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OUR FILE NUMBER:
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April 20, 2017

VIA EMAIL AND FIRST CLASS MAIL

John C. Lemmo
Procopio, Cory, Hargreaves & Savitch, LLP
525 B Street, Suite 2200
San Diego, CA 92101

Re: El Rancho Charter Renewal

Dear Mr. Lemmo:

Our office represents the Orange Unified School District ("District") and this correspondence relates to the District and your client, El Rancho Charter School ("El Rancho"), which school has been authorized by the District Board.

As you are aware, El Rancho has made the insupportable assertion that its Charter was automatically renewed. (Enclosed for your reference are copies of the correspondence between El Rancho and the District and our office and El Rancho's previous counsel, Michelle Lopez, relative to that issue.) El Rancho also, in excess of its authority, purported to report to the California Department of Education ("CDE") that its Charter had been automatically renewed, but the District has corrected that information for CDE since the Charter has not been renewed at this time, including by operation of law. The District has been informed by CDE that CDE will not take action in response to a request from El Rancho.

As you will note, in the correspondence from Sukhi Ahluwalia of this office to Ms. Lopez, Ms. Ahulwalia requested that El Rancho provide specified information to the District by April 24, 2017. Because of the change in El Rancho's legal counsel, we reiterate that request here. As the chartering authority, the District requires that the El Rancho provide the following information to me on or before 10:00 a.m. on Monday, April 24, 2017:

1. Evidence establishing that the additions and deletions made to El Rancho's current Charter to create the renewal Charter that El Rancho's Principal, Michele Walker, delivered to District Assistant Superintendent Ed Kissee, were approved by a vote of at least 75 percent of the El Rancho staff. Alternatively, please provide confirmation that there was no such vote or that the vote did not result in approval by at least 75 percent of the El Rancho staff.

2. El Rancho financial statements for the requested renewal term of July 1, 2017 – June 30, 2022, including a proposed operational budget for the first-year of that renewal term, including startup costs (if any for the renewal term), and cashflow and financial projections for the first three years of that renewal term. Again, if El Rancho does not have these financial documents at this time, please so specify.

As you are aware, pursuant to Education Code Section 47604.3[1], El Rancho is required to promptly respond to all reasonable inquiries from the District, including but not limited to, inquiries regarding El Rancho's financial records. This correspondence is making a reasonable request for either existing documentation from El Rancho or confirmation that El Rancho does not have such documentation, so there should be no difficulty in El Rancho complying with this request by April 24, 2017, at 10:00 a.m.

The District and El Rancho have a long history of cooperative and supportive relations in furtherance of the best interests of all students, and the District desires to move forward in the continuing best interests of the District, El Rancho, and all affected stakeholders. As such, in reviewing the Charter that El Rancho has submitted to the District seeking renewal, the District noted a number of revisions made by El Rancho from the current operating Charter, though these revisions were made without explanations from El Rancho. The District hereby requests that you work with El Rancho and provide our office with written explanations/rationales for each of the following revisions reflected in the renewal Charter document in order for the District to understand El Rancho's purpose and intent in making these revisions. Again, this is a reasonable request for information from El Rancho pursuant to Section 47604.3.

1. The deletion of El Rancho's obligation to indemnify, defend, and hold harmless the District, District Board, and other District representatives. The District notes that the renewal Charter elsewhere specifies that El Rancho will indemnify the District and purchase and maintain insurance "in accordance with the requirements" of the Charter, but El Rancho has not included any other requirements relative to insurance or indemnification in its proposed renewal Charter.

[1] All further statutory references are to the Education Code unless otherwise indicated.

2. El Rancho has added a provision specifying that admission shall not be determined according to place of residence of the student or his/her parents/guardians within California with the exception of preferences provided for in Section 47605(d)(2)(B), but as a conversion charter school, El Rancho is required, pursuant to Section 47605(d)(1), to maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school. That mandated preference is also not specified in the renewal Charter.

3. In accordance with law, El Rancho has indicated that it will annually update its LCAP. However, the Charter specifies, "The LCAP and any revisions necessary to implement the LCAP shall not be considered a material revision to the charter, and shall be maintained by El Rancho at the school site." Of course, should any revisions that El Rancho proposes to make to the LCAP be of a nature to constitute material changes to the way in which El Rancho operates and/or educates students, those revisions will necessarily constitute material revisions to the Charter and the LCAP process cannot be used to circumvent the charter revision process, and such should be specified in the Charter.

4. In 2016 the District and El Rancho entered into a binding Memorandum of Understanding ("MOU") which includes the following provision immediately preceding the terms setting forth the plan for students with disabilities (emphasis added):

> The following section is to serve in place of and will supersede Section C "Plan for Section 504, Americans with Disabilities Act, and Special Education" of the El Rancho Charter for the period of July 1, 2016 through and including June 30, 2017 and **will be included in the 2017 renewal Charter petition presented to the Board of Education:**

However, despite its unequivocal obligations pursuant to the MOU, El Rancho has failed to set forth the Plan for Students with Disabilities from the MOU in the renewal Charter. While the renewal Charter does specify that additional agreements regarding the division of responsibilities governing El Rancho's special education program are found "in the parties' separately executed Memorandum of Understanding," thus El Rancho has incorporated those MOU special education terms by reference, El Rancho has failed to include the terms from the MOU in the Charter itself, as required.

5. El Rancho has deleted the following provision from its description of its health and safety procedures:

> OUSD Board Policies and Administrative Regulations relating to Health and Safety are followed by the charter school. . . . Subsequent changes made by OUSD in the OUSD Board Policies and Administrative

> Regulations relating to Health and Safety will be followed by the El Rancho Health and Safety designee/designees at El Rancho Charter School.

El Rancho has not, however, replaced that provision with its own comprehensive set of health and safety procedures. Nor has El Rancho added that it will comply with the new mandate applicable to charter schools that they must provide annual training on child abuse and neglect reporting requirements to employees and persons working on their behalf who are mandated reporters, within the first six weeks of each school year or within six weeks of employment. (Ed. Code § 44691.)

6. El Rancho deleted the following provision from the Charter: "All State and Federal laws that apply to employees of the Orange Unified School District shall apply to El Rancho employees and District employees assigned to work at El Rancho."

7. El Rancho has deleted the description of its procedures for resolving disputes that arise between El Rancho and the public, disputes with teachers/staff, and disputes with principals. The District understands this revision was made because El Rancho moved the specific information to policy. However, with this revision the Charter does not specifically require El Rancho to adopt and maintain complaint and dispute resolution procedures, including but not limited to a uniform complaint procedure that complies with the requirements of California Code of Regulations, Title 5, Section 4600 *et seq.*, and that such policies be disseminated annually to stakeholders and available from the school and on the website.

8. The current Charter specifies:

> Additions or deletions of specific items can be made to the El Rancho Charter by a 75% vote of the El Rancho staff, majority agreement of the Charter Board, and majority agreement of the Orange Unified School District Board of Education. Material revisions and amendments shall be made pursuant to the standards, criteria, and timelines in Education Code section 47605, et seq. of the Charter Schools Act.

The renewal Charter includes numerous additions and deletions, specifically including reducing the required level of staff approval for future additions/deletions from 75 percent to 51 percent. However, despite multiple requests, El Rancho has not provided the District evidence that the additions/deletions in the renewal Charter were approved by at least 75 percent of El Rancho's staff or a majority of El Rancho's Board.

9. El Rancho deleted the provision specifying that the El Rancho employees are "afforded contractual rights provided by any respective bargaining agreements in the Orange Unified School District."

10. El Rancho also eliminated the following paragraph:

> El Rancho bargaining unit employees may, by procedures developed between the bargaining unit members and their respective unions and the District, develop and ratify site- specific amendments with the El Rancho Charter Board unique to the educational needs of El Rancho. Copies of all ratified amendments shall be filed with the District and the respective union.

There is a similar paragraph elsewhere in the Charter, but that alternative paragraph fails to include the District (the exclusive employer for purposes of the EERA) as one of the parties required to participate in the development of the procedures to create site-specific amendments, instead vesting that authority exclusively in the employees and their unions. Further, the alternative paragraph omits the requirement that copies of all ratified amendments be filed with the District and the appropriate union.

11. El Rancho deleted the entire section entitled "Operations," and specified, "Additional information regarding El Rancho's operation, including but not limited to funding and facilities, are set forth in a separate Memorandum of Understanding (MOU) with the District." The way this provision is written implies that there is already an agreed upon memorandum of understanding addressing these terms, though there is not, and El Rancho has not proposed any terms or timeline for entering into such an agreement. Also, by deleting this entire section, El Rancho deleted its acknowledgement of its obligations to comply with the requirements of the Civic Center Act.

12. El Rancho has deleted all of the previously agreed upon timelines and procedures for processing a future request for Charter renewal, though having clearly agreed upon terms would assist in avoiding unnecessary misunderstandings and disagreements.

13. El Rancho deleted the requirement that it provide the District with a copy of any contract it enters into for administrative services with an outside service provider within three days of contract approval.

14. El Rancho deleted the provision that specified that the Charter School may not pay for contracted administrative services "on a contingency fee type basis (e.g. the service provider may not receive payment in the form of El Rancho's total net proceeds or a percentage thereof)."

15. El Rancho amended the discussion of the District's right to charge for supervisory oversight up to the maximum permitted by law by adding, "as set forth in the MOU with the District." However, El Rancho has also claimed that at the time of the commencement of the renewal term, the current MOU that addresses the supervisory oversight fee will expire, though this revision to the Charter purports to limit the District's statutory right to charge the supervisory oversight fee in a manner set forth in a negotiated agreement.

16. El Rancho deleted the entire section entitled "Debts and Obligations," which specifies that El Rancho is solely responsible for the costs and expenses related to its Charter and operations, that El Rancho has no authority to enter contracts for or on behalf of the District and any contracts entered into by El Rancho are the Charter School's sole responsibility, and requiring that language to this effect be included in contracts that El Rancho enters into.

17. El Rancho deleted the entire section of the Charter entitled "Independent Entity," which specifies that El Rancho operates as a separate entity from the District, and that the District and El Rancho are not agents, partners, joint venturers or a joint enterprise, and that the District shall not be liable for El Rancho's actions or liabilities.

18. The Charter School deleted in its entirety the section entitled "Use of Funds," which provides: "No funds from this Charter maybe transferred or used to start or operate another charter school without the prior approval of the District Board of Education."

19. The District and El Rancho have also entered into a separate "Project Development & Construction Agreement" and a "Reimbursement Agreement," and El Rancho is subject to the terms and requirements of those agreements, but the Charter fails to make any reference to those agreements or acknowledge El Rancho's obligations to the District pursuant to those agreements.

Please provide the explanations/rationales for these revisions proposed in El Rancho's renewal Charter at your earliest convenience, but in no event later than May 1, 2017.

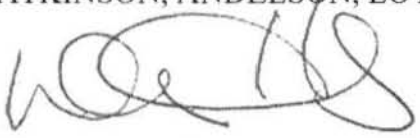
As El Rancho knows, the District Governing Board received El Rancho's renewal Charter petition at its meeting of April 13, 2017, thereby commencing the timelines for District Board action on the renewal request, in accordance with the Charter Schools Act and its implementing regulations. In further compliance with those requirements and timelines, the public hearing on the El Rancho renewal Charter is scheduled for the Board's meeting of May 11 and the Board's action on the renewal is scheduled for its meeting of May 25, 2017.

The District looks forward to a continued productive relationship with El Rancho and El Rancho's prompt submission of the above-requested documentation and explanations/rationales

will assist the parties in moving forward in a positive manner. If you have any questions or should you desire to discuss this matter further, please do not hesitate to contact Sukhi or me.

Very truly yours,

ATKINSON, ANDELSON, LOYA, RUUD & ROMO



Davina F. Harden

DFH:tas

Enclosures

cc: Michael L. Christensen, Superintendent
Ed Kissee, Assistant Superintendent of Human Resources
Sukhi Ahluwalia, Esq.

EL RANCHO CHARTER SCHOOL
"Home of the Coyotes"

VIA EMAIL AND U.S. MAIL

April 4, 2017

Ed Kissee
Assistant Superintendent
Orange Unified School District
1401 North Handy Street
Orange, CA 92867

Re: Your March 31, 2017 email message regarding El Rancho Charter School's renewal

Dear Mr. Kissee:

This letter responds to your March 31, 2017 email concerning El Rancho Charter School's ("El Rancho") five-year charter renewal. (See attached.) El Rancho timely submitted its renewal petition to Orange Unified School District ("OUSD"). The charter renewal petition is now deemed approved by operation of law. Your email appears to suggest an alternative process for El Rancho's already-approved renewal petition, which was submitted to the OUSD on December 19, 2016, January 14, 2017, and again on January 17, 2017 at your request. However, because we agreed to comply with your January request that it be resubmitted in a tracked-changes format, and we resubmitted on January 14, 2017, we will therefore agree that it is deemed approved by operation of law after that submittal. Even if you insist on the January 17 "resend" you requested, the charter is still nonetheless approved by operation of law as of **March 18, 2017**. The renewal term now runs from July 1, 2017 through June 30, 2022. There are no additional steps for renewal, and we decline your invitation to the alternative process you proposed in your email message. We are pleased to have been renewed by operation of law, and to continue to serve the OUSD community for another five years.

I was surprised by the contents of your email misstating what had transpired. You indicated last week that you needed a copy of our complete renewal charter. I therefore sent you a copy on March 29 as request. Oddly, late Friday evening on March 31 (a state holiday), you sent me an email message incorrectly implying that El Rancho was newly-submitting its renewal, suggesting a prospective OUSD board approval timeline, and incorrectly implying that OUSD has some further action to take or consider with regard to El Rancho's renewal. You are completely mistaken. There is an explicit and unequivocal 60-day time limit for school districts to act upon charter renewals. The law unequivocally states that if the district governing board has not made written factual findings to deny the charter as mandated by Education Code section 47605(b), "the absence of written factual findings **shall be deemed an approval** of the petition for renewal." (5 Cal. Code Regs. §11966.4(c).) It

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appears that your March 31 email message may be an ill-advised attempt to manufacture an appearance that El Rancho was somehow not renewed by operation of law, and that we are instead "resubmitting" exactly the same renewal document from months ago and re-triggering the 60-day timeline. If so, you are incorrect. The following chronology clarifies the facts:

1. El Rancho submitted and OUSD received the Renewal Petition on December 19, 2016.

2. You requested that El Rancho resubmit its Renewal Petition in a strikeout format. El Rancho resubmitted the Renewal Petition on January 14, 2017, this time in the format you requested.

3. You replied to the January 14, 2017 submission stating that you could not open the file. El Rancho resent its Renewal Petition in strikeout format on January 17, 2017. The statutory deadline for OUSD to have taken action on the petition was March 18, 2017, at the very latest. By OUSD taking no action, El Rancho's Renewal Petition is renewed by operation of law.

4. On March 18, 2017, El Rancho's charter was renewed by operation of law, in the absence of any governing board findings to deny under Ed. Code §47605(b).

5. You requested yet another copy of El Rancho's Renewal Petition last week. I emailed you a courtesy copy of the charter renewal document again on March 29, 2017, affirming that it is "the" charter renewal. El Rancho did this in response to your request as our oversight agency. To the extent you believe that OUSD can conduct a renewal "hearing" or otherwise take action, you are incorrect. Section 11966.4(c) divests OUSD of any authority to take any action on the Renewal Petition after it failed to act by March 18, 2017.

The authority for charter renewal begins with Education Code section 47607, which unequivocally mandates in subsection (a)(2) that renewals "are governed by the standards and criteria in Section 47605". (See, Ed. Code §47607(a)(2); 5 Cal. Code Regs. §11966.4(a)(2)(A).) Moving to Section 47605 as is mandated by Section 47607, it sets forth the requirements for establishment of a charter school within a school district. Renewal petitions "shall" be considered by the district "in accordance with all the requirements set forth in [Regulation section 11966.4(a).]" The California Supreme Court has ruled that the Legislature and SBE have fully occupied all aspects of charter school petitioning and renewal—individual school districts are pre-empted from altering or imposing additional conditions or restrictions for renewals. (See, e.g., *UTLA v. LAUSD* (2012) 54 Cal.4th 504, 521-522 (holding that "the Legislature has plotted all aspects of [charter schools'] existence", and that Ed. Code section 47605(b) "prescribes the manner by which a [school district] is to approve or deny a charter petition").)

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The charter renewal regulations explicitly and unequivocally impose a 60-day timeline upon school districts to act upon charter renewals. The timeline and consequence (automatic renewal by operation of law) were discussed at great length by the CDE staff and State Board of Education in the rulemaking process, as is reflected in the SBE's Final Statement of Reasons for the regulations. Again, the law plainly states that if a school district has not made a written factual finding as mandated by Education Code section 47605(b) within 60 days of its receipt of a petition for renewal, "the absence of written factual findings **shall be deemed an approval** of the petition for renewal." (5 Cal. Code Regs. §11966.4(c).) As you are aware, OUSD did not make any written factual findings as mandated by Education Code section 47605 (a) within 60 days of receipt of our petition for renewal (received on December 19, 2016, January 14, 2017, and again on January 17, 2017, and the time mandated to make the findings expired on March 18, 2017 at the latest). Therefore, El Rancho's Renewal Petition is indisputably approved as submitted. There is no basis for any hearing or action in May as you suggest.

All that said, El Rancho desires to continue its positive and productive relationship with OUSD. I will call you later to discuss moving forward and continuing the excellent relationship that El Rancho Charter School and the District have enjoyed during our many years of community partnership.

Thank you for your understanding. We look forward to our continued amicable relationship.

Sincerely,

Michele Walker
Principal
El Rancho Charter School
181 S. Del Giorgio
Anaheim Hills, CA 92808

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2005, 2013

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2015

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OUR FILE NUMBER:
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15586160.1

April 11, 2017

VIA EMAIL AND FIRST CLASS MAIL

PRIVILEGED AND CONFIDENTIAL

Michelle A. Lopez
Young, Minney & Corr, LLP
655 University Avenue, Suite 150
Sacramento, CA 95825

Re: Nonrenewal of El Rancho Charter Petition

Dear Ms. Lopez,

This letter is submitted in response to El Rancho Principal Michele Walker's correspondence of April 4, 2017, sent to Ed Kissee, Assistant Superintendent Human Resources, wherein she incorrectly alleges that El Rancho Charter School's ("El Rancho") Charter Petition ("Charter") has been automatically renewed as of March 18, 2017. The Orange Unified School District ("District") has asked that we respond on the District's behalf. The District is dismayed by El Rancho's claim, raised for the first time in the April 4 letter, which is entirely inconsistent with the actual facts and law, all prior communications between Ms. Walker and the District as well as El Rancho's legal counsel and the District's legal counsel, and appears to be an ill-advised attempt to take advantage of an inapplicable regulation to allow El Rancho to receive an automatic approval of its renewal Charter, rather than going through the appropriate and legally mandated renewal procedures. This may be because El Rancho recognizes that, despite the District's extensive efforts to work with El Rancho, the school has chosen to submit a Charter that violates the requirements of the binding Memorandum of Understanding ("MOU") between the District and El Rancho or because El Rancho is unable to obtain the required approval from at least 75 percent of its staff for the proposed revisions to the Charter. The District was equally surprised at the unnecessarily hostile tone and nature of the April 4, 2017, correspondence, which is equally inconsistent with the cooperative working relationship that has always previously existed between the District and El Rancho.

This correspondence will first go through the facts of this matter which, on their own, patently establish that the District Board's timelines for acting on El Rancho's request for renewal of its Charter have not yet commenced, much less already run and resulted in automatic renewal of the Charter. The correspondence will then explain the legal requirements relative to the timelines for

charter renewal, which also prove that El Rancho's claims regarding the timelines and alleged automatic renewal are demonstrably incorrect.

I. THE DISTRICT TIMELINES FOR REVIEW OF THE EL RANCHO CHARTER HAVE NOT YET COMMENCED

Ms. Walker correctly noted in her April 4, 2017, correspondence that California Code of Regulations, Title 5 (hereinafter "5 CCR"), Section 11966.4(c) provides for automatic renewal of a charter petition in the following circumstances, in the absence of a written agreement to extend the timeline:

> If within 60 days of its receipt of a petition for a renewal, a district governing board has not made a written factual finding as mandated by Education Code section 47605(b), the absence of written factual findings shall be deemed an approval of the petition for renewal.

The District Governing Board's obligation to consider the renewal request, and the timeline for action thereon, does not start, however, until receipt by the Governing Board of:

> . . . the petition with all of the requirements set forth in this subdivision:
>
> (1) Documentation that the charter school meets at least one of the criteria specified in Education Code section 47607(b).
>
> (2) A copy of the renewal charter petition including a reasonably comprehensive description of how the charter school has met all new charter school requirements enacted into law after the charter was originally granted or last renewed.

While the letter asserts that the charter was "submitted" on January 17, 2017, and, therefore, El Rancho further alleges that the 60-day timeline for the District Governing Board to adopt written factual findings supporting denial commenced on that date, that assertion is simply incorrect and not supported by any credible evidence or the regulation itself.

A. Communications Between El Rancho and the District

The following is a summary of the pertinent email communications between Ms. Walker and Mr. Kissee, as well as between our office and El Rancho's various legal counsel, all of which clearly establish that the parties, including El Rancho's legal counsel, were all in agreement that the January 17, 2017, draft of the renewal Charter that Ms. Walker provided to Mr. Kissee, was just that – a draft – and that delivering that draft to Mr. Kissee did not commence the District Board's timelines for acting on El Rancho's renewal. During that period, Ms. Walker and Mr. Kissee met and exchanged numerous emails, and our office and El Rancho's legal counsel engaged in numerous telephonic discussions regarding the revisions that needed to be made to the draft

Charter prior to formal submission by El Rancho, to be followed by receipt and action by the District Board, and exchanged emails that evidence the fact that El Rancho's counsel also did not consider the timelines to have commenced as of January 17, 2017. (Emphasis in the quoted emails is added.)

On October 3, 2016, Ms. Walker sent the following email to Mr. Kissee:

> Hi Ed, Hope you had a nice weekend! I am in the process of revamping things in the Charter and wanted to see if you had any areas of concerns? I of course am updating the educational program, and mandates, etc. In addition, since we have an MOU outlining much of Special Education, I wanted to take out this portion from the Charter. I think we do need to discuss the MOU more since some things have come up that haven't been addressed. Unfortunately, I am having knee surgery on October 19th and may be out until January. None-the-less my goal is to have everything done by December and have it go to the OUSD Board by January. It may be a lofty goal, but going to try. If you are available this week, I am more than happy to come in and discuss things. Talk to you soon.

As El Rancho is aware, on December 19, 2016, shortly before the winter break, Ms. Walker sent a charter petition to the District. On January 4, 2017, when the District office reopened after the winter break, Mr. Kissee emailed Ms. Walker to schedule a meeting to discuss the submission. In that email, he advised that the submission did not comport with the requirements set forth in the El Rancho Charter.

Thereafter, Ms. Walker and Mr. Kissee met on January 10, 2017, to discuss the submission. After that meeting, on January 10, 2017, Mr. Kissee sent Ms. Walker the following email (emphasis added).

> Michele, Thanks for meeting today. I look forward to working together over the next few weeks to come up with a renewal petition that is mutually acceptable. Once I receive a redline version of the current **draft** petition, I can begin work on it. Just to confirm, I have you on the calendar for meetings on Friday, January 20th at 9 AM, and again on Friday, January 27th at 9AM, so that we can focus on developing a mutually acceptable document that can also be recommend to the BOE for approval. In the meantime **we will not begin the renewal timeline until we have met at least these two times. Once we have an agreed upon document, we can start the timeline** and schedule meetings with the BOE for acceptance, hearing, and action. Best regards, Ed Kissee

This email was specifically a follow-up on their January 10, 2017, meeting and summarized the process that the two of them discussed during that meeting. If Mr. Kissee had, in Ms. Walker's opinion, mischaracterized the document as a "draft," or if she mistakenly believed that the

District Board's timeline for acting on El Rancho's renewal had started running, contrary to the clear statements in Mr. Kissee's email to her, Ms. Walker would necessarily have raised those issues in her response to Mr. Kissee. However, she made no such contrary assertions because Mr. Kissee's email correctly summarized both parties' understanding and plan for proceeding with the renewal process.

On January 14, 2017, consistent with the discussions at Ms. Walker and Mr. Kissee's meeting and with his January 10 email, Ms. Walker sent the following email to Mr. Kissee:

> Hi Ed, Attached you will find the complete additions and deletions for the renewal. I did not include any changes from our discussion from last week. Have a good weekend. Michele

Thereafter, on January 26, 2017, she sent the following email to Mr. Kissee:

> Hi Ed, It seems as if the attorneys are going to work on Charter concerns. I am still available to meet tomorrow if you would like or **we can reschedule when there is a more complete document**. Let me know

As the District's attorney, I received the following email from you, as El Rancho's counsel, at 2:50 p.m. on February 2, 2017:

> Hi Sukhi – can we please reschedule our 3 pm call today to next week. We didn't get as far on the [special education] MOU as we had planned. Does next Thursday work for you? If you have any other updates from Ed regarding board meeting dates, etc., please let us know.
>
> Thanks!
> Michelle

I replied to you, and copied El Rancho's other counsel, Megan Moore, at 2:51 p.m. February 2, 2017, as follows:

> Sure no problem. I think that the same time next week will work. I will also follow up with Ed regarding the board meeting dates.

On February 9, 2017, Ms. Walker sent Mr. Kissee the following mail:

> It seems as **the attorneys are still working out changes to the Charter**. I don't think we need to meet tomorrow unless you have something. Thanks.

Thus, Ms. Walker's emails of January 26 and February 9 both specify that the District and El Rancho's legal counsel were working on revisions to the Charter that she had at that point

submitted as a draft in order to work with the District. Further, your email requesting to postpone discussion with me while El Rancho continued work on issues related to the Charter renewal, confirms this process. Clearly, in light of Mr. Kissee's January 10 email specifying that the version of the Charter that Ms. Walker had provided to him (including the subsequently submitted redline indicating the revisions El Rancho had made) was merely a draft and that the timelines had not and would not begin until the parties "agreed upon a document," these emails in which Ms. Walker specifies that legal counsel were working on changes to the Charter and that she believed that her scheduled meetings with Mr. Kissee about the Charter could wait until there was "a more complete document," can only be interpreted as agreement with Mr. Kissee's January 10 email and the process outlined therein. Certainly, the District Board did not have any obligation to consider or act on a draft of the El Rancho renewal Charter that was still a work in progress.

On February 21, 2017, El Rancho counsel, Megan Moore, sent the following email to me:

> Sukhi,
>
> I was able to speak with Adam today about the MOU and transition process, but we decided it would be more helpful if you could also join us. **El Rancho remains committed to getting the Charter on the Board's late-March agenda**. Hopefully our respective paralegals/assistants can schedule a call next week so we can continue to move the process forward. Michelle can also join us to discuss the Charter approval aspect. I am currently available next Wednesday between 11 – 2 and all day Thursday. Let us know what time works for you and Adam.
>
> Based on the call today, I understand the District is not interested in making an[y] changes at this time. If that is the case, another option is leaving the MOU out of the Charter so the parties have more time to consider possible changes on or before June 30, 2017, when the current MOU term expires.
>
> I also let Adam know I had spoken with Santiago since the last time we discussed the MOU and transition process. We have authorization to discuss the transition process on behalf of both El Rancho and Santiago. Given the District's interest in ensuring sameness between the two charter schools, I think that will be helpful.
>
> I look forward to speaking to everyone soon.
>
> Best,
> Megan

On March 13, 2017, I received the following email from you:

> Hi Sukhi – do you have time this week **to discuss finalizing the El Rancho charter renewal petition**?

You and I had a discussion on or about March 15, 2017, wherein I advised you that El Rancho should submit the final charter petition with the inclusion of language from the MOU entered into between the parties in June 2016. During that conversation, we also discussed scheduling the receipt of the final charter petition, and the scheduling of the public hearing and date for final action by the District Board. We also discussed these issues during earlier conversations in which you requested that the District Board conduct a public hearing and take final action at the same board meeting. During the March 15, 2017, conversation, I indicated that the District wished to have the public hearing and final action at separate meetings but that the meetings could be scheduled "back to back."

On March 23, 2017, Ms. Walker sent the following email to Mr. Kissee:

> Hi Ed,
>
> I understand Board items are due by 3:00 today for the April 13th meeting. In our original conversation on January 10, 2017 we were going to have either the acceptance/public hearing on February 15th and approval on March 9th or acceptance in February, Public Hearing in March and approval in April. We are heading into April and there are only a few Board meetings left, **I wanted to follow-up to make sure the Public Hearing is on the April agenda**? Could you please confirm?

On March 29, 2017, I sent you the following email:

> Hi Michelle,
>
> Please call me today if you can. **El rancho has reached out to the district about putting the charter on the agenda for the next board meeting in April but the agenda cut off for that date is tomorrow.** The district does expect a redlined document to be submitted. Also, with respect to the insurance, we should probably discuss options. The JPA indicated that based on the current governance structure, the school will need to provide separate indemnification as thought [sic] the school is an independent school. I am available most of the day. Thanks.

You did not respond to this email.

Ms. Walker's March 23 email notes the originally contemplated schedule for the El Rancho renewal, specifically including a timeline start date of February 15 and action by the Board in

either March or April. It also asks for confirmation that the public hearing (which precedes the District Board's action) would be on the April Board meeting agenda. Obviously, if, as El Rancho now claims, the District Board's 60-day timeline for action began at the latest on January 17 (or perhaps as early as December 19, 2016), resulting in automatic renewal as of March 18, on March 23 Ms. Walker would not be referencing a prior plan to commence the timeline in February nor a request that the public hearing be scheduled for April. Unquestionably, El Rancho and the District were working together following an agreed upon process to review, discuss, and work on revisions to the renewal Charter before formally submitting the renewal Charter for District Board receipt and action.

This clear record of El Rancho's knowledge, cooperation, and agreement with this process makes some of the statements in Ms. Walker's April 4, 2017 letter, particularly disingenuous. She asserted in that letter that Mr. Kissee "appear[ed] to suggest an alternative process for El Rancho's already-approved renewal petition . . . . [Ms. Walker] was surprised by the contents of [Mr. Kissee's] email misstating what had transpired," and then purported to revise history by claiming that it was obvious that the El Rancho renewal Charter was renewed by operation of law as of March 18. El Rancho's unfounded and incorrect claims are soundly contradicted by Ms. Walker and El Rancho's other representatives' own actions and words as evidenced by these emails, particularly Ms. Walker's March 23 email discussing approval in late March at the earliest and requesting that the public hearing be held in April. To quote Ms. Walker, the District certainly is "surprised by the contents of [her letter] misstating what had transpired."

On March 29, 2017, Ms. Walker sent the following email to Mr. Kissee:

> Hi Ed, Attached is a copy of our complete charter renewal petition, as submitted on January 14, 2017, for the 2017-2022 charter term. You replied back on January 14 that you had trouble opening it, so I resent it to you January 17, 2017. Although we initially submitted the charter on December 19, 2016, you asked that we resubmit in a strikeout format, so we did so. So you are aware, I'll be out of town after today due to our Spring Break. Thanks! Michele

On March 30, 2017, because you had not responded to my March 29th email, I again emailed you asking if you had time to discuss El Rancho, to which you replied:

> I don't have any current updates on El Rancho, sorry.

Ms. Walker's March 29 email and your March 30 email together signaled a sudden shift in El Rancho's approach, evident now that the District has received the spurious claims in Ms. Walker's April 4 letter, whereby El Rancho is suddenly attempting to recast its earlier draft submittals as a formal submittal of the official renewal Charter. Curiously, in both this email and the April 4 letter, Ms. Walker seems even to argue that the copy of the draft Charter that she sent

to Mr. Kissee on January 14, 2017, that the District could not open, should somehow have started the District Board's timelines.

On March 31, 2017, Mr. Kissee sent Ms. Walker the following email:

> Michele, Thank you for your email. It is noted that the charter renewal petition was submitted on March 29, 2017 for presentation to the Board of Education. Based on this submission date, and pursuant to OUSD Board Policy, the charter renewal petition is being placed on the April 13, 2017 Board Agenda for receipt by the Board of Education. Once received by the Board of Education, the charter renewal petition is to be scheduled for public hearing at the next regularly scheduled Board meeting (May 11, 2017) and then for action at the following Board meeting (May 25, 2017).

The above-quoted emails, and the discussions between Ms. Walker and Mr. Kissee, and the parties' respective legal counsel, as well as El Rancho and its representatives' participation in the process of discussing revisions to the draft Charter, all constitute admissions by El Rancho's representatives that the renewal Charter that was submitted to the District prior to March 29, 2017, was considered by all parties to be only a draft and that none of El Rancho's representatives expected it to be considered a formal submittal. These emails and discussions, and the process followed by the parties also establish that none of El Rancho's representatives believed that the District Board's timeline for acting on El Rancho's renewal had commenced prior to March 29, 2017.

Upon the District's receipt of El Rancho's request of March 29, 2017, Mr. Kissee notified Ms. Walker on March 31, 2017, that the District Governing Board would receive the El Rancho petition at the April 13, 2017, meeting, hold the public hearing at its May 11, 2017, meeting and that the District Board would take final action at the May 25, 2017, meeting. This was entirely consistent with all of the interactions between El Rancho and the District up to that time and the process engaged in between the parties. The clear evidence, including the above-quoted emails, makes clear that there is simply no tenable argument that the January 17, 2017, submittal of documents actually constituted El Rancho's final and formal submittal of its charter renewal request or that such submittal started the timelines for District Governing Board action to approve or deny that draft.

B. El Rancho Has Not Submitted a Final Renewal Charter as Required by Education Code Sections 47605 and 47607 and 5 CCR Section 11966.4(a)(2)

Education Code Section 47605(g) requires that in considering a request for approval of a charter petition, the school district governing board must require the petitioner to provide "financial statements that include a proposed first-year operational budget, including startup costs, and cashflow and financial projections for the first three years of operation." As of the date of this

letter, El Rancho has still not provided any such financial statements, including with its submittal on March 29, 2017.

It is unquestionable that, other than the signature requirement, all of the requirements of Education Code Section 47605 applicable to initial charters also apply to a renewal charters. In fact, this is specified in the State Board of Education's ("SBE") Final Statement of Reasons ("FSR") for the renewal regulations. In rejecting a request from a representative of the California Charter Schools Association that the regulations limit review "of a charter renewal petition . . . only to the elements of the petition that must be revised due to changes in the law or sections the petitioner has chosen to revise due to programmatic or operation changes," the FSR set forth the following response (emphasis added):

> Education Code section 47607(a)(2) states, "Renewals and material revisions of charters are governed by the standards and criteria in Section 47605, and shall include, but not be limited to, a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed." Education Code section 47605 sets out the criteria for review of a charter petition, including the 16 required elements of a charter petition. It is the CDE's opinion that **Education Code section 47607 does not allow a limited review of a charter petition** as suggested by Mr. Miller, but requires a governing board to evaluate charter renewal petitions under a two-prong analysis: (1) whether the charter school meets at least one of the charter renewal criteria under Education Code section 47607(b), and (2) **whether the charter petition meets the standards as required by Education Code section 47605**.

(FSR, *Charter Renewal and Appeal*, State Board of Education, p. 2, emphasis added.)

5 CCR Section 11966.4(a) specifies that a petition for renewal submitted pursuant to Education Code Section 47607 is to be considered by a school district governing board only upon receipt by the board of all of the requirements set forth in that subdivision, including a copy of the renewal charter, and the FSR makes clear that such a submission must include all of the items required to be included with an initial charter submission. This includes the requisite financial records, which El Rancho has not provided. As such, even after the District Board receives El Rancho's renewal Charter as submitted on March 29, it will not actually be obligated to act on it because it does not yet meet the requirements of Education Code Section 47605, 47607, or 5 CCR Section 11966.4.

///

C. El Rancho Has Not Complied with the Terms of Its Current Charter Requiring Approval by 75 Percent of Staff Before Making Revisions to Its Charter

El Rancho's current Charter specifies:

> Additions or deletions of specific items can be made to the El Rancho Charter by a **75% vote of the El Rancho staff,** majority agreement of the Charter Board, and majority agreement of the Orange Unified School District Board of Education. Material revisions and amendments shall be made pursuant to the standards, criteria, and timelines in Education Code section 47605, et seq. of the Charter Schools Act.

The renewal Charter submitted by El Rancho to date includes numerous significant and substantive additions and deletions to the Charter (notably including decreasing the required percentage of staff approval in this provision from 75 percent to 51 percent). This language in the current Charter requires approval by 75 percent of the El Rancho staff, plus majority agreement from the Charter Board, before such revisions can be submitted to the District Board for action. I repeatedly asked you to submit evidence that these revisions were approved by at least 75 percent of the El Rancho staff but have received no such evidence. There is nothing in the Charter that excuses these particular revisions or revisions made as part of a renewal request from this mandated procedure. As such, El Rancho is not yet in a position to seek formal approval of these revisions. As El Rancho's oversight agency, the District cannot overlook El Rancho's failure to comply with the express terms of its Charter.

D. Pursuant to the Regulations, the 60-day Timeline Commences Only Upon *Receipt by the District Governing Board*, Not Submission to a District Employee

The El Rancho renewal Charter was only formally submitted in non-draft form (albeit still missing proof of compliance with its own Charter terms for submission of a request for revisions and the financial documents required in order to obligate the Governing Board to act or risk an automatic renewal) by email dated March 29, 2017. Submission to the District – as opposed to receipt by the District Governing Board – does not begin the 60-day timeline for denial or automatic renewal of the Charter under the relevant regulation.

1. The Plain Language of 5 CCR 11966.4(c) Starts the Timeline with Receipt by the District Board

The above-described facts and evidence clearly establish that El Rancho did not formally submit its renewal request on or before January 17, 2017 (and even the March 29 submittal is flawed and inadequate). Furthermore, the legal standards governing charter renewal – particularly the specific requirements of the 60-day timeline on which El Rancho seeks to rely – establish that

even if El Rancho's claim that it had "submitted" or "resubmitted" the renewal Charter to Mr. Kissee or another employee of the District on January 17 were not belied by the facts, such submittal would not have commenced the District Board's timeline for action.

One of the fundamental rules of statutory construction (which is similarly applicable to regulations such as those at issue here) requires that a statute first be evaluated based on the meaning of its plain language, and the court will look no further if there is no uncertainty as to its meaning. (*Rene J. v. Superior Court* (2001) 26 Cal.4th 735, 743.) Additionally, the language must be harmonized by considering the statute in the context of the entire statutory framework. (*Ibid.*) Here, 5 CCR Section 11966.4 pertaining to consideration and action on a charter school renewal petition specifies on its face both that (1) the timeline for a school district governing board's action on a renewal request **does not commence with submission** by the charter school, but with receipt of the petition and other required documentation by the governing board and (2) that the entity that must receive the charter renewal petition to begin the 60-day timeframe is the governing board, not the school district or any other employee of the district. Specifically, the relevant subdivisions read as follows:

> (a) A petition for renewal submitted pursuant to Education Code section 47607 **shall be considered by the district governing board upon receipt of the petition** with all of the requirements set forth in this subdivision…
>
> * * *
>
> (c) If within 60 days of **its receipt** of a petition for renewal, **a district governing board** has not made a written factual finding as mandated by Education Code section 47605(b), the absence of written factual findings shall be deemed an approval of the petition for renewal.

(5 CCR § 11966.4, emphasis added.) The phrase "shall be considered by the district governing board upon receipt of the petition," can only reasonably be construed to mean that it is the governing board that is to receive the petition, since there is no reference to any other entity. Further, by using the phrase "its receipt" in subdivision (c), the regulation – and specifically the 60-day timeline at issue – refers back to the entity that must receive and act on the petition: the district governing board. The timeline providing that if within 60 days the District Board has not made written factual findings supporting denial of the renewal request, the renewal is deemed approved, on which El Rancho purports to rely for its claim that the El Rancho Charter was automatically renewed, unequivocally specifies that the District Board must act on a renewal request "within 60 days of **its receipt**" of the required renewal documents. The pronoun "its" in 5 CCR Section 11966.4(c) clearly and specifically refers to "a district governing board," **not** to "the district" or "a district employee."

Thus, El Rancho's contention that the petition may be received by another individual in the school district to commence the timeline is not supported by the language of the regulation itself, and would also be inconsistent with the regulatory scheme, which emphasizes that it is solely within the school district governing board's jurisdiction to consider a charter school renewal petition. Nothing in the regulation indicates that a school district or any particular district employee may act as a surrogate for the governing board in receiving the petition to start the 60-day time period. Moreover, nothing in the regulation indicates that it is the date of **submission** of the petition (whether submitted to the district or governing board) that initiates the timeline. The plain language of the regulation indicates that only **receipt by the governing board** starts the 60-day period. As El Rancho is fully aware, the District Governing Board has not yet received the El Rancho renewal Charter, but is scheduled to do so at its April 13, 2017, meeting (though El Rancho's failure to provide financial documents and evidence of compliance with the requirement that it obtain approval of 75 percent of the El Rancho staff continue to be issues relative to the commencement of the District Board's mandatory timeline for action).

2. The FSR Unequivocally Establishes that the 60-day Timeline Only Commences Upon Receipt by the District Governing Board

Because the language of the regulation is clear and unambiguous on its face, it is unnecessary to go beyond it to the legislative history of that regulation. However, this plain language interpretation is supported by the FSR and revisions that were made to the regulation by the California Department of Education ("CDE") prior to its adoption by the SBE. In particular, as part of its required rulemaking process, the SBE held a series of public comment periods in which members of the public were able to request revisions prior to the final enactment of 5 CCR Section 11966.4. The relevant subdivisions of the regulation, as it was posted for public comment on November 27, 2010, provided:

> (a) A petition for renewal submitted pursuant to Education Code section 47607 shall include both of the following and shall be considered complete for action by the governing board of the school district **upon receipt by the district** of all of the requirements set forth in this subdivision…
>
> […]
>
> (c) If a governing board fails to make written factual findings as to why the charter school is no renewed **within 60 days of a charter school's submission** of a complete petition for renewal, the renewal petition shall be deemed approved for the purposes of this section.

(2010 CA REG TEXT 242609 (NS), emphasis added.) Thus, the regulation initially indicated in subdivision (a) that receipt by the district would be sufficient, and subdivision (c) initially provided that the timeline commenced upon submission rather than receipt. Several comments

were received with respect to these subdivisions, which resulted in changes to the regulatory language.

Of note, Colin Miller, of the California Charter Schools Association ("CCSA") submitted a comment which is outlined in the FSR as follows:

> Mr. Miller requests that references to the "completeness" of a request for charter renewal be removed from the proposed regulations **and be replaced with language regarding the "receipt" of materials by a governing board**. He notes that this change will prevent unnecessary delays by a governing board that could repeatedly request more information from a charter school by deeming a petition "incomplete" and preventing the timeline "clock" from starting.

(FSR, *Charter Renewal and Appeal*, State Board of Education, p. 1, emphasis added.) Mr. Miller's comment was accepted and the CDE subsequently amended the language of subdivision (a) to utilize the language regarding "receipt" by the school district governing board in the adopted regulation. Although Mr. Miller was primarily concerned with the "completeness" language in the draft regulation, he specifically asked that the language be revised to commence the timeline with receipt by the school district governing board, and the articulation of the comment in the FSR, along with the language that was chosen by the CDE and approved by the SBE in the revised regulation, clarify the intent that the governing board itself is the only recipient that begins the 60-day timeframe.

In summarizing additional revisions that were made as a result of the comments received, the FRS explains:

> Subdivision (c) is [also] amended to clarify that **the 60-day timeline is initiated upon the district governing board's receipt of the petition for renewal**. This is necessary to provide greater clarity and certainty for charter schools and governing boards about the timeline because it is easier to determine the date of the governing board's receipt of a petition for renewal (i.e., date stamp, etc.) than to determine the submission date by the charter school.

(*Id.* at 4, emphasis added.) Thus, the SBE specifically amended subdivision (c) to include the phrase "its receipt," to refer back to the governing board's receipt [under subdivision (a)] as the start of the 60-day timeline to clarify that it is **only** receipt by the governing board, and not submission by the charter school, which begins the timeline. The prior version of the regulation in subdivision (a) specifically referenced "receipt by the district," but the final adopted regulation eliminated the reference to receipt by the district and addresses only receipt by the governing board itself. Similarly, in the following regulation regarding submission of an appeal to a county board of education, the SBE noted that it amended that regulation, "to clarify that the timeline is initiated upon the county board of education's receipt of the petition for renewal." (*Id.* at 5; *see also* 5 CCR 11966.5(d).)

Furthermore, the changes from the initial draft of the timeline regulation – which provided for automatic renewal if a school district board did not adopt written factual denial findings "within 60 days of a charter school's submission" – to the adopted version that uses a timeline commencing with the school district governing board's own receipt, and the FSR's explanation for these revisions, make absolutely clear that the timeline **does not commence upon submission by the charter school**. Nothing in the FSR evinces any intent that the charter renewal petition be considered received, and the 60-day timeline begin, upon submission by the charter school or actual receipt of the petition by just any school district employee or official. Rather, the plain language of the regulation, as well as its legislative history – specifically including the revision during the public comment period from a reference to receipt by the district to references exclusively to receipt by the governing board and the FSR explanation explicitly rejecting a timeline based on "submission" – unambiguously establish that the renewal petition and other required documentation **must be received by the governing board itself to start the timeline.**

Additionally, in responding to comments asserting that the automatic renewal provisions of the regulation exceeded SBE's authority, the FSR specifies:

> Because the governing board must either grant or deny the charter, the absence of a decision to deny is thus interpreted as the only remaining option available **to the governing board** granting the charter. . . .
>
> * * *
>
> **In no way do these regulations limit a local governing board's capacity or authority [to] make a determination based on their evaluation of a petition.** These regulations make clear the legislature's intent to presume approval of charter schools unless the local governing board makes a written factual finding to the contrary.

(FSR, *Charter Renewal and Appeal*, State Board of Education, p. 3.) However, El Rancho's claim that its submission to an individual District employee immediately starts the District Board's timeline, and even if the District employee does not notify the District Board of the renewal request or provide the Board with copies of the request, the Charter is renewed by operation of law 60 days after delivery to the District employee, would usurp and eliminate the District Board's capacity and authority to make a determination based upon its evaluation of El Rancho's renewal Charter.

The above-quoted portion of the FSR acknowledges that the sole authority to deny or approve a renewal charter – even if the means of "approving" the charter is by failing to adopt written factual findings supporting denial – rests with a school district governing board, and the SBE is not authorized to transfer that authority to school district employees. Under El Rancho's approach, a charter school could submit a renewal charter to any school district employee or

district location, regardless of their involvement with charter schools or access to the district board, and that submission (or at the very least, that employee or site's actual receipt of the submission) would start the district board's timeline, regardless of whether the board was even aware of the submission. By the same token, if a school district employee who received a charter renewal submission failed to provide it to the district board for any reason – including, for example, incompetence or even a desire to assist a charter school that might not obtain board approval of its renewal – the employee could simply cause the charter to be renewed by operation of law. This would impermissibly shift the decision-making authority to school district staff rather than a district board. The FSR acknowledges that SBE does not have the authority to strip a school district board of that authority and jurisdiction, and determined that the automatic renewal portion of the renewal regulation was permissible only because it did not limit a school district governing board's capacity or authority to make the determination of whether to approve or deny a request for charter renewal. Thus, El Rancho's interpretation would actually invalidate the automatic renewal provision of the regulation. Again, delivery of El Rancho's renewal Charter to Mr. Kissee did not commence the District Board's timeline for action; only receipt by the District Board itself will start that timeline.

II. CONCLUSION

As established by the record, and explained in detail above, the District Governing Board's timelines for review and consideration will not commence until the District Board receives the Charter, which is scheduled for its meeting of April 13, 2017. If, despite the abundant evidence to the contrary, El Rancho believed that its December or January submittals of the draft Charter to Mr. Kissee should have been treated as formal submittals and provided for receipt by the District Board, thereby commencing the Board's timelines for action, it was incumbent on El Rancho to make that clear, not tacitly agree with the Mr. Kissee's explicit email to the contrary and participate in the process agreed upon in Ms. Walker and Mr. Kissee's January 10, 2017, meeting and outlined in his confirming email of that same date. In any event, because El Rancho's still-incomplete Charter has not been received by the District Board, notwithstanding any alternate desire by El Rancho, the timelines for District Board action have not yet commenced, much less run, and the El Rancho Charter has not been renewed by operation of law. Again, if El Rancho had believed that the District administration was obstructing El Rancho's renewal process by not bringing the renewal Charter to the District Board to commence the timeline (a position that is patently not supported by the facts), El Rancho would have had to take action to remedy that concern – e.g. bring the renewal to a public Board meeting itself for delivery to the Board or commence a writ proceeding to seek to compel receipt by the Board.

Frankly, El Rancho's actions, including those evidenced by the emails quoted above, followed by its surprising claim that the Charter was automatically renewed, give the impression that El Rancho was purposely trying to mislead the District in order to cause an inadvertent renewal by

operation of law, which is particularly disheartening to the District. However, any such effort was unsuccessful.

As noted above, the District is shocked by both the tone and the content of Ms. Walker's April 4, 2017, letter. The District and El Rancho have historically had a supportive and cooperative relationship. The District's efforts to work with El Rancho to make revisions to the El Rancho renewal Charter, including the addition to that Charter of the terms agreed upon by the parties in the MOU, were a good-faith effort to continue that positive relationship and settle upon a renewal Charter that the District administration could recommend that the Board approve. The District has been quite generous with El Rancho, including by providing El Rancho a substantially rent-free facility, but only charging El Rancho a maximum of two percent as its supervisorial oversight fee, rather than the full three percent authorized by law. (Ed. Code § 47613(b).)

At this point, the District cannot account for El Rancho's suddenly uncooperative approach. This commenced with the fruitless negotiations over concerns with the content of the renewal Charter, including El Rancho's refusal to comply with the explicit terms of its binding MOU with the District. These concerns were exacerbated by the fact that El Rancho's official Charter submittal on March 29, 2017, was entirely unchanged from the earlier drafts, despite the extensive efforts by District representatives, including legal counsel, to work with El Rancho to address areas of concern. This was followed by you suddenly indicating that you had no updates on El Rancho's submittal of an unrevised renewal Charter. Finally, El Rancho's inexplicable break from the formerly congenial and cooperative relationship culminated with the April 4, 2017, letter which attempted to revise history and made an unwarranted and incorrect claim that El Rancho's Charter was renewed by operation of law.

The District hopes that the District and El Rancho can return to the former positive, productive, and amicable relationship referenced in Ms. Walker's recent letter. However, it must be noted that the apparently fruitless hours and legal fees spent by the District in efforts at good faith negotiations with El Rancho, plus the unnecessary time and effort expended on this response to El Rancho's baseless claims in the April 4, 2017, letter, cannot be ignored. Should El Rancho continue to pursue its groundless attempt to deem its renewal Charter approved by operation of law, thereby forcing the District unnecessarily to expend further resources in response, it may be necessary for the District to consider renegotiating the generous terms of all of the agreements between the parties.

As noted above, the District Board's receipt of the El Rancho renewal Charter is included on the Board's agenda for its April 13, 2017, meeting. Please confirm El Rancho's understanding that its renewal Charter has not been automatically renewed and that the District Board's 60-day timeline to act on the renewal request will only commence on April 13, 2017, upon the Board's receipt of the Charter. Furthermore, please also provide the following documents by April 24, 2017, in order to permit the District Board to consider and act on the renewal Charter: (1) the

mandated financial documents and (2) evidence that the revised Charter was approved by at least 75 percent of the El Rancho staff and subsequently approved by a majority of the Charter Board.

Very truly yours,

Sukhi K. Ahluwalia

SKA:DFH:tas

cc: District Governing Board Members
Michael L. Christensen Superintendent
Ed Kissee, Assistant Superintendent, Human Resources

EL RANCHO CHARTER SCHOOL
"Home of the Coyotes"

April 13, 2017

Orange Unified School District Board of Education
c/o, Board President, Rick Ledesma
1401 North Handy Street
Orange, CA 92867

Re: April 13, 2017 Board Meeting Item regarding El Rancho Charter School's renewal

Dear President Ledesma and fellow Board Members,

This letter concerns your OUSD board meeting agenda for April 13, 2017, wherein you appear to be considering "receipt" of El Rancho Charter School ("El Rancho")'s renewed charter. There is no permissible board process or action to "receive" a renewal petition after it has already been deemed approved by operation of law or otherwise.

Thursday's agenda item to "receive" El Rancho's renewal petition mistakenly implies that OUSD has some further action to take or consider with regard to El Rancho's renewal. You do not. The California Supreme Court has ruled that the Legislature and SBE have fully occupied all aspects of charter school petitioning and renewal—individual school districts are pre-empted from altering or imposing additional conditions or restrictions for renewals. (See, e.g., *UTLA v. LAUSD* (2012) 54 Cal.4th 504, 521-522 (holding that "the Legislature has plotted all aspects of [charter schools'] existence", and that Ed. Code section 47605(b) "prescribes the manner by which a [school district] is to approve or deny a charter petition").) Had OUSD desired to hold a public hearing and consider making factual findings, it was required to do so within the statutory time period. It did not do so. It is now too late to revisit the statutory deadline.

The El Rancho Charter Renewal Petition is indisputably approved as submitted. OUSD has no authority to "receive" a renewed petition, conduct a hearing, or take any action in that regard in light of the petition's approval. Enclosed please find a copy of my April 4, 2017 letter to OUSD Assistant Superintendent of Human Resources, Ed Kissee, explaining the matter.

Thank you for your understanding. We look forward to our continued amicable relationship.

Yours truly,

Michele Walker
Principal
El Rancho Charter School

A California Distinguished School 2005, 2013

Gold Ribbon School 2015

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