

**A REPORT BY
THE 2018-2019 CONTRA COSTA COUNTY GRAND JURY
725 Court Street
Martinez, California 94553**

Report 1902

**Is Charter School Oversight Effective
in Contra Costa County?**

APPROVED BY THE GRAND JURY

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RICHARD S. NAKANO
GRAND JURY FOREPERSON

ACCEPTED FOR FILING

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ANITA L. SANTOS
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report 1902

Is Charter School Oversight Effective in Contra Costa County?

**TO: Contra Costa County Superintendent of Schools, Office of Education;
Contra Costa County Board of Education**

SUMMARY

Does the Contra Costa County Office of Education (Office of Education), headed by the Superintendent of Schools, effectively oversee how charter schools are governed? That was the question raised by events at Clayton Valley Charter High School (Clayton Valley) over the past year. Sixteen of the school's teachers, administrators, and senior staff resigned amidst allegations of financial mismanagement, nepotism, and violations of the open meeting provisions of the Brown Act. Could this situation have been avoided by the Office of Education? Does the Office of Education even have the authority it needs to oversee Clayton Valley and other charter schools?

The Grand Jury reviewed the history of Clayton Valley and discovered that the same management team had been investigated by the Office of Education in 2015. Yet some of the same violations occurred a second time after the oversight issues had presumably been addressed earlier. The Grand Jury decided to investigate how the Office of Education is carrying out its oversight responsibilities at four of the charter schools that it oversees. We found that the Office of Education has limited oversight authority under the California Education Code (Education Code). To increase its authority to oversee charter school operations, the Office of Education began requiring a rider to charter school petitions, referred to as a Memorandum of Understanding (MOU). The MOU gives the Contra Costa County Board of Education (Board of Education) the ability to address transparency and accountability requirements as part of the charter approval process.

At a minimum, charter school oversight should include MOUs and parent-teacher organizations, as well as better communication between charter schools and the Office of Education.

METHODOLOGY

- Reviewed the California Education Code Sections 47600-47615
- Reviewed State of California Code of Regulations 5 CCR Section 11966
- Reviewed Contra Costa County Board of Education Policies and Regulations BP 0420.4 and AR 0420.4
- Reviewed current and approved charter petitions
- Attended two County Board of Education meetings
- Interviewed officials from the Office of Education, charter schools, and school districts outside the jurisdiction of the Board of Education
- Reviewed journal, magazine, and newspaper articles

CONFLICT OF INTEREST DISCLAIMER

One Grand Juror recused themselves due to a possible conflict of interest and did not participate in the investigation, preparation, or approval of this report.

BACKGROUND

Charter schools in California were initiated by the Charter Schools Act of 1992 and incorporated into the state's Education Code. They were designed with the intent to provide competition for existing public schools. The Education Code provides that charter schools are still part of the public school system and under the oversight of the officers of the public schools. In the case of the four charter schools that the Grand Jury reviewed, these oversight officers are the members of the Board of Education who govern the Office of Education.

The charter school legislation sought to improve student learning, especially for those pupils who are identified as academically low-achieving; encourage the use of innovative teaching methods; and hold the schools accountable for meeting measurable pupil outcomes. The Education Code does not authorize the management or oversight of charter schools by their chartering authorities. It requires chartering authorities only to:

- Identify a contact person
- Visit each charter school at least annually
- Ensure that the charter school is submitting a Local Control and Accountability Plan (LCAP) These are planning documents that school districts are required to file annually with their county offices of education tracking students' academic needs and justifying the funding allocated to address them.

In Contra Costa, the chartering authority is the Board of Education which reviews and

grants charter applications based on the recommendation of the Office of Education.

DISCUSSION

Clayton Valley has a history of parental complaints. In early 2015, a series of complaints by parents led the Office of Education to commission an investigation of the school. The study found that Clayton Valley management had violated the Public Records Act and the Brown Act. The Office of Education recommended changes to the school's transparency and oversight policies. Both parties agreed to the recommendations, which were implemented in January 2016.

With the recurrence of management problems at Clayton Valley in 2018, the Grand Jury was concerned that other charter schools within the county might have similar problems. Additionally, the Office of Education might not have the authority to provide appropriate oversight.

Charter School Regulation by the Office of Education

The Grand Jury investigated the four charter schools in Contra Costa County that have been operating longest: Making Waves Academy – Richmond Campus (Making Waves), Clayton Valley, Caliber Schools (Caliber), and Summit K2 (Summit). Making Waves has been in operation since 2007, Clayton Valley since 2012, and Caliber and Summit since 2014.

The Office of Education has developed specific guidelines governing charter schools. These guidelines mirror the state Education Code and also address oversight by requiring that charter schools enter into an MOU with the Board of Education. The Board's Charter Committee is modifying the standardized MOU developed by the Charter Accountability Resource & Support Network (CARSNet).

The modified CARSNet MOU under which Caliber and Summit operate contains specific provisions on oversight and management. These provisions include:

- The right of the Board of Education to appoint a representative to the schools' boards of directors
- The requirement that the charter schools' boards of directors' meetings are conducted in compliance with the open meeting provisions of the Brown Act
- The requirement that the schools' records be subject to the state's Public Records Act
- The requirement that the schools respond in a timely manner to requests for information by the Office of Education and the Board of Education
- Detailed lists of documents that must be made available to the Office of Education concerning the schools' academic programs, enrollment policies and practices, administration and board policies, attendance, and financial records

These modified CARSNet MOUs work to ensure specific oversight of charter schools by the Office of Education. When adopted by the Board of Education, they would help standardize oversight of all schools chartered by the Board of Education.

The Grand Jury reviewed the approved charter petitions posted on the Office of Education website (<https://www.cccoe.k12.ca.us>) to determine whether the petitions are in compliance with the Education Code and county policies. We looked only at those sections of the petition that deal with oversight. Although all four petitions comply with the statutory requirements, the Grand Jury found that only Caliber and Summit currently utilize the modified CARSNet MOUs that permit additional oversight. Making Waves does not have an MOU because it was not required when it was chartered in 2007. Clayton Valley's MOU contains no provisions for oversight.

Clayton Valley and Making Waves – Board Composition

Clayton Valley has a nine-person Board of Directors comprised of four “interested persons,” defined as certified teacher representatives, classified staff representatives, and administrative staff representatives; and five “non-interested persons,” defined as parent representatives, retired teacher representatives, and at-large representatives. Those representatives designated as “interested persons” are required to recuse themselves on matters that concern their interests. This means that four out of the nine members must recuse themselves any time the board is considering personnel, compensation, or other matters affecting them.

In the case of Making Waves, the school is directly influenced by the Making Waves Foundation, Inc. (the Foundation), a California nonprofit public benefit corporation. The Foundation's Board of Directors has the authority to approve the nomination, appointment, and removal of the school's Board of Directors. Additionally, Making Waves' bylaws prohibit the school's Board of Directors from taking actions such as borrowing or lending money, making unbudgeted expenditures, disposing of corporate assets, merging, or dissolving without the approval of the Foundation. The Foundation is the only party that can appoint members to the Academy Board per the current bylaws of the Making Waves Academy. Making Waves will modify its bylaws for its new Pittsburg campus petition. This is because the current structure is not in compliance with the changing requirements for charter school governance structures.

Summit and Clayton Valley - Parental Involvement

Parental involvement is a statutory requirement for charter schools. However, Summit and Clayton Valley have shortcomings in this area. Summit was tasked in its recent charter renewal petition with increasing parental access in oversight decisions. Clayton Valley does not have a School Site Council where parents can participate in the operation of the school. Clayton Valley currently provides parents only minimal input about operating decisions through its Parent Faculty Club, whose stated purpose is to promote youth welfare through school, community, and home.

Online Access to Charter School Information

Online access to charter school information such as school activities and updates to school performance is critical. It allows the Office of Education as well as parents, teachers, students, and the public to view how the school is performing.

All four charter schools have websites with their board agendas posted. They also post items such as MOUs, LCAPs, Articles of Incorporation, bylaws, and conflict of interest documents.

The Office of Education posts approved charter petitions, existing MOUs, county policies on charter schools, Board of Education agendas and minutes, answers to frequently asked questions, and links to charter LCAPs. The Office of Education has upgraded its website in the last several months and is continuing to improve it by adding more items of interest to the charter school community.

The Charter Renewal Process

Charter schools are required by statute to renew their charters every five years. The Grand Jury witnessed the charter renewal process of Caliber and Summit at a Board of Education meeting. The schools reviewed their current performance numbers and provided personal testimony by parents, teachers, and students. Charter school board members and administrators were present to answer questions.

As part of its review of the petition renewal request, the Office of Education provided a Findings of Fact document that includes a finalized MOU and a site checklist from its visits to each of the schools. These documents show the areas that the staff inspected in its review of the petitions. Caliber and Summit had their petitions renewed with conditions contained in their separate Findings of Fact. One of the conditions for Summit's renewal notes that teleconferencing board meetings to Richmond from its home office in Redwood City does not facilitate meaningful parent participation. Also, the Office of Education noted that the agendas and minutes of the Caliber parent-teacher organization are not currently posted online. The Board of Education properly exercised its oversight powers in granting the renewal of the Caliber and Summit petitions and imposing conditions for improvement based on its Findings of Fact.

The Board of Education required both Caliber and Summit to provide more detailed MOUs for their current charter renewals than for their previous ones. The new MOUs include a document submission checklist and a schedule of actions that the schools need to complete.

During the same time period that Caliber and Summit were renewing their petitions, Clayton Valley and Making Waves were reviewing their LCAPs before the Board of Education. One of the concerns that board members raised was that Clayton Valley does not have adequate parental involvement. The Board noted that Clayton Valley does not have a School Site Council. It does have a Parent Faculty Club, although that club heard

only one LCAP presentation for the 2018-2019 academic year in addition to its other business. Clayton Valley has committed to providing more parent involvement in the LCAP process.

The Office of Education has made good progress in its responsibility to oversee charter schools. The Office has added staff and increased training within the last year to improve its oversight. Charter schools and the Office of Education now communicate more frequently on day-to-day running of charter schools. The Office of Education has committed to increase its visits to each of the four charter schools above the required annual visits. These four charter schools agreed that instituting group meetings of all charter schools under the Office of Education would help to improve communication and collaboration, enabling them to share best practices.

The Grand Jury found these four charter schools were complimentary of the Office of Education's handling of its oversight function. These charter schools welcome the opportunity to work with the Office of Education to improve its oversight.

FINDINGS

- F1. The Office of Education's oversight of charter school governance appears to be consistent with its oversight duties under the Education Code.
- F2. The Board of Education has limited oversight responsibilities under the Education Code.
- F3. The Board of Education is modifying a standardized memorandum of understanding designed by CARSNet to address issues of transparency and accountability not covered by the Education Code.
- F4. Clayton Valley has an inadequate memorandum of understanding with the Office of Education, and Making Waves - Richmond has none.
- F5. The Office of Education does not currently meet with charter schools as a group to facilitate best practices in governance.
- F6. Summit, with its offices outside of Contra Costa County, and Clayton Valley, with only its Parent Faculty Club, do not promote parental engagement.
- F7. Clayton Valley has a Board of Directors structure that has too many members who have potential conflicts of interest.
- F8. Making Waves Academy has a Board of Directors structure that gives undue influence to the Making Waves Foundation to appoint the Academy Board of Directors.

F9. The County Office of Education website provides information that is comparable to the information found on the websites of other county offices of education.

RECOMMENDATIONS

R1. As a condition of approving charter petitions at the next petition renewal hearing, the Office of Education should consider requiring all charter schools that are under its chartering authority to have a standardized and detailed MOU using a modified version of the CARSNet format.

R2. As a condition of approving charter petitions at the next petition renewal hearing, the Office of Education should consider including provisions for parent- teacher organizations in its MOU for all charter schools.

R3. As a condition of approving Making Waves Academy and Clayton Valley Charter High School charter petitions at the next petition renewal hearing, the Office of Education should consider requiring these schools to enter into an MOU whereby they agree to update their board of director structures.

R4. The Office of Education should consider developing a plan to communicate with charter schools about how it will conduct oversight by December 31, 2019.

REQUIRED RESPONSES

	Findings	Recommendations
Contra Costa County Superintendent of Schools, Office of Education	F1, F4, F5, F6, F7, F8, and F9	R1, R2, R3, and R4
Contra Costa County Board of Education	F2, F3, F4, F5, F6, F7, and F8	R1, R2, R3, and R4

These responses must be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to ctadmin@contracosta.courts.ca.gov and a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson
725 Court Street
P.O. Box 431
Martinez, CA 94553-0091