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

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181 South Del Giorgio Road, Anaheim, CA 92808 • 714.997.6238 • Fax: 714.281.8791

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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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Walker, Michele

From: Kissee, Ed
Sent: Friday, March 31, 2017 4:44 PM
To: Walker, Michele
Subject: RE: Charter Renewal

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).

Best regards, Ed Kissee

Orange Unified School District
Human Resources
1401 North Handy Street
Orange, California 92867

Ph (714) 628-5515 FAX (714) 628-4006

-----Original Message-----
From: Walker, Michele
Sent: Wednesday, March 29, 2017 8:33 PM
To: Kissee, Ed
Subject: Charter Renewal

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