

**RESOLUTION NO. 2018/19-39
RESOLUTION OF THE GOVERNING BOARD OF
THE SANTA BARBARA UNIFIED SCHOOL DISTRICT**

**Authorizing a Request to the State Board of Education for Designation of an
Alternative Local Educational Agency to Serve as the “Sponsoring Local
Educational Agency,” as Defined in Education Code Section 47632, for Olive
Grove Charter School – Santa Barbara**

WHEREAS, the Santa Barbara Unified School District (“SBUSD”) supports quality educational choices, including charter schools, as evidenced by SBUSD’s authorization of three charter schools: Adelante Charter School, Peabody Charter School, and Santa Barbara Charter School;

WHEREAS, on January 9, 2018, the Governing Board of the Santa Barbara Unified School District (“District Board”) denied the Charter for the establishment of the Olive Grove Charter–Santa Barbara charter school (“OGCS-SB”) for the reasons set forth in Resolution No. 2018/19-39 adopted by the District Board;

WHEREAS, on March 1, 2018, the Santa Barbara County Board of Education (“SBCBOE”) denied OGCS-SB’s appeal for the reasons set in the SBCBOE’s adopted Resolution;

WHEREAS, on July 11, 2018, the California State Board of Education (“SBE”) approved the Charter on appeal for a five-year term of July 1, 2018 through June 30, 2023 and at the same time also approved three other charters for Olive Grove Charter Schools (“OGCS”) to be located in Santa Ynez Valley Union High School District (“SYVUSD”), Santa Maria Joint Union High School District (“SMJUHS”) and Lompoc Unified School District (“LUSD”);

WHEREAS, pursuant to Education Code section 47632(i), the sponsoring local education agency (“SLEA”) for a charter school that is approved by the SBE after having previously been denied by a local educational agency (“LEA”) is the LEA designated by the SBE pursuant to Education Code section 47605(k)(1), or, if an LEA is not so designated, the LEA that initially denied the charter;

WHEREAS, Education Code section 47605(k)(1) provides that, “The state board may, by mutual agreement, designate its supervisorial and oversight responsibilities for a charter school approved by the state board to any local educational agency in the county in which the charter school is located or to the governing board of the school district that first denied the petition;

WHEREAS, as a result of the SBE’s actions, the SBUSD, as the LEA that initially denied the Charter, became the OGCS-SB’s SLEA by default;

WHEREAS, under the provisions of Education Code section 47635, an SLEA is required annually to transfer “in lieu of property taxes” (“ILPT”) dollars to each charter school for which it serves as the SLEA;

WHEREAS, in serving as the SLEA to OGCS-SB, the SBUSD is responsible for annually transferring ILPT dollars to OGCS-SB. The SBUSD is expected to transfer nearly \$1.4 million of ILPT to OGCS-SB during the 2018-2019 school year. This amount will continue to grow if the OGCS-SB’s enrollment grows, as is projected in OGCS-SB’s Charter, regardless of whether that enrollment is supported by students who reside in our local community or by students from other districts. If the SBE does not take action to designate an alternative SLEA, the SBUSD will continue to be responsible for the transfer of the ILPT dollars for the duration of OGCS-SB’s current term (through 2023) and beyond if the OGCS-SB’s Charter is renewed. Based on the OGCS-SB’s enrollment projections for its current term, which continues through the 2022-2023 school year, will continue to increase beyond \$1.4 million annually;

WHEREAS, despite the substantial ILPT transfers for which SBUSD is responsible, the SBUSD will not be fully reimbursed for such ILPT transfers under California’s school funding model, which two different reimbursement schemes for ILPT transfers made by SLEAs: one for state aid districts, which receive general purpose funding known as revenue limit funding that consists of local property taxes and state aid, and another for basic aid districts, which fund their revenue limit entirely through property taxes in addition to the constitutionally required minimum state funding;

WHEREAS, state aid districts are backfilled by the State for the entire amount of any ILPT transfers made by state aid districts to charter schools for which they serve as the SLEA as part of state aid. This is a logical and appropriate funding scheme because it is the State, not individual school districts, that is responsible for funding charter schools, and the transfer of ILPT from a district to a charter school is just a convenient clerical mechanism, not a means of stripping a local school district of the funding needed to educate its students;

WHEREAS, basic aid districts are not reimbursed in a similar manner as they do not receive any state aid beyond the constitutionally required minimum state funding. Rather, basic aid districts must rely on reimbursement as set forth under Education Code section 47663, which provides partial reimbursement to basic aid districts for transfers of ILPT dollars to its charter schools to the extent that any out-of-district students from a state aid district are attending charter schools for which they serve as SLEA, known as the “basic aid supplement.” This scheme is inconsistent with the fact that state aid districts that serve as SLEAs for charter schools are reimbursed by the State of California for the entire amount of ILPT dollars that they transfer to a charter school;

WHEREAS, Education Code section 47663, in describing the “basic aid supplement,” also contemplates an additional obligation on basic aid districts to transfer funding to charter schools in state aid districts for each of the basic aid district’s students attending the charter school. However, the CDE has repeatedly reiterated to the SBUSD and other local districts that this obligation is not enforced because Education Code section 47663, as written, is unworkable because its reference to the basic aid district as a sponsoring local educational agency is inconsistent with the definition set forth under Education Code section 47632;

WHEREAS, as a basic aid district, the SBUSD will not be “backfilled” for the full amount in ILPT dollars transferred to OGCS-SB as its SLEA, but rather must rely on partial reimbursement of such ILPT transfers through the “basic aid supplement.” In contrast, while the state aid districts with Olive Grove charter schools located within their boundaries [SMJUHSD and LUSD] are also required to transfer ILPT dollars to Olive Grove for the campuses in their boundaries, the State will subsequently “backfill” those districts the entire amount that they transfer to the Olive Grove charter school for which they serve as SLEA;

WHEREAS, under the existing school funding model, OGCS-SB's operation poses a fiscal challenge for the SBUSD because much of OGCS-SB's funding comes directly from the SBUSD, rather than the State of California, which is the norm for charter student funding. The SBUSD is required to provide OGCS-SB the entire per pupil funding for each SBUSD resident who attends OGCS-SB, and inexplicably, is also required to cover a large percentage of the per pupil education funding for each OGCS-SB student who resides outside of the SBUSD without repayment from the State. This is true even though that is funding that is intended for the SBUSD to spend on SBUSD students pursuant to the basic aid funding system;

WHEREAS, to avoid fiscal challenge and, accordingly, substantial disruption to the SBUSD's delivery of its instructional programs for the SBUSD's students that would result from the SBUSD's continued responsibility as the OGCS-SB's SLEA annually to transfer ILPT funding to the OGCS-SB despite the inability to verify the amounts in ILPT transfers invoiced by OGCS-SB, the SBUSD must explore all options, including the designation of another LEA to serve as OGCS-SB's SLEA that would relieve the SBUSD of its obligation, as OGCS-SB's current SLEA, annually to transfer ILPT dollars to the OGCS-SB as required by Education Code section 47635;

WHEREAS, in summary, if the SBUSD continues to serve as OGCS-SB's SLEA, the SBUSD will continue to lose money under its obligation, as OGCS-SB's SLEA, to transfer ILPT dollars to OGCS-SB, because the SBUSD, as a basic aid district, is not entitled to full reimbursement for its ILPT transfers. Therefore, to avoid the fiscal challenge that would result from this continued transfer of ILPT dollars to OGCS-SB, the SBUSD now seeks to submit a request to the SBE to exercise its authority under Education Code section 47632(i)(3) and 47605(k)(1) to designate another LEA, such as a state aid district, that would be better situated to serve as OGCS-SB's SLEA. The SBE's exercise of its authority, as requested by the SBUSD, would relieve the SBUSD from its obligations as SLEA. Should the SBE designate a state aid district to serve as OGCS-SB's SLEA, OGCS-SB would continue to receive ILPT transfers from the newly designated SLEA, which would then be "backfilled" by the State for any such ILPT transfers.

NOW THEREFORE, be it resolved and ordered by the Board of Education of the Santa Barbara Unified School District as follows:

1. That the above recitals are true and correct and are incorporated herein as if set forth in full.
2. That the District Board hereby declares and directs that SBUSD will formally request that the SBE exercise its authority pursuant to Education Code section 47605(k) to designate another local educational agency as OGCS-SB's SLEA ("Request").
3. That the SBUSD's Superintendent and/or his designee, is authorized and directed to submit the Request to the California Department of Education, seeking the designation of another local educational agency to serve as OGCS-SB's SLEA pursuant to Education Code section 47605(k)(1) in order to avoid a fiscal challenge and the resulting substantial disruption to the SBUSD's delivery of its instructional program to its students. The District Board hereby directs and delegates to the SBUSD's Superintendent and/or designee the authority to take any and all actions and steps necessary in order to submit the Request and pursue approval of the Request from the SBE.
4. That this Resolution shall be effective as of the date of its adoption.

[SIGNATURES TO FOLLOW ON FOLLOWING PAGES]

AYES IN FAVOR OF SAID RESOLUTION:

NOES AGAINST SAID RESOLUTION:

ABSTAINED:

Dated: _____

By: _____

President, Governing Board
Santa Barbara Unified School District

(continued on next page)

Dated:_____

By:_____

Clerk, Governing Board
Santa Barbara Unified School District

I, _____, Clerk of the Governing Board of the Santa Barbara Unified School District, do hereby certify that the foregoing Resolution was adopted by the Governing Board of said District at a meeting of said Board held on the 12th day of March 2019 and that it was so adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Clerk of the Governing Board of the
Santa Barbara Unified School District