

OAKLAND UNIFIED SCHOOL DISTRICT

Office of the Superintendent, Interim

1025 Second Avenue, Room 301

Oakland, CA 94606

Phone (510) 879-8200

Fax (510) 879-8800

TO: Vincent Matthews, State Administrator
Board of Education

FROM: *RMW* Roberta Mayor, Ed.D., Interim Superintendent *(Signature)*
Kirsten Vital, Chief of Community Accountability
David Montes de Oca, Coordinator; Office of Charter Schools

DATE: October 29, 2008

RE: American Indian Public Charter School – American Indian Model
Charter Petition Request

Legislative File

File ID No.: 08-1775

Introduction Date: 10/29/08

Enactment No.: _____

Enactment Date: _____

By: _____

ACTION REQUESTED:

Deny the petition and charter to establish the American Indian Public Charter School – American Indian Model. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition; the petition does not contain reasonably comprehensive descriptions of all of the 16 elements required by the California Charter Schools Act.

SUMMARY

Staff recommends that the State Administrator **deny** the petition for American Indian Public Charter School - American Indian Model under the California Charter Schools Act. Staff recommends denial based on factual findings, specific to this particular petition, detailed in this report.

PROCEDURAL BACKGROUND

- 1) The lead petitioners submitted the American Indian Public Charter School - American Indian Model petition on August 27, 2008 at a regularly scheduled Board of Education meeting.
- 2) Staff held an introductory meeting with the lead petitioners, Janet Roberts et.al., on September 4, 2008 to explain the petition review process and obtain petitioning group contact information.
- 3) A public hearing was held on September 10, 2008. Representatives from the lead petitioning group presented.
- 4) Staff conducted a petitioner interview on September 24, 2008.

STATUTORY BACKGROUND

California Charter law outlines the criteria governing the approval or denial of charter school petitions. The following excerpt is taken from the California Charter Schools Act, California Education Code §47605. This excerpt delineates charter approval and denial criteria:

A school district governing board shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice. The governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings:

- (1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.*
- (2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.*
- (3) The petition does not contain the number of signatures required.*
- (4) The petition does not contain an affirmation of each of the conditions described in Education Code §47605(d).*
- (5) The petition does not contain reasonably comprehensive descriptions of the 16 required charter elements.*

DISCUSSION

Staff convened a petition review team to evaluate the petition based on the California Charter Schools Act and the application of the OUSD Petition Evaluation Rubric. The team was composed of the following members:

- 1) *(Facilitator)* **D. Montes de Oca**; Coordinator, Office of Charter Schools
- 2) **A. MacDonald**; Network Officer, High School Network
- 3) **D. Keys**; Director, State Testing
- 4) **D. Silver**; Principal; Think College Now
- 5) **P. Abramson Hirsch**; Compliance Specialist, Office of Charter Schools
- 6) **I. Roberson**; Coordinator, Tiered Support and Intervention

Following the petition review team process, staff conducted a petitioner interview on September 24, 2008, in an attempt to clarify various aspects of the petition, as well as evaluate the capacity of the petitioners to successfully implement the program as set forth in the petition.

Staff of the Office of Charter Schools conducted an evaluation of records, information and site-based documents not included in the petition, pertaining to the monitoring and oversight of American Indian Public Charter School, American Indian Public Charter School II, and American Indian Public Charter High School as part of the over-all review process.

Oakland Unified School District Board Policy BP 0420.4 - Charter Schools states:

*“The Board recognizes that charter schools are **independent of the District**, but shall endeavor to structure relationships between charter schools and the District that stimulate continual improvements in all public schools. The Board expects charter developers to create their charter proposals independently from the District as one indication of their readiness to operate a charter school.*

*The Superintendent or designee may work with charter school operators to establish workable plans for technical assistance or other contracted services, **after a Charter is granted**, which the District may provide to charter schools for a fee.*

CONSIDERATIONS

The staff recommendation with respect to this particular petition is not without considerations. The American Indian Public Charter School program as exemplified by the American Indian Public Charter School, American Indian Public Charter School II, American Indian Public Charter High School, Oakland Charter Academy, and Oakland Charter High have produced significant student achievement results as demonstrated by State test scores. Each school operates with a 2008 API growth score above 900. Each school maintains student attendance rates at high levels, and each school maintains a substantial fiscal reserve without exceptions.

Staff acknowledges the measured success of these schools as demonstrated above. However, California Charter Law, district Board Policy, and district protocol and practice mandate review of charter petitions to occur under specific criteria outlined in statute. Because the charter is a performance contract, to which both the charter school and the district as the charter authorizer are compelled to honor, terms and conditions set forth in the charter must satisfy sound educational practice not only in part, but in whole. The current petition review process consistently implemented by the district is not iterative and does not provide for material revisions to occur after submission, prior to State Administrator/ Board of Education decision-making. This is a vital aspect to sound authorizing, by ensuring petitioner capacity to develop their charter proposals independent of the district.

Therefore, while many aspects of this particular charter petition as submitted warrant approval consideration, staff recommends **denial** based on the following factual findings, specific to this particular petition.

This list of findings is NOT EXHAUSTIVE, but represents key findings in support of the staff recommendation.

Education Code §47605(b)(2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.

FINDINGS OF FACT

Analysis of the petition with respect to the petitioner capacity presents the following evidence that the petitioners are demonstrably unlikely to successfully implement the program set forth in the petition:

** Analysis includes review of site based documents NOT included in the petition pertaining to the existing charter schools operated by the lead petitioners. Additionally, analysis includes records derived based on site inspections conducted by staff.*

Findings	Page Number
<p>1.0 Arts Program</p> <p>Petition states: <i>The following core curriculum provides the foundation for AIPCS-AIM to meet State Content Standards:</i> [...] 1) Visual and Performing Arts: structured around the state standards for each grade level</p> <ul style="list-style-type: none"> a) <i>provide an effective visual and performing arts curriculum using the grade-level considerations, instructional strategies and assessment guidelines outlined in Visual and Performing Arts Framework for California Public Schools: Kindergarten through Grade Twelve (California Department of Education, 2003)</i> b) <i>teach content and learning experiences in the visual and performing arts that allow students to develop the skills, knowledge and attitudes necessary to meet the measurable student outcomes for critical thinking and core academics</i> <p>The petition states that the Visual and Performing Arts program is part of the <i>core curriculum</i>. However the response by the lead petitioners during the petitioner interview to questions pertaining to the Visual and Performing Arts curriculum indicated that the school expects to “integrate the arts into other core content”, with examples that were referenced by the petitioners such as “<i>speaking presentations</i>” and “<i>posters</i>”. It was noted by the petitioners that approximately 30%-40% of students participate in either drama club or music afterschool.</p> <p>While the response by the petitioners bears some relevance to the Visual and Performing Arts program proposed in the petition, it does not adequately provide for the Visual and Performing Arts proposed as <i>core curriculum</i> outlined in the petition, nor does it provide for the (1)(a) outlined above. The petitioner response and an evaluation of the Visual and Performing Arts program within the context of the proposed educational program as a whole, demonstrates that the petitioner is unlikely to successfully implement specific terms set forth in the petition.</p>	<p>Pg. 13</p> <p>Pg. 14</p>

2.0 Special Education

Pg. 7

Petition states:

8. *Will adhere to all applicable provisions of federal law relating to students with disabilities, including the Individuals with Disabilities Education Act; section 504 of the Rehabilitation Act of 1974; and Title II of the Americans with Disabilities Act of 1990.*

Contrary to the statement above, staff notes the following findings:

Finding 2.1

A local Legal Aide organization contacted the District on August 28, 2008 following a response from the AIPCS Director, regarding non-compliance with the terms of an AIPCS student's IEP.

AIPCS placed the student in [a particular] grade during summer school and in the fall, despite specific indication in the IEP of the IEP team's decision that the student be placed in the [subsequent] grade.

A memo to the local Legal Aid organization from the AIPCS Director dated August 26, 2008 states:

"I disagree with the recommendation that [student] be placed in the [particular] grade, as does [the student's] teacher." The memo goes on to state; *"I encourage you to contact the California Department of Education."*

The Director's response suggests that her unilateral decision to keep [student] in [the particular] grade preempts the federal and state protections afforded [student] through the IEP process, and as noted by the local Legal Aid representative, indicates an clear absence of understanding of special education law. Specifically, but not exhaustively, the Director refused to implement [student] IEP contrary to 34 C.F.R. Sec. 300.343(c)(1) and 300.514.

While this particular issue of non-compliance has been resolved through negotiation between the school and the District's department of Programs for Exceptional Children, its occurrence demonstrates that the petitioner is unlikely to successfully implement specific terms set forth in the petition.

Finding 2.2

Pg. 16

Petition states;

AIPCS-AIM will provide special education services through the Oakland Charter School Consortium that provides special education services to American Indian Public Charter School, American Indian Public High School, Oakland Charter Academy, East Oakland Leadership Academy and Unity High School in a Memorandum of Understanding.

Responses by the lead petitioners during the petitioner interview indicated that the petitioning group is unaware of, or unclear about exactly what constitutes the entity identified in the petition as the *Oakland Charter School Consortium*.

In addition, responses by the lead petitioners during the petitioner interview indicate an intent to “*contact other schools to seek support and assistance*” in addressing the needs of students with learning disabilities. This response does not take into consideration the confidentiality requirements under the law pertaining to students with learning disabilities, nor the school’s responsibilities and obligations within the OUSD SELPA regarding the provision of special education services.

This response and the lack of a compelling description of the school’s plan described in the petition to serve students identified with learning disabilities demonstrates that the petitioner is unlikely to successfully implement specific terms set forth in the petition.

3.0 Admissions

Finding 3.1

Governing Law: A charter school shall admit all pupils who wish to attend the school. (B) However, if the number of pupils who wish to attend the charter school exceeds the school's capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the district except as provided for in Section 47614.5. Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law. [California Education Code Section 47605 (d)(2)(A)(B)]

Petition states:

In the event applicants exceed the school’s enrollment capacity, a public random lottery will be implemented. [...] The majority of students will be enrolled by the last Friday in January of each school year.

District records indicate the following based on site visitations conducted on September 15, 2008 and September 22, 2008 at the American Indian Public Charter School (AIPCS), American Indian Public Charter High School (AIPCHS) and American Indian Public Charter School II (AIPCS II);

- In response to questions regarding the specific process for student enrollment and use of a lottery and waiting list, the lead petitioner and AIPCS staff were unable to describe the process beyond indicating that the school, once full, provides assistance to families to locate another school. The lead petitioner and AIPCS staff were unclear what provisions would occur in the use of a waiting list or at what point a lottery would be held. Staff indicated that over the past two years, the school has not held a lottery. However, during the introductory meeting held on September 4, 2008 following submission of the petition, the lead petitioners stated that their primary rationale for seeking to operate an additional charter school was to serve the many families wishing to enroll in the school that the existing schools cannot accommodate.
- The response from the lead petitioners and AIPCS staff regarding the admissions process can be deemed to constitute “first come, first serve” admissions practices, vs. the specific *public random drawing* requirements outlined in statute and set forth in the petition.

Pg. 27

The lead petitioner's response and the lack of a thorough description within the petition of the school's plan meet the requirements of Education Code Section 47605(d)(2)(B) demonstrates that the petitioner is unlikely to successfully implement specific terms set forth in the petition.

Finding 3.2

Pg. 27

Governing Law: The means by which the school will achieve 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 [California Education Code Section 47605 (b)(5)(G)]

Pg. 28

Petition states:

The recruitment process will be ongoing. This process will occur in the various communities throughout the Oakland Unified School District. Students from various languages, economic and religious backgrounds will be encouraged to enroll in AIPCS-AIM. [...]

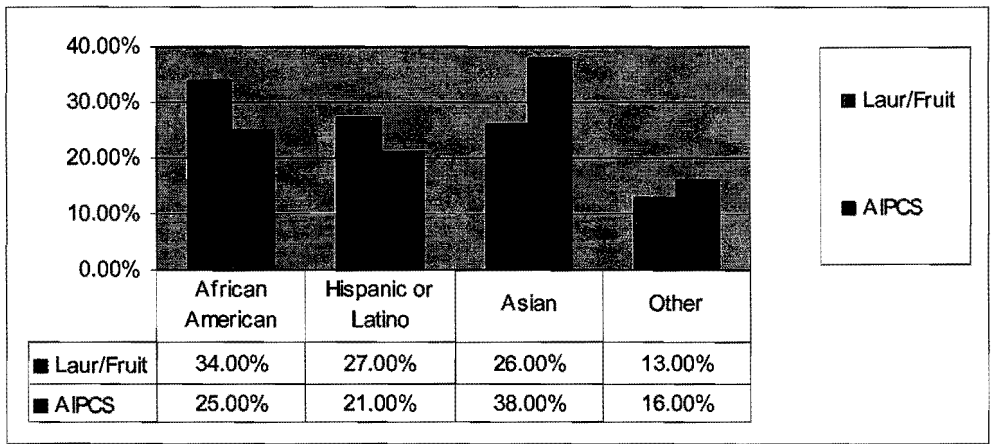
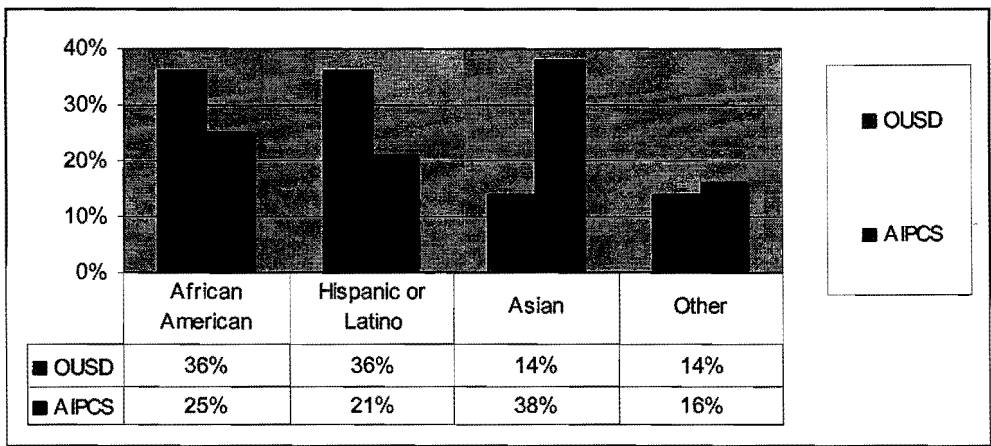
Recruitment strategy will be carried out throughout various communities to provide families the opportunity to enroll in the school. AIPCS-AIM will work with various community organizations, Oakland charter schools and Oakland Public Schools to recruit a diverse student population that reflects the ethnic and racial balance of the community and district.

District records indicate the following based on site visitations conducted on September 15, 2008 and September 22, 2008 at the American Indian Public Charter School, American Indian Public Charter High School and American Indian Public Charter School II;

- In response to questions pertaining to recruitment practices the school indicated that their recruitment is focused almost exclusively at Laurel Elementary School and Fruitvale Elementary School on behalf of AIPCS and almost exclusively at Lincoln Elementary School on behalf of AIPCS II. This exclusive recruitment practice is in contradiction to the terms outlined in the petition.

Finding 3.3

The graphs below represent the student enrollment by ethnicity of American Indian Public Charter School for 2007-08. When compared to both the District as a whole, and the two "targeted" schools from which the charter school stated that it focuses its recruitment, there are discrepancies that range from 11% to 24% in three major ethnic categories in comparison to the District as a whole, and discrepancies that range from 9% to 12% in two major categories in comparison to the "targeted" schools.



The purpose of presenting the graph data above is to illustrate possible implications as a result of the absence of specific articulation in the petition detailing recruitment strategies that may result in effectively achieving the goals of Education Code Section 47605 (b)(5)(G) and the absence of recruitment practices occurring at the existing schools operated under the lead petitioners. These findings demonstrate that the petitioner is unlikely to successfully implement specific terms set forth in the petition.

Finding 3.4

“Word of mouth” was the only other recruitment strategy mentioned during the site visitations, which does not constitute an effort put forth by the school to actively *“recruit a diverse student population that reflects the ethnic and racial balance of the community and district”* and ensure compliance with Education Code Section 47605 (b)(5)(G) as proposed in the petition.

This list of findings is NOT EXHAUSTIVE, but represents key findings in support of the staff recommendation.

EC §47605 (1) The petition does not contain reasonably comprehensive descriptions of the 16 required charter elements.

FINDINGS OF FACT

Analysis of the petition with respect to the sixteen elements presents the following lack of reasonably comprehensive descriptions of the 16 required charter elements.

Education Code §47605(b)(5)(A)(i) A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an “educated person” in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.

<p>Element A</p>	<p>Average Rating: Approaching</p>	<ol style="list-style-type: none"> 1) The educational program description lacks any mention or description of the “looping” structure that the AIPCS, AIPCS II schools implement and is not reasonably comprehensive. Staff records indicate that the site-based AIM Model Staff Handbook, not included in the petition submission outlines “Looping: 6th through 8th” as a component of the AIM model. 2) The educational program description lacks a description of the role of student detention as an aspect of the program structure and is not reasonably comprehensive. Staff records indicate that the site-based AIM Model Staff Handbook, not included in the petition submission includes student detention at the top of the list of components of the AIM Model. 3) The educational program description lacks a description of the role, content, and implications of homework within the context of the over-all program model. Staff records indicate that the site-based AIM Model Staff Handbook, not included in the petition submission emphasizes the use the homework (min. 2 hours nightly) and includes the implications for not completing homework. This aspect of the program description is not reasonably comprehensive 4) The educational program is vague and limited in its description of consequences for behavior, discipline and classroom management is not reasonably comprehensive. Statements made during the petitioner interview and observations by staff at the AIPCS school site, indicate discrepancies in the range of discipline and classroom management approaches practiced and outlined in the petition. 	<p>Pgs. 10-17</p>
-------------------------	--	---	-------------------

		<p>5) The educational program description lacks a description of the role of attendance in the proposed model, or a review of the incentives and consequences associated with attendance and is not reasonably comprehensive. Staff records indicate that the site-based AIM Model Staff Handbook, not included in the petition submission states “Attendance is perhaps the most important aspect of the AIM Model.”</p> <p>6) The petition, under the section describing the Plan for Special Education does not sufficiently describe the role and responsibilities of the school with respect to identification and referral of students with possible learning disabilities; the continuum of services to be provided at the school; the extent to which staff and leadership at the school will be oriented or are knowledgeable of relevant special education law and requirements; or any description of the responsibilities of the school under Section 504 and the American Disabilities Act. This aspect of the program description is not reasonably comprehensive.</p> <p>7) The petition, under the section describing the Plan for Special Education refers to an entity call the <i>Oakland Charter School Consortium</i> as the party responsible for providing special education services through an MOU, yet no such MOU is available as an option for the provision of services under this petition and the statement’s includes demonstrates a lack of understanding of the relationship between the charter school and the OUSD SELPA.</p>	
--	--	---	--

Education Code §47605(b)(5)(G): The means by which the 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.

Element G	Average Rating: Approaching	1) Petition lacks sufficient description of the means by which the school will achieve a racial and ethnic balance among pupils that is reflective of the general population residing within the territorial jurisdiction of Oakland Unified School District. The petition description is in contradiction to current practices at the charter schools operated by the lead petitioners.	Pg. 28
------------------	---------------------------------------	--	--------

Education Code §47605(b)(5)(H): Admissions requirements, if applicable

Element H	Average Rating:	1) The petition lacks a sufficient description of the means by which the school will ensure that a Public Random	Pgs. 27
------------------	------------------------	--	---------

	Approaching	Drawing will occur and the extent to which the school will maintain and implement a waiting list process.	
--	-------------	---	--

Education Code §47605(b)(5)(J): The procedures by which pupils can be suspended or expelled.

Element J	Average Rating: Inadequate	<ol style="list-style-type: none"> 1) The petition lacks consideration of a wide range of possible offenses under the section regarding the procedures by which students may be suspended or expelled and is therefore not reasonably comprehensive. 2) While it is understood that the school sees these disciplinary actions as a last resort, staff records indicate that the AIPCS school handbook includes only the text from the AIPCS charter (virtually identical to the text of this AIPCS-AIM petition) with no further elaboration. Staff records indicate that during a site visit to AIPCS on September 15, 2008 where-in the school's disciplinary policies were discussed, responses from the lead petitioner and AIPCS staff acknowledged the absence of consideration or articulation in the schools disciplinary policies of a range of student behaviors. 	Pgs. 28-29
------------------	--------------------------------------	--	------------

This list of findings is NOT EXHAUSTIVE, but represents key findings in support of the staff recommendation.

RECOMMENDATION

Staff recommends that the Oakland Unified School District's State Administrator/Board of Education **deny** the petition for American Indian Public Charter School – American Indian Model under the California Charter Schools Act. The factual findings illustrated in this report demonstrate that the petition fails in two out of five legally required areas of Education Code § 47605:

[...]

(2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition;

[...]

(5) The petition does not contain reasonably comprehensive descriptions of the required 16 elements.