



October 31, 2023

**STAFF ANALYSIS AND PROPOSED FINDINGS OF FACT REGARDING REVIEW OF
UNBOUND STOCKTON COMMUNITY SCHOOL CHARTER PETITION APPEAL**

PROCEDURAL STATUS

The San Joaquin County Office of Education (“SJCOE”) received a charter petition (“Petition” or “Charter”) on appeal, from the Unbound Stockton Community School (“Unbound Stockton” or “Charter School”) on September 1, 2023, seeking approval of the Charter for a term of July 1, 2024, through June 30, 2029. Unbound Stockton is appealing the Stockton Unified School District’s (“SUSD”) denial of the Charter. The San Joaquin County Board of Education’s (“SJCBOE”) consideration and action on the Charter is governed by the standards, criteria, and procedures set forth in Education Code Section 47605.

All public school agencies – including county offices of education, school districts, and charter schools – must prioritize the best interests of students. Consistent with prioritizing students, the SJCOE believes that best practice is for charter schools to be authorized and overseen by the local school district in which the charter school will be located and operated, in order to best serve all students. The SJCOE encourages persons interested in forming a charter school to endeavor to work with and attempt to form a partnership with the local school district well ahead of submitting a charter petition to gain as much understanding as possible about the community’s and students’ needs and how traditional and charter schools together can meet those needs. Notwithstanding the legislative and the SJCOE’s preference for charter schools to be authorized by local school districts, the SJCOE and the SJCBOE understand and carry out their roles and responsibilities in considering and acting on charter petitions, including appeals of charter petitions that have been denied by school districts in the county, in full accordance with the standards and requirements of the Charter Schools Act.

This is the third time that the SJCBOE is considering a petition to establish Unbound Stockton. The SJCBOE initially denied a countywide charter petition for the Charter School pursuant to Education Code Section 47605.6 on the basis that Unbound Stockton did not meet the standards for a countywide charter school. During the 2022-23 school year, the SJCBOE considered and denied an appeal from denial by the SUSD of a prior version of the charter petition (“2022-23 Petition”) proposing this Charter School, at which time the SJCBOE adopted the extensive analysis completed by the SJCOE and numerous findings for denial. Unbound Stockton has revised its Charter and addressed many concerns previously noted by the SUSD, SJCBOE, and SJCOE. It is the SJCOE’s expectation that charter petitioners establish that they have the knowledge, expertise, and experience necessary to operate an independent charter school. The SJCOE analyzes a charter petition against the standards and expectations set forth in the Charter Schools Act, and part of any assessment and analysis of a charter that has been previously denied by a district and/or the SJCOE, in consideration of whether the charter petitioners have presented a legally and educationally appropriate petition and have not simply relied upon or been guided by findings made in prior denials of their charter as a roadmap for approval.

On September 20, 2023, per Education Code Section 47605, the SJCBOE held a public hearing on the Unbound Stockton Charter petition appeal, consistent with the requirement to do so within 60 days of receipt of the submission of the Charter petition appeal. Action on the Charter will be on the County Board's November 15, 2023, agenda.

The complete Charter that the SJCBOE is acting on is available for review at: <https://bit.ly/40jyYaH>.

CRITERIA OF A CHARTER PETITION APPEAL

In considering charter petitions on appeal from district denials, the county board “shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that the establishment of charter schools should be encouraged.” The county board is to grant a charter if doing so is consistent with sound educational practice and the interests of the community where the school will locate and is to consider the academic needs of the students the charter school proposes to serve. (Education Code Section 47605(c).)

Education Code Section 47605(k)(1)(A)(ii) provides that a county board of education shall review the petition pursuant to Education Code Section 47605(c), which is the same provision that governs review of the petition by the school district governing board. Additionally, if the district denied the petition on the basis that it is not positioned to absorb the fiscal impact of the charter school, the county board must also review the school district's finding supporting that determination, but the SUSD did not deny the Unbound Stockton Charter on that basis, so there is no such SUSD finding for the SJCBOE to consider. (Education Code Section 47605(k)(1)(A)(ii).)

Pursuant to Education Code Section 47605:

- I. The county board must hold a public hearing on the provisions of the charter at which it considers the level of support for the charter by teachers, other employees, and parents/guardians. (Education Code Section 47605(b).)
- II. The county board shall grant a charter appeal if it satisfied that granting the charter is consistent with sound educational practice and with the interests of the community in which the school proposes to locate. The county board shall consider the academic needs of the pupils the school proposes to serve. The county board shall not deny the charter appeal unless it makes written factual findings, specific to the particular charter, setting forth specific facts to support one or more of the following findings (Education Code Section 47605(c)(1)-(8)):
 - A. The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.
 - B. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.

- C. The petition does not contain the number of signatures required by Education Code Section 47605(a).
 - D. The petition does not contain an affirmation of each of the conditions described in Education Code Section 47605(e).
 - E. The petition does not contain reasonably comprehensive descriptions of all the required elements.
 - F. The petition does not contain a declaration of whether or not the charter school shall be deemed the exclusive public employer of the employees of the charter school for purposes of the Educational Employees Relations Act (EERA).
 - G. The charter school is demonstrably unlikely to serve the interests of the entire community in which the school proposes to locate.
 - H. The school district is not positioned to absorb the fiscal impact of the proposed charter school.
- III. The county board is to require charter petitioner(s) to provide information regarding the proposed operation and potential effects of the proposed school, including but not limited to:
- A. The facilities to be used by the school, including specifying where the charter school intends to locate.
 - B. The manner in which administrative services of the school are to be operated.
 - C. Potential civil liability effects, if any, upon the school and the county board of education.
 - D. Financial statements that include a first-year operational budget, including startup costs, cash flow, and financial projections for the first three years of operation.
 - E. The names and relevant qualifications of all persons whom the petitioner nominates to serve on the charter school nonprofit corporation's Board of Directors.

REVIEW OF THE CHARTER PETITION

The SJCOE staff reviewed the Charter using the criteria established in Education Code Section 47605, as described above. The SJCOE's recommendations and recommended findings are set forth below.

- I. The county board must hold a public hearing on the provisions of the charter at which it considers the level of support for the charter by SUSD teachers, other SUSD employees, and parents/guardians. (Education Code Section 47605(b).)

The SJCBOE held a public hearing on the provisions of the Unbound Stockton Charter. During the public hearing six people spoke in support of the Unbound Stockton Charter, including parents, a teacher, and community members. There were no speakers in opposition to the Unbound Stockton Charter.

- II. The SJCBOE shall grant the Unbound Stockton Charter appeal if it satisfied that granting the Charter is consistent with sound educational practice and with the interests of the community in which Unbound Stockton proposes to locate. The SJCBOE shall consider the academic needs of the pupils Unbound Stockton proposes to serve. The SJCBOE shall not deny the Charter unless it makes written factual findings, specific to the Charter, setting forth specific facts to support one or more of the findings set forth in Education Code Section 47605(c) (1)-(8):1.

1. Unbound Stockton does not present an unsound educational program for the pupils to be enrolled in the school.

The petitioners included a lengthy description of the educational program that they propose to offer at the Charter School.

The Charter School will support the needs of special populations of students – including but not limited to socioeconomically disadvantaged students, students with special needs, low-achieving students, high-achieving students, English learners, foster youth, and other at-risk students – during Affinity Learning Time (“Affinity”). However, the SJCOE has questions about how students with multiple needs will access supports and services to meet their various needs during Affinity. For example, if a student is an English learner and is also a student with special needs who requires supports during Affinity, how will that student also receive designated English Language Development (“ELD”)? Additionally, designated ELD is required to be provided *every day* (as there may be various services for students with disabilities) and Affinity is not offered on Fridays, so Unbound Stockton will need to provide designated ELD and other required services at another time on Fridays.

While the SJCOE recognizes that the Charter will not contain every detail of the educational program and that further development is to be expected during the period prior to the school opening to students, there are areas of the discussion of the educational program and curriculum that are not fully developed or described. These will need to be expanded upon prior to opening to students, and the descriptions need to be supplemented through a Memorandum of Understanding (“MOU”) between Unbound Stockton and the SJCOE if the Charter is approved. The following are some examples of open questions relative to the educational program description (this is not intended to be a comprehensive list):

- While the proposed OpenSciEd is a high quality, open source, free curriculum, it is still in development for grades kindergarten through fifth. Unbound Stockton will need

other science curricula for fourth and fifth grades until this curriculum is completed in winter 2026.

- The Charter does not address Disciplinary Core Ideas and Cross Cutting Concepts, which are two dimensions of Next Generation Science Standards (NGSS).
- The Charter does not clearly describe how the 2023 math framework recommendations will be infused into mathematics teaching and learning.
- The Charter does not describe how Unbound Stockton will ensure that teacher-created units of study are high quality and include rigorous grade-level content and practice deliverables with a sound pedagogy that allows access to develop agency as thinkers and doers of mathematics.
- Figure 27 includes only a partial list of the math standards.
- The social studies materials listed in the Charter do not address sufficient grade-level standards. Fifth and eighth grades are partially met, while fourth, sixth, and seventh grades are not addressed.
- Match Fishtank is not aligned with California State Standards and does not constitute a core curriculum.
- Designated ELD curriculum is required, and designated ELD builds from and into content instruction. The Charter does not make clear how EL Achieve will address these components of designated ELD. EL Achieve is also not State Board-approved curriculum.
- Unbound Stockton has mixed up ELD proficiency levels with English Language Proficiency Assessments for California (“ELPAC”) results levels. The Charter specifies, “[D]uring Affinity Learning Time, students who are acquiring English will be grouped according to language proficiency level – emerging, expanding, and bridging, which will enable students who are ELs to receive targeted language supports based on their individual levels.” However, emerging, expanding, and bridging are ELD standards, while ELPAC results are ELPAC 1, 2, 3, and 4.

Overall, the Charter does not present an unsound educational program, but further development and detail are required prior to opening to students and implementing the program. If the Charter is approved, the program description may be supplemented and refined through the MOU and Unbound Stockton would need to continue and complete the work of developing a comprehensive educational program for the proposed students.

Since the 2022-23 Petition, Unbound Stockton has revised its plans for teacher duties and professional development to make them less onerous and more realistic, while also increasing the proposed compensation to make it more competitive, particularly given the workload expected of Charter School staff. The SJCOE recognizes that many committed educators are willing to and do

work tirelessly for students, and compensation is not the sole factor school employees consider. Unbound Stockton has also gathered signatures from a number of teachers who have expressed meaningful interest in teaching at the Charter School. Nevertheless, the expectations for Unbound Stockton teachers continue to be quite high, and there continues to be a concern that the Charter School may face challenges in recruiting and retaining staff to implement its vision and program, particularly during the current state- and nationwide teaching shortage.

2. The Petitioners are not demonstrably unlikely to successfully implement the program set forth in the Petition.

The Petitioners are not demonstrably unlikely to successfully implement the program set forth in the Charter, but there are items that need to be supplemented and refined through the MOU, including related to fiscal planning (which is separately addressed in the financial section below).

- A. At the time of the 2022-23 Petition, in response to an SUSD denial finding, Unbound Stockton incorrectly asserted:

The Education Code anticipates only two changes to a charter that constitute a “material revision” – the addition of grade levels and the addition of school sites. The District and the Charter School can enter into an agreement or contract that would define additional changes either explicitly as or explicitly as not material revisions. That is exactly what the Unbound Stockton proposes here.

While there has not been occasion for Unbound Stockton to address its position regarding material revisions generally during the processing of this appeal, given this prior incorrect position, the SJCOE finds it necessary to reiterate its response, as correction of this misapprehension would be a necessary condition of approval of the Charter. First, a charter school cannot dictate to its authorizer what will or will not constitute a material revision to its charter. Further, Unbound Stockton was mistaken that the Education Code anticipates only two changes that would constitute material revisions. The Charter Schools Act has always addressed the concept of material revisions and required that a charter school desiring to materially revise its charter go through a defined public process and obtain permission from its authorizer. While the law was recently revised to specify that the addition of grade levels and/or school sites is always a material revision, nothing in that change served to narrow or limit what other proposed changes to a charter would constitute a “material revision,” which remains a fact-based determination. Under no circumstances does the SJCOE agree with Unbound Stockton’s prior assertion that only adding grade levels or sites constitutes a material revision to its charter. Unbound Stockton’s previously stated position is inconsistent with the entire charter approval and oversight process and purports to authorize Unbound Stockton unilaterally to deviate from its publicly vetted and authorized Charter, which is impermissible.

While the SJCOE hopes that Unbound Stockton no longer adheres to its prior incorrect position, the SJCOE’s above response is necessarily fundamental to any approval of the Charter and would need to be embedded in the MOU. Through the MOU, Unbound Stockton must explicitly acknowledge that the determination of whether any proposed change to its

Charter/operations constitutes a material revision to the Charter be made in the SJCOE's sole discretion. Unbound Stockton shall not implement any material or significant changes in its operations without providing prior written notice to the SJCOE and obtaining the County Superintendent or designee's determination whether the proposed change constitutes a material revision to the Charter. If the proposed change constitutes a material revision, it shall only be implemented by Unbound Stockton after it requests and obtains approval of the material revision from the SJCBOE.

B. The Charter states:

“The LCAP and any necessary revisions to implement the LCAP, including outcomes and methods of measurement listed below, shall not be considered a material revision to the charter and shall be maintained by Unbound Stockton at the school site.”

Again, Unbound Stockton cannot unilaterally determine that changes to its Charter and/or operations do not constitute a material revision to the Charter; rather, that is a factual determination. The measurable pupil outcomes and methods of measuring progress towards the outcomes are mandatory charter elements, so changes to those aspects of the Charter School's program and operations may constitute material revisions. While the Local Control Accountability Plan (“LCAP”) must be reviewed and updated annually, and not all LCAP revisions will constitute material revisions, Unbound Stockton's assertion that no such changes will constitute a material revision is incorrect, and this determination must necessarily be based on the facts and circumstances of the proposed revision(s).

1. As detailed below, the SJCOE continues to have concerns about Unbound Stockton's ability to fully staff the Charter School, particularly in light of the ongoing teacher shortage and the Charter School's high demands of staff. Additionally, the SJCOE's fiscal analysis indicates that reducing the enrollment 20 percent below Unbound Stockton's projections would cause the Charter School to spend more than it receives and make it unlikely that the Charter School could reduce staffing and continue to run the program as designed in the Charter. Thus, any greater enrollment reduction would substantially compromise Unbound Stockton's ability to implement the program successfully. It would cause substantial harm to students for Unbound Stockton to open and be unsuccessful or for students who enroll at the Charter School to miss out on other school options should Unbound Stockton be unable to open as scheduled. Therefore, the SJCOE Staff recommends that, as a condition of any approval, the MOU include a requirement and agreement that Unbound Stockton must be fully staffed in accordance with the Year 1 staffing plan (consistent with student enrollment) and have enrolled at least 80 percent of the projected enrollment by no later than April 15 of the school year preceding its opening to students, unless the deadline is extended in the SJCOE's discretion in accordance with the requirements of the MOU. Failure to comply with these requirements will require Unbound Stockton to delay opening to students until the following school year, and then only if it complies with these

requirements by April 15 of the school year prior to opening. Further, should Unbound Stockton not open to students by the 2025-26 school year, the Charter School will no longer be authorized to open pursuant to this Charter.

It is unacceptable for the Charter School to open any later than 2025-26 pursuant to this Charter. Moreover, any further delay in opening would impede proper consideration of any subsequent request for charter renewal due to a lack of operational data and outcomes. As Unbound Stockton's Charter itself states, "A five-year term is important to allow the Charter School to have sufficient opportunity to implement its educational program and develop the necessary supports that will allow students to adjust to and grow within our school's learning environment. This will allow the Charter School to also have sufficient data upon renewal, to demonstrate the academic growth of our students during the initial charter term." The April 15 deadline is necessary in order to ensure that potential students have the information necessary to plan for school attendance, including seeking admission to other schools of choice should they so desire.

3. The Petition contains the number of signatures required by Education Code Section 47605(a).

Unbound Stockton submitted teacher signatures in support of its Charter. The Charter School anticipates employing five teachers in its first year of operation, so was required to submit signatures of at least three teachers who are meaningfully interested in teaching at the school. Unbound Stockton submitted 47 teacher signatures, far more than the minimum number required. However, the SJCOE determined that 11 of the signatures were from teachers whose credentials had expired, and another one holds only a single subject general science credential without a current General Education Limited Permit allowing "core" teaching and Unbound Stockton's budget and plan do not provide for a single subject science credential holder. As such, those 12 signatories could not be "meaningfully" interested in teaching at the proposed Charter School. It is also unclear how many of these 47 signatures were gathered in support of the current Charter, rather than an earlier version of the Charter, and the actual charter petition that is being submitted must be attached and available for review when gathering such signatures. While the signature pages specifically reference the petitioners making non-substantive revisions to the Charter, the revisions that were required from the 2022-23 Petition were, in fact, substantive. The petitioners submitted only 31 signatures with the 2022-23 Petition, so at least 16 teacher signatures were new for this Charter; therefore, Unbound Stockton met the minimum signature requirement.

Unbound Stockton also submitted signatures of support from other persons, but those signatures do not constitute the required signatures for submission of a charter petition. These signatures do not indicate that they are parents/guardians of students who are meaningfully interested in enrolling at Unbound Stockton, so they do not indicate the potential number of students interested in enrolling at the proposed Charter School. Additionally, while the introduction to these signatures specifies that they were gathered in support of this Charter to open in fall 2024, that introductory language is contradicted by the signature pages themselves. In fact, most of the hardcopy signatures Unbound Stockton submitted were in support of the countywide benefit

version of the charter petition that proposed to open in 2022, and the rest were in support of the 2022-23 Petition; none were actually gathered in support of the current Charter. The electronic signatures submitted do not indicate the date on which they were submitted, but given the timing of the hard copy signatures, the SJCOE presumes that many if not all of the electronic signatures are also from prior versions of the proposal.

While Unbound Stockton provided the required number of teacher signatures, the SJCOE expresses its concern that Unbound Stockton submitted as “meaningfully interested teachers” signatures from persons who do not have valid teaching credentials and potentially signatures that were gathered in support of a past, substantively different version of its charter petition. Nor did the Charter School acknowledge that the other support signatures were not recently gathered in support of the current Charter. Thus, the signatures presented lacked care in the gathering and review and could be seen as somewhat misleading. Should the Charter be approved, the SJCOE expects forthrightness and transparency in all of its dealings with Unbound Stockton.

4. The Petition contains an affirmation of each of the conditions described in Education Code Section 47605(e).

The Charter includes the required affirmations.

5. The Petition contains reasonably comprehensive descriptions of all the required elements.

This section of the Staff Analysis includes highlights regarding the various required charter elements. In order for the description of each element to be considered “reasonably comprehensive,” it is not enough that the petition includes a description, but, rather, the description should set forth plans or proposals that are acceptable to the SJCOE and be consistent with and not contrary to the SJCOE’s standards and expectations for charter schools under its oversight.

A. Element One: Description of the Educational Program/Plan for Student Academic Achievement

The discussion regarding the educational program set forth above is hereby incorporated herein by this reference.

Unbound Stockton plans to become an independent local educational agency (“LEA”) member of a special education local plan area (“SELPA”) but recognizes that if it does not do so, and provide verifiable written assurances of such membership, by default it will be a school of the SJCOE for purposes of compliance with the Individuals with Disabilities Education Improvement Act (“IDEIA”). Should Unbound Stockton be a school of the SJCOE for IDEIA compliance purposes, the means by which it could change status to become an independent LEA member of a SELPA must be addressed in the MOU. This includes, but is not limited to, the timing of notice, the procedure for the County Superintendent or designee to determine whether the change constitutes a material revision, and the Charter School’s obligations to indemnify, defend, and hold the SJCBOE/SJCOE harmless. If Unbound Stockton were accepted as an LEA member of a SELPA

for the first year of operation, these matters would need to be more fully addressed in the MOU with the SJCOE.

The Charter itself acknowledges that its means of providing services to students with disabilities as described in the Charter is not a commitment but is provided for the sole purpose of providing a reasonably comprehensive description. Overall, it appears that Unbound Stockton is prepared to serve students with disabilities. While Unbound Stockton affirms that it has contacted several SELPAs in order to pursue independent membership, unfortunately, Unbound Stockton has made no effort to contact the SJCOE SELPA and/or special education administrators within the SJCOE regarding special education or SELPA affiliation. Such contact would have provided a clearer understanding of the manner and means by which services would be provided and funded should Unbound Stockton be a school of the SJCOE for such purposes.

The description in the Charter includes significant incorrect assumptions that are not consistent with how services would be provided and funded if Unbound Stockton were a school of the SJCOE for purposes of compliance with the IDEIA. As such, the SJCOE would require Unbound Stockton to modify its plan as necessary to comport with the SJCOE's requirements through a Memorandum of Understanding defining this relationship and their respective obligations. This agreement is contemplated in the Charter.

Regardless of whether Unbound Stockton is an LEA member of a SELPA or a school of the SJCOE for purposes of the IDEIA, the Charter School would be solely responsible for compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, and it would be necessary for Unbound Stockton to indemnify, defend, and hold the SJCBOE and the SJCOE harmless from claims related to its compliance with these laws.

The SJCOE staff believes that this element of the Charter is reasonably comprehensive if the issues described above are supplemented and refined through the MOU and/or a separate Memorandum of Understanding, specifically addressing IDEIA compliance.

B. Element Two: Measurable Student Outcomes

The Charter includes a description of Unbound Stockton's measurable student outcomes. The SJCOE staff believes that Unbound Stockton will need to develop a better understanding of its measurable pupil outcomes and the annual measurable outcomes and how to develop those annual measurable outcomes with greater definition and precision.

The SJCOE staff believes that this element of the Charter is reasonably comprehensive, though the Charter School will need to refine its means of developing its annual measurable outcomes.

C. Element Three: Method by Which Pupil Progress in Meeting Outcomes will be Measured

The Charter describes assessments and methods for measuring student progress, but it does not describe how the assessments will align with Unbound Stockton's curriculum.

The SJCOE staff believes that this element of the Charter is reasonably comprehensive, but the alignment of assessments to the curriculum should be expanded upon and may need to be addressed through the MOU.

D. Element Four: Governance Structure

The Charter is to be operated as a California nonprofit public benefit corporation governed by a Board of Directors. This Board will include seven to 13 members – there are currently 11 members and the Charter acknowledges the SJCBOE’s right to appoint a representative. The Charter also acknowledges that should the SJCBOE appoint a representative, no limitations or requirements for service or terms apply to that representative, and Unbound Stockton will have no involvement in appointing or removing such a representative. The provisions of the corporate bylaws would require refinement to be consistent with this commitment. The Charter includes the names and relevant qualifications of the current members of the Board of Directors.

The Charter has been revised in an apparent effort to respond to some of the SJCBOE’s findings regarding the 2022-23 Petition. Previously the SJCBOE adopted findings concerned that the 2022-23 Petition delegated “all management decisions” to the School Director because that provided effectively unfettered authority to the School Director to operate the Charter School and was inconsistent with public transparency and the governance structure proposed in the 2022-23 Petition. The Charter provides greater clarity on the role and responsibility of the Charter Board of Directors as compared to the School Director, indicating that the School Director is responsible for day-to-day management, but the Charter Board retains ultimate policy and governance authority.

Nevertheless, the Charter specifies, “While management decisions will be delegated to the School Director[,] also known as the corporation’s President in the Bylaws, the School Director, who will be hired by, reports to, and is evaluated by the Board, makes decision in concert with all parties listed in **Figure 59.**” (Emphasis in original.) This language is confusing, unclear, and potentially contradicts the other provisions that appear to maintain governance authority at the Board level. This provision could potentially be relied upon to allow the School Director to control the Charter School’s operations without substantial Board approval or formal delegation of individual authority, and without decisions being made during open public meetings of the Board. Nor do the corporate bylaws include specific requirements for the Board’s delegation or authority that would serve to restrict the authority generally delegated to the School Director by the terms of the Charter. As such, if the Charter is approved, it is necessary that the MOU between the SJCOE and Unbound Stockton more fully clarify the limited nature of the delegation of day-to-day managerial authority to the School Director such that governance authority (not only veto power) is retained by the multi-member nonprofit Board and is carried out through Brown Act compliant open public meetings, not in the School Director’s sole discretion.

The bylaws have been revised to specify that actions of the Board “will be by majority vote of the number of total board of directors, not the number in attendance at the meeting.” This prevents Unbound Stockton from taking action by a minority of the members of the Board of Directors of a public charter school.

As explained in the analysis of the 2022-23 Petition, an SJCBOE-approved charter would require compliance with additional best practices and the SJCOE oversight standards related to charter school governance, including appropriate updates to governance documents. The Charter has been revised to address some of these best practices, and any approval of the Charter would require compliance with all of the following:

- The Charter School provided evidence that it has been granted tax exempt status and would need to commit to maintaining that status throughout the term of its Charter.
- The Charter specifies that the Board of Directors will include with its posted agendas, links to the backup materials for each agenda item for which there are electronic versions of backup materials that are not excluded from public disclosure.
- Prior to any proposed revisions to the corporate articles of incorporation and/or bylaws, the Charter School shall provide at least three weeks prior notice to the County Superintendent or designee of the proposed revision(s). Should the County Superintendent or designee indicate that the SJCOE considers the proposed revision(s) a material revision to the Charter, the Charter School may not adopt such revision(s) unless and until it first obtains approval of a material revision. The discussion of revisions in the bylaws must be updated to be consistent with these requirements.
- The Charter now requires that all Board members and senior administrators undergo training on the Brown Act, the Political Reform Act, and Government Code Section 1090, at least annually and within 90 days of taking the position with the Charter School. This training shall be conducted by an individual or entity with professional knowledge and expertise in the law, regulations, and rules governing these provisions and not by the Charter School's own Board members or administrators.
- Unbound Stockton has adopted the Fair Political Practices Commission's (FPPC) Model Conflict of Interest Code and the related designation of employees and the formulation of disclosure categories as the Charter School's conflict of interest code. It should always be required to maintain its conflict code in compliance with the FPPC's model.

The charter specifies, "The first and most direct avenue for input in governance will be regular Board meetings, which are public meetings in accessible venues during which our parents and families can communicate directly with our Board." It is true that parents may attend and provide public comment during Unbound Stockton Board meetings, as required by law. While this is an important – and legally mandated – means by which parents and the general public have access to and may provide some input to the Board, compliance with the Brown Act alone does not constitute an adequate "process to be followed by the charter school to ensure parental involvement" in Unbound Stockton's governance. The primary means proposed for ongoing parent involvement in governance noted in the Charter continues to be the "Family Council," described as:

An open advisory council consisting of family leaders who choose to meet regularly to not only support our school, but also support the diverse families in our school community. The Family Council will be provided space to meet regularly and will have open access to the School Director who will provide regular updates, announcements, and opportunities to seek feedback. The Family Council will also be on the agenda to give regular reports to the Board during regular Board Meetings.... The School Director will also discuss and seek input on any important schoolwide decisions, as well as present updates to the LCAP.

The Charter does not fully explore or explain the areas of involvement and input from the Family Council that would be directly related to governance of the Charter School. At least some of the Family Council's role is related to hosting "family events, trainings, and information sessions" and "support at student recruitment events, community fundraisers, and volunteer opportunities to support our school," rather than governance. While the selection process is not entirely clear, it appears that the School Community Manager/Director will select the leadership team members of the Family Council, rather than school families selecting the leaders. As a condition of approval of the Charter, the structure and role of the Family Council, including as specifically related to involvement in Charter School governance, should be clarified and refined to the County Superintendent or designee's satisfaction prior to Unbound Stockton opening to students.

The Charter does now provide for the establishment of a school site council and an English Learner Advisory Committee (ELAC).

The SJCOE Staff believes that this element of the Charter is reasonably comprehensive if the issues described above are supplemented and refined through the MOU.

E. Element Five: *Employee Qualifications*

The Charter specifies that all teachers are required to hold credentials required by law for their certificated assignment. However, despite the SJCOE making this point relative to the 2022-23 Petition, the Charter still cites Education Code Section 47605.4, relative to teacher qualifications, though that extra time for obtaining a credential granted in very limited circumstances for charter schools that were operating in 2019-20 does not apply to Unbound Stockton. There is no flexibility regarding credentialing requirements for teachers at this proposed Charter School.

The Charter now requires the School Director, School Community Director, Student Success Director, and Teacher and Learning Director to hold an underlying credential and an Administrative Services Credential. The lead petitioner has indicated that appropriately credentialed administrators may fill a variety of positions to support the Charter School, but consistent with the requirements of the Charter, such administrators may only teach classes for which they hold the appropriate credentials.

In introducing the employment qualifications of "key positions," the Charter specifies:

...we will hold high expectations of our leaders; to ensure that we hire the most qualified person to assume a leadership role in the school, we will prioritize the

following qualifications (specialized experience, skills, and knowledge) in addition to the hiring criteria outlined later below.

The SJCOE understands this to mean, consistent with the requirements for charter contents, that the qualifications listed under each key position in the Charter are the minimum required qualifications for each position (unless a particular qualification is specifically identified as only optional or preferred) and Unbound Stockton may not unilaterally deviate from those minimum qualifications. If the Charter is approved, this commitment should be memorialized specifically in the MOU.

The Charter describes the duties of a School Director and three additional director-level positions, though the latter positions do not commence until out years and/or are promoted from lower-level manager or coach positions. The Charter now specifies that the School Director will absorb the duties of and/or oversee the areas to be handled by these positions until they are filled in out years.

The Charter lists the qualifications for a variety of other employment positions in addition to teachers and director-level administrators.

Unbound Stockton plans to employ “associate teachers” and “resident teachers.” The Charter indicates that associate teachers are paraprofessionals who will provide support to students and credentialed teachers. The Charter School would need to comply with all applicable requirements for paraprofessionals. Resident teachers, on the other hand, must be in a teacher residency program, and Unbound Stockton's lead petitioner confirmed to the SJCOE that these are traditional resident (or student) teachers working towards a teaching credential. The description of their duties, however, creates some confusion. The Charter specifies, “The current staffing model also works to build a pipeline of teachers to our school and utilizes 2 resident teachers in similar support fashion to our associate teacher in Year 1. After Year 1, the resident teachers provide extra support for differentiation and support while learning alongside our team of teachers.” The Year 1 Staffing Plan included in the Charter also appears to indicate that the associate teacher would supervise/direct the resident teachers, while the Year 5 Staffing Plan indicates that three special education teachers will supervise/direct all three resident teachers.

Resident teachers who are in a teacher residency program working towards their credential are not paraprofessionals and Unbound Stockton cannot assign them paraprofessional support duties. Rather, these resident teachers must carry out the functions and duties required by their teacher residency program. Unbound Stockton’s associate teachers cannot supervise resident teachers nor would resident teachers who are working towards general education credentials properly be assigned only special education teachers as their mentor teachers. If the Charter is approved, Unbound Stockton would need to make clear its understanding of and commitment to complying with any teacher residency program requirements and establish that it has an effective staffing plan (including budget) to provide the program described in the Charter while complying with the parameters applicable to services provided by resident teachers and paraprofessionals.

Moreover, the Charter repeatedly refers to the Charter School as having a “1.5 teacher model,” which it describes as “an associate teacher that works with every grade level’s two teachers.” Unbound Stockton also states this “1.5 teacher” model will be of particular benefit to students with

disabilities. This terminology is misleading. Unbound Stockton’s associate teachers *are not teachers* – they are not certificated employees, are not credentialed teachers, and cannot be teachers of record for any class. While the Charter School proposes a 1.5 *adult* to student ratio through the use of associate teachers, that is not the same as a 1.5 *teacher* to student ratio. Parents/guardians and students should not be given the misimpression that Unbound Stockton’s educational model assigns 1.5 teachers to each class. Unbound Stockton must cease using this terminology and correct any misunderstanding on the part of families.

The description of the qualifications for both the Social Worker and Office Manager positions reference “implementation of [the Charter School’s] academic program, including management of curricula, provision of professional development, and development of teachers’ instructional practice” This appears to be inapplicable to either of these positions and seems to have been copied from the discussion of the Teaching and Learning Director. The actual qualifications for these positions appear to be appropriate to the job duties, but this discussion of the basis for establishing the qualifications is incorrect.

The Charter indicates that the Charter School Board hires the School Director, and, in turn, the School Director may have sole authority to hire and terminate all other staff. As detailed in response to the 2022-23 Petition and above, the Charter appears to invest the School Director with excessive discretion that does not require the Charter School Board to make or approve substantial decisions. At minimum, hiring decisions should be ratified by the Board and the Board should retain some authority over employee termination decisions. This should be clarified through the MOU if the Charter is approved.

The SJCOE staff believes this element of the Charter is reasonably comprehensive if the issues described above are supplemented and refined through the MOU.

F. Element Six: Health and Safety Procedures

The Charter states that Unbound Stockton will adopt and implement a comprehensive set of health, safety, and risk management policies in consultation with its insurance carriers and risk management experts. It commits to reviewing and updating these policies as necessary on an ongoing basis, and more formally on an annual basis. The Charter also specifies that all staff will be trained annually on health, safety, and risk management policies and procedures. The Charter School also commits to adopting and annually updating by March 1, a school safety plan that includes all of the required topics. The Charter provides a summary and/or general reference to some of its planned health and safety procedures, though it does not refer to every health and safety policy or procedure with which the Charter School would be required to comply. Nor does it set forth the full health and safety procedures that it must ultimately develop.

The SJCOE staff believes that this element includes a reasonably comprehensive description, but that Unbound Stockton would need to expand on the health and safety procedures to ensure that all policies and procedures required by law are covered and that it actually develops and adopts substantive policies *prior* to opening to students and maintains its handbooks with updated policies and procedures.

G. Element Seven: Racial, Ethnic, English Learner, and Special Education Balance

Unbound Stockton proposes an “intentionally integrated, diverse-by-design school,” and notes, “Our mission and model emphasize dismantling inequities of school performance based on where students live in Stockton, and thereby desire to prove through a recruitment of diverse students in Stockton that all students will be able to be academically successful.” The Charter proposes ongoing monitoring of its recruitment and success at enrolling a diverse student population, including monthly review of progress and the inclusion of recruitment as a standing agenda item at every regular Charter Board meeting. Unbound Stockton has outlined an extensive “inclusive and intentional” recruitment strategy that it deems crucial to its recruitment of a diverse student population inclusive of students with disabilities and English learners. This plan includes the use of strategies that have been designed and used by other schools that Unbound Stockton has vetted and determined to be effective in recruiting diverse families within the community. The Charter also includes an anticipated recruitment calendar with recruitment events aimed at achieving diverse enrollment.

The Charter asserts, “The projections developed are reflective of the diversity of the general population of Stockton Unified, given its diverse representation and far ranging demographic diversity in its own schools.” The Charter also references a recruitment strategy intended to yield a student population that is “reflective of the general population residing with[in] the city of Stockton,” though the boundaries of the city and SUSD are not coextensive. At the same time, a number of students who reside within SUSD’s boundaries attend other charter school options, as well as private and home schools, so the enrollment in SUSD also may not present an exact picture of the general population residing within SUSD’s boundaries. The demographic comparison in the Charter is between SUSD’s enrollment and Unbound Stockton’s projected enrollment, which the Charter School has based on its overall estimate of all students who reside within the City of Stockton.

Education Code Section 47605(c)(5)(G) requires that the Charter include a reasonably comprehensive description of:

The means by which the charter school will achieve a balance of racial and ethnic pupils, special education pupils, and English learner pupils, including redesignated fluent English proficient pupils, as defined by the evaluation rubrics in Education Code Section 52064.5, that is **reflective** of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.

(Emphasis added.)

The Charter Schools Act thus requires Unbound Stockton to describe the means by which it will achieve the specified student breakdown that is “reflective” of the general population residing within SUSD, not that is “identical” to that population. There is no case law or other interpretation defining this terminology and what is required of a charter school. In this case, Unbound Stockton’s enrollment projections stem from its proposed design that strives to implement an

innovative educational approach comporting with some of the statutory purposes for charter schools, such as encouraging the use of different and innovative teaching methods and providing expanded choices of educational opportunities.

Unbound Stockton explains its “diverse-by-design” approach, the target student population, and the reasons for targeting that population, and methods it will use to try to attract that student population. Given the Charter School’s design, its projected student demographics are not identical to those of the SUSD and may not be identical to those of the general population residing within SUSD’s boundaries. This includes projecting somewhat lower percentages of some traditionally underserved student groups – most notably the Charter projects somewhat lower percentages of Latinx/Hispanic, English learners, and socioeconomically disadvantaged students compared to SUSD’s enrollment. At the same time, Unbound Stockton projects slightly higher percentages of other traditionally underserved student groups, specifically students with disabilities, Black/African American, two or more races, and Asian/Filipino/Pacific Islander. The Charter explicitly acknowledges and affirms the need to use an enrollment lottery should there be more interested students than spaces, which may affect the ultimate enrollment demographics. Unbound Stockton also explicitly affirms that it will comply with the requirement that its admissions preferences will not result in limiting enrollment access for “pupils with disabilities, academically low-achieving pupils, English learners, neglected or delinquent pupils, homeless pupils, or pupils who are economically disadvantaged, as determined by eligibility for any free or reduced-price meal program, foster youth, or pupils based on nationality, race, ethnicity, or sexual orientation.” Unbound Stockton does not propose to give enrollment preference to students from districts other than the SUSD, which may also result in the Charter School’s demographics more closely reflecting SUSD residents than Unbound Stockton’s diverse-by-design target breakdown.

The proposed breakdown in the Charter is more complete and more closely reflects SUSD’s enrollment than was the case in the 2022-23 Petition. The projected balance, which comports with Unbound Stockton’s diverse-by-design model, with some traditionally underserved groups more highly represented and some lower than SUSD’s enrollment, is arguably “reflective” of the SUSD’s general population and constitutes a reasonably comprehensive description of this element. Should the Charter be approved, it will be necessary for Unbound Stockton to monitor closely its recruitment strategies and enrollment to ensure that its diverse-by-design approach complies with all requirements of the Charter Schools Act, including maintaining an appropriate student balance reflecting the SUSD’s population, serving all students who wish to attend, and not taking any actions that limit enrollment access in violation of the law.

H. Element Eight: Admission Policy and Procedures

In the event there are more applicants than spaces at a particular grade level, the Charter specifies that Unbound Stockton will determine admission using a public random drawing. Pursuant to law, current students of the Charter School are entitled to remain enrolled and are exempt from the drawing process. In the event a public random drawing is required, Unbound Stockton specifies its intent to implement the following preferences in the following order:

1. Siblings of children currently admitted to or attending Unbound Stockton (with the intent to keep families together)
2. Children of Unbound Stockton Board Members and full-time staff members (to honor not only their commitment to our Charter School, but reinforce their belief in our mission and vision) (not to exceed 10% of total enrollment).
3. Students who are currently enrolled in or who reside in the elementary school attendance area of the local public elementary school in which the Charter School is located (for purposes of the SB 740 Charter School Facility Grant Program) [only in years in which the Charter School is not eligible for the Program based on its own student population].
4. Residents of the [Stockton Unified School] District.
5. All other applicants

Other than the preferences for residents of the SUSD and for residents/students of the unnamed elementary school if Unbound Stockton is receiving SB 740 funds, whether to permit the proposed preferences is within the discretion of the SJCOE. (The SJCOE expresses no opinion on whether the proposed preference for students/residents of the elementary school in which Unbound Stockton is located complies with the requirements of the Charter School Facility Grant Program (“SB 740”).)

The Charter has been updated from the 2022-23 Petition to provide more details and specificity regarding the public random drawing procedures generally and implementation of the sibling preference specifically. The Charter specifies that Unbound Stockton “prefers to use a hand-drawn system in our first year, to ensure integrity and full control of the process and the outlined legal procedures.” It specifies if Unbound Stockton subsequently decides to use an automated, computer-based drawing process, “the lottery drawing process will need to be outlined, written, and described to be an equivalent and legal process, at which time the [Unbound Stockton] board may approve the change to a[n] automated, computer-based process.” The description of the manual drawing process appears somewhat unwieldy and unnecessarily complicated given the widespread availability and use of automated systems, though the proposed process appears to be legally compliant. If approved, the SJCOE recommends that Unbound Stockton be required to use an automated, computer-based process, including for its first year, unless the SJCOE designee authorizes the use of a manual process. Additionally, Unbound Stockton must provide a detailed written description of the process to the SJCOE designee’s satisfaction, which is consistent with the preferences and procedures described in the Charter, *prior* to implementation.

The “timeline” of enrollment included in the Charter specifies that there will be a “second enrollment period (if necessary).” The only explanation of this concept is, “If necessary, a second enrollment period will take place, including two enrollment meetings and one public drawing.” The SJCOE understands this to be a reference to a second admissions process, rather than a second enrollment process (as enrollment follows admission). However, the Charter fails to explain under what circumstances such a second admissions/enrollment period and process would be necessary. The Charter also does not describe what occurs should students apply for admission after the public random drawing is complete, so this second process may be intended to address such a

circumstance. If approved, the specifics of these matters would need to be established via the MOU.

The Charter now specifies information that will be required on the admissions application. To ensure that students are not improperly discouraged from attending or that families are not requested to provide protected information, and to be consistent with the prohibition against requesting pupil records before enrollment, the MOU should specify that the application is limited only to the specified information if the Charter is approved.

The SJCOE Staff believes that this element of the Charter is reasonably comprehensive if the issues described above are supplemented and refined through the MOU.

I. Element Nine: Annual Financial Audit

The Charter includes appropriate information about the manner in which annual independent financial audits will be conducted.

The SJCOE staff believes that this element includes a reasonably comprehensive description.

J. Element Ten: Student Suspension/Expulsion Procedures

The Charter commits to the implementation of Restorative Practices as the foundation for addressing behaviors that do not align with cultural or behavioral expectations. Additionally, Unbound Stockton “will provide robust, responsive supports for students through implementation of the [Positive Behavioral Interventions and Supports (“PBIS”)] framework.” The Charter School will also provide professional development around cultural and behavioral expectations and corresponding systems and structures, including restorative practices and PBIS.

The Charter sets forth suspension and expulsion policies, which have been largely modeled on the procedures applicable to non-charter California public schools.

The Charter does not specifically define the terms used, including “suspension” and “expulsion.” The Charter states that “every effort will be made to provide for in-school suspension rather than at home suspension,” with in-school suspension served within a student’s general classroom or, if that is “not appropriate under the circumstances,” in a separate space at school. The concept of a student being “suspended” but still attending school in their usual classroom setting appears to be inconsistent with the definition of suspension in Education Code Section 48925(d), so Unbound Stockton must define what it means by “suspension” in this context and how it would be implemented. Since the 2022-23 Petition, Unbound Stockton has provided additional information regarding the factors for determining whether in-school or out-of-school suspension are appropriate, but still does not include the actual procedures or who would make this decision and when in the process.

The Charter also provides that oral or written notice of the charges against the student will be provided for suspensions of fewer than 10 days, but it does not describe the notice that would be provided for suspensions of 10 days or more. Moreover, the maximum time for any suspension

without a recommendation of expulsion is five school days, and a decision on whether to recommend expulsion may not have been made at the time of suspension. This issue needs to be clarified.

The Charter indicates that the decision whether to recommend expulsion is made by the School Director or designee. However, there is also a provision that a Student Support Team will be convened upon a student's third suspension in a school year, specifying, "The Student Study Team reserves the right to refer the student to the Unbound Stockton Community School Board of Directors or appointed subset of the Board for an expulsion hearing." How this proposal fits into the remainder of the expulsion procedures and comports with student due process rights would need to be more fully developed.

The SJCOE staff believes this element of the Charter is reasonably comprehensive if the issues described above are supplemented, clarified, and refined through the MOU.

K. Element Eleven: *Employee Retirement Systems*

The Charter specifies that eligible certificated employees participate in the State Teachers' Retirement System (STRS). At this time, Unbound Stockton will not participate in the California Public Employees' Retirement System (CalPERS), and non-STRS eligible employees will participate in a 403(b) plan and social security. The School Director, with support from the office manager and back office services provider, will be responsible for ensuring compliance.

The SJCOE staff believes this element of the Charter is reasonably comprehensive.

L. Element Twelve: *Public School Attendance Alternatives*

The Charter specifies, "Any student who resides in the district who chooses not to attend Unbound Stockton may attend school within the district in accordance with district policy and/or apply for an inter-district transfer in accordance with local school district policies."

The SJCOE staff believes this element of the Charter is reasonably comprehensive.

M. Element Thirteen: *Description of the Rights of An Employee of the County Superintendent of Schools, Upon Leaving the Employment of the County Superintendent of Schools to be Employed by the Charter School*

The Charter specifies that employees of the SUSD or the County Superintendent who leave their employment positions at the SUSD or the SJCOE to work at Unbound Stockton have no automatic rights to return unless specifically granted by the SUSD or the SJCOE. Staff again notes that the County Superintendent is the employer of all employees at the SJCOE.

The SJCOE staff believes this element of the Charter is reasonably comprehensive.

N. Element Fourteen: *Dispute Resolution*

The Charter sets forth a proposed dispute resolution procedure for disputes between Unbound Stockton and the SJCOE, including a meeting between two Board members of the SJCOE and Unbound Stockton and the use of nonbinding mediation. The Charter recognizes that Unbound Stockton cannot bind the SJCOE to this proposed procedure, and states that the Charter School will alter the process to comport with the SJCOE policies or desired protocols or operations through an MOU. The proposed procedure is not consistent with the SJCOE's best practices and oversight requirements or how the SJCOE operates, and Unbound Stockton would have to agree to comply with the SJCOE's preferred dispute resolution procedures.

The SJCOE staff believes this element of the Charter includes a reasonably comprehensive description, but the actual dispute resolution procedures would need to be revised through the MOU to comport with the SJCOE best practices.

O. Element Fifteen: Closure Protocol

The Charter describes legally compliant closure. Additional specificity regarding closure procedures and the handling and transfer of records, could be included in an MOU.

The Charter has been updated to specify that revenues generated by students through state and federal apportionments will be distributed to another public school or educational entity operating in San Joaquin County upon closure of Unbound Stockton.

The Unbound Stockton Board is designated as the entity responsible for closure related activities, and the Charter provides that all state assessment results, special education records, and personnel records will be transferred and maintained by that entity. However, it is likely that the corporation would dissolve upon closure of the Charter School, so Unbound Stockton needs to provide for another backup means of handling those records.

The SJCOE staff believes this element of the Charter is reasonably comprehensive if the issues described above are supplemented and refined through the MOU.

6. A declaration of whether or not Unbound Stockton shall be deemed the exclusive public employer of the employees of Unbound Stockton for purposes of the EERA.

The Charter includes the required statement that Unbound Stockton will be deemed the exclusive public employer of the employees of Unbound Stockton employees for purposes of the EERA.

7. Unbound Stockton is not demonstrably unlikely to serve the interests of the entire community in which it is proposing to locate.

Analysis of this issue must include consideration of the fiscal impact of the charter school. This finding must detail specific facts and circumstances that analyze and consider both (a) the extent to which the proposed school would substantially undermine the SUSD's existing services and academic and programmatic offerings and (b) whether the school would duplicate a program the SUSD currently offers, if such program has sufficient capacity for the pupils proposed to be served within a reasonable proximity of where the charter school plans to locate. (Education Code Section

47605(c)(7).) The SJCOE believes that the SUSD is in the best position to demonstrate, by analysis of specific facts and circumstances, if a proposed charter school is unlikely to serve the interests of the entire community. Thus, the SJCOE's approach was to review the SUSD's findings to determine if we agree or disagree with their analysis.

The SUSD found that "the program proposed in the Petition maintains significant duplication with schools (including charter schools) already operated within the SUSD." According to the SUSD, "The comparative program analysis of the Petition's 'Mission, Key Pillars and Core Values' against a sample of the SUSD elementary schools reveals that all elements of the Unbound Stockton model are already present in existing SUSD schools." The SUSD also developed a table that it asserted established this "duplication" of the mission, key pillars, and core values by comparing these items to four SUSD schools. The table indicates some cross-over with each school, though not all elements were duplicated at any one SUSD school. The SUSD also asserted (without providing specific details) that the Charter focus on school community, equity, lifelong learning and self-awareness, as well as some instructional focus and strategies, are existing features of SUSD's instructional program. However, while the SUSD's table indicates that some features of the Unbound Stockton proposal might also be present at some SUSD schools, the SUSD did not establish that the Unbound Stockton program as a whole was present at any single SUSD school such that the Charter School's program was duplicative of an SUSD program within reasonable proximity with sufficient capacity to serve the proposed Unbound Stockton pupils. Therefore, we are unable to agree with the SUSD's finding.

The SUSD also speculated that Unbound Stockton would pull enrollment from Title I schools located in the same "zone" where the Charter School intends to locate, with a corresponding loss of Local Control Funding Formula ("LCFF") and Title I funds, which the SUSD asserted could result in a reduction in services. The SUSD also found, "The loss of enrollment could also potentially force closure of one or more schools or necessitate multiple grade level combination classrooms."

We agree that the Charter School might draw some enrollment from these schools, though Unbound Stockton plans to recruit enrollment city-wide not only from the local area. Should it be necessary for Unbound Stockton to qualify for SB 740 funds, there is a possible enrollment preference for students attending or residing in the attendance area of the elementary school where the Charter School will be located. However, that enrollment preference is mandated as a requirement for SB 740 funds, so is encouraged by the State of California as a means of serving these students, which must be weighed against the potential impact on the SUSD school.

The SJCOE does not dispute that the opening of Unbound Stockton may result in the potential loss of Average Daily Attendance ("ADA") and a corresponding loss of revenue for the SUSD, because that potential is true for all charter petitions. However, the law requires that the analysis of this finding goes beyond stating that there may be a loss. We must show the specific impacts and how the charter school is demonstrably unlikely to serve the interests of the entire community. The SJCOE estimated that if all Unbound Stockton students came from the SUSD (which is not the proposal, as the Charter School's students may come from other districts, other charter schools, and private or homeschool students), the potential loss of funding for the SUSD in the first three

years of Unbound Stockton's operation would be \$4.5 million in LCFF funding. This amounts to 0.30 percent of the roughly \$1.468 billion the SUSD expects to receive over the same period. Although there is no disagreement that the loss of \$4.5 million over three years might require budget changes (noting that the SUSD would also save the expenses of educating students who chose to attend the Charter School), considering the amount in the context of the SUSD's overall budget, it is difficult to argue that the operation of Unbound Stockton would substantially undermine the SUSD's existing services and academic or programmatic offerings or that this fiscal impact demonstrates that the Charter School will not serve the interests of the entire community.

The SUSD indicated that the loss of enrollment to Unbound Stockton at Spanos and Cleveland Elementary schools would potentially result in the need to close one or more schools and/or substantially reduce services that could be provided to the student population. However, the SUSD did not include an analysis of specific facts and circumstances or an analysis to help us better understand its conclusion. Similarly, the SUSD did not include any specific details to support its finding that the Charter School would potentially pull enrollment from Spanos Elementary and Cleveland Elementary and reduce Title 1 funding specifically designated for those sites or the specific academic programmatic offerings that the Charter School would substantially undermine. Instead, SUSD included only general statements about the possibility of "reductions to targeted services, and programs at these schools, including but not limited to Arts instruction and various school clubs" with a list of examples of programs that potentially could be cut.

The SJCOE understands the formula used to allocate Title 1 funds to LEAs as more nuanced than the SUSD suggests. It is more likely that SUSD's Title 1 allocation would not be impacted by the opening of Unbound Stockton because of how the state calculates Title 1 funding for charter schools. To illustrate, between 2019-20 and 2022-23, five charter schools opened in SUSD and SUSD's enrollment declined by approximately 2,000 during this period. Over the same period, the SUSD's Title 1 entitlement increased \$4.3 million from \$18.2 million to \$22.5 million (24 percent). This cannot be explained by the increase in the total grant to the state, which only increased by 6 percent over that period. Thus, the establishment of a new charter school does not necessarily decrease the amount the SUSD receives in Title 1 funding.

While individual Title 1 site allocations may change due to the loss of enrollment, the SJCOE believes site allocations are also more nuanced than SUSD suggests. Moreover, neither arts instruction nor the school clubs listed in the SUSD's findings are identified as a planned Title 1 expenditure in the School Plan for Student Achievement for either of the schools. For these reasons, the SJCOE was not able to come to the same conclusion that the opening of Unbound Stockton would cause a loss of Title 1 funding to SUSD (including these specific SUSD schools) that would substantially undermine existing services, academic offerings, or programmatic offerings.

8. SUSD is positioned to absorb the fiscal impact of Unbound Stockton.

The SUSD did not, itself, provide evidence that it is not positioned to absorb the fiscal impact of Unbound Stockton.

Because the SJCOE has designated the SUSD as a lack of going concern, the SJCOE staff is noting reasons why it agrees that Unbound Stockton should not be denied on this basis. The SJCOE has designated the SUSD as a lack of going concern because the SUSD continues to struggle with its systems and controls. Additionally, the SUSD's budget for 2023-24 as adjusted by the SJCOE (for technical reasons), shows deficit spending in the subsequent years.

The SJCOE agrees that the loss of enrollment can contribute to the loss of revenue, for example, as discussed above, a reduction in LCFF of approximately \$4.5 million over three years if all Unbound Stockton students come from the SUSD. Although the SUSD may have lower costs due to fewer students, the SJCOE would posit that the savings could be less than the \$4.5 million in lost revenue. This could worsen deficit spending at the SUSD. As noted above, however, the loss of \$4.5 million in LCFF revenue would constitute only 0.30 percent of the roughly \$1.468 billion the SUSD should receive over the same period, the SUSD did not provide evidence and the SJCOE does not find that the general fiscal concerns, including the potential for some increase in deficit spending by the SUSD, rise to the level required to find that the SUSD is not positioned to absorb the fiscal impact of Unbound Stockton and deny the Charter appeal on this basis.

III. Additional Required Information: The petitioner(s) are required to provide information regarding the proposed operation and potential effects of the school including but not limited to:

A. The facilities to be used by Unbound Stockton, specifying where Unbound Stockton proposes to locate.

The Charter School's Board of Directors has convened a Facilities Committee and the Charter includes some information about the facilities proposed to be utilized by Unbound Stockton. It specifies, "Unbound Stockton will ensure it provides its entire academic program and extra-curricular activities, in a safe learning environment" and lists facilities requirements in year one and at full capacity. The SJCOE notes that the identified space does not include space for the School Community Manager and/or the Social Worker, both of whom would need designated space, including space for confidential meetings and communications. The Charter commits to obtaining a Certificate of Occupancy, complying with all legal requirements, including Education Code Section 47610, fire life safety requirements, and compliance with the Americans with Disabilities Act. The Charter states that Unbound Stockton does not expect to pursue a facility under Proposition 39.

The Charter School plans to locate in the 95202 zip code in downtown Stockton, or as close thereto as possible, and is currently in lease negotiations with the Trinity Lutheran Church ("Trinity") for space recently vacated by an Aspire charter school. The SJCOE representatives have made several visits to the Trinity location and have informed representatives of both Unbound Stockton and Trinity of serious concerns with the current state of the facility. The facility (including both the portion to be shared use with Trinity and the portion proposed for the Charter School's exclusive use) is not in a condition appropriate for the operation of the Charter School, including significant disrepair, health and safety concerns, and concerns with access for persons with disabilities.

Unbound Stockton and Trinity have represented that Trinity will complete and pay for all improvements necessary to comply with the Williams Act prior to the start of the 2024-25 school year and that Trinity and Unbound Stockton will split 50-50 Year 1 and Year 2 repair costs, including those incurred by the Charter School. However, the conversations the SJCOE had with Trinity indicated a lack of understanding of the nature and extent of necessary work to comply with the Williams Act and to meet the standards the SJCOE expects for a facility to serve students. This calls into question whether all the work is planned and budgeted for and can and will be completed in time for Unbound Stockton to take occupancy and open to students for the 2024-25 school year.

Securing adequate, appropriate facilities for operating the proposed school in a safe manner consistent with the Charter is essential to the student educational experience and compliance with the terms of the Charter. As such, Staff recommends that the SJCBOE impose as conditions of approval that the MOU include a requirement that Unbound Stockton provide a detailed facility improvement plan to demonstrate that the facility will be in compliance with all applicable laws and requirements, which plan must include costs and funding sources adequate to cover facilities costs and implement the Charter program. Additionally, a requirement and agreement that Unbound Stockton must secure facilities and obtain all authorizations for use – including certificates of occupancy and all safety clearances (including fire life safety clearances) and compliance with the Americans with Disabilities Act – by no later than April 15 of the school year preceding its opening to students, unless the deadline is extended in the SJCOE’s discretion in accordance with the requirements of the MOU. A failure to comply with these requirements will require Unbound Stockton to delay opening to students until the following school year, and then only if it complies with these requirements by April 15 of the school year prior to opening. Further, should Unbound Stockton not open to students by the 2025-26 school year, the Charter School will no longer be authorized to open pursuant to this Charter, for the reasons described in Section II.2.C above.

The Charter notes its understanding that “future identification of a site that would limit the Charter School’s ability to reach its intended student population” would constitute a material revision, and that it must notify the SJCOE 30 days in advance of occupancy of every site to be leased, purchased, or occupied by the Charter School. Should the Charter be approved, it would be necessary for Unbound Stockton to understand that it must notify the SJCOE in advance of any change to the sites it will acquire or use in order for the County Superintendent or designee to determine whether the proposed change is a material revision to its Charter, and, if so, it must follow the material revision procedures prior to implementing the contemplated change.

B. The manner in which administrative services of Unbound Stockton are to be operated.

Unbound Stockton will provide or procure its own administrative services, including but not limited to financial management, accounts payable/receivable, payroll, human resources, and instructional program development, through its own staff or appropriate qualified third-party providers. Unbound Stockton plans to contract with EdTec, a charter school “back office” services provider.

C. Potential civil liability effects, if any, upon Unbound Stockton and upon the SJCBOE/SJCOE.

The Charter includes a statement of intent to enter into a Memorandum of Understanding whereby it will indemnify the SJCBOE and the SJCOE “for the actions of Unbound Stockton under this charter.” It also specifies that Unbound Stockton will obtain insurance as recommended by the SJCOE and the Charter School’s insurance company for schools of similar size, location, and student population and “shall comply with all County requirements for insurance” and name the SJCOE and the SJCBOE as additional insureds on its general liability insurance. As a condition of any approval of the Charter, it would be essential that Unbound Stockton be required to carry out those intentions and commitments and enter into an MOU with the SJCOE fully committing to the SJCOE’s required insurance and indemnification, defense, and hold harmless requirements.

Unbound Stockton has also included a section on revocation and renewal of the Charter. Any potential revocation would be conducted in accordance with applicable legal requirements, and nothing that Unbound Stockton has included in the Charter will serve to expand the SJCBOE/SJCOE’s obligations relative to any such revocation. If the Charter is approved, the MOU should include provisions regarding the processing of renewal requests, including confirmation of the timing of submission of such a request, which shall not be prior to the commencement of the last year of the charter term.

D. 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.

Unbound Stockton provided the required financial documents. The Charter budget was based on the following assumptions:

	2024-25	2025-26	2026-27	2027-28	2028-29
Enrollment 4-6	120	150	180	180	180
Enrollment 7-8	0	30	60	90	120
ADA yield	95%	95%	95%	95%	95%
UPP	80%	80%	80%	80%	80%

The Charter School’s unduplicated pupil population (“UPP”) assumption is reasonable given the SUSD’s UPP as of 2022-23 P-2 of 82.97 percent, TEAM charter’s UPP of 88.15 percent, and Pittman charter’s UPP of 89.38 percent.

The SJCOE analyzed the budget using these assumptions as well as an alternative calculation assuming 20 percent lower enrollment to understand the fiscal effects on Unbound Stockton if it does not achieve its projected enrollment. The following table illustrates the impact on the Charter School’s budget if ADA is reduced by 20 percent:

LCFF Revenue:

	2024-25	2025-26	2026-27	2027-28	2028-29
Petition	\$1,577,907	\$2,456,678	\$3,388,369	\$3,897,764	\$4,426,064
20% ADA reduction	\$1,259,557	\$1,965,342	\$2,719,720	\$3,121,132	\$3,540,806
Difference	(\$318,350)	(\$491,336)	(\$668,649)	(\$776,632)	(\$885,258)

The SJCOE also conducted a sensitivity analysis to assess the Charter School’s viability under different scenarios. Based on the projected Cost Of Living Adjustment (COLA) and LCFF calculator assumptions, the ADA estimates included in the petition are reasonable. However, a 20 percent drop in ADA could reduce the funding by \$318,000 in the start-up year, when it is unlikely that the Charter School would be able to reduce staff and maintain desired class sizes with split humanities and STEM classes and continue to run the program as designed in the Charter in the initial year of operation considering other adjustments in addition to LCFF, a 20 percent reduction in ADA would cause the Charter School to spend more than it receives.

The largest sources of federal funding in the Charter budget are Title programs (most significantly Title 1) and child nutrition programs. While it is difficult to estimate Title 1 funding entitlement for a new charter school, the SJCOE validated the funding estimate by comparing it to per pupil Title 1 funding for other charters in the county with similar demographics to Unbound Stockton’s projections, and determined the projection was not unreasonable. Similarly, the Charter’s child nutrition revenue assumptions are not unreasonable.

The main sources of state revenue in the financial plan are special education (AB 602) and Charter School Facility Grant Program funds for lease payments (SB 740). Unbound Stockton’s SB 740 projections are reasonable. The Charter School referred to the El Dorado County Charter SELPA (“El Dorado”) as an example if it is accepted as an LEA member of a SELPA. The revenue and cost projections budgeted in the Charter for this model appear reasonable. However, this funding is subject to declines in ADA, so this is an area of risk if the ADA does not materialize as projected (such as the 20 percent decline contemplated in the SJCOE’s analysis).

If the Charter School does not become an LEA member of a SELPA, as it intends, and instead is a school of the SJCOE for IDEIA compliance, its special education funding model would differ substantially. Under the current allocation model for the San Joaquin SELPA, all members share in the cost of county special education programs (regardless of their utilization of the program) in

proportion to their ADA. The SELPA then passes through the remaining AB 602 funds. The SJCOE's estimate of the cost of the county program is approximately 60 percent of the AB 602 allocation. This would decrease the funding for the charter, ranging from a decrease of \$52,547 in 2024-25 to a decrease of \$128,666 in 2028-29, for a total reduction in funding of \$477,776 over the five-year proposed term.

Based on the multiyear projections and budget assumptions included with the Charter, the SJCOE did not conclude that the financial outlook causes the petitioners to be demonstrably unlikely to successfully implement the program set forth in the Charter. However, the SJCOE has identified several issues and risks that could cause the Charter School to struggle with starting up and implementing the program set-forth in the Charter, and for which Unbound Stockton will need to plan and prepare to make adjustments in order to implement the Charter program, and some of these concerns may need to be addressed through the MOU. Notable items include:

1. While the financial data is based primarily on reasonable assumptions, the assumptions lacked information fully establishing that Unbound Stockton has considered and included all costs required to start a new school. Specifically, the Charter does not include a budget for tenant improvements and its classroom furniture budget of \$300 per student (\$36,000) and non-classroom furniture budget (\$18,000) likely are not adequate to cover improvements as well as the costs required to fully outfit four classrooms, an administrative office, a main office, one office staff workspace, three bathrooms, one playground or gym space, and one multi-purpose room/cafeteria (per facility needs identified in the Charter). (As described above, the SJCOE has questions about whether Trinity would cover all costs of necessary improvements to make the contemplated space legally compliant, safe, and usable for Unbound Stockton's purposes.) Additionally, with the concerns about the scale of improvements that the SJCOE has observed to be needed at Trinity (as noted above), it is possible that Unbound Stockton will have to secure a different property that could be costlier to lease. It is reasonable to assume that a portion of the increased rent would be reimbursed through SB 740. If these concerns materialize, they should become apparent in the start-up year before the Charter School opens for students.
2. It appears that cashflow would be a significant challenge, particularly in the first year of operation, until the Charter School could build its reserves, which is not uncommon for new charter schools because the first advance LCFF payment is not until October. Unbound Stockton's budget relies on borrowing from the Charter School's revolving loan to meet cash obligations. If the Charter School incurs more facility improvement costs than it has assumed, it will further reduce available cash. Thus, to meet its cash needs in the initial months, Unbound Stockton will likely need to borrow more cash and incur additional borrowing costs that it has not assumed. The SJCOE is aware that Unbound Stockton has the option to borrow against its advance payments (at a cost), which is not included in the budget assumptions. This could cover the shortfalls in the initial months. The Charter School also provided a pre-approval letter for funding up to \$600,000 from Charter School Capital.

3. Unbound Stockton noted that it aligned salaries near the SJCOE's in order to be competitive. Based on the SJCOE's analysis, factoring in the SJCOE's 2023-24 salary increases, health and welfare benefits, and differences in calendars, the Charter School's total daily compensation for salaries and health and welfare is 91 percent of the \$465 daily rate for the SJCOE salary for seven years with 15 units and 86 percent of the \$492 daily rate for a special education teacher (not including any SJCOE off-schedule payments). Although the salary and benefit assumptions are not unreasonable (they are somewhat lower than most districts in the county, using 2022-23 data, but higher than a few), there may be pressure for the Charter School to increase its salaries, particularly for special education and due to the additional workdays as compared to the SJCOE and other districts in the county. Benefits appear to be calculated reasonably, though some factors may affect those projections, though not in a manner with material effects on the overall budget projections.

While the salaries budgeted generally match the Charter's staffing plan, the SJCOE notes the staffing plan does not align with some of the Charter narrative. Specifically,

- The Charter continues to refer to "instructional assistants," though this position is not included in the staffing plan. The petitioner confirmed at the time of the 2022-23 Petition that "instructional assistants" are the same position as "associate teachers," though that is unclear in the written document and has not been entirely resolved in this version of the Charter.
 - While not explicit in the Charter, the SJCOE concluded (and the petitioner confirmed) that the Student Success Manager to be added in year 3 is budgeted in object code 2200. However, the Charter indicates that this position will require a special education credential, consistent with the job responsibilities, which indicates that this is a certificated position, rather than non-certificated. As a certificated position, benefits will be higher than projected by 7.9 percent of salary, which is not properly accounted for in the budget. This issue was noted at the time of the 2022-23 Petition but has not been remediated in the Charter.
4. In assessing the budget for books and supplies, the SJCOE compared Unbound Stockton's projections to a random selection of five other charter schools in the county to compare the Charter's estimates to the actual spending at the comparison schools in 2019-20. (2019-20 was used because it precedes the pandemic and stimulus funding.) The Charter budget falls in the middle per ADA spending. This is not a primary cost driver and overruns likely would not severely jeopardize the finances. However, the Charter School should consider setting aside funds for overruns. For curriculum, the Charter did not include any detail to show that it considered all potential costs, such as subscriptions and curriculum packages, when determining the per-student budgeted amount.
 5. As a condition of any approval of the Charter, Unbound Stockton must provide an updated budget for 2024-25, with the latest factors, by July 1, 2024.

E. The names and relevant qualifications of all persons whom the petitioner nominates to serve on the charter school nonprofit corporation's Board of Directors.

Unbound Stockton provided names and resumes for its proposed Board of Directors members.

CONCLUSION

The SJCOE staff reviewed the Charter for Unbound Stockton utilizing the criteria for consideration and action on an appeal of a denial by SUSD of the Charter, as set forth in Education Code Section 47605. It is the SJCOE staff's recommendation that the Unbound Stockton Charter be approved with conditions to address all the SJCBOE and the SJCOE concerns, including those specified herein and that the San Joaquin County Board of Education adopt proposed Board Resolution #23-24-06 Approving the Charter for the Unbound Stockton Community School with Conditions and, Alternatively, Denying Unbound Stockton Community School Charter petition appeal if it Fails to Comply with the Conditions. If, however, Unbound Stockton objects to the imposition of conditions on charter approval or indicates an unwillingness to comply with the recommended conditions, the SJCOE recommends that the Unbound Stockton Charter be denied based on the findings in proposed Resolution #23-24-06 supporting denial for failure to comply with the conditions of approval.

PROPOSED MOTION

Motion to conditionally approve the Unbound Stockton Community School Charter and adopt – [Resolution #23-24-06](#) Approving the Charter for the Unbound Stockton Community School with Conditions and, Alternatively, Denying Unbound Stockton Community School Charter petition appeal if it Fails to Comply with the Conditions.

OR

Motion to deny the Unbound Stockton Community School Charter and adopt a revised version of Resolution #23-24-06 omitting the conditional approval and recommended conditions of approval and instead adopting the legal and factual findings supporting denial as set forth in the Staff Analysis and proposed version of Resolution #23-24-06 and directing and delegating to the County Superintendent or designee responsibility to make the necessary revisions prior to execution of the adopted Resolution.