



Santa Clara County Office of Education

Mary Ann Dewan, Ph.D.
County Superintendent of Schools

October 2, 2019

Los Altos School District Governing Board
C/O Jeff Baier, Superintendent
201 Covington Rd.
Los Altos, CA 94024

RE: Los Altos School District and Bullis Charter School

Dear President Speiser and Members of the Board:

The Santa Clara County Board of Education and I (collectively “County”) are in receipt of your September 10, 2019, correspondence setting forth a number of concerns and making a variety of allegations related to Bullis Charter School’s (“BCS”) admissions and enrollment preferences and practices and the results thereof. Specifically, Los Altos School District (“LASD”) objects to a BCS enrollment preference for residents of the former Bullis-Purissima Elementary School attendance area, and further alleges that BCS has engaged and/or will engage in practices that have a discriminatory impact, are discriminatory, and/or have led to segregation.

As an initial matter, the County must express surprise and disappointment at the unnecessarily aggressive and confrontational tone of your letter and the methodology of its delivery. The allegations in the letter are extremely grave, and the County takes all such allegations and concerns seriously and will respond accordingly. Unfortunately, however, LASD has misinterpreted and/or misstated the County’s position and actions as BCS’s oversight agency and the extensive and serious work conducted by the County and its staff in overseeing BCS. Additionally, the letter selectively describes only a single component of the purposes of the Charter Schools Act of 1992 in what appears to be an effort at misdirection and publicly undermining BCS as part of LASD and BCS’s regrettably contentious ongoing relationship and disagreements involving the broader community. Moreover, LASD’s decision to copy the Governor, the Attorney General, the State Superintendent of Public Instruction, the President of the State Board of Education, and multiple members of the California Legislature on this letter, combined with LASD’s efforts to publicize the letter serve to create public discord rather than to productively address the serious issues raised in the letter.

I. Erroneous Assertions

While the County will not respond in detail to all of the extraneous, incorrect, or misleading information in the LASD letter, we do want to address the most notable areas

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of concern. It is important that we respond to some of the more significant issues for purposes of clarity and to help correct any misunderstanding by community members that may have been engendered by LASD's letter. The County's responses to these other issues should in no way be interpreted as either a lessening of the County's concern regarding the fundamental allegations of discrimination made by LASD, or as an indication that the County has reached a conclusion on those discrimination claims. Rather, the County will investigate and take appropriate action based on the facts, evidence, and legal requirements applicable to BCS's admissions practices, but must respond to some of the more egregious misstatements in LASD's letter.

As an initial matter, please be assured that the County is well aware of its responsibilities and authority as a charter authorizing and oversight agency and diligently carries out those functions in full accordance with the law. Our professional staff, advisors, County Board members and I all expend considerable effort to ensure that charter schools under County oversight, including BCS, comply with the terms of their charters and law, and we take appropriate action if issues of noncompliance arise. We also encourage and appreciate issues of concern being brought to our attention, including by LASD. Contrary to the statements made in your letter, the County is not confused by its oversight role, or the distinctions between a countywide benefit charter and a district appeal charter such as BCS. We strenuously disagree with your implications and assertions that the County has failed in its oversight of BCS.

LASD devoted significant time to the spurious argument that because LASD is a high-performing school district there is something improper or illegal about approving a charter school to operate within LASD's boundaries. LASD cites selectively to one component of only a single one of the Legislature's seven stated purposes in enacting the Charter Schools Act of 1992. Education Code Section 47601 provides in its entirety:

It is the intent of the Legislature, in enacting this part, to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure, as a method to accomplish all of the following:

- (a) Improve pupil learning.
- (b) Increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving.
- (c) Encourage the use of different and innovative teaching methods.



- (d) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the schoolsite.
- (e) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.
- (f) Hold the schools established under this part accountable for meeting measurable pupil outcomes, and provide the schools with a method to change from rule-based to performance-based accountability systems.
- (g) Provide vigorous competition within the public school system to stimulate continual improvements in all public schools.

Thus, while it is true that *one* of the purposes includes a “special emphasis” on increasing learning opportunities for students identified as academically low achieving – and the County Board has made clear in its public discussions and actions on charter petitions that increasing such opportunities is among the County’s highest priorities – that is by no means the only purpose or goal of charter schools. In fact, that very provision specifies that charter schools are intended to “increase learning opportunities for all pupils” (Emphasis added.) It is also important to note that, while LASD expends significant effort on this argument, and attempts to conflate socio-economically disadvantaged students, English language learners, and/or students with special needs with students who are academically low achieving, those are not the same thing. There are many students who are high achievers who are also socioeconomically disadvantaged, have special needs, and/or are English language learners.

Moreover, most, and perhaps all, of the other purposes set forth in Education Code Section 47601 can be achieved by a charter school located within LASD. In fact, LASD’s letter specifies that over 20 percent of LASD’s resident students have voluntarily chosen to enroll in BCS rather than in LASD schools. This certainly indicates that BCS is providing “vigorous competition within the public school system,” which will hopefully stimulate continual improvements in public schools. It appears that LASD’s misdirection on this point, and its assertions that charter schools have no place in “high achieving” districts such as LASD, has increased misunderstanding and dissatisfaction among members of the local community and lent to the spread of the mistaken belief that BCS should be closed on that basis.

LASD also makes repeated references to the settlement of the litigation between itself and BCS, and is highly critical of the terms of that settlement. For example, the letter asserts, “As the concerns over discriminatory policies and practices mounted, BCS



avoided further scrutiny by entering a settlement of LASD's action in which BCS pledged to be more inclusionary." The clear implication of this statement is that BCS did something underhanded in settling the case to "avoid further scrutiny." It is important to note, however, that LASD was the other party to that litigation and it was LASD, not the County or any other individual or entity, that chose to agree to those settlement terms, including the length of the suspension of the admission preference for residents of the former Bullis- Purissima Elementary School attendance area. The County had no role in negotiating the settlement terms for LASD or BCS.

II. Discrimination, Segregation, and Discriminatory Impact Allegations

Notwithstanding the inaccuracies of components of your letter as discussed above, you have raised very serious allegations of discrimination and segregation practices. LASD cites to the differences in the percentage of socioeconomically disadvantaged students, ELL, disabled students, and particularly students with moderate to severe disabilities, served by BCS as compared to LASD. As we understand LASD's letter, LASD is asserting that these differences are due to alleged discriminatory impact and also to what LASD alleges is BCS's active discrimination and efforts to segregate students, and that the Bullis-Purissima attendance area preference is discriminatory and will increase segregation. In order for the County to look into and respond appropriately to these allegations, it is necessary for LASD to provide any and all evidence and documentation that it has supporting the allegations. We hereby formally request that LASD submit that evidence and documentation to the County by **October 23**.

For example, LASD asserts that the differences in the number and types of disabled students served by BCS compared to LASD establish that BCS "has evaded its obligation to serve the full spectrum of disabilities and abrogated its responsibility to educate those pupils who need the most intensive care. The data as well as the information from parents who have had their special needs students turned away from BCS confirm that discrimination is occurring." LASD's use of the terms "evaded" and "abrogated" indicates that LASD has information establishing that BCS has taken affirmative actions to avoid enrolling and serving students with low incidence and/or high cost special needs. Moreover, LASD specifically refers to parents providing information establishing that their special needs students were "turned away" from BCS, but LASD failed to include any specifics of such allegations or provide any means for the County to investigate or confirm such allegations. Again, it is necessary that LASD provide the County with whatever evidence it has supporting these and the other claims in its letter. For example, please provide the relevant information and documentation from specific parents who claim that their special needs students have been denied admission to BCS on the basis of their disability. BCS is prohibited from denying admission on the basis of disability (including on the basis of type of disability), and the County will hold BCS accountable for compliance

with that requirement, but we need LASD to provide the facts and evidence to which it alludes in order to support LASD's allegation.

Please include any and all evidence indicating that the differences in student makeup on the basis of protected characteristics when compared to LASD raised in your letter are a product of BCS policies and practices, as opposed to any differences that may stem from parent choice (since all charter schools are schools of choice) and/or the natural impact of the mandated public random drawing for admission. For example, please provide any information or evidence LASD has relative to the causes for the stated difference in the ratio of students with a need for higher cost special education services compared to special needs students who require lower cost services.

Please also provide any facts or evidence supporting LASD's request that BCS's enrollment be instituted through a "transparent lottery conducted by the Santa Clara County Office of Education staff." The implication of this request is that LASD believes that, in the past, BCS has not conducted transparent admissions lotteries in accordance with the requirements of its Charter and the law. If LASD has any facts or evidence indicating that BCS has improperly implemented its admissions lottery in the past, please provide that information to the County.

LASD also asserts that BCS's fundraising practices and messaging have "resulted in BCS under-enrolling low income, ELL and special needs students when compared to the enrollment of pupils in those same categories in LASD-run schools," and cites to the BCS foundation's webpage as support for that allegation. The BCS foundation website does make clear that the foundation identifies a "funding gap" of over \$5,000 per pupil each year, and encourages parents and community members to donate at least \$5,000 per enrolled pupil. The website specifies: "While no gift is required, each year we strive for 100% participation from our families and gifts of all sizes and levels are appreciated." It goes on to suggest that those who are able to contribute more do so. ([https://www.bcsfoundation.com/annual-campaign.](https://www.bcsfoundation.com/annual-campaign)) This appears to be very similar to the requests made by the Los Altos Educational Foundation ("LAEF"). The LAEF website suggests a donation of \$1,200 per pupil and encourages families to join the "Leadership Circle" by donating a minimum of \$5,000 per year. The LAEF website also includes the following among its FAQ:

I can't afford to donate, what should I do?

It is unfortunate we need to rely on donations to provide the education our students deserve. We strive for 100% participation, so consider a small donation in an amount that is meaningful to you. Every donation is valued and appreciated.



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(<https://laefonline.org/District/1521-Untitled.html>.) Given the similarities in the requests and information on the BCS and LASD foundations' respective websites, the County requests that LASD provide additional information, along with any relevant evidence, that BCS's practices somehow differ from LASD's and/or are discriminatory and/or have a discriminatory impact and/or result in segregation in LASD. Additionally, please provide any information indicating that BCS's fundraising efforts have negatively impacted enrollment of ELL and/or special needs students.

III. Conclusion

The County emphatically disagrees with LASD's allegations that the County has failed in its oversight of BCS. Rather, the County is actively engaged in its oversight of all charter schools it has authorized, including BCS. The County takes seriously LASD's allegations of discrimination, segregation, and discriminatory impact. Of course, the County must be guided by facts and evidence, so we have directed BCS to provide a detailed and evidence-based response to LASD's allegations. Similarly, we are requesting that LASD provide any and all facts and evidence substantiating the allegations in your letter, including the information to which LASD alluded but did not include with its letter that would be relevant to a determination regarding LASD's allegations. Please provide all such evidence by **October 23**.

Your anticipated cooperation and prompt attention to these matters is appreciated.

Very truly yours,

A handwritten signature in black ink that reads "Mary Ann Dewan".

Mary Ann Dewan, Ph.D.
County Superintendent

cc: Santa Clara County Board of Education

bcc: Davina Harden, Esq.