

**SOLANO COUNTY OFFICE OF EDUCATION  
STAFF REPORT AND RECOMMENDED FINDINGS OF FACT  
REGARDING THE CALIBER: HIGH SCHOOL CHARTER SCHOOL**

**I. INTRODUCTION**

A. Executive Summary of Recommendation

The Solano County Office of Education (“SCOE”) conducted a comprehensive review of the Caliber Public Schools (“Petitioner”) charter petition (“Petition”) to establish Caliber: High School (“Charter School”). After a thorough review and analysis of the Petition and standard of review for a petition to establish a charter school under the Charter Schools Act of 1992 (“Act”), SCOE staff concludes that the Charter School’s proposed program is consistent with sound educational practice, and the Petition generally meets the requirements outlined in Education Code section 47605, subdivisions (c)(1)-(7). However, as discussed under Finding 8 in Section II of this Staff Report and Findings of Fact (“Report”), SCOE staff, in consultation with Fiscal Crisis Management Assistance Team (“FCMAT”), finds that the Vallejo City Unified School District (“VCUSD”) is under state receivership and is not positioned to absorb the fiscal impact of the proposed Charter School. **Therefore, SCOE staff recommends that the Solano County Board of Education (“SCBOE”) deny the Petition pursuant to Education Code section 47605, subdivision (c)(8).**

B. Procedural Background

On September 8, 2021, Petitioner submitted the Petition to the VCUSD Governing Board (“VCUSD Board”), requesting to establish the Charter School as an independent public charter school. On December 15, 2021, the VCUSD Board denied the Petition. As outlined in Resolution No. 2998, the VCUSD Board denied the petition pursuant to Education Code section 47605, subdivision (c)(8):

“The Board has determined that, given the District’s status as being under state receivership, and the anticipated loss of student enrollment and funding to the District if the Petition is approved, the District is not positioned to absorb the fiscal impact of the proposed Charter School.”

On January 14, 2022, Caliber submitted an appeal on the denial of the Petition (“Appeal”) to SCOE, requesting the SCBOE to approve the Petition.<sup>1</sup> The SCBOE held a public hearing on March 9, 2022, to consider the level of support for the Petition. (Ed. Code, § 47605(c).) At the public hearing, the Petitioner and VCUSD were both afforded an opportunity to present before the SCBOE, and members of the community were afforded an opportunity to provide public comment on the Petition.

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<sup>1</sup> The Petition submitted on appeal was not revised to reflect the SCBOE as the proposed chartering authority. Accordingly, there are references to VCUSD throughout the Petition, which SCOE staff have determined should be updated to reflect the SCBOE as the chartering authority. If SCBOE decides to approve the Petition, SCOE staff recommends that the SCBOE include in its resolution to approve the petition a requirement that the Petition be updated to reflect the SCBOE as the chartering authority.

The SCBOE will hold a second public hearing on the Petition at its April 13, 2022, meeting, and the SCBOE will consider taking action to approve or deny the Petition.

B. Overview of Petitioner and the Petition

Petitioner currently operates two charter schools: (1) Caliber: ChangeMakers Academy—an independent charter school serving students TK-8—which is located in Vallejo and authorized by the VCUSD Board; and (2) Caliber Beta Academy—an independent charter school serving students TK-8—which is authorized by the Contra Costa County Board of Education. Pursuant to the Petition, Petitioner requests to establish the Charter School to serve students in grades 9-12. (Petition, pp. 5-6.) Petitioner requests a five-year term, commencing July 1, 2022 through June 30, 2027. (Petition, p. 5.) Petitioner projects serving 150 students in grade 9 during the first year of operation and reaching full enrollment of 600 students in grades 9-12 during the fourth year of operation. (Petition, p. 33.) The projected enrollment for the first five years is as follows:

- Year 1 (2022-2023) – 150 students in grade 9
- Year 2 (2023-2024) – 300 students total in grades 9-10 (150 students in each grade)
- Year 3 (2024-2025) – 450 students total in grades 9-11 (150 students in each grade)
- Year 4 (2025-2026) – 600 students total in grades 9-12 (150 students in each grade)
- Year 5 (2026-2027) – 600 students total in grades 9-12 (150 students in each grade)

(Petition, p. 33.)

C. Standard of Review

The Act governs the creation of charter schools in the State of California. The Act includes Education Code section 47605, subdivision (c), which provides the standards and criteria for reviewing a petition. Education Code section 47605, subdivision (c) provides that a county board of education shall not deny a petition unless it makes written factual findings setting forth specific facts to support one or more of the following findings:

1. The charter school presents an unsound educational program for the students to be enrolled in the charter school;
2. The petitioner is demonstrably unlikely to successfully implement the program set forth in the petition;
3. The petition does not contain the number of signatures prescribed by Education Code section 47605, subdivisions (a);
4. The petition does not contain an affirmation of each of the conditions set forth in Education Code section 47605, subdivision (e), 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 of the characteristics set forth in Education Code section 220;
5. The petition does not contain reasonably comprehensive descriptions of 15 certain elements in its program and operations as set forth in Education Code section 47605,

subdivisions (c)(5)(A-O), which describes the 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 policies, health and safety procedures, and student discipline policies;

6. The petition does not contain a declaration of whether the charter school shall be deemed the exclusive public employer of the employees of the charter school for purposes of Chapter 10.7 of Division 4 of Title 1 of the Government Code;
7. The charter school is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate. Analysis of this finding shall include consideration of the fiscal impact of the proposed charter school. A written factual finding under this paragraph shall detail specific facts and circumstances that analyze and consider the following factors:
  - a. The extent to which the proposed charter school would substantially undermine existing services, academic offerings, or programmatic offerings.
  - b. Whether the proposed charter school would duplicate a program currently offered within the school district and the existing program has sufficient capacity for the pupils proposed to be served within reasonable proximity to where the charter school intends to locate; or
8. The school district is not positioned to absorb the fiscal impact of the proposed charter school. A school district satisfies this paragraph if it has a qualified interim certification pursuant to Section 42131 and the county superintendent of schools, in consultation with the County Office Fiscal Crisis and Management Assistance Team, certifies that approving the charter school would result in the school district having a negative interim certification pursuant to Section 42131, has a negative interim certification pursuant to Section 42131, or is under state receivership. Charter schools proposed in a school district satisfying one of these conditions shall be subject to a rebuttable presumption of denial.

Charter school petitions are also required to include a discussion of their impact on the community and school district it is proposing to locate, a description of the facilities to be utilized by the proposed charter school, the manner in which administrative services will be provided, potential civil liabilities for the chartering authority, and a three-year projected operational budget and cash flow. (Ed. Code, § 47605(h).)

SCOE staff conducted a de novo review of the Petition pursuant to Education Code section 47605, subdivision (c). **However, because VCUSD denied the Petition pursuant to Education Code section 47605, subdivision (c)(8), SCOE staff considered the VCUSD’s findings under this subdivision as required by Education Code section 47605, subdivision (k)(1)(A)(ii). SCOE staff also considered the Act’s requirement that “[c]harter schools proposed in a school district [under state receivership] shall be subject to a rebuttable presumption of denial.” (Ed. Code, § 47605, subd. (c)(8).)** SCOE staff have reviewed and determined the sufficiency of the Petition, as discussed below in Section II.

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## II. SUMMARY OF FINDINGS OF FACT

### **Finding 1: The Petition presents a sufficiently sound educational program for the pupils to be enrolled in the charter school.**

In the judgment of the State Board of Education (“SBE”), a petition is consistent with sound educational practice if “it is likely to be of educational benefit to pupils who attend.” (5 C.C.R. § 11967.51, subd. (a).) The Petition describes a program likely to provide educational benefit to the pupils, reasonably describing its educational program. The Petition describes a summary of community needs Petitioner has identified, including but not limited to increased achievement in ELA and math, increased college eligibility, increased graduation rate, and decreased suspension, as well as how the Charter School’s educational program is focused on responding to these identified community needs. (Petition, pp. 41-42.) The Charter School’s core values include: (1) feedback, (2) affirmation and validation, (3) collective responsibility, and (4) empathy and kindness. (Petition, p. 44.) The Petition includes a framework for the educational program aligned with the needs of the target student population, which is centered on three key principals: (1) leadership development as an iterative process, (2) social-economical learning that is integrated and proactive, and (3) academic preparedness for college and career. (Petition, pp. 45-46.)

The Petition includes a list of A-G course offerings. (Petition, pp. 70-73.) The Petition also includes a daily schedule, including the minimum required instructional minutes. (Petition, pp. 73-76.) The Charter School intends to seek accreditation by the Western Association of Schools and Colleges (“WASC”), and the review process will commence no later than the third year of operation. (Petition, p. 76.)

The Petition describes how it will meet the needs of students with disabilities, English learners, and students achieving substantially below or above grade level expectations. (Petition, pp. 91-105.) The Charter School plans to seek membership in the El Dorado Special Education Local Plan Area (“SELPA”). (Petition, pp. 97-99.)

**Overall, the Petition presents a sound educational program for the pupils to be enrolled.**

### **Finding 2: The Petitioner is demonstrably unlikely to successfully implement the program set forth in the Petition for at least the first year of proposed operation.**

In order to successfully implement the program described in the Petition, the Petitioner must demonstrate that they are familiar with the content of the Petition and the requirements of laws applicable to the proposed school; present a realistic financial and operational plan; describe the facilities to be used by the charter school; have the necessary background in areas critical to the charter school’s success, or have a plan for securing the services of individuals with the necessary background, including curriculum, instruction, assessment, finance and business management.

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A. Multi-Year Projected Budget

Petitioner’s financial projections include an estimated \$2.0M in donations, including \$600,000 in fiscal years 2021-2022 and 2022-2023 and \$400,000 in fiscal years 2023-2024 and 2024-2025. However, the Petition does not provide information regarding how Petitioner intends to raise the \$2.0M. While the Petition indicates that Petitioner has raised similar amounts for prior charter school openings, the Petition does not include any details to support this statement. (Petition, Appendix 1-2.) Additionally, based on SCOE staff’s review of Petitioner’s 2020-2021 audit for Caliber: ChangeMakers Academy, Petitioner received approximately \$7,063 in donations. Based upon Petitioner’s purported history of raising donations for the 2020-2021 school year and lack of assurances for the projected donations for 2021-2022 through 2024-2025, SCOE staff have concerns whether the projected \$2.0M will be realized. Due to this uncertainty, SCOE staff analyzed the multi-year forecast without the projected \$2.0M in donations. Under this scenario, Petitioner would see a negative fund balance. The following chart illustrates the multi-year fund balance without the \$2.0M donation projection:

	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27
Fund Balance, Beginning	-	(153,471)	(717,365)	(917,170)	(986,004)	(579,847)
Total Revenues	-	2,016,263	4,135,798	6,395,339	8,524,712	8,550,000
Total Expenditures	153,471	2,580,157	4,335,603	6,464,173	8,118,555	8,362,798
Net Increase (Decrease)	(153,471)	(563,894)	(199,805)	(68,834)	406,157	187,202
Fund Balance, Ending	<b>(153,471)</b>	<b>(717,365)</b>	<b>(917,170)</b>	<b>(986,004)</b>	<b>(579,847)</b>	<b>(392,645)</b>

Additionally, it appears that the Charter Management Organization (“CMO”) may comingle funds between charter schools operated by Petitioner, which raises concerns regarding Petitioner’s transparency and fiscal practices. The Petition states that if the Charter School is not able to secure the \$2.0M in donations, “the Caliber central office has sufficient funds available from previous fundraising efforts to provide start-up funding for Caliber: High School from existing unrestricted accounts” of Caliber: ChangeMakers Academy and Caliber: Beta Academy. (Petition, Appendix I-2.) To the extent the CMO comingles funds between the existing charter schools operated by Petitioner, this raises concerns regarding Petitioner’s transparency and fiscal practices and the application of State revenues generated for students at one charter school being applied to another.

In addition to the above concerns, the summary of financial projections contains mathematical inaccuracies. While the inaccuracies are material and may likely be attributable to an editorial error, SCOE staff corrected the totals and calculated the difference in the summation and the resulting negative impact on the Petitioner’s estimated ending fund balance. The following table represents SCOE staff’s corrections to the summary of financial projections:

	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27
<b>Revenues</b>						
LCFF Revenues	-	1,779,100	3,668,800	5,698,400	7,597,800	7,597,800
Federal Title Funding	-	46,800	83,500	120,300	157,000	157,000
SPED Funding	-	120,700	237,700	354,700	471,700	490,400
Meal Funding		40,700	81,300	122,000	162,600	162,600
Other Public Revenues		29,000	64,500	100,100	135,600	142,100
Local Revenue	600,000	600,000	400,000	400,000	-	-
<b>Total Revenues</b>	600,000	2,616,300	4,535,800	6,795,500	8,524,700	8,549,900
<b>Petition</b>	600,000	2,616,300	4,535,800	6,795,300	8,524,700	8,550,000
<b>Difference</b>	-	-	-	200	-	(100)
<b>Expenses</b>						
Compensation	125,000	1,289,800	2,168,400	3,295,100	4,079,400	4,242,600
Payroll Taxes & Benefits	28,500	287,600	488,400	751,900	937,300	979,100
Instruction Supplies & Services		756,900	1,258,000	1,806,800	2,279,400	2,334,400
Meals		62,900	103,800	144,700	185,600	185,800
Administration		408,000	674,600	963,000	1,231,100	1,239,000
Facilities		75,400	154,500	238,100	320,800	324,200
<b>Total Expenses</b>	153,500	2,880,600	4,847,700	7,199,600	9,033,600	9,305,100
<b>Petition</b>	153,500	2,580,200	4,335,600	6,464,200	8,118,600	8,362,900
<b>Difference</b>	-	300,400	512,100	735,400	915,000	942,200
Net Income	446,500	(264,300)	(311,900)	(404,100)	(508,900)	(755,200)
<b>Beginning Fund Balance</b>	-	446,500	182,200	(129,700)	(533,800)	(1,042,700)
<b>Ending Fund Balance</b>	446,500	182,200	(129,700)	(533,800)	(1,042,700)	(1,797,900)
<b>Petition</b>	446,500	482,600	682,800	1,013,900	1,420,000	1,607,100
<b>Difference</b>	-	(300,400)	(812,500)	(1,547,700)	(2,462,700)	(3,405,000)

## B. Facilities

The Petition indicates the Charter School intends to locate within the jurisdictional boundaries of VCUSD and request Proposition 39 facilities from VCUSD. (Petition, p. 180.) The Petition indicates a long-term goal of moving to a private facility, although no such facility has been secured. (Petition, p. 180.) Petitioner timely submitted a Prop 39 request to VCUSD for the 2022-2023 school year. However, if a proposed charter school’s charter petition is not approved before March 15, the proposed charter school is not entitled to facilities. (5 CCR § 11969.9, subd. (a).) Because the Petition was not approved before March 15, the Charter School is not entitled to Prop 39 facilities. As such, SCOE staff has serious concerns regarding the Charter School’s ability to secure a facility for the 2022-2023 school year.

## C. Management & Administrative Services

The Petition states that the Charter School will be a member of the Caliber Public School network, and will receive support and services from the School Support Organization (“SSO”). (Petition, p. 125.) The SSO will provide administrative services, payroll, fiscal services, and related services. (Petition, p. 125.)

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D. Williams Case Monitoring

Notably, the California Department of Education recently published a list of schools identified to be monitored by county offices of education as required by the Williams Case, as codified in Education Code section 1240. (2021-2022 Williams Case monitoring list available [here](#).) Caliber: ChangeMakers Academy and Caliber: Beta Academy both have been identified for monitoring due to noncompliance with teacher credentialing requirements. Petitioner's demonstrated noncompliance with teacher credentialing requirements raises concerns regarding whether the proposed Charter School will successfully implement the program set forth in Petition.

**Overall, due to concerns regarding the projected budget and the lack of facility, Petitioner is demonstrably unlikely to successfully implement the program set forth in the Petition for at least the first year of proposed operation.**

**Finding 3: The Petition contains the required number of signatures required by Education Code section 47605, subdivision (a)(3).**

The Petition contains the required number of signatures pursuant to Education Code section 47605(a)(1)(B). The Petition includes approximately 624 signatures, a majority of which purportedly includes parents meaningfully interested in having their child attend the Charter School. (Petition, Appendix 1-1.) **This number exceeds the statutorily required amount, and SCOE staff finds that this requirement is satisfied.**

**Finding 4: The Petition contains an affirmation of each of the conditions described in Education Code section 47605, subdivision (e).**

The Petition includes an affirmation of each of the conditions described in Education Code section 47605, subdivision (e). (Petition, pp. 23-25.) **As such, SCOE staff finds that this requirement is satisfied.**

**Finding 5: The Petition contains a reasonably comprehensive description of the specific elements described in Education Code section 47605, subdivisions (c)(5)(A-O).**

On review, SCOE staff finds that the Petition generally includes reasonably comprehensive descriptions of the required elements set forth in Education Code section 47605(c)(5)(A)-(O), as outlined in further detail below.

Element A: Educational Program

A petition should provide a reasonably comprehensive description of the educational program of the charter that includes a description of “whom the charter school is attempting to educate,” what it means to be an “educated person in the 21st century, and how learning best occurs.” (Ed. Code, § 47605(c)(5)(A)(i).) As summarized in Finding 1, the Petition includes a reasonably

comprehensive description of the educational program. The Petition further indicates that becoming an educated person in the 21st century means:

- “Possessing emotional intelligence and an inclusive mindset to have impact in an ever-changing world[;]
- Robust problem-solving skills, especially in the face of new or conflicting information[; and]
- Strong foundation of academic skills and a broad knowledge base in the core disciplines of language arts, mathematics, science, social science, foreign language, and the art[.]”

(Petition, p. 47.) The Petition details how Petitioner believes learning best occurs in the 21st century. (Petition, pp. 47-69.) **Overall, this element of the Petition is reasonably comprehensive.**

#### Elements B & C: Measurable Pupil Outcomes & Assessment of Measurable Pupil Outcomes

Every charter petition must identify measurable pupil outcomes and methods of measuring progress in meeting pupil outcomes. (Ed. Code, § 47605(c)(5)(B-C).) The Petition includes outcomes that address increases in pupil academic achievement school-wide and some specific student groups but does not clearly identify outcomes for all numerically significant pupil subgroups to be served by the Charter School. (Petition, pp. 108-114.) Additionally, the Petition does not clearly state any applicable academic growth targets. The Petition does describe how pupil outcomes will address state content standards and performance standards in core academics. (Petition, pp. 53-61.) The Charter School proposes to utilize classroom informative and summative assessments, Deveraux Student Strengths Assessments, SBAC, PLAN/EXPLORE/ACT, CAST, NWEA MAP, ELPAC, and PFT. (Petition, pp. 116-117.) Given that the Charter School proposes to serve high school students, it must affirm that college bound students wishing to attend California colleges and universities will have an opportunity to take courses meeting the “A-G” requirements. This has been satisfied. (Petition, p. 71-73.) The Petition further addresses high school graduation requirements and WASC accreditation. (Petition, p. 76.) **While there are certain aspects of this element that could be strengthened, overall, these elements are reasonably comprehensive.**

#### Element D: Governance Structure

A Petition must provide a reasonably comprehensive description of the Charter School’s governance structure. (Ed. Code, § 47605(c)(5)(D).) The Petition indicates that, as an independent charter school, the Charter School will be operated by Caliber Public Schools, a California non-profit public benefit corporation with 501(c)(3) tax exempt status. (Petition, p. 119.) The Petition further states that the Charter School will be directly funded and will be governed by the Caliber Public Schools Corporate Board of Directors (“Caliber Board”), which shall be responsible for the operation and activities of the Charter School. (Petition, p. 121.). The Caliber Board currently has seven directors, composed of individuals with experience in charter school management, education, school administration, school finance, education technology, real estate, and fundraising. (Petition, pp. 121-123.) According to the bylaws, the Caliber Board must have at least three directors but may have up to thirteen directors. (Petition,



p. 120.) The Caliber Board also has three standing committees: (1) Academic Affairs Committee, (2) Finance and Audit Committee, and (3) Governance Committee. (Petition, p. 124.) **This element of the Petition is reasonably comprehensive.**

#### Element E: Employee Qualifications

The Petition should identify the qualifications required of individuals who will work at the Charter School. (Ed. Code, § 47605(c)(5)(E).) The Petition states that the School Leader will be responsible for the final decision-making authority with respect to hiring employees to work at the Charter School. (Petition, pp. 129-130.) The Petition describes the key positions and the qualifications for those positions, including the School Leader, teachers, Education Specialists, ELD Coordinator, College and Career Counselor, LEAD SEL Clinician, Support SEL Clinicians, Assistant Principal, Director of Operations, Office Manager, and Lead Interventionist. (Petition, pp. 130-131.) The Petition states that staff will be evaluated annually. (Petition, p. 131.) The Petition confirms that all Charter School teachers will have the appropriate California Commission on Teacher Credentialing (“CTC”) certificate, permit, or other document required for their certificated assignment. (Petition, p. 129.) While the Petition makes this affirmation, as noted in Finding 1, the CDE has identified Caliber: ChangeMakers Academy and Caliber: Beta Academy for monitoring due to noncompliance with teacher credentialing requirement. This is an area SCOE staff recommends attention by the Petitioner. **This element of the Petition is reasonably comprehensive.**

#### Element F: Health and Safety Procedures

Pursuant to Education Code section 47605(c)(5)(F), the Petition must include the procedures that the school will follow to ensure the health and safety of students and staff. The Petition states that the Charter School requires each employee to submit a criminal background check, furnish a criminal record summary, and complete fingerprinting with the California Department of Justice. (Petition, p. 133.) Required staff will be assessed for tuberculosis, students receiving classroom instruction must provide documentation of immunization in accordance with law, and the Charter School will provide vision, hearing, and scoliosis screening. (Petition, pp. 134-134.) The Petition indicates that Petitioner has “adopted and implemented full health and safety procedures at our school site in consultation with insurance carriers and risk management experts[,]” and that will adopt a School Safety Plan, to be reviewed and updated by March 1 annually. (Petition, pp. 133, 135.) The Petition makes assurances that it will comply with applicable building codes and the Americans with Disabilities Act’s access requirements. (Petition, pp. 133-134.) SCOE staff noted that the Petition does not provide information pertaining to response drills, which is something that should be addressed. **Overall, this element of the Petition is reasonably comprehensive.**

#### Element G: Means to Achieve a Balance of Racial and Ethnic Pupils, Special Education Pupils, and English Learner Pupils

Education Code section 47605(c)(5)(G) requires that a charter petition include a reasonably comprehensive description of the means by which the school will achieve a balance of racial and ethnic pupils, special education pupils, and English learner pupils, including redesignated fluent

English proficient pupils that is reflective of the general population residing within the territorial jurisdiction of the charter authorizer to which the charter petition is submitted.

The Petition confirms the Charter School will employ a recruitment strategy to ensure the student population closely reflects the demographics of individuals living in the VCUSD boundaries, and the Charter School describes its plan to monitor and correct enrollment imbalances. (Petition, pp. 139-140.) Some of the strategies include translating enrollment materials, holding information sessions and parent meetings in both English and Spanish, and outreach to a broad base of culturally diverse community organizations. (Petition, p. 139.) The Petition states the Charter School will have a staff member who will serve as a student recruitment lead whose responsibility will be to drive and monitor recruitment to ensure that the balance of student enrollment closely matches VCUSD. (Petition, pp. 139-140.) **This element of the Petition is reasonably comprehensive.**

#### Element H: Admissions

The Petition must describe its admissions requirements, if applicable, pursuant to Education Code section 47605(c)(5)(H). The Petition states the Charter School is tuition-free and will admit all pupils who wish to attend, as required by Education Code section 47605, subdivision (e)(2)(A). (Petition, p. 141.) The Petition further indicates that the Charter School will be nonsectarian and will be nondiscriminatory in its enrollment practices compliant with the Act. (Petition, p. 141.) Formal recruitment begins in August and continues through March of each calendar year for admission in the following school year. (Petition, p. 141.)

In the event that the Charter School receives more applications than capacity in a given grade level, the Charter School will hold a public drawing. (Petition, p. 142.) The Charter School's admission preferences are consistent with law and nondiscriminatory and are as follows:

1. 8th graders enrolled at Caliber: ChangeMakers Academy
2. Siblings of students admitted to or attending a Caliber school
3. Students currently enrolled or previously attended a Caliber school
4. Children of Caliber teachers and staff
5. Children of Caliber Board members
6. Children of founding team members
7. Children who are residents of VCUSD and eligible to receive free or reduced-priced meals
8. If the Charter School is physically located in the attendance area of a VCUSD public elementary school in which at least 55% of the enrollment is eligible for free or reduced-priced lunch, then students currently enrolled in that school and students who reside in the elementary school attendance area will be given preference in accordance with Education Code section 47614.5, subdivision (c)
9. Residents of VCUSD
10. All other applicants

(Petition, p. 143.) Students not granted admission due to capacity will be placed on a waitlist and will have the opportunity to enroll in the event of an opening during the same school year. (Petition, p. 144.) **This element of the Petition is reasonably comprehensive.**

#### Element I: Audit and Fiscal Issues

The Petition must describe the manner in which annual, independent, financial audits will be conducted, which will employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies will be resolved to the satisfaction of the chartering authority. (Ed. Code, § 47605(c)(5)(I).) The Petition indicates the annual independent financial audit will be conducted in accordance with applicable law and will be kept in accordance with generally accepted accounting principles. (Petition, p. 145.) The auditor will be approved by from the State Controller’s approved list, and will have, at a minimum, a CPA and educational institution audit experience. (Petition, p. 145.) While the Petition describes the process for providing audit reports to the county office of education, it does not describe the timeline to resolve audit exceptions. **Overall, this element of the Petition is reasonably comprehensive.**

#### Element J: Suspension/Expulsion Policies and Procedures

Education Code section 47605(c)(5)(J) requires the Petition contain a reasonably comprehensive description of the procedures by which pupils can be suspended or expelled from the charter school for disciplinary reasons, or otherwise involuntarily removed from the charter school for any reason. “Involuntarily removal” includes disenrollment, dismissal, and transfer. Petitions must also describe, at a minimum, “how the Charter School will comply with federal and state constitutional procedural and substantive due process requirements.”

The Petition details, in a thorough manner and consistent with applicable laws, the list of offenses for which students must (non-discretionary) and may (discretionary) be suspended and the procedures for the same. (Petition, pp. 148-160.) The Petition confirms that students who are involuntarily removed will be provided notice in accordance with the Act and will be entitled to the same hearing procedures applicable to expulsions. (Petition, p. 148.) The Petition also describes the procedures for suspending and expelling students with disabilities, including the Charter School’s compliance with procedural and substantive due process requirements in accordance with California and federal laws. (Petition, pp. 164-167.) **This element of the Petition is reasonably comprehensive.**

#### Element K: Retirement System

The Petition must describe the manner in which staff members of the Charter School will be covered by the State Teachers’ Retirement System, the Public Employees’ Retirement System, or federal social security. (Ed. Code, § 47605(c)(5)(K).) The Petition states that applicants will be informed of their retirement options, and all full-time staff participate in a 401k retirement savings program. (Petition, p. 169.) **This element of the Petition is reasonably comprehensive.**

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#### Element L: Attendance Alternatives

The Petition must describe the public school attendance alternatives for pupils residing within the attendance area who choose not to attend the Charter School. (Ed. Code, § 47605(c)(5)(L).) The Petition states that students choosing not to attend the Charter School may attend other schools within their districts of residence or pursue an inter-district transfer in accordance with existing enrollment and transfer policies of the Vallejo City Unified School District. (Petition, p. 171.) **This element of the Petition is reasonably comprehensive.**

#### Element M: Employee Return Rights

The Petition must include the rights of a Charter School employee upon leaving a school district to work in the Charter School and any rights of return to the school district after employment at the Charter School. (Ed. Code, § 47605(c)(5)(M).) The Petition confirms that no public school district employee shall be required to work at the Charter School and any individuals who choose to work exclusively at the Charter School will not be given return rights back to VCUSD unless specifically granted by VCUSD through a leave of absence or other agreement. (Petition, p. 173.) Employment by Caliber Public Schools provides no rights of employment at any other entity, including any rights in the case of closure of the Charter School. (Petition, p. 173.) **This element of the Petition is reasonably comprehensive.**

#### Element N: Dispute Resolution

The Petition must include the procedures to be followed by the Charter School and the chartering authority to resolve disputes relating to provisions of the charter. (Ed. Code, § 47605(c)(5)(N).) Preliminarily, Petitioner failed to update the Petition to reflect the SCBOE as the proposed chartering authority. As such, this section of the Petition describes the dispute resolution procedures for disputes between the Charter School and VCUSD.

The Petition confirms that it cannot bind the chartering authority to any dispute resolution process, but it includes a proposed process for consideration. (Petition, p. 175.) The Petition generally provides that disputes arising between VCUSD and Charter School will be to first frame the issue in written format (“dispute statement”) and refer the issue to the District Superintendent and the School Leader of Caliber: High School. (Petition, p. 175.) The School Leader of Caliber: High School, leadership of Caliber Public Schools, and District Superintendent shall informally meet and confer in a timely fashion to attempt to resolve the dispute, not later than five (5) business days from receipt of the dispute statement. (Petition, p. 175.) In the event that this informal meeting fails to resolve the dispute, both parties shall identify two Board members from their respective boards who shall jointly meet with the Superintendent, the School Leader of Caliber: High School, and leadership of Caliber Public Schools, and attempt to resolve the dispute within fifteen (15) business days from receipt of the dispute statement. (Petition, p. 175.) If this joint meeting fails to resolve the dispute, the District Superintendent, leadership from Caliber Public Schools, and School Leader shall meet to jointly identify a neutral third-party mediator to engage the parties in a mediation session designed to facilitate resolution of the dispute. (Petition, p. 175.)

**This element of the Petition is reasonably comprehensive.**

Element O: Closure Procedures

The Petition must include the procedures to be used if the Charter School closes. (Ed. Code, § 47605(c)(5)(O).) As noted in the Petition, if the Charter School ceases operations, the Petitioner will comply with requirements set forth in the Education Code and California Code of Regulations. (Petitioner, p. 177.) Furthermore, Petitioner shall be responsible for conducting closure activities including, but not limited to, providing required notifications to students and parents, the California Department of Education, SCOE, and the SELPA; transfer and retention of student and school records; financial close-out activities (including a final audit); and dissolution of the Charter School’s assets. (Petition, pp. 177-178.) **This element of the Petition is reasonably comprehensive.**

**Finding 6: The Petition includes a declaration that the Charter School is deemed the exclusive public school employer for purposes of the Educational Employment Relations Act (“EERA”).**

The Act requires a charter petition to include a declaration of whether or not the charter school shall be deemed the exclusive public employer of the employees of the charter school for purposes of the Educational Employment Relations Act. (Ed. Code, § 47605, subd. (c)(6).) The Petition indicates that Caliber Public Schools is the exclusive public school employer of the Charter School employees. (Petition at p. 23.) **Therefore, the Petition meets this requirement.**

**Finding 7: The Charter School is likely to serve the interests of the entire community in which the school is proposing to locate.**

The Petition indicates a community need for the Charter School, which has been “established through community demand, the performance of existing traditional public schools ChangeMakers graduates attend, and support from key community partners.” (Petition, p. 35.) While the Petition does propose services and programs and offerings currently available in VCUSD, SCOE staff is unable to conclude that the proposed Charter School would have an overall negative community impact under this finding. **While the Charter School will likely serve the interests of the community, there is a related projected ongoing adverse impact on VCUSD due to enrollment loss, which is addressed in Finding 8.**

**Finding 8: VCUSD is under state receivership and is not positioned to absorb the fiscal impact of the proposed Charter School.**

A school district may deny a petition if it finds that it is not positioned to absorb the fiscal impact of the proposed Charter School and satisfies one of following:

1. The school district has qualified interim certification and certifies, in consultation with FCMAT and county superintendent of schools, that approval of the charter petition would result in the school district having a negative interim certification.

2. The school district has a negative interim certification; or
3. The school district is under state receivership “Charter schools proposed in a school district [under state receivership] shall be subject to a rebuttable presumption of denial.” (Ed. Code, § 47605, subd. (c)(8).)

A charter school satisfying any one of these three criterion is subject to a rebuttable presumption of denial. (Ed. Code, § 47605, subd. (c)(8).) **As outlined in further detail below, VCUSD is currently under state receivership, and the presumption of denial has not been sufficiently rebutted. Accordingly, VCUSD is not positioned to absorb the fiscal impact of the proposed Charter School pursuant to Education Code section 47605, subdivision (c)(8).**

SCOE staff conducted a de novo review of Education Code section 47605, subdivision (c)(8), and as part of its independent review, SCOE consulted with FCMAT. Because VCUSD denied the Petition pursuant to Education Code section 47605, subdivision (c)(8), based on the finding that it is under state receivership and not positioned to absorb the fiscal impact of the proposed Charter School, SCOE staff also considered the VCUSD’s findings under this subdivision as required by Education Code section 47605, subdivision (k)(1)(A)(ii).

SCOE staff also considered the Act’s requirement that “[c]harter schools proposed in a school district satisfying one of these conditions shall be subject to a rebuttable presumption of denial.” (Ed. Code, § 47605, subd. (c)(8).) In doing so, in addition to its de novo review, SCOE staff considered information Petitioner presented regarding the proposed fiscal impact on VCSUD. Petitioner presented the following information in their January 14, 2022, submission cover letter:

- “Only one-third of [Caliber: ChangeMakers Academy’s] graduating 8th grade students enroll in VCUSD-operated high schools.” (January 14, 2022 letter, p. 8.)
- “[VCUSD] is projected to earn an average of \$140 million in revenue over the next two years (according to the first interim budget adopted by the Board on December 15, 2021). Over the same two years, the Charter School’s revenue is only about 2% of this amount.” “When factoring in that a majority of students at the Charter School would not otherwise attend [VCUSD]-operated schools, and the fact that the [VCUSD] would offset at least a portion of any revenue loss in the form of cost savings, the potential fiscal impact on the [VCUSD] shrinks further and becomes even less significant.” (January 14, 2022 letter, p. 8.)
- “[VCUSD] elected to self-certify its recent first interim budget as ‘qualified.’” “It is critical to note, however...the [VCUSD] budget does not take into account the most recent [November 2021 Legislative Analyst’s Office (LAO)] guidance regarding the likely funding levels in the future.” “[Petitioner’s] analysis of these revised projections indicated that the positive impact on [VCUSD] funding under the LAO’s forecast is larger than any potential negative impact on [VCUSD] form the proposed Charter School.” (January 14, 2022 letter, pp. 8-9.)
- “[VCUSD] staff remain committed to, and believe they will be able to, make State loan payments and exit state receivership in 2024 as scheduled.” (January 14, 2022 letter, p. 9.)

Petitioner presented similar evidence during the March 9, 2022 public hearing.

a. VCUSD is Currently under State Receivership

i. Receivership Generally

Upon receipt of an emergency loan, the state Superintendent of Public Instruction assumes all the rights, duties, and powers of the governing board of the school district and appoints, in consultation with the County Superintendent of Schools, an administrator to exercise authority over the school district.<sup>2</sup> After a district receives an emergency loan, local control is reinstated only after the school district meets several requirements. However, once the school district regains local control, the state Superintendent of Public Instruction appoints a trustee to continue to oversee the school district, and the trustee serves until the district has repaid its loan in full. As a result of change in law in 2018, the county superintendent of schools now appoints the trustee. (Ed. Code, § 41320.1.) During this period, the trustee has the power to overturn local governing board decisions that jeopardize the district’s fiscal health. Throughout this process, regardless of which level, the school district is considered to be under state receivership.

ii. VCUSD Receivership

VCUSD had a negative general fund balance for the 2002–2003 fiscal year and projected potential deficits in its 2003–2004 budget. VCUSD was projected to run out of cash in June of 2004. Accordingly, in June 2004, VCUSD entered state receivership pursuant to Education Code section 42136. (Senate Bill 1190.) After entering state receivership in 2004, VCUSD was assigned an administrator. VCUSD regained local control in 2013 and was appointed a trustee to continue to oversee its operations. VCUSD currently has an assigned trustee and has an outstanding balance of approximately \$9.5M on the emergency loan. Accordingly, VCUSD remains under state receivership. SCOE staff also consulted with Mike Fine of FCMAT, who concurs that VCUSD is under state receivership and is not positioned to absorb the fiscal impact of the proposed Charter School. Attached as Appendix A is correspondence from Mr. Fine to SCOE regarding VCUSD’s state receivership status.

<b>Date</b>	<b>Event</b>
June 2004	Senate Bill 1190 enacted, appropriating \$60,000,000 from the General Fund as an emergency loan for VCUSD. VCUSD was appointed a State Administrator.
April 2013	VCUSD’s State Administrator was disengaged, and VCUSD regained local control. Melvin Iizuka was subsequently appointed as the State Trustee.
March 2022	VCUSD remains under state receivership and has approximately \$9.5M outstanding on emergency loan.

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<sup>2</sup> There have been changes to the body of law in the last several years, and this Staff Report discusses the law applicable to VCUSD based on the law applicable when it entered state receivership.

b. Estimated Impact on VCUSD’s LCFF

SCOE staff evaluated the potential impact on VCUSD’s average daily attendance (“ADA”) funding apportionment as a result of projected enrollment decreases should the proposed Charter School be approved. The total loss of revenue for VCUSD over the next five years could total approximately \$26M. SCOE staff evaluated three tiers of enrollment loss: (1) a conservative estimate of a loss of 80 students; (2) a loss of 100 students, which is what was projected in VCUSD’s First Interim Report; and (3) a loss of 150 students, which is the projected enrollment in year 1 as stated in the Petition. These estimates, as illustrated in the following table, are for LCFF revenues only, and do not include other funding types such as lottery, state block grant, etc.<sup>3</sup>

**Estimated Impact on LCFF Revenues as a Result of Enrollment Loss**

	2022-23	2023-24	2024-25	2025-26	2026-27	Total
<b>Based on 80 students</b>	948,873	1,956,672	3,039,139	4,052,185	5,065,231	<b>15,062,100</b>
<b>Based on 100 students</b>	1,194,188	2,458,830	3,798,923	5,065,231	6,331,539	<b>18,848,711</b>
<b>Based on 150 students</b>	1,779,137	3,668,760	5,698,386	7,597,846	7,597,846	<b>26,341,975</b>

SCOE staff projects that VCUSD will experience a degree of enrollment loss if the proposed Charter School is approved, even though the exact enrollment loss is not certain at this time. For example, according to data provided by Petitioner during the March 9, 2022 public hearing, approximately one-third of Caliber: ChangeMakers Academy students matriculate into VCUSD. Should the Charter School open for operation to serve high school students, the cohort of students normally matriculating into VCUSD annually, or at a minimum, a portion thereof, will likely attend the proposed Charter School, resulting in a loss of otherwise expected enrollment in VCUSD. As outlined in the Petition, these students are given preference in the event of a lottery. All told, the proposed Charter School will have a negative fiscal impact on VCUSD due to loss of enrollment.

c. Potential Impact on VCUSD’s Multi-Year Projections – Structural Deficit in Unrestricted General Fund

Approval of the Petition is anticipated to have a significant impact on VCUSD’s year-end unrestricted general fund balance. In its first interim report, VCUSD used as a budget assumption the loss of 100 ADA if the Petition is approved. The loss of ADA will exacerbate the projected structural deficit for VCUSD’s unrestricted general fund balance. If the projected loss of 100 ADA in the first four years of operation is actualized, the loss of this ADA will total an excess of \$12.5M, as reflected in the following chart.

	2021-22	2022-23	2023-24	2024-25	2025-26
<b>Loss of LCFF Revenue Based on 100 students</b>	-	<b>1,194,188</b>	<b>2,458,830</b>	<b>3,798,923</b>	<b>5,065,231</b>

<sup>3</sup> The figures represent dollar amounts.



Based upon the estimate of \$1,194,188 (today’s dollars) the following chart shows the impact on VCUSD’s ending funding balance of the loss of 100 ADA as reported at First Interim. If projected loss is carried out two more years, the Unrestricted General Fund Balance would go negative. (Note: Total Expenditures held constant. No inflation rates, or step and column increases were factored to offset any possible staffing reductions.)

	First Interim as Presented with 100/Yr ADA LCFF Loss			Next Two Years with Same Loss	
	2021-22	2022-23	2023-24	2024-25	2025-26
Beg. Fund Balance	29,007,647	35,326,510	30,523,359	19,777,830	5,233,378
Total Revenues	113,875,228	87,425,267	83,082,521	83,082,521	83,082,521
Total Expenditures	107,556,365	92,228,418	93,828,050	93,828,050	93,828,050
Net Increase (Decrease)	6,318,863	(4,803,151)	(10,745,529)	(14,544,452)	(15,810,760)
Ending Fund Balance	35,326,510	30,523,359	19,777,830	5,233,378	(10,577,382)

These calculations project that VCUSD’s existing structural deficit would be amplified by the additional loss in revenue and further erode the ending fund balance. Even if loss of enrollment was less than 100 students, VCUSD would nonetheless be negatively impacted by any enrollment loss to a degree. If the loss of enrollment is greater, the negative impact will likewise be more significant.

**In sum, VCUSD is under state receivership. While Petitioner presented evidence regarding the proposed impact of the Charter School, Petitioner does not contest that VCUSD has an outstanding emergency loan. Petitioner estimated that at least one-third of Caliber: Changemakers Academy’s graduating 8th grade student would otherwise attend VCUSD. Therefore, the proposed Charter School will have a negative fiscal impact on VCUSD, including but not limited to, a loss in revenue due to projected decrease in enrollment of at least one-third of students who would otherwise attend VCUSD if the Petition is not approved. According, VCUSD is not positioned to absorb the fiscal impact of the proposed Charter School.**

### III. CONCLUSION

After reviewing the Petition, SCOE staff have concluded that the Charter School’s proposed program is generally consistent with sound educational practice, and the Petition meets the requirements outlined in Education Code section 47605, subdivisions (c)(1)-(7). However, SCOE staff concurs with VCUSD, in consultation with FCMAT, that VCUSD is under state receivership and is not positioned to absorb the fiscal impact of the proposed Charter School. **Therefore, SCOE staff recommends that the Petition be denied pursuant to Education Code section 47605, subdivision (c)(8).**

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#### **IV. RECOMMENDED ACTION**

Based on a careful review of the Petition, SCOE staff recommends that the SCBOE adopt the above findings as its own and deny the Petition pursuant to Education Code section 47605, subdivision (c)(8). SCOE staff recommends the SCBOE make the following motion:

*I move the Board adopts the Findings of Fact presented in the staff report and deny the Petition based upon these written factual findings.*

*Second, then vote.*

# Appendix A

# FCMAT

FISCAL CRISIS & MANAGEMENT  
ASSISTANCE TEAM

February 28, 2022

Lisette Estrella-Henderson, Superintendent  
Solano County Office of Education  
5100 Business Center Drive  
Fairfield, CA 94534-1658

Dear Superintendent Estrella-Henderson:

On January 14, 2022, Caliber Public Schools appealed the denial of their petition by the Vallejo City Unified School District to the Solano County Board of Education as provided for in Education Code Section 47605(k)(1)(A)(i), which was originally submitted to the district on September 8, 2021.

After meeting in consultation with your office, FCMAT agrees that if the district approved the charter school petition, the district would face an ongoing adverse fiscal impact due to the loss of enrollment. The district filed a qualified First Interim Report in December 2021, and your office concurred with this certification in January 2022. The district entered state receivership (Education Code Section 42136) on June 21, 2004, and remains under receivership with an outstanding emergency appropriation balance as of June 30, 2021 of \$10,964,397.

In 2019, Governor Newsom signed into law Assembly Bill 1505 (Chapter 486/2019). This bill made significant changes to requirements for charter school petitions, including approval criteria, review timelines, renewal criteria and the appeal process.

This included new criteria that, if met, constitute reasons to deny a charter petition (Education Code Sections 47605(c)(7) and (8)):

1. The charter school is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate.
2. The authorizing school district is not positioned to absorb the fiscal impact of the proposed charter school. This criterion is met if the school district meets any of the following conditions:
  - a. Has a qualified interim certification and the county superintendent of schools, in consultation with the Fiscal Crisis and Management Assistance Team (FCMAT), certifies that approving the charter school would result in a negative interim certification.
  - b. Has a negative interim certification.
  - c. Is under state receivership.

While the Caliber Public Schools appeal speaks to many points, FCMAT believes there is only one relevant factor appropriate for consideration. The district remains under state receivership. Until the loan is fully repaid), the district is not positioned to absorb the fiscal impact of the proposed charter school.

Please let me know if I can be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Michael H. Fine".

Michael H. Fine  
Chief Executive Officer