FINDINGS AND RECOMMENDATION REGARDING SAMOA BEACH ACADEMY, A PETITION FOR A CHARTER SCHOOL

JANUARY 24, 2022

I. INTRODUCTION

On February 9, 2022, the Humboldt County Board of Education ("Board") must decide whether to approve or deny a petition for establishment of a charter school within the Northern Humboldt Union School District ("NHUHSD") boundaries. That proposed charter school, Samoa Beach Academy ("SBA" or "Charter School"), seeks to establish a "rigorous college preparation and career technical education program [for] the high school students of our community."

In order to assist the Board with its decision, Humboldt County Office of Education ("HCOE" or "COE") staff have conducted a thorough review of the Petition. Petitioners made themselves available for discussions and questions, and provided any additional information requested. Based on this review, COE staff have identified serious concerns regarding the educational program proposed by the Petition and with the ability of the Petitioners to successfully implement the program proposed by the Petition. Additionally, legal deficits in the Petition have been identified. Although granting of this charter is not recommended, HCOE strongly supports Career and Technical Education ("CTE") in Humboldt County and would like to work with the Petitioners to find ways to implement their ideas to expand CTE offerings in the County. However, because COE staff find that granting this charter would not be consistent with sound educational practice, COE staff recommend that the Board deny the petition for establishment of Samoa Beach Academy.

II. FACTUAL BACKGROUND AND PROCEDURAL HISTORY

On October 13, 2021, Petitioners submitted an appeal of NHUHSD's denial of their petition for establishment of a charter school. NHUHSD had denied the same petition on September 14, 2021. On December 14, 2021, the Board held a public hearing to consider support for the Charter School. Typically, the law requires that the public hearing be held within 60 calendar days of submission, and that the Board grant or deny the petition within 90 calendar days of submission. However, in this case, the COE requested a 30-day extension of the timelines in order to accommodate the Thanksgiving and winter breaks. Petitioners agreed to that extension, which the Board approved on November 10, 2021. Accordingly, the Board must either grant or deny the Petition by February 10, 2022.

Effective December 6, 2021, Catherine Scott withdrew from her position as Lead Petitioner for the Charter School. Dave Lonn, previously the Chief Financial Officer/Treasurer of the Board for SBA, took over that role.

III. STANDARD FOR COUNTY BOARD OF EDUCATION REVIEW

If the governing board of a school district denies a petition for establishment of a charter school, the petitioner may elect to submit the petition for the establishment of a charter school to the county board of education. The county board of education *shall* review the petition pursuant to subdivisions (b) and (c) of Section 47605 of the Education Code. In other words, the county board of education conducts a *de novo* review of the petition as if it were the local school district's governing board.

IV. LEGAL AND FACTUAL FINDINGS

After careful review of the petition and supporting materials, and discussions with Petitioners, COE staff recommend that the County Board of Education deny the Petition. The COE staff's primary concerns are:

- The Petition presents an unsound educational program. The proposal for CTE does not appear to be meaningfully integrated into required coursework for graduation; the CTE proposed does not appear to be have been chosen with students' needs in mind; and the program is not likely to be of educational benefit to students with academic, behavior, and/or social-emotional deficits, students who are English Learners, and students with disabilities.
- Petitioners will not be able to successfully implement the program set forth in the Petition because the budget is not viable due to a number of inaccurate assumptions and errors; the proposed facility runs afoul of laws governing appropriate expenditures and conflicts of interests; and Humboldt County has an identified deficit in credentialed CTE staff necessary to adequately staff SBA.
- The petition does not currently have enough signatures from meaningfully interested teachers.

The factual findings below include the main concerns with the Petitioners' ability to open and operate the proposed charter school. The lack of findings in any area should not be interpreted as grounds for approval or denial of the petition.

a. The charter school presents an unsound educational program for the pupils to be enrolled in the charter school. (Education Code Section 47605(c)(1))

The State Board of Education ("SBE") has promulgated a regulation that provides helpful guidance in analyzing this standard. Per that regulation, a charter petition "shall be 'an unsound educational program' if it is any of the following: (1) A program that involves activities that the SBE determines would present the likelihood of physical, educational, or psychological harm to the affected pupils. (2) A program that the SBE determines not to be likely of educational benefit to the pupils who attend." (5 C.C.R. § 11967.5.1.) In this case, both criteria are met.

i. Concerns regarding CTE Course Integration

The Petition proposes a program that will include "rigorous college preparation" and CTE program[1] in Samoa. The program proposed will have two-tracks: a college-bound track that meets A-G requirements and a career-bound track that does not, and will integrate career technical education in all core content areas. The Petition proposes three CTE pathways: (1) Residential and Commercial Construction Pathway (Sector – Building Trades and Construction Industry); (2) Patient Care Pathway (Sector – Health Science and Medical Technology Industry); and (3) Business Management Pathway (Sector – Finance and Business Industry).

The Petition emphasizes CTE integration into the general education curriculum but is lacking detail reflected in the course descriptions. Despite being many pages long, the Petition only superficially describes the educational program. This is of significant concern, as Humboldt County students deserve high-quality CTE programs.

When asked to explain how CTE course integration would work at SBA in order to clarify the ambiguity in the Petition itself, Dave Lonn and Caroline Wesley[2] emphasized the use of University of California Curriculum Integration ("UCCI") courses[3], which is a good start. However, when asked about the practicality of CTE integration across all three pathways concurrently during each class, their answers did not show an ability to implement robust CTE integration into core courses as called for in the Petition. Specifically, coursework is designed to be presented in-person, not using online courses. However, one teacher is expected to provide concurrent instruction to all three pathways in the same course, while teaching a career-track and college-track course simultaneously. Petitioners could not provide a clear answer as to how the teacher would be expected to address CTE integration in such a course. They suggested that each course may focus on one pathway one year and another pathway the next. For example, tenth grade world history would focus on Construction Trades integration, eleventh grade U.S. history would focus on Patient Care, and twelfth grade Civics would focus on Business. Another proposed integration would be to infuse all three pathways within one year of a course; in English 1 for example, each quarter would focus on one of the pathways. This model would compromise student engagement and choice, as well as student-lead learning, which are pillars and core tenets of the Petition. For example, a focus on Patient Care in eleventh grade U.S. History is not going to increase student engagement for a student who joined SBA for Construction Trades or Business.

Moreover, it is unclear how proposed staffing is sufficient to implement the program described by Mr. Lonn and Ms. Wesley. The Petition proposes staffing of seven teachers, one of whom is a special education teacher. COE staff requested a sample schedule in order to have an

[1] CTE is a program of study that involves a multiyear sequence of courses that integrates core academic knowledge with technical and occupational knowledge to provide students with a pathway to postsecondary education and careers. More information can be found on CDE's website: https://www.cde.ca.gov/ci/ct/

[2] Dr. Caroline Wesley is a consultant who helped write the Petition. She is the owner of Saphira Education Associates, LLC. Dr. Wesley is not one of the Petitioners as per the Petition, but met with COE staff to answer questions.

[3] UCCI has developed model frameworks for integrated courses that integrate A-G academic work with CTE pathways by creating curriculum that meets the CTE and Common Core State Standards while also meeting the UC's criteria for A-G courses. Integrated coursework is developed with UCCI-trained facilitators and content advisors and state educators.

understanding of how the teaching could work with budgeted staffing. That document is attached to these findings. The plan proposes hiring ten different teachers with a total of ten different credentials. Many of the teachers would be hired at less than full time employment, and some teachers would be expected to teach up to five unique courses. Each of those courses also is required to implement both CTE integration *and* A-G coursework on top of regular coursework. This plan is simply unrealistic and reflects a clear lack of understanding of reasonable expectations of teachers by Petitioners.

ii. Concerns regarding chosen CTE Pathways

The Petition proposes three CTE pathways across three sectors[4]: (1) Residential and Commercial Construction Pathway (Sector – Building Trades and Construction Industry); (2) Patient Care Pathway (Sector – Health Science and Medical Technology Industry); and (3) Business Management Pathway (Sector – Finance and Business Industry). These pathways were chosen by reviewing occupations by median earnings in Samoa.

The method of choosing CTE pathways is likely to lead to an unfocused program that students cannot complete. To COE staff's knowledge, there was no outreach by SBA to any existing CTE programs in Humboldt County to discuss what combination of pathways might work for a small school. Often, schools offer pathways that can use overlapping coursework or pathways that utilize the breadth of a teacher's credential. Here, instead, pathways were chosen that will not maximize course enrollment, facilitate transfer and to alternate pathways (an essential consideration), or staffing. CTE staffing is discussed extensively below, as this issue is of countywide importance.

Notably, it is very difficult for students to change from one pathway to another once enrolled. When asked how a student would move across pathways, Petitioners indicated that they would guide ninth graders in choosing a path, but that "Life is about choices and some of the choices you make have consequences." Petitioners indicated that transferring pathways would be nearly impossible after tenth grade. It is unclear what would happen if a student enrolled after ninth grade. The difficulty in moving pathways also compromises student engagement and choice, which are emphasized as factors supporting increased learning opportunities at SBA.

iii. Concerns regarding Student Supports

The Petition, on its face, raises concerns regarding whether the proposed program will meet the needs of more vulnerable and more at-risk students. The Petition indicates that teachers will use differentiated instruction to meet the needs of all students, and that SBA will utilize Multi-Tiered Systems of Supports ("MTSS"), which will encompass a Response to Intervention Program and Restorative Practices. However, the Petition does not reflect that SBA will use effective Multi-Tiered Systems of Support ("MTSS") and Restorative Practices, which increases the likelihood of physical, educational, or psychological harm to the pupils it seeks to serve.

[4] The CTE Framework for California Public Schools provides for 15 possible Industry Sectors, each of which has multiple pathways. For example, the Building Trades and Construction Industry Sector has four possible pathways.

While well intentioned, the Petition is confusing when it addresses MTSS. If SBA were to effectively use MTSS, it would use MTSS as a framework around which to build the SBA program. In other words, MTSS, a research-based practice, is not a specific intervention, but instead is a framework around which evidence-based interventions are built.[5] The Petition gives a formula for when certain interventions are used, which is not best practice. Instead, assessment should lead to intervention and intervention should be based on student need, not a predetermined set of supports. The Petition instead describes how it will implement MTSS in a way that looks at discrete interventions. For example, the Petition references providing strategic intervention in 30-minute sessions "based on the student's greatest need whether it is ELD, English, or Mathematics." This plan could result in students having unmet needs due to reliance on a formulaic interpretation of interventions.

Regarding plans for Restorative Practices and Circles, the Petition again does not reflect evidence-based practices. Restorative practices should be a continuum, not a once-per-month circle. Restorative practices require building community and providing equitable voices, which is a daily process, not special occasions as referenced in the Petition. Like social-emotional learning, restorative practices should be embedded in everything SBA does. Although the Petition reflects that mindset, it then identifies discrete steps that will be taken - monthly circles, group and individual therapy sessions, quarterly awards assemblies, and "Ambassadors." Identifying restorative practices as a monthly or quarterly event is questionable at best. "You can't restore what doesn't exist" – relationships and community must be built with intention so when harm does need to be repaired, there is a foundation to ensure its effectiveness. Positive and meaningful relationships are essential in building and sustaining trauma-responsive communities, and are the cornerstone of making restorative practices a powerful intervention tool. Restorative practices and restorative justice are powerful tools to move toward inclusive discipline practices, as noted in the Petition. Unfortunately, these practices are not reflected in the disciplinary section of the Petition.

It is not clear that SBA's proposed professional development schedule provides enough time to train teachers on MTSS or restorative practices, or what that training would encompass. Given that the proposed program places a sharp emphasis on supporting students through MTSS and restorative practices, staff in the program must have clearly designated time and effective training to implement the Petition.

Regarding English Learners, the Petition likely underestimates the percentage of its students who would be English Learners. The Petition takes its enrollment projections from NHUHSD's enrollment, which is 1.2% of their population. However, based on its location and target enrollment, many SBA students likely will be Eureka City Schools residents. Eureka High School's enrollment contains approximately 11% English Learners. It is unclear how the proposed staffing could implement the proposed program for English Learners, given the volume of other duties assigned to staff. COE staff acknowledge that Petitioners based staffing on

[5] Universal Interventions are for prevention and are provided to all students in academics, behavior, and social-emotional learning. Targeted interventions, referred to as "Tier 2" interventions, are for remediation, and are provided to identified groups. Intensive Individualized Interventions, referred to as "Tier 3" interventions, are for harm reduction and are provided to individual students based on assessed need.

NHUHSD's enrollment and that such assumptions are common practice. However, whether SBA can provide for the needs of English Learners with proposed staffing levels remains a concern.

Finally, regarding students with disabilities, the Petition reflects a lack of understanding of students with disabilities and serving said students. The petition uses outdated language[6] and does not reference evidence-based supports or current best practices in describing the special education program and how it will identify and serve students with disabilities. The Petition uses the terms "inclusion" and "least restrictive environment" in a confusing manner and references potential placements in programs that do not exist within Humboldt County.

Of more concern is that the Petition paints a false narrative of how students with disabilities will be served. It proposes a resource specialist program model of services, with push-in and pull-out services, and a special day class, and online specialist programs, all taught and/or coordinated by a single teacher. The Petition states that SBA will hire a single "Special Education Teacher/Coordinator" who will serve up to twenty-seven students and that "the special education paraprofessionals will support SWD in the general education classroom." However, both proposed master schedules provided by SBA (attached to this document) reflect only a 0.5 FTE special education teacher. Moreover, SBA's budget does not include any budget for paraprofessionals. Petitioners responded to this concern by noting that Line 5102 in the budget could be a potential source of funds for a paraprofessional; however, that budget is inclusive of all related service provider costs. Line 5102 provides for $84,313 in expenses for contracted special education services, which would include the costs of school psychologists, speech and language pathologists, and any other necessary service providers.[7] It is unclear how those costs could also include the costs of a paraprofessional. Petitioners were unable to explain how the program provided in the Petition was accurately reflected in the budget. Given that the Petition clearly and unequivocally calls for students with disabilities to be supported by "special education paraprofessionals" while in the regular class, that support must be included in the budget.

The Petition reflects grave deficiencies in the plan for implementing IEPs. First, staffing for the special education program is insufficient to meet the anticipated needs of students in the program as described in the Petition. The Petition plans for a single special education needs of 27 students with disabilities – both service and service coordination. This teacher would be responsible for providing push-in and pull-out services to students with a variety of needs, coordinating all IEP programs, and, if necessary, providing support for engagement with online related services. Moreover, as mentioned above, the draft schedules only contemplate a 0.5 FTE

[6] For example, the Petition calls special education expenses "encroachment." This term was repeated by Petitioners through discussions regarding the Petition. Encroachment means "intrusion on a person's territory, rights, etc." and traditionally was used to reflect the costs of serving students with disabilities that exceed federal and state funding. It is a term that clearly evinces an "otherness" of students with disabilities and perpetuates the idea that spending money on students with disabilities unfairly reduces support for general education. Students with disabilities should be seen as general education students who require additional spending. For additional information, please see pages 14-15 of the Public Policy Institute of California's November 2016 report titled Special Education Finance in California (available here: https://www.ppic.org/wp-content/uploads/content/pubs/report/R_1116LHR.pdf). The petition also labels proposed programs in categorical terms, which limit the way that students can be supported by proposed staffing, and references "Behavior Support Plans," which were removed from California law.

[7] SBA has not explained how this line item was calculated.

special education teacher. The Petition anticipates a rolling process of securing service providers and budgeting for same, stating that the proposal is to "secure the staff and services necessary to implement the IEPs" and to revise the budget after *every* student with a disability enrolls. The Petition also anticipates support from SBA's SELPA and/or COE. Notably, petitioners have not reached out to the Humboldt-Del Norte SELPA or the El Dorado County Charter SELPA regarding membership and/or what supports could be provided by the SELPA. Given staffing shortages statewide and in Humboldt County specifically and minimum student requirements for online service providers, it is unclear how this plan of wait-and-see could possibly be implemented successfully.

Finally, SBA's budget does not account for realistic costs associated with special education in the first year of operations. Although the costs of serving students with disabilities will necessarily vary based on student enrollment, SBA's budgeted costs do not reflect costs associated with comparable programs and it is unclear how SBA will fund the costs of the necessary services and supports for enrolled students to receive a FAPE. Total special education costs are budgeted at $172,353[8], for an estimated students with disabilities count of 27. This cost is reflective of spending at a rate of $6,383 per student. NHUHSD's cost to educate a student with a disability was $13,979 per student.[9] Many charter schools do have lower per-pupil costs for special education because students with more significant needs often do not enroll in charter schools.[10] However, SBA's proposed special education funding is low for a charter school of this proposed size. For example, Six Rivers Charter School, an established high school charter school located within NHUHSD's boundaries, has an ADA of 87.44 and their current year's budget for special education expenses is $156,893. SBA proposed a first-year enrollment of 150 students, nearly double the number of students at Six Rivers Charter School. Accordingly, SBA's budget should reflect closer to $270,000 in special education costs for its first year of operation.

Petitioners explained that they would increase the special education budget if necessary to serve its students; however, their first year budget must be reflective of accurate assumptions. It is unclear why Petitioners assume that their costs would be significantly lower than the local school district and this assumption raises concerns that the special education program will be instructionally deficient. Instead, they referenced the Line 5102 budget and the fact that they could modify their budget to meet the needs of the enrolled students. Based on the totality of the Petition, including the budget, the Petition presents an unsound educational plan for students with disabilities.

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[8] This number was calculated by Petitioners and is based on the cost of the Special Education Teacher/Coordinator, 50% of the 0.5 FTE Counselor, and the Line 5102 costs for outside providers. Staff notes that there is no evidence that 50% of the 0.5 FTE Counselor is properly allocated to special education costs, and that the Petition does not contemplate the Counselor filling such a role. However, the additional costs included in SBA's calculations do not change the COE staff's concerns.

[9] NHUHSD's costs are lower than the average in the Humboldt-Del Norte SELPA, which are $13,979 per student.

[10] *California State Special Education Funding System Study, Part 2: Findings, Implications, and Considerations for Improving Special Education Funding in California*, WestEd (July 2021), available at https://www.wested.org/resources/ca-state-special-education-funding-system-study-part-2-findings-implications-and-considerations-for-improving-special-education-funding-in-california/

iv. Concerns regarding Universal Meals Program

The Petition does not reflect implementation of the Universal Meals Program. Beginning with the 2019-2020 school year, all charter schools were required to provide at least one nutritionally adequate free or reduced-price meal during each school day. Beginning in 2022-2023, all charter schools must provide two meals free of charge during each school day to students requesting a meal.[11] Petitioners plan to outsource their school lunch program to a local school district, with a budgeted amount of $55,456. The actual cost of providing lunch only for the planned 150 students would be $102,600 if contracting with the closest available provider, Arcata Elementary School District. The Petition does not reflect consideration of staffing to warm and hand out lunches and supervise students during lunches. Petitioners did indicate that they intended to provide both breakfast and lunch but did not update their budget to reflect those costs or anticipated state revenues for same.

v. Concerns regarding Other Instructional Components

The Petition proposes a program of instruction that desires to meet the needs of college-bound and non-college bound students. However, the Petition is unclear as to how the program would actually meet the post-secondary needs of students enrolled in SBA. The Petition indicates that the Charter School will offer dual enrollment opportunities at College of the Redwoods and Humboldt State University. Although Petitioners are not expected to have those programs in place at this time, Petitioners were unable to articulate what steps they would need to take to implement that aspect of the program. Dual enrollment programs can be provided through three different avenues via partnerships with community colleges such as College of the Redwoods. Although students can concurrently enroll at Humboldt State University, this program is different from dual enrollment. The letter of support from Humboldt State does not indicate otherwise, nor does it mention concurrent enrollment of future SBA students. This deficit in the Petition is material, as dual enrollment program participants enroll in two- and four-year colleges at relatively high rates and such supports would significantly benefit a CTE-focused program.[12]

Additionally, the Petition indicates that SBA *will* offer "competitive sports," to potentially include Volleyball, Football, Golf, Tennis, Cross Country, Swim, Water Polo, Basketball, Wrestling, Soccer, Baseball, Softball, and Track. The Petition is unclear as to how this would be effectuated. When asked, Petitioners did not demonstrate an understanding of the rules and regulations developed by the California Interscholastic Federation ("CIF"), or of how they would implement any CIF sports at their school. Charter school participation in CIF athletics can be a very complex process and typically involves developing multi-school agreements with several schools and districts. Again, this deficit in the Petition is material, as

[11] COE staff understands that the Petition was finalized before California's universal free school meals program was established. However, Petitioners should have updated the petition on appeal to reflect the change in law effective July 9, 2021.

[12] *Dual Enrollment in California: Promoting Equitable Student Access in Success*, Public Policy Institute of California (Oct. 2021), available at https://www.ppic.org/publication/dual-enrollment-in-california/

students might enroll based on a promise of competitive sports that does not pan out. It does not appear that this part of the Petition could be implemented by the current Petitioners.

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

The State Board of Education ("SBE") has promulgated a regulation that provides helpful guidance in analyzing this standard. Per that regulation, a charter petitioners are "demonstrably unlikely to successfully implement the program" in the following situations:

1. If the petitioners have a past history of involvement in charter schools or other education agencies (public or private), the history is one that the SBE regards as unsuccessful, e.g., the petitioners have been associated with a charter school of which the charter has been revoked or a private school that has ceased operation for reasons within the petitioners' control.
2. The petitioners are unfamiliar in the SBE's judgment with the content of the petition or the requirements of law that would apply to the proposed charter school.
3. The petitioners have presented an unrealistic financial and operational plan for the proposed charter school. [The regulation provides extensive detail on what would constitute an unrealistic financial and operational plan. The regulation is attached to this document as an exhibit.]
4. The petitioners personally lack the necessary background in the following areas critical to the charter school's success, and the petitioners do not have a plan to secure the services of individuals who have the necessary background in these areas:
    a. Curriculum, instruction, and assessment.
    b. Finance and business management.

(5 C.C.R. § 11967.5.1.) In this case, three of the four criteria are met.

i. Petitioners are unfamiliar with the content of the petitions or the requirements of law that would apply to the proposed charter school.

Concerns regarding Petitioners understanding of the law are detailed above.

ii. Petitioners have presented an unrealistic financial and operational plan for the proposed charter school.

1. Concerns regarding Financial Plan

The Petition includes the required financial statements that include a first-year operational budget, including startup costs, and cash flow and financial projections for the first three years of operation. However, the Petitioners' projected enrollment, ADA, and revenue, as well as the distribution of expenditures, raises concerns. Concerns identified include, but are not limited to, the following:

- Enrollment projections are unrealistic based on the actual student population in the areas SBA would serve and historical data from other local charter schools. This results in over-projection of LCFF funds.
    - SBA predicts enrollment of 150 students, 75 each in grades 9 and 10, during its first year of operation. This pupil count is unrealistic for Humboldt County, particularly for the first-year of a new charter school.
    - As an example, Arcata High School's total enrollment is approximately 950 students, and McKinleyville High School's enrollment is approximately 600 students. It is unrealistic to expect nearly 20% of NHUHSD's total enrollment to enroll in SBA. Petitioners have provided information regarding community support for SBA, but have provided no information supporting this ADA target.
    - Notably, the two established in-person charter schools that serve students from Samoa at the high school level do not have enrollment numbers near what SBA is predicting for its first year. Northcoast Preparatory and Performing Arts Academy serves grades 6 through 12 and has 86 students enrolled in grades 9 through 12 this school year. Six Rivers Charter services grades 9 through 12 and has 114 students enrolled this school year. Both of these charter schools have worked over the years to get enrollment to those levels, and began their charter with significantly lower numbers of enrollment in more grade levels than proposed by SBA. Six Rivers opened with 54 students in grades 10-12, and Northcoast Preparatory opened with 87 students in grades 9-12.
    - Petitioners funded a study regarding the feasibility of opening a trades school in Samoa, which they shared with COE staff. That study is attached to this document. Notably, that study found that, although a total enrollment of 300 students per grade was "not unrealistic," such enrollment was "a challenging goal." The study noted that further research should be done to determine whether a trade school of this size would have "above-average appeal in the local region," which would enable SBA to "outperform[] other [local] charter schools or comparable trades-based schools from other regions." The study indicated that, based on comparison to other local charter schools, "achieving a high school enrollment of 300 students can prove challenging" and that "existing charter schools are already drawing a significant share of local students."
- Average Daily Attendance ("ADA") predictions are significantly above local averages for high school. This results in an over-projection of LCFF funds.

- SBA predicts attendance rates of 95%, which is well above the high school attendance rates of both local school districts. Eureka High School's attendance rate for the 2019-2020 school year was 92.335, and NHUHSD's attendance rate for the 2019-2020 school year was 91.27%.[13] The statewide attendance average for grades 9-12 for the 2020-2021 school year was 93.99%.
- It is not unusual for charter school attendance rates to exceed those of the local school district. However, the Petition does not reference any supports that are proven to result in increased attendance, such as providing transportation to students, which both NHUHSD and Eureka High School do.

- Overestimated special education funding for the first year, combined with underestimation of costs of special education.[14]
  - Total state special education funding is estimated at $42,157. COE staff calculations estimate this amount at $14,798 based on the Humboldt-Del Norte SELPA's funding rate for ADA funding only. SBA's budget does not account for the fact that they would not receive revenue based on prior year unduplicated

[13] Attendance was not reported for 2020-2021.

[14] The chart below reflects COE analysis of special education costs and accurate revenues.

	FY23-24	FY24-25	FY25-26	FY26-27	FY27-28
Resource Teacher Salaries	$ 51,500	$ 105,060	$ 107,162	$ 163,956	$ 167,235
Resource Teacher Benefits	$ 16,726	$ 34,121	$ 34,804	$ 53,249	$ 54,314
Counselor Salary	$ 30,250	$ 61,710	$ 62,944	$ 64,203	$ 65,487
Counselor Benefits	$ 4,740	$ 12,342	$ 12,589	$ 12,841	$ 13,097
Specialized Services	$ 84,313	$ 128,999	$ 175,439	$ 178,948	$ 182,527
SELPA Fee	$ 2,319	$ 4,977	$ 6,887	$ 7,636	$ 7,636
Total Expenses	**$ 189,848**	**$ 347,209**	**$ 399,825**	**$ 480,833**	**$ 490,296**
Federal IDEA	$ -	$ 27,264	$ 40,896	$ 54,528	$ 54,528
State AB602	$ 42,157	$ 63,235	$ 84,313	$ 84,313	$ 84,313
Total Revenue	**$ 42,157**	**$ 90,499**	**$ 125,209**	**$ 138,841**	**$ 138,841**
Enrollment	150	225	300	300	300
SPED %	17%	17%	17%	17%	17%
SPED Students	26	38	51	51	51
Spending per SPED Student	**$ 7,301.85**	**$ 9,137.08**	**$ 7,839.70**	**$ 9,428.09**	**$ 9,613.66**

pupil counts. As SBA would be, by a default, a school of HCOE for special education purposes, the budget should be based on local funding formulas.

- Additionally, as discussed above, budgeting for special education is too low.

- Budget for staffing is unrealistic.
  - SBA estimates spending 39.64% of its budget on staffing during its first year, and 43.92% of its budget on staffing during its fifth year.
  - Other local charter schools commit significantly more of their budget to staffing. Countywide, percentage of budget dedicated to personnel costs range from 62.0% to 78.93%. Although charter schools often are able to have lower staffing costs than typical district schools, it is unclear how SBA plans to implement the program proposed while staffing at such a low level.
- There is no budget for food service staffing, maintenance/custodial staff, paraprofessional staff, or secretary/Registrar, each of which are contemplated in the Petition. Cafeteria services will be outsourced; however, as discussed above, those costs are low and the budget does not account for staffing to heat and serve meals or to supervise during meal times.
- Payroll services costs appear low.
  - SBA has budgeted $4,038 for its payroll service fee. HCOE's costs to provide payroll service is $8,500.
- Total costs associated with facilities are extraordinarily high, as discussed below.

2. *Concerns regarding Facilities*

The Petition does not identify a facility that could be used by a public school such as SBA. The proposed facility's costs are excessively high so as to raise concerns of misuse of public funds, and the proposed lease runs afoul of Government Code Section 1090.

The Petition proposes that the SBA locate in the town of Samoa and contains a Proposal to Lease from the Danco Group, a company owned by Dan Johnson. The Proposal for Lease identifies an 18,800 square foot building located on Lot 267 in Samoa. The facility will be funded and built by the Danco Group, which will retain ownership of the facility and lease it to SBA. The land is owned by Samoa Pacific Group, of which Mr. Johnson is a partner. Costs for lease are as follows:

- 2023-24: $300,000
- 2024-25: $459,000
- 2025-26: $624,240
- 2026-27: $636,725
- 2027-28: $649,459

Additionally, the lease will require SBA to pay all of the expenses of the property, to include real estate taxes, building insurance, and maintenance. These costs are in addition to the costs of rent and utilities.

These costs are excessively high for this location and the increases year-to-year are quite unusual. For example, Northern United – Humboldt Charter School leases several facilities across Humboldt County. Their most expensive lease costs approximately $1.10 per square foot per year. That lease also is a triple net lease, and has an annual 3% rent increase built into the contract. *By contrast, SBA will be paying $15.96 per square foot in rent alone in the first year, with costs increasing to $34.54 per square foot in year five.* Additionally, rather than having a set, percentage-based increase in costs year-to-year, the lease has the highly unusual aspect of increasing costs as SBA increases revenues, rather than increasing by a set percentage over time, without any guarantees as to future lease increases. COE staff have never seen a lease to a school program with such provisions. As discussed above, these excessive costs leave less funding to hire sufficient staffing for the program. Moreover, payment of these excessive costs to a private company for a building that SBA gains no ownership over gives the appearance of a misuse of public funds, at a minimum.

Additionally, and importantly, legal counsel identified concerns regarding conflict-of-interest requirements that likely prevent use of this facility *in its entirety.* Mr. Johnson is not identified in the Petition by name, but Mr. Lonn confirmed that Mr. Johnson was the "local businessman with deep educational experience" mentioned as a consultant on the Petition. Indeed, a letter of support for the SBA petition in Appendix C is addressed to Mr. Johnson. The Proposal for Lease indicates that the Charter School worked with the Danco Group to identify their needs and plan a facility that met those needs. The feasibility study provided by Petitioners indicates that, "[a]s part of a planned community in Samoa in Humboldt County, Danco is funding the development of a charter school (Samoa Beach Academy." This relationship runs afoul of Government Code Section 1090, which has been interpreted to apply to both consultants and businesses in relationships such as this one.[15] In other words, *SBA may not enter into the proposed lease.*

iii. Concerns regarding Operational Plan – Staffing.

Based on recruitment difficulties faced by other CTE programs in the County, SBA will find it difficult, if not impossible, to recruit qualified CTE staff. Petitioners were unable to articulate how their program might be implemented with regard to proposed staffing. Although it is not typically necessary to explain how a proposed charter school will find staff, in this case, documented deficiencies in CTE staffing countywide require more clarity from Petitioners before this Petition could be granted.

Generally speaking, it is difficult to hire qualified school staff in Humboldt County. Beyond statewide school staffing shortages, the isolated nature of the County means that few teachers move from out of county for employment without fiscal incentives. SBA's budget does

[15] *Davis v. Fresno Unified Sch. Dist.*, 237 Cal.App.4th 261 (2015); *Cal. Housing Finance Agency v. Hanover/Cal. Management and Accounting Center, Inc.*, 148 Cal.App.4th (2007).

not reflect such costs. Recruitment efforts will be hindered by the lack of PERS/STRS, the inability for employees to transfer sick leave or years of service when they join the SBA team, the 10 additional days of service per year beyond a traditional school calendar, and the increased amount of teaching and prep time associated with each teacher's assignment. This will be especially prevalent when trying to attract staff that are able to design curriculum and implement the mission and vision proposed in the petition. The type of CTE integration proposed will require a high level of expertise and a substantial amount of time.

These are often concerns with any new charter school. What makes SBA unique is the clear data that the qualified CTE staff they will need in order to implement their program are not available in Humboldt County. More information follows, related to each proposed pathway.

Health Pathway

HCOE has CTE Incentive Grant (CTEIG) funding to support a CTE Health Careers teacher if HCOE can find one. This grant also funds the Health Exploration Summer Institute which has operated for 3 years with approximately 15-20 students participating. HCOE has partnerships with Health Care agencies to provide job shadowing and mentorship experiences for participating students.

HCOE had a CTE Health Teacher for 2018-2021. She left the area in June and HCOE ran the position from June 2021-October 2021. HCOE ran an ad in the North Coast Journal, did extensive social media advertising, had it on EdJoin and HCOE employment website, and reached out to the Humboldt-Del Norte Pre-Medical Education Task Force. HCOE was unable to fill the position due to no qualified applicants - HCOE had only one applicant who pulled her application when she realized the pay range.

Ferndale High School does have a Health Pathway/Patient Care and was just awarded a Strong Workforce Program grant to expand it.

Fortuna, McKinleyville, and Eureka offer a Biology and Community Health Course that includes Health Career exploration. It is taught by Science teachers who would like to get a CTE Health Credential but do not have the qualifications to do so.

Alder Grove had a qualified candidate to teach a Health Careers course this year for one section. It was a nurse who was willing to pursue her credential. Unfortunately only one student at Alder Grove was interested in the course. That potential teacher did not apply for the open position at HCOE. The course was not offered due to lack of interest.

Building/Construction Trades Pathway

In 2020/21, HCOE offered a position as Building & Construction "Teacher in Training" through the Trades Academy program with funding from the Strong Workforce Program. To fill the position HCOE needed to run it twice, finally finding only one eligible applicant. In Spring of 2021, HCOE had a CTE construction position to fill. HCOE ran the position on the HCOE website as an open position for 2021/22, the only applicant for this position was the previous "teacher in training." This person was hired and went through the credentialing program and is now a CTE Construction Trades teacher for HCOE, teaching classes at Court and Community Schools, Alder Grove, and NUHCS. However, HCOE does not believe that the position would have been filled without an inside candidate.

Arcata High School's CTE wood shop/metal teacher was out on leave during the first semester of this year. AHS was unable to find someone qualified to teach the course and used six substitutes.

Business Management Pathway

Ferndale's business teacher retired in 2020 and the district was unable to find a teacher with a business credential to fill the position. The courses are still taught, but by other qualified teachers without the CTE Business credential.

McKinleyville has a business pathway, but their teacher is planning retirement in the next couple of years.

Our county is facing a potential crisis in CTE credentialed teachers. HSU does not have *any* CTE Credentialing programs - aside from Industrial Technology methods course designed for current teachers with a BA. To get a CTE Credential, the candidate must have 3 years' experience in the industry sector to qualify to enter a CTE credentialing program in either Orange or Sonoma Counties. They become credentialed in that one industry sector. The program requires "on the job" training and the new teacher requires a lot of support in order to be successful.

Humboldt County has a number of CTE teachers who are close to retirement, but no pool of currently appropriately credentialed teachers. Coupled with the difficulties attracting out of county residents to Humboldt County, it does not appear possible to staff a new CTE Program in the County at this time. This is even more the case with a program like SBA, which intends to hire three separate CTE teachers at 0.2 FTE each.

iv. Petitioners personally lack the necessary background in the area of curriculum, instruction, and assessment, which is critical to the charter school's success, and do not have a plan to secure the services of individuals who have the necessary background in these areas.

Catherine Scott, SBA's Lead Petitioner, withdrew from involvement in SBA in December 2021. Ms. Scott brought the Petitioners expertise in the area of curriculum, instruction, and assessment. Per the Petition, other individuals who have expertise in those areas include Dave Lonn and, to a lesser extent, Troy Nicolini. Mr. Nicolini's teaching experience is only at the college level. When asked how the loss of Ms. Scott would impact SBA moving forward, Mr. Lonn indicated that having a curriculum specialist would be a part of the job description as SBA recruited for an Executive Director. Mr. Lonn did not indicate that he intended to fill this role for Petitioners until an Executive Director could be hired. Moreover, the Petition does not require that the Executive Director or future Principal have any school experience.

SBA's proposed program relies on careful, well-planned integration of core course content and CTE standards. Petitioners need to personally have the necessary background to ensure successful implementation of that program. With Ms. Scott's departure, it is not clear that is the case.

c. The petition does not contain the number of signatures required by Section 47605(a). (Education Code Section 47605(c)(3))

Section 47605(a) of the Education Code requires that each charter petition be signed by either: 1) A number of parents or legal guardians of pupils that is equivalent to at least one-half of the number of pupils that the charter school estimates will enroll in the charter school for its first year of operation; or 2) A number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the charter school during its first year of operation.

Petitioners chose to submit signatures from four teachers. Those teachers signed a form stating that they were meaningfully interested in teaching at SBA on June 15-18, 2021. Due to the passage of more than six months, COE staff requested, twice, that SBA have the teachers renew their interest in teaching at SBA. Mr. Lonn indicated that SBA would not submit new teacher signatures due to his belief that he could not do so during the appeals process.[16] Dr. Wesley invited COE staff to reach out directly to the four named teachers to see if they were still meaningfully interested. COE staff subsequently reached out to three of the four teachers who, at the time the petition was submitted, signed that they were meaningfully interested in teaching at SBA and that they were credentialed California teachers. The fourth was not contacted because the phone number listed was incomplete, so for the purpose of this review it should be assumed that this person is still meaningfully interested.

Of the three teachers contacted, one teacher confirmed they were still meaningfully interested in teaching at SBA. Two teachers indicated that, while they were and continue to be in favor of the charter being granted, they were either not committed to teaching at SBA or were no longer meaningfully interested in teaching at SBA due to their own personal circumstances. It should be noted that the teacher who is still meaningfully interested has an out-of-state credential and is in the process of obtaining a valid California credential. This absence of a valid California credential was verified through a public records search on the California Commission on Teacher Credentialing (CTC) website. Based on these conditions, the petition does not meet the threshold of meaningfully interested teachers required by Education Code Section 47605(c)(3). Accordingly, the Petition should be denied because it is legally insufficient.

V. STAFF RECOMMENDATION AND CONCLUSION

COE staff recommend the Board of Education adopt these findings as their own and deny the Petition for the reasons stated above.

[16] The law permits Petitioners to update the Petition as necessary to reflect changes in circumstances based on the passage of time. (Educ. Code § 47605(k)(1)(A)). Notably, Mr. Lonn did provide an updated list of SBA board members upon request.