutory notice as required. Please note that El Rancho has not requested anything from the CDE. El Rancho notified the CDE of its charter renewal as required by statute, but did not seek approval or elicit a response from the CDE in any way.

Separately from the renewal by operation of law, under OUSD’s oversight authority, you have asked for: (a) confirmation that at least 75% of El Rancho’s staff approved the renewal petition; (b) “financial statements for the requested renewal term of July 1, 2017 - June 30, 2022”; (c) “a proposed operational budget for the first-year of the renewal term, including startup costs” (even though El Rancho has existed for many years), and “cashflow and financial projections for the first three years of the renewal term”; and (d) “written explanations/rationales” for portions of El Rancho’s now-approved renewal petition.

The first item of information you seek is irrelevant to the renewal, because staff approval is inapplicable to a renewal petition submittal. El Rancho’s expiring charter requires 75% staff approval for any mid-term change deemed to be a “material revision”, and compliance with Ed. Code § 47605, *et seq.* for any such mid-term “material” change. But staff approval is not required for submitting a renewal petition to OUSD in accordance with the 60-day renewal process. The renewal process includes two public meetings before the OUSD Board, if they timely occur. There is no material revision requested or operative here. Rather, the entire renewal petition was renewed by operation of law.

You requested financial statements for future operational years that have not yet occurred. Financial statements can only exist for current or prior years of a school’s operation, not for upcoming, future years. Accordingly, just as you could not possibly produce at this time a personal financial statement from year 2022, there are no financial statements in existence for El Rancho’s upcoming July 1, 2017-July 30, 2022 charter term as you have requested.

You requested a proposed operational budget. That has been provided by separate request from the Superintendent. Similarly, El Rancho has provided financial projections for the 2016-2017 through 2018-2019 school years, including an operational budget for the 2016-2017 school year. We note that all El Rancho business is conducted through OUSD business office. As the provider of El Rancho's back office financial services, OUSD already possesses all of El Rancho's financial records.

Lastly, your letter also requests "written explanations/rationales" for certain portions or elements of El Rancho's renewal petition. The appropriate time for raising any questions about the contents of El Rancho's charter would have been during the renewal petition's 60-day consideration period. That time has passed, and OUSD's concerns are no longer relevant to the now-approved charter. We accordingly find your request unreasonable under the circumstances, and wish to avoid any appearance that we concede to OUSD's unlawful, post-renewal treatment of the charter.

As always, El Rancho representatives would be happy to meet with OUSD representatives to discuss the new 2017-2022 charter term. The parties have enjoyed a productive educational partnership, and El Rancho looks forward to another rewarding five years under the new renewal.

Please let us know if you have any additional questions or concerns.

Sincerely,



John Lemmo

JL