



Franklin-McKinley School District

PREPARING ALL CHILDREN AS GLOBAL LEARNERS

Santa Clara County Board of Education
1290 Ridder Park Drive
San Jose, CA 95131

Re: Franklin-McKinley School District
Non-Renewal of Alpha Cornerstone Charter

To the Santa Clara County Board of Education:

We write to address the Cornerstone Academy Preparatory School ("Charter School") appeal to the County Board from the Franklin-McKinley School District Governing Board's denial of the request to renew its charter on October 22, 2019.

The findings adopted by the Franklin-McKinley Governing Board, in Section 5(b), stated as follows:

Cornerstone Academy, in contravention of Education Code section 47605(d)(2)(B)(iii), which provides that admissions "[p]references shall not result in limiting enrollment access for pupils with disabilities ..." and Education Code section 47601(b), which states that it is the intent of the Charter Schools Act to "[i]ncrease learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving," acknowledges that it does not currently, and has never, enrolled a student with moderate/severe disabilities.

At the November 20, 2019 public hearing before the County Board on the Charter School's appeal, the Charter School's Chief School Officer, Shara Hegde, alleged that the District's findings that the Charter School did not serve any students on the moderate/severe part of the spectrum were "factually inaccurate." Ms. Hegde stated as follows:

... We have students with moderate to severe disabilities across our schools, including at Cornerstone. It's factually inaccurate that we don't serve those students. And, we have currently four nonpublic placements, which should give you some idea of the severity of students that have come to us, and that we are ready, and willing, and able, and have served, and so we would deploy the same resources for any student that came to us. We would meet with the IEP team and would do whatever it took to meet their needs ...

A County Board member then asked "so, you're disputing the claim that you guys don't serve moderate to severe special needs students?" Ms. Hegde responded as follows:

... I am. That is factually inaccurate. The terms "mild/moderate and severe" are not labels we give to students. They are labels that are put on a teacher's credential. And, you can label the disability as being mild, moderate or severe, but you cannot label the student that way. So do we have students on the moderate to severe side, where their disabilities are presenting that way? Yes, yes we do. For example, as I shared in the slides, we have 13% of our current Special Ed. population that has autism, and the C.T.C. [Commission on Teacher Credentialing] states that autism is a disability that should be served by a moderate to severe credential. We do not have those teachers on staff because the C.T.C. has also said that teachers with a mild to moderate credential, our education specialists, can receive autism authorization to serve students across the spectrum. And so we are appropriately serving those students ...

During the Franklin-McKinley Board meeting on October 22, 2019, the Charter School never contested or refuted the District's finding that it enrolled no students with moderate to severe disabilities. The information presented by the Charter School to the County Board at its November 20, 2019 public hearing is at odds with the information presented to Franklin-McKinley in the course of the renewal proceedings. During the 2018-2019 annual update to the FMSD

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Board of Education, there were questions raised regarding the breakdown of students with special needs at the charter schools. In a written response to questions raised during the annual update, Alpha Public Schools Chief Executive Officer John Glover responded in a memo dated August 9, 2019, "[w]e do not currently have any enrolled students with moderate/severe disabilities" and that "[w]e currently do not have any moderate/severe Education Specialists because of the population and needs of our scholars." (See, attached, p. 2.) Moreover, when the question arose at the October 22, 2019 determination meeting of the Franklin-McKinley Board, Mr. Glover did not dispute the fact that the Charter School did not currently enroll any students with moderate to severe disabilities. Mr. Glover did not, at the Franklin-McKinley board meeting, make the contention that the moderate to severe designation applied to teacher credentialing, and not to the assessment of the Charter School's students. Nor was the contention raised that a Charter School's special education teacher's possession of a mild to moderate credential could serve authorization to serve students with autism.

The District questions the Charter School's contention that the Moderate/Severe designation corresponds only to the credentialing requirements for Education Specialists, and not to the identification of a student's disability on the spectrum. The Charter School did not offer this interpretation to the District during the renewal proceedings even though the question was posed directly to it. Moreover, identification of the extent of a pupil's disability as Mild/Moderate/Severe is a crucial part of assessing the pupil's disability and ensuring that he/she receives a Free Appropriate Public Education. The Charter School's contention is rebutted by the vast weight of legal authority aligning the Mild/Moderate/Severe spectrum with the extent of a pupil's disability. For example, the California Code of Regulations provides that the holder of a Mild/Moderate credential may serve pupils "with a primary disability of specific learning disabilities, mild/moderate intellectual disabilities, other health impairment, and emotional disturbance," and that the holder of a Moderate/Severe credential may serve pupils with "with a primary disability of autism, moderate/severe intellectual disabilities, deaf, blind, emotional disturbance, and multiple disabilities." (5 C.C.R. 80048.6(b)(1) and (2).) ¹ California Education Code section 56030.5 also defines "severely disabled" pupils as pupils "with exceptional needs who require intensive instruction and training in programs serving pupils with the following profound disabilities: autism, blindness, deafness, severe orthopedic impairments, serious emotional disturbances, severe intellectual disability, and those individuals who would have been eligible for enrollment in a development center for handicapped pupils."

The District also emphasizes that the Charter School's lack of students falling on the Moderate/Severe portion of the spectrum is only one component of a broader pattern of the Charter School failing to enroll a pupil demographic that is similar to that of the school district. In addition to the lack of students falling on the moderate to severe portion of the spectrum, the Charter School enrolls just over one-half the percentage of Hispanic/Latino students that the District does. Education Code section 47605(b)(5)(G) requires a charter school to contain a reasonably comprehensive description of "[t]he means by which the charter school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted." Education Code section 47605(d)(2)(B)(iii) provides that admissions "[p]references shall not result in limiting enrollment access for pupils with disabilities ..." Education Code section 47601(b) states that it is the intent of the Charter Schools Act to "[i]ncrease learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving." Since the Education Code does not absolve a Charter School from these requirements even if overt discriminatory intent or practices are absent, the District's findings constitute a permissible basis for denial of the renewal.

Sincerely,


Juan Cruz
Superintendent

Board of Education

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