



December 21, 2021

**VIA HAND DELIVERY AND ELECTRONIC SUBMISSION**

Napa County Board of Education  
Dr. Barbara Nemko, Superintendent of Schools  
2121 Imola Avenue  
Napa, CA 94559

Re: Appeal of Denied Charter Petition for Mayacamas Charter Middle School

Dear Members of the Board of Education and Dr. Nemko:

On behalf of hundreds of families in Napa County, and countless other members of our supportive community, we respectfully submit this appeal of charter petition denial for Mayacamas Charter Middle School (“MCMS”) to the Napa County Board of Education (“County Board”) for review and approval pursuant to Education Code section 47605(k)(1) and 5 C.C.R. section 11967. Enclosed with this letter are all of the documents required for a charter petition appeal and in the format we understand is desired by the County.

Petitioners for MCMS represent parents, teachers, community leaders, and other stakeholders in Napa and the surrounding communities who are seeking to establish a charter school serving grades 6-8 using a highly personalized program that integrates the proven successful New Tech Network (“NTN”) program and other best-in-class curricular elements. NTN was founded in our very own community in the mid-1990’s by a group of community members who observed that graduates of the region’s high schools were woefully underprepared for the contemporary workforce. By creating a strong culture of empowerment and integrating social-emotional development into our school culture, using innovative project-based learning instruction, providing individual learning plans for *every* student in our highly personalized approach, and providing 1-to-1 technology access, MCMS will strive to ensure that *all* students are prepared for high school and beyond. Students will leave MCMS prepared academically and with essential skills, and will have the ability to collaborate, innovate, and communicate ideas to solve complex 21st-century problems.

In the midst of a pandemic and unprecedented times in public education, the Napa Valley Unified School District (“District”) decided that closing two middle schools (Harvest Middle School and River Middle School) and forcing more than 1,100<sup>1</sup> students into other programs was in the best interest of students. Many community members vehemently disagree. Students would benefit most from consistency and stability during these tumultuous times. It is more important now than ever to come together as a community, to consider our common goals, and to do what is *actually* best for students. River Middle School was historically the NTN program serving grades 6-8 in Napa, but the District is closing River after the 2021-22 school year.

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<sup>1</sup> According to CDE’s DataQuest website: <https://dq.cde.ca.gov/dataquest/>

MCMS seeks to be the bridge for many students so they can continue their education using the proven successful NTN model and enter high school with the tools they need to succeed. There will be no other program like MCMS available within the District next year.

There is enormous demand in our community for this unique atmosphere of learning. In addition to the signatures on our petition submitted to the District, enclosed as Exhibit 9 of the appeal packet are even more signatures of parents and other community stakeholders in support of the MCMS charter petition. In addition, when we submitted the Petition to NVUSD, we submitted the Petition with parent signatures representing 123 students meaningfully interested in MCMS; as of December 19, we currently have additional parents who have signed up on our website representing a total of 232 students (see Exhibit 9), which exceeds our first year enrollment target. Lead petitioners, the MCMS governing board, and our entire community are ready and willing to do whatever it takes to be successful, and we know we can do it in partnership with the County.

***THE DISTRICT'S PROCESS TO REVIEW AND ACT ON THE MCMS CHARTER PETITION WAS UNFAIR AND PREJUDICIAL***

As residents and parents in the Napa community, petitioners are extremely disappointed with how we were treated by District officials. It is clear that the process to review our charter petition was never intended by the District to be fair and balanced. The District opposed the charter for political motivations having nothing to do with the merits of the petition, and did not hesitate to publicly disparage and disregard their own constituents in its process to deny the charter. As one Napa parent stated during public comment at the District's meeting when our charter was denied, the petition review process felt more like a "hit job":

*"I came here expecting to see a balanced report on the merits and otherwise of the Mayacamas petition. I hoped to see what the pros and the cons were so that the Board could make a balanced decision and we as community members could hear what may or may not be the benefits of moving forward. What we heard instead was, and the best I can think to describe it was, a hit job."*<sup>2</sup>

At the outset, the District informed us that the education-oriented charter process would be handled by their law firm rather than educators, and instructed us to communicate with the District through their lawyers. The staff report that was adopted by the District Board of Trustees as its findings in support of denial ("Staff Report") is littered with misrepresentations, which undermines the credibility of the entire Staff Report. For example, much of the Staff Report's criticism of our budget is almost entirely predicated on the incorrect assumption that we cannot meet our Year 1 enrollment target. That assumption is completely self-serving and wrong. We are projecting to enroll only 180 students in Year 1, yet there will likely be more than 1,100 students enrolling in new schools next year in Napa due to the closures of Harvest and River middle schools. The Staff Report also mischaracterizes how funding based on our unduplicated pupil percentage ("UPP") will impact our budget. Our estimated UPP is reasonable and based upon targeted recruitment efforts in certain neighborhoods around our proposed school site. But even if the UPP at MCMS ends up being 50%, which is below our projected 60% and

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<sup>2</sup> "NVUSD TV" video of December 9, 2021 District Board meeting, beginning at approximately 2:16:36.

even below the District's 53% (3-year average), the difference would be a small reduction of \$26K in LCFF revenue—our budget is still completely viable. Please see Exhibit 6 of our appeal packet for a comprehensive, point-by-point response to the Staff Report.

In addition, the Staff report made much of the lead petitioners' ultimate decision not to accept the District Staff's invitation to attend its so-called "capacity interview" as demonstrating our "incompetence." As noted, the interview was initially accepted. However, it quickly became clear that the aim of the interview was not to garner information to assist in the evaluation of the petition but to try and elicit responses to support a narrative of the two parent lead petitioners as being unfit and incompetent—the two parents were the only two individuals allowed to attend. The District refused to disclose their "list" of attendees, but indicated that their lawyer would be present to advise them (arguably a breach of the lawyer's ethical duties without the petitioners' lawyer present). Meanwhile, the District indicated that the professional assisting petitioners with the creation of the budget would not be allowed to speak (it should be noted that her relationship with MCMS would continue as a member of the back-office team once the school becomes operational). The District Staff insisted that the interview should consist of questions regarding leading, managing, and operating the school. This is documented in email communications we are happy to provide the County. As parents, the lead petitioners can appropriately answer questions about the petition, but leading, managing, and operating the school will be performed by the professionals who will be hired subsequent to approval. In light of the troubling situation the District appeared to be manufacturing, we decided to decline the meeting, as it did not appear that it would be conducted in good faith. Based upon the tenor and behavior observed at the NVUSD Board meeting that followed, our instincts were found to be correct.

The unfair treatment did not end with the District's review process and Staff Report. At the District Board meeting on December 9th, elected District officials and the Superintendent spent more than an hour and 40 minutes demeaning the intelligence and integrity of two dedicated parent volunteers in the community. We can only gather that these vitriolic and inaccurate comments and accusations were born out of bias against the notion of any charter school being added to the District, and not out of any true evaluation of the merits of the petition.

The District Board even went off-agenda and directed the Superintendent to begin an investigation of the petitioners, in what can only be described as a retaliatory attempt to discourage community members from petitioning their local government—and of course a plain and documented violation of the Brown Act. There was no "discussion" between District Board members. Each trustee and the Superintendent came to the meeting with prepared remarks intended to embarrass and belittle those who have opposing views about what is best for our own children. We are saddened by the actions of a few community members who were elected to a platform and chose to abuse it. However, we are thankful for the appeal rights guaranteed in the Charter Schools Act and we are optimistic about our partnership with the County Board.

***THE MCMS CHARTER IS CONSISTENT WITH SOUND EDUCATIONAL PRACTICE AND EXCEEDS THE CRITERIA FOR APPROVAL***

In reviewing our charter petition, we understand the County Board is guided by the intent of the Legislature that charter schools are an integral part of the California educational system

and that charter schools should be encouraged. The standard on this appeal is *de novo*, which means the County Board must take its own fresh, comprehensive review of our charter petition, while not giving deference to the District’s poorly-reasoned decision. Under Education Code section 47605, the County Board “shall grant” a charter petition if it is consistent with sound educational practice and with the interests of the community in which the school is proposing to locate. The County Board “shall not deny” a charter petition unless it makes written factual findings to support one of the six grounds for denial—none of which are present here. Without specific facts supporting at least one of the requisite grounds for denial, the law expressly directs the County Board to approve the charter petition. In this way, the “default” rule is for approval of a charter petition.

We believe the County Board should be confident that the MCMS charter petition meets the legal standard for approval:

47605(c)(1)      ✓ ***The MCMS charter petition presents a sound and proven educational program using the NTN model that has been successful in Napa for decades.***

The MCMS educational program will be individualized and tailored to meet the needs of each unique student. We will take the time to develop an individualized learning plan for every student, which will help us identify and fully understand individual student needs to ensure every child receives the quality education they deserve every day. Our goal is to create an intentionally diverse learning community that serves all student subgroups, including students with disabilities and English learners. Because of the highly individualized nature of the MCMS program, no student will be left behind. All students will have access to the supports and services they need to be successful. And as we have seen in Napa for quite some time, the NTN program works for students in our community. There is no doubt that students will continue to benefit from this proven successful educational model if our charter is approved.

47605(c)(2)      ✓ ***Petitioners are demonstrably likely to successfully implement the sound educational program set forth in the MCMS charter petition.***

One of the expressed purposes of the Charter Schools Act is to allow parents to come together and establish schools that are independent of the traditional district establishment. The fact that lead petitioners are parents should not be a mark against us. As explained in detail in our response to the Staff Report, the California State Board of Education has narrowly defined what it means to be “demonstrably unlikely to successfully implement the program.” (See 5 C.C.R. § 11967.5.1(c).) None of the factors are applicable here. Petitioners have never been associated with a revoked charter. Petitioners prepared the detailed, complex charter petition, which is much longer than many charters around the state, and petitioners are very familiar with its contents and applicable legal requirements. We are more than happy to sit down with the County and discuss the charter’s contents. The MCMS budget was developed in collaboration with ExED, which is one of California’s leading back-office accounting and school service providers for charter schools. The projections in our budget are reasonable, were developed in collaboration with ExED, and are based on sound practice and experience around the state.

47605(c)(3) ✓ ***The charter petition contains the number of signatures required by law.***

The law requires that a petitioner gather either a certain number of teacher signatures or a certain number of parent signatures, but we were able to get both because there is so much support for the MCMS program. Appendix C to the charter petition contains the required number of signatures of teachers who are meaningfully interested in teaching at MCMS. Appendix D to the charter petition contains the required number of signatures of parents who are meaningfully interested in having their child attend MCMS. We have also collected signatures from 232 parents and other community members who support our program, which are enclosed as Exhibit 9.

47605(c)(4) ✓ ***The MCMS charter petition contains an affirmation of each of the conditions required by law.***

This is a cut-and-dry requirement, and the MCMS charter provides clear, unequivocal affirmations of each of the conditions under Education Code section 47605(e), as well as many other conditions. We also included a signed certification of compliance with all applicable law in the appeal packet, as required by law and County Board Policy. MCMS is fully committed to operating lawfully, transparently, and in the best interests of our entire community.

47605(c)(5) ✓ ***The MCMS charter petition contains reasonably comprehensive descriptions of all required elements.***

A charter is “reasonably comprehensive” when it is “substantive,” includes “essentially all aspects of the elements,” is “specific to the charter petition being proposed,” and describes how the school will provide and improve learning, hold itself accountable, and compete with other public schools. (5 C.C.R. § 11967.5.1(g).) The 173+ page MCMS charter narrative (plus eight Appendices) goes above and beyond what is required by law. In fact, if approved, it would be the most comprehensive and extensive charter petition ever approved in Napa County. Each element of our charter was thoughtfully crafted by petitioners with the assistance of an educational consultant to give the reader an accurate portrait of what MCMS will look like academically and operationally. We are very proud of our work product and believe that it meets the standard for approval. To the extent the County Board wants to see additional details in the charter, we are happy to discuss reasonable technical amendments to meet County expectations.

47605(c)(6) ✓ ***The MCMS charter petition contains a declaration that the charter school shall be deemed the exclusive public employer of the employees of the school for purposes of the Educational Employment Relations Act.***

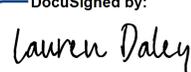
This is also a cut-and-dry requirement, and the MCMS charter provides the required affirmation in a clear and unequivocal manner.

Thank you very much for your time and consideration. With the impending closure of two middle schools in Napa, there is a great need and support for the MCMS program in our community. We are eager and excited to present our plans to the County for *de novo* review. If

the County would like to sit down and discuss any issues, technical amendments, a Memorandum of Understanding, or a conditional approval, we are more than happy to do so.

Sincerely,

DocuSigned by:  
  
74FEF710ABDA463...  
Jolene Yee

DocuSigned by:  
  
F811B7F6077F48C...  
Lauren Daley

On behalf of Petitioners for Mayacamas Charter  
Middle School