March 4, 2019

Orange County Board of Education
P.O. Box 9050
Costa Mesa, CA 92628-9050

RE: International School for Science and Culture Charter Appeal

Dear President Williams and Members of the Board,

On behalf of the Newport-Mesa Unified School District (“District”), I am writing to express the District’s ongoing deep concerns with the charter petition for the International School for Science and Culture (“ISSAC”) being considered on appeal by the Orange County Board of Education (“OCBOE”). We are aware that, consistent with the OCBOE’s direction, Orange County Department of Education (“OCDE”) Staff has worked with ISSAC in an effort to negotiate a memorandum of understanding (“MOU”) to remediate the issues and defects identified by OCDE Staff in its report and recommendation submitted to the OCBOE for the February 20, 2019, meeting. Based on our review of ISSAC’s proposals submitted in response to OCDE’s efforts, the issues and defects have not been remediared, and it is clear that approval of the ISSAC Charter would be inconsistent with sound educational practice, and we agree with OCDE Staff’s recommendation that the OCBOE deny the appeal. The District continues to stand by all of the District Board’s findings adopted in denying ISSAC’s Charter, of which you are already aware. I am taking this opportunity to point to several of the most significant concerns that the OCDE Staff Report required ISSAC to remediate which remain unresolved despite the recent negotiations between OCDE and ISSAC.

It is imperative to remember that, during the OCBOE’s February 13, 2019, meeting, ISSAC’s lead petitioner admitted to all of the concerns raised by OCDE. She specifically acknowledged that it was necessary for ISSAC to remediate all of these concerns. Therefore, ISSAC’s inability effectively to cure these issues should result in denial of the Charter appeal.

I. DAILY SCHEDULE AND INSTRUCTIONAL MINUTES/ENGLISH LANGUAGE DEVELOPMENT PROGRAM

OCDE Staff confirmed NMUSD’s concerns regarding the inadequacy and incompleteness of ISSAC’s proposed daily schedule and instructional minutes, and ISSAC’s lead petitioner admitted to the OCBOE that its schedule and minutes were inadequate. The proposed MOU requires ISSAC to submit a revised educational program description and schedule that resolves the English Language Development (“ELD”) concerns, that verifies that all students are taught each subject, and that complies with appropriate instructional minutes requirements.

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As an initial matter, the District notes that we do not believe it is appropriate for ISSAC to revise its educational program and schedule as part of an MOU on appeal. Rather, those are fundamental components of the Charter proposal and because ISSAC’s Charter is fatally defective and unworkable on these points, ISSAC should have been required to fix the Charter and resubmit it to a school district for initial consideration and action. Nevertheless, we are aware that this is the direction required by OCBOE, so we are addressing ISSAC’s responses to these mandates.

It does not appear that ISSAC submitted a revised description of its educational program, as required by the MOU terms, but, instead, only submitted a revised version of its daily schedule. Given the lead petitioner’s wildly inaccurate discussion at the OCBOE meeting of the distinction between and requirements for Designated ELD and Integrated ELD, we believe it would be particularly important for ISSAC to provide an updated description of its ELD program that complies with legal requirements and student needs. Additionally, while ISSAC submitted a revised version of its daily schedule in a transparent effort to nominally fit all required instruction into the day, that schedule is inadequate and continues to raise more questions than it resolves. These outstanding concerns include the following:

**A. REVISED ISSAC SCHEDULE**

ISSAC continues to propose a “one size fits all” schedule for grades TK-8. This is not an accurate picture of what should be happening by grade level. However, ISSAC has failed to describe what the program looks like and how it differs for students at different grade levels, for example, how does the program for kindergarten differ from that for sixth grade?

1. ISSAC explicitly proposes 66,090 minutes of instruction for *all* grade levels, including TK and kindergarten, which significantly exceeds the minutes for even a normal high school program. Providing students with additional instructional minutes would appear to be a valuable support for academic growth; however, the additional instructional minutes in ISSAC’s revised schedule compromise a balanced and comprehensive school day for students in a number of ways. Additionally, while this number of minutes appears to be necessary for ISSAC to purport to cover even minimally all of the required subjects plus the various additional subjects it proposes to teach, it is unrealistic to expect students, particularly in the primary grades, to engage in this number of instructional minutes, especially given the minimal breaks ISSAC proposes to afford to students.

Moreover, even with this extensive schedule, the number of minutes ISSAC has allotted to many subjects is educationally inadequate and/or inconsistent with ISSAC’s Charter and repeated promises to potential families. ISSAC’s language exposure program, at 60 minutes a day for five days a week, is offered at the expense of the core subject areas of ELA and mathematics.

For example, while ISSAC claims a “STREAM” focus, it proposes to offer only 50 minutes of science four days a week, and for math only 50 minutes four days a week and 45 minutes on the fifth day, which is far less than would be expected and required of a standard elementary program. The District recommends 80-90
minutes of math per day in elementary school based on the amount of time it takes to provide students with learning experiences consistent with the spirit and intent of the Common Core State Standards (“CCSS”). Children do not simply absorb math; it requires opportunities to struggle with challenging academic concepts and construct ideas through shared thinking with classmates. Devoting only 50 minutes to math instruction is insufficient for students to develop an understanding of the three aspects of Rigor within CCSS mathematics: pursuit of conceptual understanding, procedural skills and fluency, and application with equal intensity.

Similarly, ISSAC has limited English Language Arts (“ELA”) to 90 minutes per day, as compared to the District’s expectation of 120-180 minutes daily. Only devoting 90 minutes to ELA does not allow adequate time for the essential ELA program components in primary or upper elementary. Furthermore, it leaves insufficient time for classroom teachers to focus on listening, speaking, and writing, which are critical language production domains.

Plus, while ISSAC has repeatedly emphasized the importance and extent of its social-emotional and “global peacemaker” instruction, the schedule allots a mere 10 minutes per day to “morning meeting/social emotional.” Without regard to whether NMUSD or OCBOE believes that each of ISSAC’s subjects deserves the emphasis that ISSAC has proposed, this is the fundamental basis of the Charter proposal. However, ISSAC’s schedule continues to be inconsistent with the very Charter that ISSAC is asking the OCBOE to approve; as such, the Charter should be denied because ISSAC is unable to provide a schedule that allows it to implement the proposal.

a. This proposal also results in an excessively long workday for staff, which will further exacerbate the issues that ISSAC will face in recruiting high quality, credentialed teachers, particularly given the non-competitive salaries and benefits ISSAC is offering. We also note that ISSAC’s revised budget proposes a further reduction in the benefits budget, thereby aggravating this issue.

2. ISSAC proposes a 7.5 hour school day four days a week, with only a single 15 minute recess and a shortened lunch period of only 30 minutes. This is not an adequate amount of time for children to play, socialize, access nutrition, use the restroom, and take “brain breaks” during the day. With the extended school day that ISSAC has proposed, it would follow that students would have a greater need for a longer morning recess, a longer lunch period, and an afternoon recess, but ISSAC has proposed the opposite. Schools typically provide primary grade students with a longer lunch and an additional afternoon recess for grades K-2 or K-3. Without sufficient opportunities for students to move/play/access nutrition, students will not be able to focus for the full instructional day. This proposal is developmentally inappropriate and not grounded in any logical, common sense model of how a child’s day should be broken up appropriately. It is evident that this schedule is based on ISSAC’s need to try to fit everything it has promised into a schedule, when doing so in an educationally and developmentally appropriate way is not possible.
a. The 30 minute lunch period is too short for children, who would typically be allowed 40-45 for the required activities. Children do not transition immediately from their desks to the lunch room. The lunch period needs to provide children time to do all of the following.

1. Walk from the classroom to the tables/lunch line;
2. Move through the cafeteria line to receive their lunch;
3. Eat and socialize at the lunch tables;
4. Play with other students in the play yard; and
5. Use the restroom.

3. ISSAC continues to combine PE and VAPA without an explanation of how much time would be spent on either. Additionally, the proposal to have the entire school participate in PE at the same time is likely unworkable, as it would require all students to be in the same exercise space at the same time (which is also not educationally appropriate), as well as requiring adequate equipment for all students to participate at once. This is another example of ISSAC making a proposal without regard for the practical implications of the plan.

4. The “one size fits all” schedule also raises concerns about the qualifications for teachers to instruct students in Mandarin and Spanish (30 minutes each five days per week). Is every teacher expected to be qualified to instruct in both of those languages (which is not provided for in the Employee Qualifications portion of the Charter)? The proposed schedule clearly does not demonstrate how the students at all grade levels would rotate among only a limited number of Mandarin and Spanish teachers.

For ISSAC to try to implement on a daily basis its illogical and nonfunctional Differentiated Learning period (discussed in detail below), a morning meeting and social-emotional period, a Mandarin period, a Spanish period, a social studies period, a science period, and a PE/VAPA period, requires ISSAC to reduce and limit the two main content area priorities – English Language Arts and Mathematics – at the expense of students’ core education. In short, ISSAC’s Charter and the revised schedule continue to establish that ISSAC is trying to “throw it all in,” but it has not been put together with an understanding of practical and pedagogical requirements or a real understanding of what it takes for a school and its systems to function.

B. ELD/GATE/INTERVENTION

1. Designated ELD is a protected time during the school day to provide language instruction based on student proficiency levels and language needs. GATE is an unfunded program for Gifted and Talented Education that typically requires identification through testing. GATE is not a “time” or a method of instruction, although teachers can be trained in GATE strategies that are used to support student thinking in challenging and enriching ways (e.g. Attributes of a Scholar, Think Like...
ISSAC’s scheduled 8:00-8:45 a.m. instructional block titled “Differentiated Learning (ELD, GATE, INTERVENTION)” is predicated on students needing to access each of these instructional resources independently of one another. This is not the case in the real world, and the structure of this block will force the teacher, student, and/or parent to make impractical decisions about which need a child should have addressed by the school. For instance, a child who is an English Language Learner could also be identified as having gifted (GATE) characteristics while needing academic intervention in a core subject area. Designated ELD is distinctly different from academic interventions. Designated ELD specifically focuses on language development according to the California ELD standards, while academic interventions could focus on supporting a student’s understanding of core content in any of the academic content areas. ISSAC’s Charter establishes that the minimum time of designated ELD required for English Learners in grades 1-8 is 45-60 minutes daily, which mandates that the entire “Differentiated Learning” period for all English Learners must be committed to designated ELD to meet the absolute minimum requirements of the Charter. This would, in turn, exclude all English Learners from GATE support and the undefined “intervention” proposed for this period. (Notably, the Charter’s description of how ISSAC will identify GATE students also shows a lack of a process for screening English Learners for GATE.) These factors appear to be discriminatory or will have a discriminatory impact on English Learners.

ISSAC’s proposed “Differentiated Learning” block evidences a lack of basic educational knowledge since ELD, GATE, and intervention should not constitute a single combined daily 45 minute period. The lack of detail of how ISSAC would actually implement the supports designated for this period exemplifies the ongoing concern that ISSAC has included too many concepts and proposals without a workable plan that is grounded in research and basic common sense. The structure of ISSAC’s Differentiated Learning block precludes students from being able to access all of these crucial instructional programs and also appears to be discriminatory.

2. The reference to “GATE” in this learning block begs a number of questions:

a. What is happening relative to “GATE” during the 45 minutes designated in the daily schedule?

b. Does ISSAC mean the accelerated students are receiving additional language instruction?

c. Are the GATE students getting to do projects while other students are not?

d. Are EL students missing out on the opportunity to participate in accelerated/GATE opportunities purely by virtue of their EL status?
e. What is the plan for this period for students who are not GATE or EL and who do not require interventions?

3. As noted above, intervention and ELD are not synonymous. Again, the schedule raises a multitude of questions on this topic:
   a. Is this 45 minute block to be used for reading/writing intervention?
   b. Is this when math intervention occurs?
   c. Is this language development for English Only students who are struggling?
   d. Does this mean that English Learners are not getting equitable access to math and ELA interventions?

4. ISSAC has not included a plan for who will be providing the instruction during this block, including whether it will be a credentialed employee in order to qualify for apportionment and properly to educate students. One teacher cannot do all three things at the same time. ISSAC’s plan fails to articulate who is providing the instruction and how ISSAC is placing students?

II. FINANCE AND BUDGET

ISSAC was required to provide an updated narrative, budget, and contingency plan that addresses the multiple fiscal concerns identified in the OCDE Staff Report, specifically including special education costs and enrollment projections. ISSAC did submit a revised budget, but an assessment of ISSAC’s revised budget clearly demonstrates that ISSAC has not adequately addressed OCDE’s concerns regarding ISSAC’s assumptions associated with enrollment, costs, and special education.

A. ENROLLMENT

ISSAC’s adjusted enrollment assumption does not address the structural financial problem with its trilingual and STREAM program. ISSAC lowered its enrollment assumptions to incorporate OCDE Staff’s authorized charter enrollment experience of a 35% enrollment deficiency below projections in the first year of operation. Consequently, ISSAC lowered its enrollment assumption from 390 to 250. However, given the clear lack of interest in enrolling students in ISSAC (as evidenced by the fact that only parents representing two students have expressed interest during the course of the five public meetings on ISSAC to date), it is reasonable to conclude that ISSAC will likely experience far lower enrollment than 250. This is important because ISSAC’s revised budget ends 2019-20 with $88,277, of which $75,000 is debt. Accordingly, if ISSAC experiences an enrollment shortfall of just two students, it will need additional monies and will assume a structural financial deficit. Offering a trilingual and STREAM program requires robust enrollment to be financially viable and it is highly doubtful ISSAC can deliver the level of enrollment needed to sustain what is being represented to the community and OCDE.

B. COST ASSUMPTIONS

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ISSAC’s revised budget fails to produce reasonable cost assumptions to support its trilingual and STREAM offerings. The revised budget substantially changes multi-year budget assumptions and reduces the budget in the first year by $638,506. Some of the reductions were independent of lower enrollment, including decreases to services, principal salary and the Health and Welfare benefit rate per employee (which will also negatively impact the ability to recruit qualified employees). This is an indication that ISSAC is struggling to make its trilingual and STREAM offerings financially viable. This has and will continue to force ISSAC – with even slight budget variances – to morph its educational program into something unrecognizable from what is being presented to the District community and which the OCBOE would be approving. ISSAC cannot unilaterally change its educational program. Additionally, ISSAC did not provide a three year cash flow forecast with the revised budget, therefore, it is impossible to determine ISSAC’s multi-year viability.

C. SPECIAL EDUCATION

There is nothing in ISSAC’s revised budget that resolves OCDE’s concern that ISSAC has not reasonably budgeted for the costs of special education. While OCDE Staff correctly determined that ISSAC had not properly budgeted for special education costs, and explicitly required ISSAC to provide an updated budget that addressed the real costs of special education compliance, ISSAC’s per pupil special education cost assumptions appear unchanged from the original proposal, so are clearly out of compliance with OCDE/OCBOE’s mandates.

D. FACILITY

1. Facility Location

After admitting at the February 20, 2019, OCBOE meeting that they were unable to obtain accurate information from the proposed private school facility landlord, ISSAC specified that it would no longer consider that location for the school. Nor has ISSAC identified an alternative location, and it is clear that ISSAC has no plan to house the school. ISSAC’s proposal to delete the “single location” requirement from the MOU further evidences the lack of a plan for location. Moreover, ISSAC’s proposal that it may unilaterally choose to locate at multiple sites within the District violates the clear requirements of the Charter Schools Act (“Act”). ISSAC was proposed to operate at a single site, and the Act specifies that a charter school that proposes to operate at one or more additional sites must seek and obtain approval of a material revision in order to add such sites. (Ed. Code § 47605(a)(4).) As such, it is the District’s expectation that, if the Charter is approved, under no circumstances will ISSAC be permitted to delete the requirement that it must locate at a single site within the District’s boundaries unless and until it obtains a material revision to add such sites, regardless of the reason that ISSAC desires to operate at multiple locations.

2. Facility Costs

ISSAC’s revised budget for rent is not realistic. Based on the CDE Guide to School Planning and Development’s expectation of 59 square feet per TK-5 student, ISSAC will need 14,750 square feet for its proposed student population. ISSAC’s budget of $275,000 for rent only provides approximately $1.50 per square foot per month for rent. Based on the District’s
knowledge of local property values and rental rates, it appears impossible that ISSAC could find anything remotely approaching that rental rate, and ISSAC has not identified a particular site that has agreed to this substantially below-market rate. This rate is further artificially low because the state standard is based on a normal distribution of students across all grades and ISSAC is heavily weighted to TK and K, which grades require 40% larger classroom spaces than grades 1-6. Further, the state uses a standard of 80 square feet per special education student which would require that ISSAC secure even greater square footage. If ISSAC were to have a normal distribution across the TK-8 program, the District estimates that it would require 18,500 square feet, which means ISSAC’s budget actually only provides $1.25 per square foot per month for rent. Finally, all of this is only for building area and does not include the cost to rent apparatuses and other outdoor space to meet outdoor education standards. (Once again, the state requirements for outdoor spaces are much greater, and more costly, for TK and K than grades 1-6.)

It is also important to note that the District does not believe that ISSAC will qualify for a District facility pursuant to Proposition 39, which means that ISSAC would need to be able to rely upon its non-Proposition 39 alternative. However, ISSAC’s facility budget is not adequate for a market rate facility.

All of these concerns, including the facility cost issues, confirm that ISSAC is negotiating with OCDE without a real plan. It is not adequate for ISSAC to simply assign budget numbers based on what it can afford without regard to the actual costs it would face to provide the proposed educational program and serve students. ISSAC’s revised budget is not workable, and ISSAC cannot resolve these issues by unilaterally eliminating or fundamentally altering what it proposes in its Charter. Rather, ISSAC’s budget would need to accurately cover the realistic costs of the program proposed in the Charter, which this budget does not.

III. CONCLUSION

ISSAC’s attempts to remediate the fundamental defects in its Charter by negotiating an agreement with OCDE have been ineffective. As explained above, ISSAC’s proposals do not resolve the concerns and the District encourages OCBOE to adopt OCDE Staff’s recommendation by denying ISSAC’s Charter appeal.

If you have any questions for the District concerning these issues, please do not hesitate to contact me. The District looks forward to its ongoing work with the OCBOE for the benefit of all District and County students.

Very truly yours,

Fred Navarro, Ed.D.
Superintendent

cc:    Al Mijares, Ph.D., County Superintendent, Ph.D.
       Nina Boyd, Associate Superintendent, OCDE
       Kelly Gaughran, Director, Charter Schools Unit

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