



Three Rivers Charter School

Regular Board Meeting

Date and Time

Tuesday April 19, 2022 at 5:30 PM PDT

Location

This meeting will be held in person at Three Rivers Charter School in the Jr. High School classroom located at 1211 Del Mar Dr., Fort Bragg, CA.

Attendees may also join virtually via Zoom with the link provided.

This Board Meeting is being held in person at Three Rivers Charter School in the Jr. High Classroom. Meeting attendees may also join virtually using the Zoom link provided.

The agenda provides any citizen an opportunity to directly address the Board under the section entitled "Community Comment" on any item under the subject matter jurisdiction of the Board that is not on the agenda. The Public will be provided an opportunity to address the Board on agenda items before or during the Board's deliberation. Each public member will have 3 minutes for comment. Members attending virtually who wish to comment may use the "raise hand" option.

To request a matter within the jurisdiction of the Board be placed on the agenda of a regular meeting, please submit your request in writing to the School Director or Board President at least 10 days before the scheduled meeting date. In compliance with Government Code section 54954.2(a) Three Rivers Charter School will, on request, make agendas available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Individuals who need this agenda in an alternative format or who need a disability-related modification or accommodation in order to participate in the meeting should contact the school at (707) 964-1128 at least 72 hours prior to the meeting. The Board reserves the right to mute or remove a member of the public for inappropriate behavior which is disruptive.

Join Zoom Meeting

[https://us02web.zoom.us/j/86282301134?](https://us02web.zoom.us/j/86282301134?pwd=T3MrREtjbGFsRFFOZkw3R2UrRzJxUT09)

pwd=T3MrREtjbGFsRFFOZkw3R2UrRzJxUT09

Meeting ID: 862 8230 1134

Passcode: trcs

Agenda

	Purpose	Presenter	Time
I. Opening Items			5:30 PM
Opening items			
A. Call the Meeting to Order		Jade Tippet	1 m
B. Record Attendance and Guests		Jaime Ries	2 m
C. Changes to the Agenda?	Discuss	Jade Tippet	2 m
II. Community Comment			5:35 PM
A. Community Comment	Discuss	Jade Tippet	10 m
Each person wanting to speak may have 3 minutes to make their statements. The Board will not comment unless it is to quickly clarify a procedure, process or policy.			
III. Reports			5:45 PM
A. Teachers Write-Ups	Discuss	Kim Morgan	5 m
B. Director's Report	Discuss	Kim Morgan	20 m
View presentation for FBUSD and addition updates from the Director.			
C. Financial Reports	Discuss	Jade Tippet	10 m
IV. Discussion and Action Items			6:20 PM
Topics for discussion and possible actions.			
A. Approve Minutes of Regular Meeting 3.15.22	Approve Minutes	Jade Tippet	2 m
B. Approve Minutes of Special Meeting 4.7.22	Approve Minutes	Jade Tippet	2 m
C. Determination of Live or Remote Meeting	Vote	Kim Morgan	5 m
As per AB 361 the board shall determine, by unanimous vote every 30 days, whether meeting in person is puts the health of attendees at risk during the declared state of emergency.			
State of Emergency Proclamation- Order N-12-21			
Continuation of Emergency Proclamation until March 31, 2022- Order N-21-21			
CDPH Social Distancing Requirement			
Mendocino County Recommendation Regarding Continued Remote Public Meetings of Governmental Bodies			

	Purpose	Presenter	Time
D. Covid Isolation Policy Change	Vote	Kim Morgan	5 m
<p>Our current policy for students staff who are positive with Covid-19 is a mandatory 10 day isolation period. Proposal is to amend the current policy to align with CDC, CDPH and other local schools to require 5 days isolation and possibility of returning to school after day 5 with a negative test.</p>			
E. Approve Procurement & Contract Bidding Policy	Vote	Kim Morgan	10 m
F. School Meals for 2022-23	Discuss	Emily Forster	15 m
<p>State mandate to serve free breakfast and lunch for all students next year. Update on planning progress.</p>			
G. 2022-23 LCAP	Discuss	Kim Morgan	15 m
<p>Review 21-22 Goals. Board members to give input on actions and goals for 22-23.</p>			
H. Board Member Roles & Recruitment	Discuss	Kim Morgan	5 m
<p>Discuss current term Board Member expirations and need for a Treasurer.</p>			
V. Closed Session			7:19 PM
A. Facilities Proposal Negotiations (54954.5)	Discuss	Kim Morgan	10 m
<p>Discuss development of proposal for facility improvements.</p>			
VI. Disclosure of Actions Taken During Closed Session			7:29 PM
A. Closed Session Action Items	FYI	Jade Tippet	5 m
VII. Closing Items			7:34 PM
A. Adjourn Meeting	FYI	Jade Tippet	1 m

Coversheet

Teachers Write-Ups

Section:	III. Reports
Item:	A. Teachers Write-Ups
Purpose:	Discuss
Submitted by:	
Related Material:	Teacher Board Reports 4.19.22.pdf

Teacher Reports

April 19, 2022

Maria Gibson - Grades 1&2

Good afternoon Board Members,

Our morning meetings are looking at the character trait of Respect as well as working on our daily practices of telling the time and vocabulary.

The ELA centers are choral reading from the reading A-Z program with Ms. B reading (Level L) Deep in the Ocean, (Level K) Grounded to Earth and the decodable text for the /wr/ digraph Wrap It Up. In the writing center with Ms. Brinks, Group 3 and 2 are doing creative writing for Group 1 and 2. Group 1 is writing in sight word mini books and sentence frames.

In the Wit & Wisdom curriculum we are continuing the module called The American West. We have just read John Henry The American Legend. This book also teaches us about the history of the railroad and industrialization.

We are on Unit 7 in the Math Bridges Curriculum. First Grade students are working on addition. Second Grade students are working on fractions.

In science we are working building houses made of paper. Each partner group has to build a structure more than 12 inches tall using 20 index cards and 16 paperclips. This structure also has to hold a book.

In social studies we have looked at the fifty states, where they are located and their names and this week we are looking at economics- what are goods and services, what saving and spending means, and how to budget.

Art occurs every Thursday. Last week we made baskets for this week where we had to look and find eggs on the playground during our egg hunt. It was so exciting and so much fun!!

Mrs. Gibson

Natalie Shoptaw- Grades 3&4

High:

We watched a Luther Burbank Center for the Performing Arts performance: Lightwire Productions performed Tortoise and Hare: The Next Gen. It was a stage performance with dancers decked out in colored lights that resembled the shape of tortoise and hare. The story plot was enhanced to include a second race between the children of Tortoise and Hare; the children fall down a hole and enter a fox den. The fox hides the children until meal time. While Fox is bringing the water to boil, the parents come looking for the kids, encounter fox, and a dance-off occurs. Once peacefully resolved, the race renews, but the children refuse to cross

the finish line any way but a tie; so they cross together as a tie, and the parents bury former grievances. Students loved the performance, broadcast on the Smart Board.

Low:

More math gaps, (particularly in students who attended other schools last year). This time, place value (normally covered in grade 2, reviewed in grade 3); we've devoted time to this very important understanding as it is at the heart of so many math functions.

Dani Krebs- Grade 5&6

Hello board!

The 5/6 grade class is almost done with our Friday game "Cataclysm." This was such a success that in two years I will definitely have to play this again with my class.

We have had Ms. Bart come to our class and do bullying lessons on how to deal with bullying. We also had a parent come in and gave a presentation on Neurodiversity and the students took a quiz on what kind of learner they are.

We took our NWEA tests and I am eagerly awaiting the results so see how much the students have learned.

Until next time.

Dani Krebs

Mike Lang- Grades 7&8

We're in the middle of our third Spring short novel, Ribbons. We're exploring the life of a young Chinese-American girl who has to give up much of her way of life to support bringing her very traditional Grandmother to the United States. The book provides a good perspective into a different world culture and how to learn to empathize with others, even when you have unpleasant feelings towards them. We've also shifted into a discussion-based novel study for this novel, which allows us to have class discussions related to the story, as opposed to written pieces. Our class is enjoying the opportunity to share their experiences with each other.

We are doing a great job with our Spring projects. The Science Fair was a great opportunity for our students to showcase their skills and the digital version should be released following Spring Break. Our career exploration project is giving students great insight into their futures and our survey project is allowing them to explore the world of conducting surveys and statistics. We're also enjoying time in the garden for our Spring elective. We will be attempting to grow our own food and transition into a Culinary unit, where we can practice cleaning our produce and transforming it into some delicious foods.

Coversheet

Director's Report

Section:	III. Reports
Item:	B. Director's Report
Purpose:	Discuss
Submitted by:	
Related Material:	Presentation for FBUSD 4.22.pdf



Update for FBUSD

Kimberly Morgan, Director

April 2022

Three Rivers Charter School

New Website! www.trcschool.org

Now enrolling for the 2022-23 school year!

[Join our wait list](#)



Three Rivers Charter School

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Three Rivers Charter School Fort Bragg, CA

We are the Ospreys!

Three Rivers is a tuition-free, public charter school serving students in grades 1-8 in the Fort Bragg/Mendocino area. We offer a small, family-centered learning community with multi-grade classrooms and dedicated teachers.

[Learn more about us here!](#)



SCIENCE FAIR

FIELD TRIPS



Osprey Mural Project



AROUND CAMPUS



2021-22 Enrollment

85 Students

Transferred from FBUSD to TRCS	17
Transferred from TRCS to FBUSD	17
Transferred to TRCS from Elsewhere	19
Total New Students to TRCS	36
Living in FBUSD	82
Living in Mendocino USD	3
Long Term Independent Study	3

Ethnicity	
Hispanic/Latino	38%
Non Hispanic/Latino	62%

Socio Economically Disadvantaged (SED)	80%
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IEP Students	11
504 Plan Students	2

Next Year's Enrollment

2022 - 2023

- Our goal is 97 students enrolled
- Projecting to meet that goal
- Most openings in 1st and 7th grade
- Enrollment Lottery was held April 7th
- Currently processing new enrollment

Grade Level	# Seats Available (After siblings)	Wait List	Capacity
1	7	9	11
2	1	17	11
3	1	7	11
4	3	9	12
5	0	10	13
6	0	9	13
7	7	7	14
8	0	0	12
total:	19	68	97

NWEA MAP Assessment Data

NorthWest Evaluation Association - Measures of Academic Progress

- Students take this computer based assessment 2-3 times each year to measure growth in Reading, Language Use and Math.
- First we will see scores grouped by percentile for each class by subject.
- Second we will review graphs that compare the percentage of Fall and Spring scores that fall in the Average, High Average or High percentile.

MATH Scores

MAP Overall Performance

Grades 3 & 4

Fall 2021

Overall Performance	Lo %ile < 21		LoAvg %ile 21-40		Avg %ile 41-60		HiAvg %ile 61-80		Hi %ile > 80	
	count	%	count	%	count	%	count	%	count	%
Math: Math K-12	8	40%	2	10%	3	15%	7	35%	0	0%

Spring 2022

Overall Performance	Lo %ile < 21		LoAvg %ile 21-40		Avg %ile 41-60		HiAvg %ile 61-80		Hi %ile > 80	
	count	%	count	%	count	%	count	%	count	%
Math: Math K-12	4	22%	4	22%	6	33%	4	22%	0	0%

MATH Scores

MAP Overall Performance

Grades 5 & 6

Fall 2021

Overall Performance	Lo %ile < 21		LoAvg %ile 21-40		Avg %ile 41-60		HiAvg %ile 61-80		Hi %ile > 80	
	count	%	count	%	count	%	count	%	count	%
Math: Math K-12	5	31%	2	13%	6	38%	3	19%	0	0%

Spring 2022

Overall Performance	Lo %ile < 21		LoAvg %ile 21-40		Avg %ile 41-60		HiAvg %ile 61-80		Hi %ile > 80	
	count	%	count	%	count	%	count	%	count	%
Math: Math K-12	3	18%	3	18%	7	41%	2	12%	2	12%


MATH Scores

MAP Overall Performance

Grades 7 & 8


Fall 2021

Overall Performance	Lo %ile < 21		LoAvg %ile 21-40		Avg %ile 41-60		HiAvg %ile 61-80		Hi %ile > 80	
	count	%	count	%	count	%	count	%	count	%
Math: Math K-12	3	17%	2	11%	9	50%	4	22%	0	0%



Spring 2022

Overall Performance	Lo %ile < 21		LoAvg %ile 21-40		Avg %ile 41-60		HiAvg %ile 61-80		Hi %ile > 80	
	count	%	count	%	count	%	count	%	count	%
Math: Math K-12	3	18%	3	18%	7	41%	2	12%	2	12%




READING Scores

Grades 3 & 4


Fall 2021

Overall Performance	Lo %ile < 21		LoAvg %ile 21-40		Avg %ile 41-60		HiAvg %ile 61-80		Hi %ile > 80	
	count	%	count	%	count	%	count	%	count	%
Language Arts: Reading	7	33%	2	10%	1	5%	9	43%	2	10%



Spring 2022

Overall Performance	Lo %ile < 21		LoAvg %ile 21-40		Avg %ile 41-60		HiAvg %ile 61-80		Hi %ile > 80	
	count	%	count	%	count	%	count	%	count	%
Language Arts: Reading	6	32%	1	5%	7	37%	2	11%	3	16%



READING Scores

Grades 5 & 6

Fall 2021

Overall Performance	Lo %ile < 21		LoAvg %ile 21-40		Avg %ile 41-60		HiAvg %ile 61-80		Hi %ile > 80	
	count	%	count	%	count	%	count	%	count	%
Language Arts: Reading	1	6%	4	25%	5	31%	5	31%	1	6%



Spring 2022

Overall Performance	Lo %ile < 21		LoAvg %ile 21-40		Avg %ile 41-60		HiAvg %ile 61-80		Hi %ile > 80	
	count	%	count	%	count	%	count	%	count	%
Language Arts: Reading	2	10%	3	15%	9	45%	5	25%	1	5%



READING Scores

MAP Overall Performance

Grades 7 & 8

Fall 2021

	Lo %ile < 21		LoAvg %ile 21-40		Avg %ile 41-60		HiAvg %ile 61-80		Hi %ile > 80	
	count	%	count	%	count	%	count	%	count	%
Overall Performance										
Language Arts: Reading	3	19%	3	19%	4	25%	3	19%	3	19%

Spring 2022

	Lo %ile < 21		LoAvg %ile 21-40		Avg %ile 41-60		HiAvg %ile 61-80		Hi %ile > 80	
	count	%	count	%	count	%	count	%	count	%
Overall Performance										
Language Arts: Reading	3	18%	3	18%	5	29%	2	12%	4	24%

LANGUAGE USAGE Scores

MAP Overall Performance

Grades 3 & 4

Fall 2021

Overall Performance	Lo %ile < 21		LoAvg %ile 21-40		Avg %ile 41-60		HiAvg %ile 61-80		Hi %ile > 80	
	count	%	count	%	count	%	count	%	count	%
Language Arts: Language Usage	7	30%	2	9%	4	17%	6	26%	4	17%

Spring 2022

Overall Performance	Lo %ile < 21		LoAvg %ile 21-40		Avg %ile 41-60		HiAvg %ile 61-80		Hi %ile > 80	
	count	%	count	%	count	%	count	%	count	%
Language Arts: Language Usage	4	17%	3	13%	8	35%	4	17%	4	17%

LANGUAGE USAGE Scores

MAP Overall Performance

Grades 5 & 6

Fall 2021

Overall Performance	Lo %ile < 21		LoAvg %ile 21-40		Avg %ile 41-60		HiAvg %ile 61-80		Hi %ile > 80	
	count	%	count	%	count	%	count	%	count	%
Language Arts: Language Usage	3	18%	3	18%	6	35%	4	24%	1	6%

Spring 2022

Overall Performance	Lo %ile < 21		LoAvg %ile 21-40		Avg %ile 41-60		HiAvg %ile 61-80		Hi %ile > 80	
	count	%	count	%	count	%	count	%	count	%
Language Arts: Language Usage	4	19%	5	24%	7	33%	5	24%	0	0%

LANGUAGE USAGE Scores

Grades 7 & 8

Fall 2021

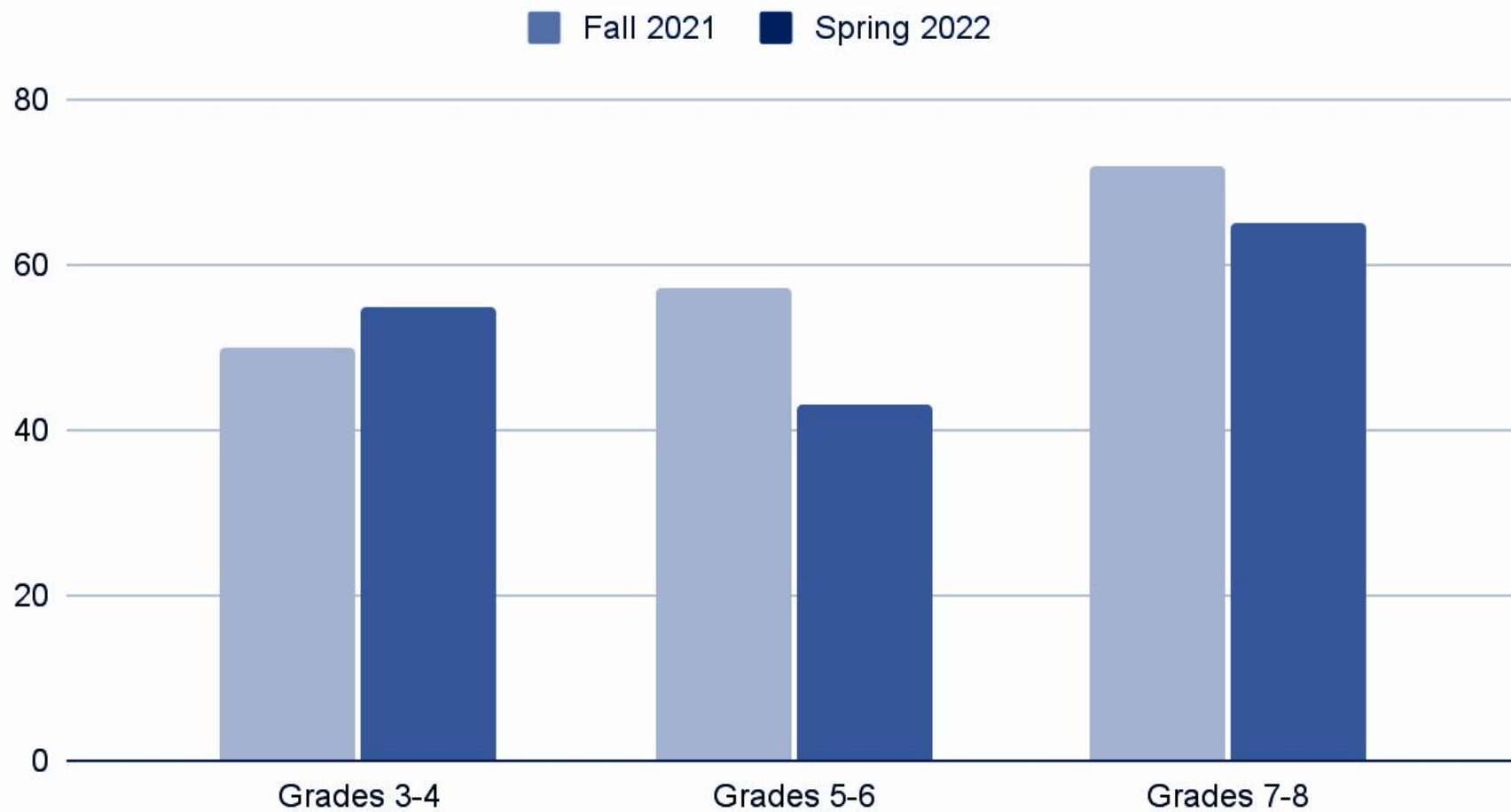
Overall Performance	Lo %ile < 21		LoAvg %ile 21-40		Avg %ile 41-60		HiAvg %ile 61-80		Hi %ile > 80	
	count	%	count	%	count	%	count	%	count	%
Language Arts: Language Usage	2	13%	5	33%	3	20%	2	13%	3	20%

Spring 2022

Overall Performance	Lo %ile < 21		LoAvg %ile 21-40		Avg %ile 41-60		HiAvg %ile 61-80		Hi %ile > 80	
	count	%	count	%	count	%	count	%	count	%
Language Arts: Language Usage	0	0%	5	29%	5	29%	7	41%	0	0%

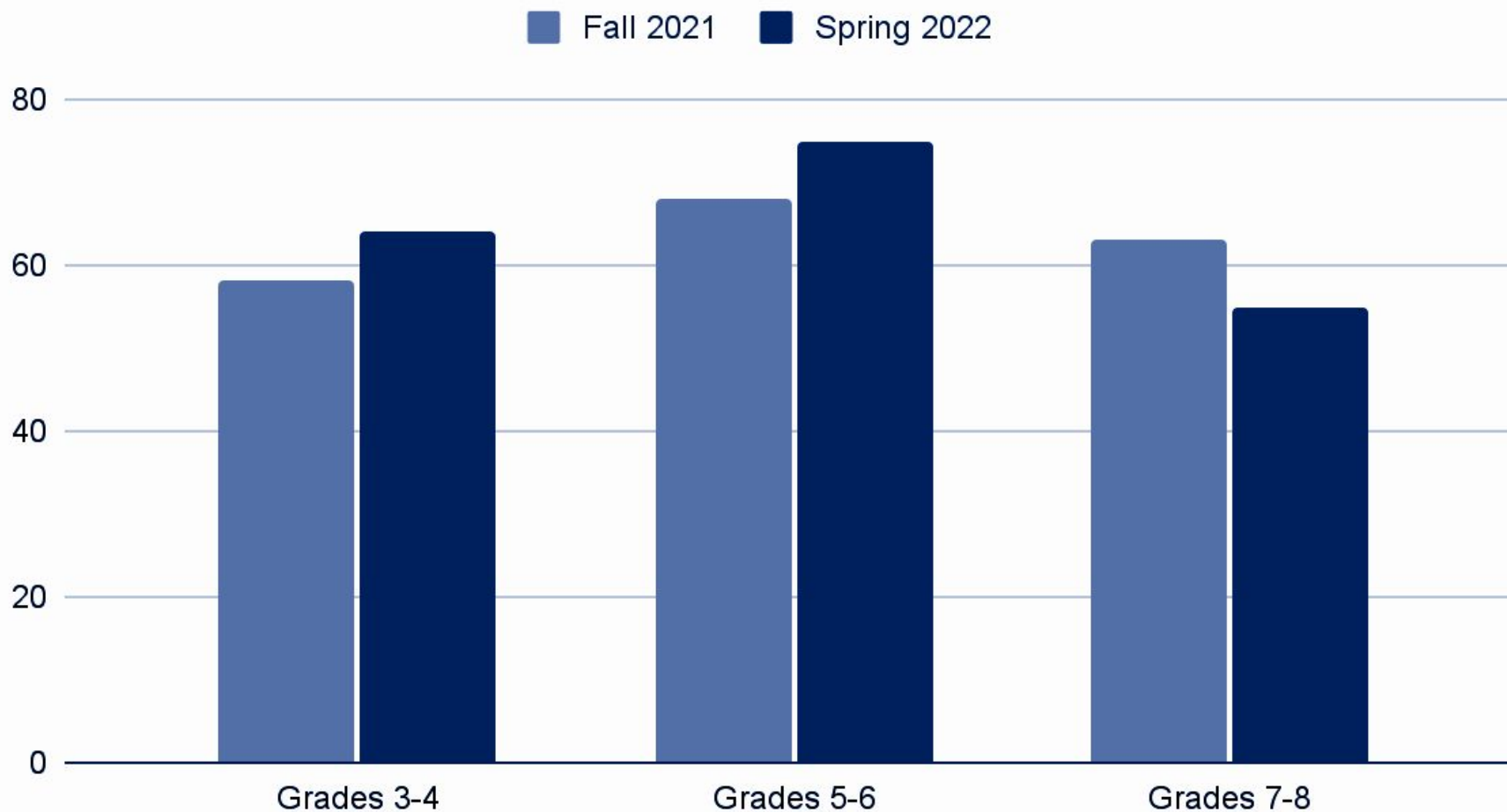
MATH

Percentage of Scores in Average to High Percentile



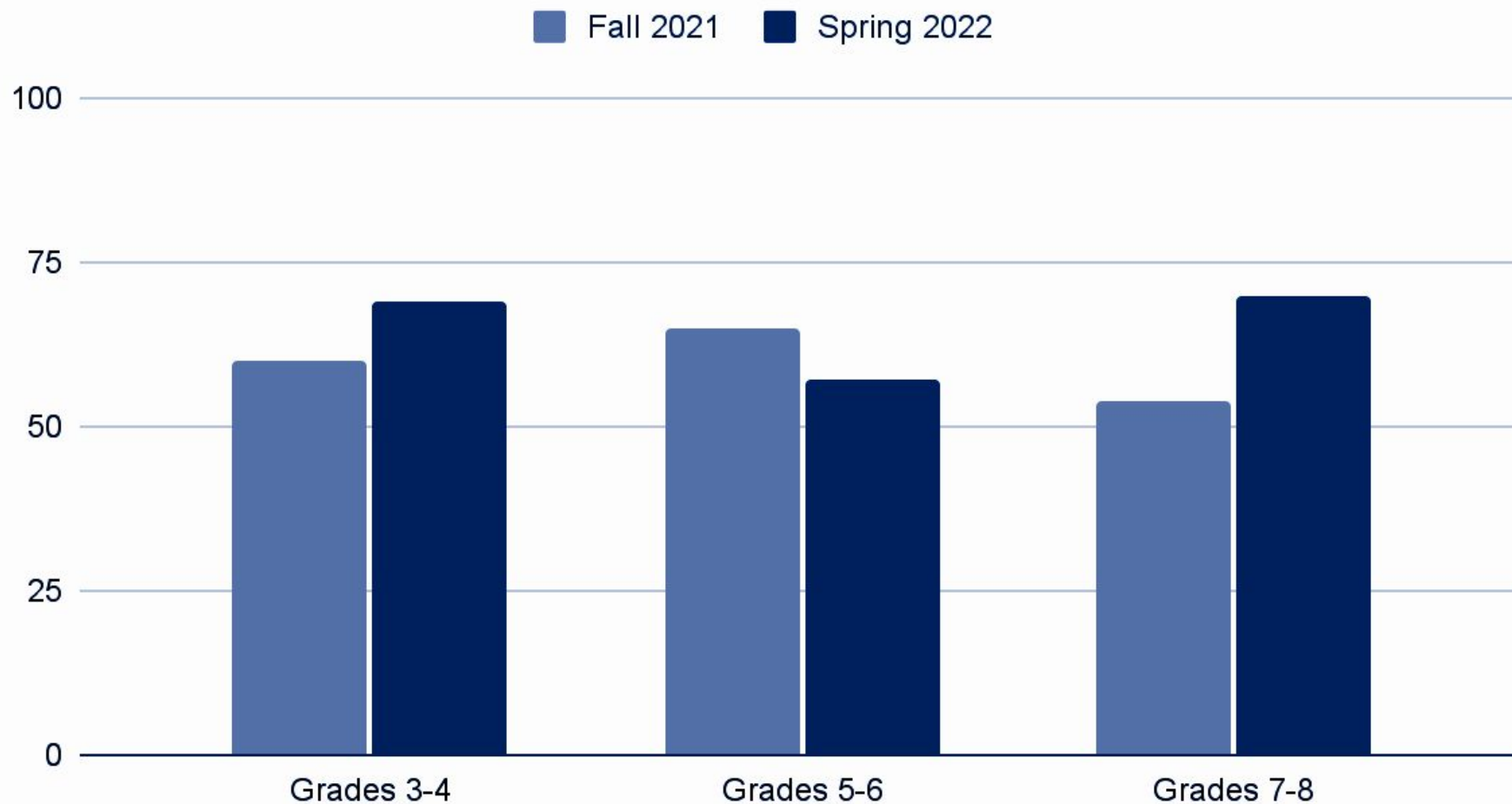
READING

Percentage of Scores in Average to High Percentile



Language Usage

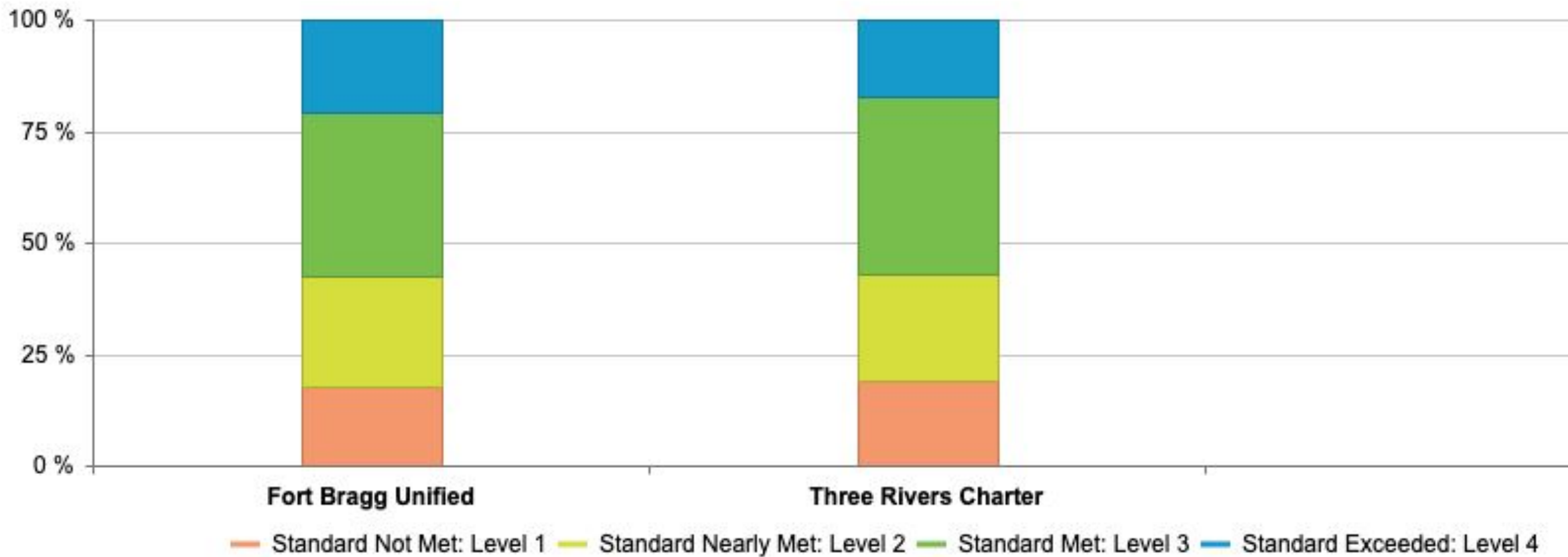
Percentage of Scores in Average to High Percentile



2020-21 CAASPP - ELA









2020–21 Achievement Level Distribution - All Grades

SOURCE: <https://caaspp-elpac.cde.ca.gov/>



2020-21 CAASPP - ELA

Overall Achievement

Achievement Level	Fort Bragg Unified	Three Rivers Charter
Mean Scale Score	N/A	N/A
 Standard Exceeded: Level 4 	20.79 %	17.24 %
 Standard Met: Level 3 	36.63 %	39.66 %
 Standard Nearly Met: Level 2 	24.75 %	24.14 %
 Standard Not Met: Level 1 	17.82 %	18.97 %

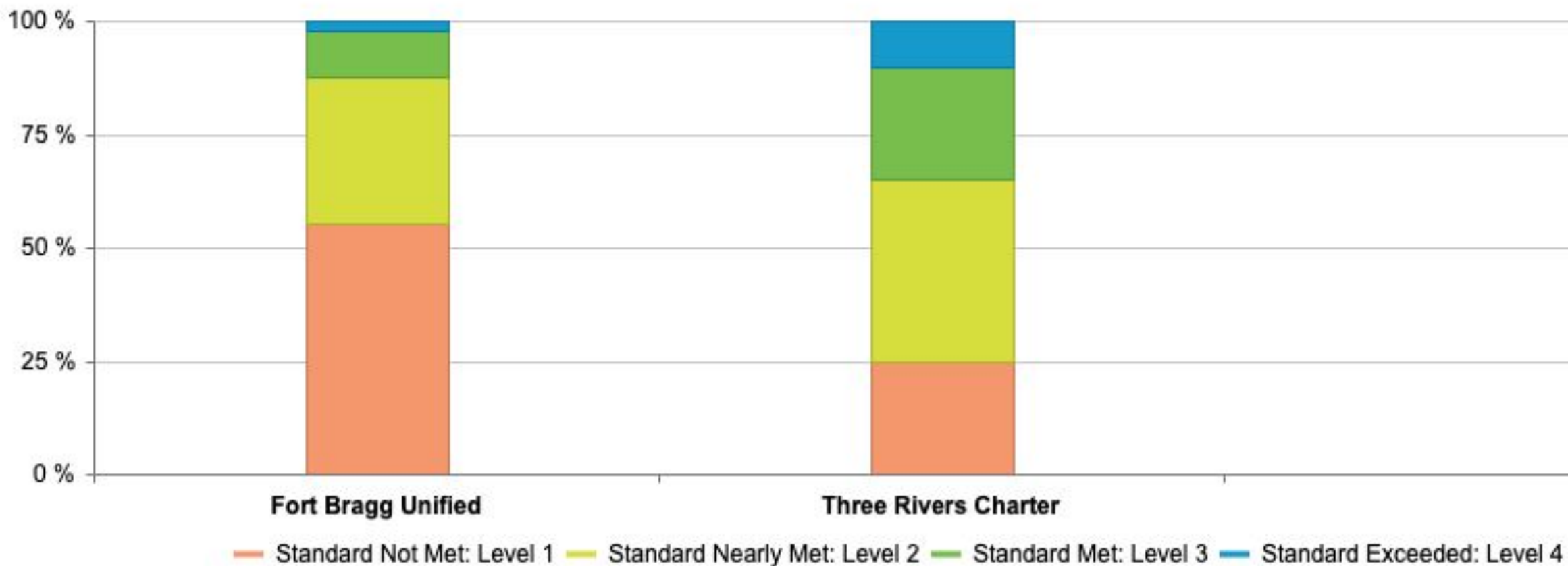
SOURCE: <https://caaspp-elpac.cde.ca.gov/>

2020-21 CAASPP - MATH

FBUSD - TRCS Comparison









2020–21 Achievement Level Distribution - All Grades

SOURCE: <https://caaspp-elpac.cde.ca.gov/>



2020-21 CAASPP - MATH

Overall Achievement

Achievement Level	Fort Bragg Unified	Three Rivers Charter
Mean Scale Score	N/A	N/A
 Standard Exceeded: Level 4 	2.04 %	10.00 %
 Standard Met: Level 3 	10.20 %	25.00 %
 Standard Nearly Met: Level 2 	32.65 %	40.00 %
 Standard Not Met: Level 1 	55.10 %	25.00 %

SOURCE: <https://caaspp-elpac.cde.ca.gov/>

2021-2022 Programs

Reading Intervention- Students with identified need receive one-on-one and small group support to bring reading skills up to grade level.



Counseling- Student have access to social emotional support on site.

Breakfast- Free breakfast available daily for all students.



Music- We provide lessons in piano, horns, drum and guitar during and after school for grades 3-8.

After School Programs



- **Sports Program-** Free hour of sports activity. Sport changed quarterly: Volleyball, Basketball, Soccer and currently Ultimate Frisbee. Two sessions per week for grade 4-8 and one session per week for grades 1-3.
- **Homework Club-** Free after school hour of academic support Mon - Thurs for all grade levels.
- **TIDES Afterschool Program-** After school care Mon - Thurs for all grade levels. Small fee, snack provided.
- **Fantastic Fun Friday Program** with Sue Magoo offered to grades 3-4 students as a pilot program that featured science, art and nature exploration.

2nd Interim Budget



Budget Summary

Five Year Budget, 2020-21 through 2024-25

SACS Code Description		2021-22	2022-23	2023-24	2024-25
Revenue					
	State LCFF Revenue	828,142	940,148	989,896	1,049,220
	Federal Revenue	113,893	216,197	163,798	46,447
	Other State Revenue	123,332	57,047	57,528	58,499
	Local Revenue	17,000	33,098	33,098	33,098
	Total Revenue	\$ 1,082,367	\$ 1,246,490	\$ 1,244,319	\$ 1,187,264
Expenses					
1000	Certificated Salaries	277,256 28.3%	293,964 28.3%	294,019 27.8%	302,780 28.4%
2000	Classified Salaries	179,892 18.4%	182,686 17.6%	188,146 17.8%	193,769 18.2%
3000	Benefits	132,635 13.5%	139,825 13.5%	141,914 13.4%	141,256 13.2%
	Total Personnel Expense	589,783 60.2%	616,475 59.4%	624,079 59.1%	637,805 59.8%
4000	Books and Supplies	56,950 5.8%	89,790 8.6%	92,664 8.8%	95,592 9.0%
5000	Services and Other Operating Expenses	329,721 33.7%	329,252 31.7%	336,465 31.9%	329,974 30.9%
6000	Capital Outlay	2,909	2,909	2,909	2,909
7000	Other Outgoing				
	Total Expenses	\$ 979,363	\$ 1,038,426	\$ 1,056,117	\$ 1,066,280
Surplus / (Deficit)		\$ 103,004	\$ 208,063	\$ 188,202	\$ 120,984
	As a % of LCFF Revenue	12%	22%	19%	12%

Beginning Fund Balance	1,252,509	1,355,513	1,563,576	1,751,779
Ending Balance	\$ 1,355,513	\$ 1,563,576	\$ 1,751,779	\$ 1,872,762
As a % of LCFF Revenue	164%	166%	177%	178%

Campus COVID 19 Update

2021-22 Covid Safety Plan available on website. Highlights include:

- Testing:
 - All students are participating in BinaxNow Rapid Antigen Testing
 - Surveillance testing of all students and staff at least 1x weekly
 - Response testing when appropriate
- Masking *strongly recommended* not required
- Hand hygiene routines
- Air filters in all classrooms and side rooms
- Eating happens outdoors in the tent
- Nightly janitorial

Looking Ahead....

2022 Summer Program

- Planning an extended school year session
- 4 weeks long beginning week after school ends
- 3 mornings per week of academic support and enrichment open to all students.

School Meals 22-23

Currently working on a plan and exploring available options to provide breakfast and lunch free for all students daily to meet state mandate.

Facilities

We continue to work on proposal to Mendocino College for TRCS to fund improvements to leased facilities in exchange for a long term lease.

Additional Information

- **Outstanding Legal Issues:** None. No lawsuits or filed complaints
- **Insurance Coverage:** Still fully bound until July 2022
- **Suspensions/Expulsions:** 0
- **Next year's lease** is signed and expires June 30, 2023.

Questions?



THANK YOU!

Coversheet

Financial Reports

Section:	III. Reports
Item:	C. Financial Reports
Purpose:	Discuss
Submitted by:	
Related Material:	TreasurersReport2022-04-19.pdf BalanceSheetDetail2022-03.pdf

Three Rivers Charter School

Treasurer's Report

April 19, 2022

Operations and Financial Status

Summary:

According to the Balance Sheet Detail as of March 31, 2022 (attached):

- Cash in Bank: \$275,525
- Cash in County Treasury Account: \$1,225,793
- Cash in Booster Club Account: \$19,740
- Total Liabilities and Net Assets: \$1,526,238
- Accounts Receivables: \$4,931 (Due from Grantor Governments)
- Accounts Payable and Other Liabilities: \$19,328 (Accrued Salaries)
- Year to Date Net Gain (*Loss*): \$238,800

Notes:

- These numbers and the attached Balance Sheet Detail are as of March 31, 2022
- Reviewing the Actual to Budget Detail:
 - Total Revenue for the year to date according to CharterVision is up \$50,209.
 - Personnel Expenses YTD are up \$29,345
 - Operating Expenses YTD are below expected by \$7,336. Resulting in a net gain to date of \$238,800
- Our financial position at the moment is excellent. We are well positioned to carry out the repairs to our school facility in the next couple of years, contingent on a long-term lease agreement with Mendocino College.
- CharterVision has included a new notation in their reports tool, announcing the last month in which the books have been closed. Today, it said, "Last Period Closed: February, 2022". This means that, even going back to March 31, the picture is not final. With our current financial position, there is little risk in presenting a Treasurer's Report that is almost two months behind, but it still somehow irks me to do that. So, I'm going to stick with going back to the close of the prior month. The variability is minor.

Presented by J. Tippett, Treasurer

Three Rivers Charter

March 2022

Segment Name	Filter Applied
Object	All
Restriction	All
Location	All
Lcp	All
Goal	All
Function	All
Fund	All

Group Description	Account	Account Description	
Liquidity Ratio			39.6
Assets			
Current Assets			
Cash	62-0000-0000-0000-9120-010-000	Cash in Bank(s) xxx7725	\$275,525
Cash	62-0000-0000-0000-9125-020-000	Cash in County Treasury Account	\$1,225,793
Cash	62-0000-0000-0000-9126-020-000	Cash in Booster Club Account xxx6247	\$19,740
Accounts Receivables	62-0000-0000-0000-9290-020-000	Due from Grantor Governments	\$4,931
Prepaid Expenses	62-0000-0000-0000-9330-020-000	Prepaid Expenses	\$250
Total Current Assets			\$1,526,238
Fixed Assets			
Buildings and Improvements	62-0000-0000-0000-9420-020-000	Building/Leasehold Improvements	\$11,297
Furniture and Fixtures	62-0000-0000-0000-9440-020-000	Furniture Fixtures and Equipment	\$12,853
Construction in Progress	62-0000-0000-0000-9450-020-303	Construction in Progress	\$3,600

Three Rivers Charter

March 2022

Accumulated Depreciation	62-0000-0000-0000-9425-020-000	Accumulated Depreciation - Building/Leasehold Improvements	(\$11,297)
Accumulated Depreciation	62-0000-0000-0000-9445-020-000	Accumulated Depreciation - Furniture, Fixtures & Equipment	(\$12,853)
Total Fixed Assets			\$3,600
Other Assets			
Total Other Assets			-
Total Assets			\$1,529,838
Liabilities And Net Assets			
Current Liabilities			
Accrued Salaries, Payroll Taxes, Postemployment Benefits	62-0000-0000-0000-9501-020-000	Accrued Salaries	(\$19,328)
Deferred Revenue	62-2600-0000-0000-9650-020-000	Deferred Revenue	\$27,500
Deferred Revenue	62-3212-0000-0000-9650-020-000	Deferred Revenue	\$10,114
Deferred Revenue	62-7422-0000-0000-9650-020-000	Deferred Revenue	\$20,243
Total Current Liabilities			\$38,529
Long Term Liabilities			
Total Long Term Liabilities			-
Total Liabilities			\$38,529
Net Assets			
Restricted Net Assets	62-0000-0000-0000-9770-020-000	Reserve for Economic Uncertainty	\$58,183
Restricted Net Assets	62-0000-0000-0000-9772-020-000	Designated Reserve for Capital Fund	\$800,000

Three Rivers Charter

March 2022

Restricted Net Assets	62-0091-0000-0000-9780-020-000	Board Designated - Student Body	\$17,066
Unrestricted Net Assets	62-0000-0000-0000-9790-020-000	Undesignated Fund Balance	\$377,260
Profit/Loss YTD			\$238,800
Total Net Assets			\$1,491,310
Total Liabilities And Net Assets			\$1,529,838

Coversheet

Approve Minutes of Regular Meeting 3.15.22

Section: IV. Discussion and Action Items
Item: A. Approve Minutes of Regular Meeting 3.15.22
Purpose: Approve Minutes
Submitted by:
Related Material: Minutes for Regular Board Meeting on March 15, 2022

APPROVED



Three Rivers Charter School

Minutes

Regular Board Meeting

Date and Time

Tuesday March 15, 2022 at 5:30 PM

Location

This meeting will be held in person in the Jr. High Classroom at Three Rivers Charter School. Meeting attendees may also join by video conference using the Zoom link provided.

This Board Meeting is being held in person at Three Rivers Charter School in the Jr. High Classroom. Meeting attendees may also join virtually using the Zoom link provided.

The agenda provides any citizen an opportunity to directly address the Board under the section entitled "Community Comment" on any item under the subject matter jurisdiction of the Board that is not on the agenda. The Public will be provided an opportunity to address the Board on agenda items before or during the Board's deliberation. Each public member will have 3 minutes for comment. Members attending virtually who wish to comment may use the "raise hand" option.

To request a matter within the jurisdiction of the Board be placed on the agenda of a regular meeting, please submit your request in writing to the School Director or Board President at least 10 days before the scheduled meeting date. In compliance with Government Code section 54954.2(a) Three Rivers Charter School will, on request, make agendas available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Individuals who need this agenda in an alternative format or who need a disability-related modification or accommodation in order to participate in the meeting should contact the school at (707) 964-1128 at least 72 hours prior to the meeting. The Board reserves the right to mute or remove a member of the public for inappropriate behavior which is disruptive.

Join Zoom Meeting

[https://us02web.zoom.us/j/86282301134?](https://us02web.zoom.us/j/86282301134?pwd=T3MrREtjbGFsRFFOZkw3R2UrRzJxUT09)

[pwd=T3MrREtjbGFsRFFOZkw3R2UrRzJxUT09](https://us02web.zoom.us/j/86282301134?pwd=T3MrREtjbGFsRFFOZkw3R2UrRzJxUT09)

Meeting ID: 862 8230 1134

Passcode: trcs

Directors Present

A. Dominguez (remote), C. Peña, E. Forster (remote), J. Ries, J. Tippett, L. Norman (remote)

Directors Absent

None

Guests Present

Becky Walker (remote), K. Morgan, Mary Makela (remote)

I. Opening Items

A. Call the Meeting to Order

J. Tippett called a meeting of the board of directors of Three Rivers Charter School to order on Tuesday Mar 15, 2022 at 5:34 PM.

B. Record Attendance and Guests

C. Changes to the Agenda?

None

II. Community Comment

A. Community Comment

None

III. Reports

A. Teachers Write-Ups

No comments at this time.

B. Director's Report

K. Morgan reported regarding after school sports program. Students are having the opportunity to do some after school learning with the Noyo Center. Enrollment forms are out to current students. Lottery for new students will be Thursday, April 7th. K. Morgan reported on status of COVID cases at school. Zero new cases at this time. Working toward finalizing the LCAP. K. Morgan updated regarding progression of school lunch program for 2022-2023 school year.

C. Financial Reports

J. Tippett presented treasurer's report.

IV. Discussion and Action Items

A. Approve Minutes

C. Peña made a motion to approve the minutes from Regular Board Meeting on 02-15-22.

E. Forster seconded the motion.

The board **VOTED** to approve the motion.

Roll Call

E. Forster Aye
J. Ries Aye
L. Norman Aye
C. Peña Aye
A. Dominguez Aye
J. Tippett Aye

B. Approve Minutes

E. Forster made a motion to approve the minutes from Special Board Meeting on 03-10-22.

A. Dominguez seconded the motion.

The board **VOTED** to approve the motion.

Roll Call

E. Forster Aye
A. Dominguez Aye
C. Peña Aye
L. Norman Abstain
J. Ries Aye
J. Tippett Aye

C. Determination of Live or Remote Meeting

A. Dominguez made a motion to continue allowing board members to meet remotely because meeting in person continues to pose a health risk to those individuals in light of the ongoing pandemic.

E. Forster seconded the motion.

The board **VOTED** to approve the motion.

Roll Call

J. Tippett Aye
J. Ries Aye
E. Forster Aye
C. Peña Aye
A. Dominguez Aye
L. Norman Aye

D. Approve 2nd Interim Budget Report

J. Ries made a motion to approve the second interim budget report.

L. Norman seconded the motion.

The board **VOTED** to approve the motion.

Roll Call

J. Tippett Aye
A. Dominguez Aye
C. Peña Aye
L. Norman Aye
J. Ries Aye
E. Forster Aye

E. Approve Audit and Tax Preparation Firm

K. Morgan discussed the selection of tax preparation firm- Christy White.
Motion to approve engagement of Christy White as tax preparation firm for 2021 tax preparation.

E. Forster seconded the motion.

The board **VOTED** to approve the motion.

Roll Call

A. Dominguez Aye
J. Ries Aye
L. Norman Aye
J. Tippett Aye
E. Forster Aye
C. Peña Aye

F. Approve Revised Covid Safety Plan

K. Morgan reviewed proposed changes to COVID safety plan.

J. Ries made a motion to adopt the revised COVID safety plan dated March 2022; and add the language regarding the revised masking policy contained in the minutes from the 3/10/22 special board meeting.

C. Peña seconded the motion.

The board **VOTED** to approve the motion.

Roll Call

J. Tippett Aye
J. Ries Aye
C. Peña Aye
E. Forster Aye
L. Norman Aye
A. Dominguez Aye

G. Board Member Roles & Recruitment

K. Morgan reviewed the terms of current board members. Re-iterated need for new treasurer.

V. Closed Session

A. Facilities Proposal Negotiations (54954.5)

J. Tippett reported regarding status of facilities negotiations.

VI. Disclosure of Actions Taken During Closed Session

A. Closed Session Action Items

No actions taken in closed session.

VII. Closing Items

A. Adjourn Meeting

There being no further business to be transacted, and upon motion duly made, seconded and approved, the meeting was adjourned at 6:39 PM.

Respectfully Submitted,
J. Ries

Coversheet

Approve Minutes of Special Meeting 4.7.22

Section: IV. Discussion and Action Items
Item: B. Approve Minutes of Special Meeting 4.7.22
Purpose: Approve Minutes
Submitted by:
Related Material: Minutes for Special Board Meeting on April 7, 2022

APPROVED



Three Rivers Charter School

Minutes

Special Board Meeting

Date and Time

Thursday April 7, 2022 at 5:30 PM

Location

This hybrid meeting will take place on the Three Rivers Charter School campus and attendees may also join via Zoom.

Join Zoom Meeting

[https://us05web.zoom.us/j/86282301134?](https://us05web.zoom.us/j/86282301134?pwd=T3MrREtjbGFsRFFOZkw3R2UrRzJxUT09)
[pwd=T3MrREtjbGFsRFFOZkw3R2UrRzJxUT09](https://us05web.zoom.us/j/86282301134?pwd=T3MrREtjbGFsRFFOZkw3R2UrRzJxUT09)

Meeting ID: 862 8230 1134

Passcode: trcs

This Board Meeting is being held in person at Three Rivers Charter School in the Jr. High Classroom. Meeting attendees may also join virtually using the Zoom link provided.

The agenda provides any citizen an opportunity to directly address the Board under the section entitled "Community Comment" on any item under the subject matter jurisdiction of the Board that is not on the agenda. The Public will be provided an opportunity to address the Board on agenda items before or during the Board's deliberation. Each public member will have 3 minutes for comment. Members attending virtually who wish to comment may use the "raise hand" option.

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Join Zoom Meeting

[https://us02web.zoom.us/j/86282301134?](https://us02web.zoom.us/j/86282301134?pwd=T3MrREtjbGFsRFFOZkw3R2UrRzJxUT09)

pwd=T3MrREtjbGFsRFFOZkw3R2UrRzJxUT09

Meeting ID: 862 8230 1134

Passcode: trcs

Directors Present

A. Dominguez (remote), C. Peña (remote), J. Ries (remote), J. Tippett, L. Norman (remote)

Directors Absent

E. Forster

Guests Present

K. Morgan

I. Opening Items

A. Call the Meeting to Order

J. Tippett called a meeting of the board of directors of Three Rivers Charter School to order on Thursday Apr 7, 2022 at 5:32 PM.

B. Record Attendance and Guests

C. Changes to the Agenda?

None

II. Community Comment

A. Community Comment

None at this time.

III. Discussion & Action Items

A. Discuss Engagement of Build Analysis, LLC.

K. Morgan discussed the proposed engagement agreement for project management for the renovation project.

J. Tippett, facilities committee member, discussed proposed costs and proposed hourly rate and cap on charges.

B. Vote on Engagement of Build Analysis, LLC.

C. Peña made a motion to To approve the contact to engage Build Analysis, LLC.

A. Dominguez seconded the motion.

The board **VOTED** to approve the motion.

Roll Call

L. Norman	Aye
J. Ries	Aye
A. Dominguez	Aye
J. Tippett	Aye
E. Forster	Absent
C. Peña	Aye

IV. Closing Items

A. Adjourn Meeting

There being no further business to be transacted, and upon motion duly made, seconded and approved, the meeting was adjourned at 5:43 PM.

Respectfully Submitted,
J. Ries

Coversheet

Approve Procurement & Contract Bidding Policy

Section: IV. Discussion and Action Items
Item: E. Approve Procurement & Contract Bidding Policy
Purpose: Vote
Submitted by:
Related Material:
DRAFT Policy- Procurement and Contract Bidding .docx.pdf
Letter Regarding Prevailing Wage Applicability for Three Rivers Charter School (4853-8889-8841.v3).pdf

DRAFT Policy No. []

**THREE RIVERS CHARTER SCHOOL
PROCUREMENT POLICY AND CONTRACT BIDDING POLICY**

I. General

It is the policy of the Board of Directors (“Board”) for Three Rivers Charter School (“Charter School”) to procure goods and services in a manner consistent with the guidelines set forth herein. This includes, consistent with the procedures set forth herein, documentation of a good faith effort to secure the lowest possible expected cost for comparable goods or services using sealed bids for construction and building renovation projects. The Charter School’s practices have been designed to give fair and equitable treatment to all persons who deal with the Charter School’s procurement system, to provide maximum economy in procurement activities, and to foster competition within the free enterprise system.

The policies and procedures presented herein are consistent with current applicable state and federal law. As necessary, the Charter School’s Board of Directors will revise this document as the relevant laws may change from time to time, or to ensure compliance of this policy with the Charter School’s charter petition with Fort Bragg Unified School District.

II. Procurement Defined

Procurement for the purposes of this policy is defined as buying, purchasing, renting, leasing, or otherwise acquiring goods, services, or construction for the Charter School. It also includes all functions that pertain to the obtaining of any good, service, or construction for the Charter School, including complying with bidding procedures as described herein, as well as administering agreements for goods, services, or construction once established.

Procurement does not include expenditures that typically would not be reviewed by any system of hierarchy for approval, such as using a petty cash fund to purchase lunch for a group of teachers at a professional development seminar.

III. Procurement Policy

Any procurement of goods, services, or construction shall be made upon considering the totality of the circumstances surrounding the procurement, including but not be limited to price, quality, availability, timelines, reputation, and prior dealings.

No work, project, service, or purchase shall be split or separated into smaller work orders or projects for the purpose of evading the requirements of this policy.

IV. Professional Services Contracts

The Charter School may hire such professional services as are needed for the operation of the Charter School on a sole source basis without complying with the bidding procedures described in Sections VI and VII herein. Such professional services include, but are not limited to, the following professionals: accountants, administrative professionals, architects, attorneys, construction managers, engineers, and financial advisors.

In selecting professionals for engagement, the Charter School may consider all relevant factors, including but not limited to experience, education, expertise, reputation, and cost. The selection of professionals providing these services shall be within the sole discretion of the Board. A request for qualifications process can be used if desired.

V. Guidelines for Selecting Contractors/Vendors

A. Avoiding Waste and Reducing Costs

The Charter School will avoid purchasing unnecessary or duplicative items, and will purchase surplus government property in lieu of purchasing new equipment when appropriate. The Charter School will conduct appropriate oversight of vendors, ensuring that vendors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. The charter school will participate in state and local intergovernmental agreements or inter-entity agreements for procurement of goods and services, such as statewide contracts administered by the Department of General Services.

B. Prequalification Procedures

The Charter School may, but is not required to, establish prequalification procedures for any contract for which bids are required.

C. Unlicensed, Suspended and Debarred Contractors/Subcontractors

The Charter School may not consider any contractor or subcontractor that does not possess a license in good standing, or is listed as debarred, suspended or otherwise excluded from bidding on, accepting, or performing any public works contracts, by the Division of Labor Standards Enforcement (“DLSE”) of the California Department of Industrial Relations (“DIR”).

The Charter School is required to vet any potential contractor or subcontractor for suspension or debarment before a contract may be awarded. A list of suspended and debarred contractors and subcontractors may be accessed through the DLSE Debarments Web Site at <http://www.dir.ca.gov/dlse/debar.html>.

VI. Informal Bidding and Contract Approval – Contracts up to \$150,000

All purchases of more than \$50,000 but less than \$150,000 must include documentation of a good faith effort to secure the lowest possible cost for comparable goods or services of similar value. The Executive Director or designee shall not approve invoices, purchase orders, or check requests lacking such documentation. Documentation shall be attached to all invoices, purchase orders, and check requests indicating that at least three (3) contractors/vendors were contacted, and such documentation shall be maintained for three (3) years. Informal quotes or proposals for goods and/or services may be requested and received in writing by mail, email, facsimile, and/or verbally, such as by telephone, as long as properly documented.

Before releasing a bid solicitation, the Executive Director or designee will adopt a written method for conducting technical evaluations of the proposals received and for selecting recipients. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the school, with price and other factors considered.

The Charter School may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation (i.e., request for qualifications).

Contracts for purchases of up to \$5000.00 may be executed by the Executive Director without prior Board approval.

VII. Formal Bidding and Contract Approval – Contracts Over \$150,000

Contracts for the purchase of more than \$150,000 worth of equipment, materials or supplies to be furnished, sold, or leased to the Charter School, or contracts for more than \$150,000 worth of services or construction (excluding those professional services agreements described in Section V), shall be subject to the formal bidding requirements set forth hereinbelow. Use of formal bidding presumes that the following three factors are present (i) a complete, adequate, and realistic specification or purchase description is available; (ii) two or more responsible bidders are willing and able to compete effectively for the business; and (iii) the procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price is not required. When any one or more of these three factors is not present, the Charter School may find that formal bidding is not feasible and may use informal bidding (above) or noncompetitive proposal(s).

If formal bidding is required, the Charter School shall utilize the following procedures:

A. Seeking Bids

The Charter School shall seek bids from those sources able to offer the best prices, consistent with quality, quantity, delivery, and service. To ensure that good value is received for funds expended, the request for bids shall be carefully designed to clearly

and completely describe in detail the quality, delivery, and service required, and shall include the criteria that will be used to evaluate the offers and the relative weights given to the criteria. Further, the request for bids shall specify the date by which all bids must be received by the Charter School. Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids.

The request for bids must include a clear and accurate description of the technical requirements for the request, which defines the items or services with enough specificity to allow bidders to properly respond. These details can be provided in specifications and attachments included with the bid invitation. The bid request shall identify all requirements which the bidders must fulfill and all factors to be used in evaluating bids or proposals. Notice of the request for bids may be provided in one or more of the following ways:

- (1) Publishing the request for bids in at least one newspaper of general circulation within the boundaries of Mendocino County, once a week for at least two (2) weeks before the deadline for receiving bids;
- (2) Posting the request for bids on the Charter School's website or other electronic portal for at least two (2) weeks before the deadline for receiving bids; and/or
- (3) Directly submitting notice of the request for bids to an adequate number of qualified sources to permit reasonable competition consistent with the nature and purpose of this policy. Any list of potential contractors/vendors that is generated must be current and include enough qualified sources to ensure reasonable open and free competition.

B. Opening Bids

Bids may be opened only at the time and place prescribed by the Executive Director or designee. A bid that has been opened may not be changed for the purpose of correcting an error in the bid price. However, bidders retain the right to withdraw a bid due to a material mistake in the bid. After bids have been opened, they shall be available for inspection or copy by any interested party. The Charter School must maintain the bid document(s) for the duration of the contract and for three (3) years beyond the completion of the contract.

C. Contract Award

The Board, or any employee of the Charter School to whom responsibility has been delegated, shall award a competitively-bid contract at the bid amount to the bidder offering the best value to the Charter School according to its selection criteria. The contract need not necessarily be awarded to the lowest responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such

discounts are usually taken advantage of. The selection criteria may include the following factors:

- (1) Purchase price;
- (2) Reputation of the contractor/vendor and of the contractor's/vendor's goods and/or services;
- (3) Quality of the contractor's/vendor's goods and/or services;
- (4) Extent to which the goods and/or services meet the Charter School's needs;
- (5) Contractor's/vendor's record of past performance;
- (6) Contractor's/vendor's financial standing and capacity;
- (7) Contractor's/vendor's past relationship with the Charter School; and
- (8) Total long-term cost to the Charter School to acquire the goods and/or services.

Contracts over \$5000.00 must be approved by the Board prior to execution by the Board Chair or Executive Director.

Any and all bids may be rejected if there is a sound, documented reason for doing so.

D. Protest by Bidders

A bidder may protest a bid award if he/she believes that the award was inconsistent with this policy, the bid's specifications, or was not in compliance with law.

A protest must be filed in writing with the Executive Director or designee within five (5) business days after receipt of notification of the contract award. The bidder shall submit all documents supporting or justifying the protest. A bidder's failure to file the protest documents in a timely manner shall constitute a waiver of his/her right to protest the award of the contract.

The Executive Director or designee shall review the documents submitted with the bidder's claims and render a decision in writing within thirty (30) business days. The Executive Director or designee may also convene a meeting with the bidder to attempt to resolve the problem.

The bidder may appeal the Executive Director or designee's decision to the Board. The Executive Director or designee shall provide reasonable notice to the bidder of the time for Board consideration of the contract award. The Board's decision shall be final.

VIII. Noncompetitive Proposals

A noncompetitive procurement proposal is the solicitation of a proposal from only one (1) source. Noncompetitive procurement proposals may only be used when one or more of the following circumstances apply: (i) the item is available only from a single source; (ii) the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation; or (iii) after solicitation of a number of sources,

competition is determined inadequate. When procuring goods or services using Federal funds, if none of these circumstances are present, written authorization from the Federal awarding agency or CDE must be granted.

IX. Construction Contracts

Procurement of construction and/or construction related services (other than those services which constitute professional services as described above in Section IV) must be made in accordance with the bidding procedures described herein. **Mandatory Contract Terms**

All contracts entered into with the Charter School must contain the following terms when applicable:

- (1) A ceiling price that the contractor/vendor exceeds at its own risk.
- (2) Retention of all required records by the contractor/vendor for three (3) years after the Charter School makes final payments and all other pending matters are closed.
- (3) Access by the Charter School or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
- (4) Administrative, contractual, or legal remedies in instances where contractors/vendors violate or breach contract terms, and the sanctions and penalties that are appropriate.
- (5) Termination for cause and for convenience by the Charter School, including the manner by which it will be effected and the basis for settlement.

X. Maintenance of Records

The Charter School shall document specific actions for any procurement. These specific actions include, but are not limited to:

- (1) The rationale for the method of procurement.
- (2) The selection of contract type.
- (3) The selection or rejection of a contractor/vendor, and supporting rationale.
- (4) The basis for a contract price.

Documentation of each of these actions shall be prepared as the actions occur within any given instance of procurement.

Procurement records, accepted bid documents, and selected contracts will be retained by the Charter School for not less than three (3) years.

XI. Conflict of Interest

No Board member or Charter School employee shall be financially interested in any contract made by the Board or in any contract made in their capacity as a Board member or Charter School employee.

No Board member or Charter School employee shall participate in the selection, award, or administration of a contract if a real or apparent conflict of interest would be involved. Such a conflict would arise when the Board member or Charter School employee, or any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ the Board member or Charter School employee, has a financial or other interest in the firm selected for an award. The Board member or Charter School employee shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to sub-agreements.

To the extent permitted by law, any Board member or Charter School employee who violates this section may be subject to penalties, sanctions, and other disciplinary actions.

XII. Reservation

The Charter School Procurement and Contract Bidding Policy shall be amended and updated if necessary to comply with changes in acceptable procurement practices.

XIII. Federal Grants or Programs

In addition to complying with all conditions herein, all contracts involving federal grants or other federal programs shall also fully comply with all applicable federal procurement guidelines related to such programs and the Uniform Guidance of the Office of Management and Budget (2 CFR §§ 200.218-200.226). In the event there is a conflict between this policy and the applicable federal procurement guidelines, the federal guidelines shall prevail.

Adopted: April 19, 2022

I, Jaime Ries, am the Secretary of the Three Rivers Charter School Board of Directors. I hereby certify that the foregoing is a true copy of a resolution duly and legally adopted by the Board of Directors on this 19th day of April , 2022, and that this resolution has not been revoked.

Date: _____



LAW OFFICES OF YOUNG, MINNEY & CORR, LLP
THE CHARTER LAW FIRM

SARAH J. KOLLMAN ESQ.
PARTNER ■ ATTORNEY AT LAW
skollman@mycharterlaw.com

APRIL 1, 2022

SENT VIA E-MAIL TO
DIRECTOR@TRCSCHOOL.ORG

Kimberly Morgan,
School Director/Principal
Three Rivers Charter School
1211 Del Mar Drive
Fort Bragg, CA 95437

Re: Prevailing Wage Applicability

Dear Kimberly,

You have asked our office for an opinion regarding whether Three Rivers Charter School (hereinafter, the “Charter School”) is required to comply with prevailing wage laws in completing repairs to its school facilities, consisting of portable classrooms owned by a community college and located on a community college campus, and leased to the Charter School. These repairs will be carried out using the Charter School’s own accumulated savings, no other public entity has contributed to or will contribute to the cost of the repairs, and the Charter School is not using state bond funds or other facilities-specific state funds to complete the repair (“Project”).

Whether the contractors for the Project must comply with prevailing wage laws presents a question that has never been formally answered by a court. However, because the Charter School intends to pay for the Project using only savings from its general fund, which originated as apportionment dollars, the Charter School is not a “state or political subdivision” for purposes of prevailing wage compliance, and the repair project is not paid for in whole or in part out of public funds, the Project is likely not be subject to prevailing wage laws.

This letter first provides an overview of the prevailing wage laws and discusses the consequences for failing to properly identify a public works project as such. Next this letter finds that a charter school is not “the state or [a] political subdivision” whose construction and repair activities are subject to prevailing wage laws. This letter then finds that a charter school’s use of state apportionment dollars for construction and repair does not trigger the payment of prevailing wages, and concludes that as a result the Project does not need to comply with prevailing wage laws.

Prevailing Wage and Public Works Law

Re: Prevailing Wage Applicability

April 1, 2022

Page 2 of 2

California law requires the payment of wages according to specific schedules on all public works. The term “public works” is defined by Labor Code section 1720.¹ Under that section, various construction, alteration, and repair activities, including the installation of modular buildings, are considered “public works” if they are “paid for in whole or in part out of public funds,” which can include both direct and indirect subsidies provided by the “state or a political subdivision.”

Under the prevailing wage law, all workers employed on a public works project must be paid wages at or above mandatory rates. The obligation to pay prevailing wages, and to furnish payroll records, applies to the contractor and any subcontractor that employs workers on a public works project. (§ 1774.) Any worker who does not receive wages at or above the prevailing rate may file a complaint with the Department of Industrial Relations, Division of Labor Standards Enforcement (the “Division”). The Division is required to notify the contractor of a complaint within fifteen (15) days of receipt. (§ 1775, subd. (c).)

If the Division determines that prevailing wages were required but not paid, the contractor (and any subcontractors) on the project can be required to pay statutory penalties between \$40 and \$200 per day for each worker paid less than prevailing wages on the project. (§ 1775, subd. (a).) While the prevailing wage law is primarily enforced by the Division, workers may also assert prevailing wage claims against the subcontractor who employed them, but not against the prime contractor. (*Violante v. Communities Southwest Development & Construction Co.* (2006) 138 Cal.App.4th 972, 979.)

There are also a number of additional requirements associated with public works projects, including the requirements for the contractor to be registered with the Division (§ 1725.5), for the preparation and maintenance of certified payroll records (§ 1776), and for the hiring of apprentices (§ 1777.5.)

1. The Definition of “Paid for in Whole or in Part out of Public Funds”

Whether a project requires prevailing wages and compliance with public works requirements often turns on whether the contractor will be paid “in whole or in part out of public funds.” (§ 1720, subd. (a).) The term “paid for in whole or in part out of public funds” is a term of art defined in the prevailing wage law as all of the following:

- (1) The payment of money or the equivalent of money by the state or political subdivision directly to or on behalf of the public works contractor, subcontractor or developer.
- (2) Performance of construction work by the state or political subdivision in execution of the project.
- (3) Transfer by the state or political subdivision of an asset of value for less than fair market price.

¹ Unless otherwise indicated, all statutory references are to the Labor Code.



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- (4) Fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations that would normally be required in the execution of the contract, that are paid, reduced, charged at less than fair market value, waived or forgiven by the state or political subdivision.
- (5) Money loaned by the state or political subdivision that is to be repaid on a contingent basis.
- (6) Credits that are applied by the state or political subdivision against repayment obligations to the state or political subdivision.

(Labor Code § 1720, subd. (b).)

The foregoing list identifies circumstances under which a private contractor receives the benefit of public funds, either by receiving payment directly from the public agency, as in subdivision (1), or by receiving an offset of equal value, such as the reduction of costs in subdivision (4). Importantly, each of these circumstances identifies an action, such as payment, “by the state or political subdivision” for the benefit of the contractor. Thus, by defining the term “paid for in whole or in part out of public funds” by incorporating the term “state or political subdivision,” it must be presumed that the Legislature intended to limit the scope of the prevailing wage law to payments or subsidies provided by certain, discrete public agencies.

2. State or Political Subdivision

Section 1721 defines “political subdivision” as “any county, city, district, public housing authority, or public agency of the state, and assessment or improvement districts.” A charter school is “deemed to be a ‘school district’” for certain purposes. (Educ. Code § 47612, subd. (c).) These relate to the way charter schools receive state funding for average daily attendance, transportation and other operations (Sections 14000-14022.5, 41301, 41302.5, 41850-41856 and 47638 of the Education Code).

However, the relevant sections of the Labor Code are conspicuously absent from the list of purposes for which a charter school is “deemed to be a school district” in Section 47612 of the Education Code. Labor Code Section 1721 itself lacks language (such as “includes but not limited to ...”) that would indicate that it was intended to specify a non-exclusive list. As a charter school is not a “district” (but is only “deemed” to be district for very limited, defined purposes) and is not an “agency of the state,” it is apparent that a charter school is not a “political subdivision” for purposes of the prevailing wage law.

While no court has directly considered this issue, this interpretation is consistent with the view expressed by the Department of Industrial Relations in 2009.² In Public Works Case No.

² The Department administers the prevailing wage law and issues determinations of whether particular projects are “public works” and governed by Section 1720. While these determinations initially had precedential effect, this practice was discontinued in 2007. Still, courts frequently cite the Department’s determinations, which can be considered persuasive authority. However, a court does not defer to the Department when asked to review a public



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2008-026 (“*King/Chavez*”), the Director determined “easily” that a charter school is not a “political subdivision” for purposes of Section 1721. The Director found support for this determination in the Supreme Court’s decision in *Wells v. One2One Learning Foundation* (2006) 39 Cal.4th 1164.

In *Wells*, the California Supreme Court recognized that the Legislature chose to make charter schools subject to only a limited selection of the laws that govern school districts. (*Wells, supra*, 29 Cal.4th at 1200-01.) Rather than being subject to all the same laws as school districts, charter schools operate independently from school districts, and are generally “exempt from the laws governing school districts.” (Educ. Code § 47610.) Furthermore, the construction, use and sale of school facilities by a school district is governed by a different set of statutes, in Part 10.5 of Title 1 of the Education Code (Sections 17210-17653), and these statutes are not included among the Education Code sections that apply to charter schools. Thus, because a charter school is not a type of “political subdivision” in Section 1721, nor are any of the laws requiring school districts to comply with prevailing wage laws made applicable to charter schools, the use of apportionment dollars alone cannot trigger the “public works” requirements under the prevailing wage law (as described more fully below).

In sum, despite being “deemed” to be school districts in a few, limited circumstances, charter schools are not classified as districts generally but are instead organized as non-profit corporations. (Educ. Code § 47604.) A charter school is therefore neither an agency of the state, nor a “political subdivision” for purposes of the prevailing wage and public works laws. Accordingly, its use of its own, private funds for repairs, alterations or construction activities does not require it to pay prevailing wages under Section 1720 of the Labor Code or comply with other public works requirements. Whether its receipt of state funds for educational or operational purposes triggers that requirement is discussed in the next section.

3. Average Daily Attendance Funding

Typically, charter schools receive state funding in the form of apportionment to cover the cost of providing education to students. This basic operational funding is based upon the average daily attendance of students enrolled in the school and other factors.

Whether a charter school using state apportionment dollars for construction projects triggers compliance with prevailing wage is an issue that has never been addressed by a court. However, in *McIntosh v. Aubry* (1993) 14 Cal.App.4th 1576, the court considered a similar set of circumstances. In that case a residential care facility received operating funds from a county. Those funds were pooled with private donations and used to pay contractors to build a facility on land leased from the county. Construing a version of Section 1720 which has since been amended, the court found that receiving public funds for public services did not convert construction work paid for with those funds into a “public works” project under the prevailing wage law. (*McIntosh*, at p. 1586.)

works determination but applies the law according to its own independent judgment. (*City of Long Beach v. Department of Industrial Relations* (2004) 34 Cal.4th 942, 949.)



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In response to *McIntosh*, and after Governor Wilson left office in 1999, the Legislature made changes to the prevailing wage law which expanded its application in some respects. In 2001, the current Subdivision (b) was added, which now requires the payment of prevailing wages where public funds are provided in the form of a subsidy, as discussed in the next Section. While this would have required a different result in *McIntosh*, the addition of Subdivision (b) did not disturb its holding that funds for services do not convert incidental construction into a public works project.

This interpretation of *McIntosh* was confirmed by the Department of Industrial Relations in Public Works case No. 2008-025, *Humane Society Silicon Valley*. In that case, a non-profit corporation received aid from a city for its operational costs, which was just like the assistance that the residential care provider received from the county in *McIntosh*. The Department quoted the passage in the *McIntosh* decision where the court held that “paying public funds for public services does not make incidental construction work done by a private provider of those services ‘public works’ under section 1720, subdivision (a).” (*McIntosh* at 1586.) The Department found that, “[w]hile subsequent amendments to section 1720 have overturned certain other aspects of *McIntosh*, the above holding remains good law.” (*Humane Society* at 7.)

Since the *Humane Society* decision in 2009, no court has overturned or distinguished *McIntosh*. This letter therefore concludes that the case remains good law. In addition, the Department recently had the occasion³ to consider whether a charter school’s use of its apportionment dollars to fund construction in itself triggered the prevailing wage requirement, in Leadership Public Schools, Public Works Case No. 2014-041 (“*Leadership Public Schools*”). However, because a portion of the project in that case was paid for using Charter School Facilities Incentive Grant Program dollars, which specifically requires use of prevailing wage, the Department concluded that the entire project required the payment of prevailing wages. In a footnote, the Department noted that it was not deciding the issue of whether the use of apportionment funds alone triggered the payment of prevailing wages because it already found that other funds used for the project required payment of prevailing wages. Therefore, the Department did not use the opportunity presented by the *Leadership* decision to memorialize its position as to whether the use of apportionment dollars by itself triggers prevailing wage.

Thus, consistent with the *King/Chavez* decision, it is likely that a charter school does not, solely by virtue of its receipt of state funding for educational services, incur liability for the payment of prevailing wages when it contracts with a contractor for repairs, alterations or construction of its facilities and uses its state funds to pay for the work. This advice would need to be reconsidered in the event that *McIntosh* is overruled or legislation is passed which either makes charter school construction activities subject to the prevailing wage law or changes the definition of “public works” in Section 1720 to repudiate *McIntosh*. In addition, it is possible that the Department will issue a decision in the future that takes a position on this specific issue.

³ In 2015, I received verbal information from the Department stating that it believed the use of apportionment dollars for construction projects triggered prevailing wage. When it had the opportunity



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4. *AB 2765 (Labor Code § 1720.8)*

In 2020, the California Legislature passed AB 2765, which added Labor Code Section 1720.8, which provides as follows:

For the limited purposes of Article 2 (commencing with Section 1770) of this chapter, “public works” also means any construction, alteration, installation, or repair work done under private contract on a project for a charter school, when the project is paid for, in whole or in part, with the proceeds of conduit revenue bonds, as defined in Section 5870 of the Government Code, issued on or after January 1, 2021, by a public agency.

Although AB 2765 imposes prevailing wage requirements on charter school projects even partly funded by conduit revenue bonds, these requirements do not apply here, because the Charter School is not planning to use conduit revenue bond funding for the Project. The Legislature did not take this opportunity, too, to amend any other Labor Code provisions to make charter school projects paid for with sources of funds other than conduit bonds subject to prevailing wage.

5. *Liability Associated with Non-Compliance*

For reference, we have included a brief, non-exhaustive summary of the liability related to non-compliance with prevailing wage and public works laws. In *Lusardi Construction Co. v. Aubry* (1992) 1 Cal.4th 976, the Supreme Court held that where a contractor reasonably relies upon a public agency’s representation that a public works project is a private work not subject to prevailing wage, the contractor is entitled to indemnity from the public agency for penalties imposed by the Department. This holding was codified in 2003 with the addition of Section 1781, which authorizes such a claim for reimbursement by a contractor who is required to pay penalties or added costs because the body awarding the contract did not properly identify the project as a “public works” project. The public body which awarded the contract is liable for the reimbursement unless it can show that it identified the project as a public work. (§ 1781, subd. (a)(2).)

In addition to the agency’s obligation to reimburse the contractor, individual members of the awarding body may also be held criminally liable. Specifically, under Section 1777, any “officer, agent or representative” of a “political subdivision” who “willfully violates” any provision of Article 2 of the prevailing wage law (Sections 1770-1784) is guilty of a misdemeanor. In the context of a criminal prosecution, willfully “generally means an act done stubbornly, obstinately, perversely, or with a bad purpose; without justifiable excuse.” (Gifis, Law Dictionary (1996) at 553.) In a prosecution for embezzlement, the California Supreme Court recognized that the term “willful” connotes specific intent, or “a mental element as to the presence or absence of legal authorization or obligation.” (*Stark v. Superior Court* (2011) 52 Cal.4th 368, 396.)



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If public officials and others entrusted with control of public funds subjectively believe their actions or omissions are authorized by law, they are protected from criminal liability unless that belief is objectively unreasonable, i.e., is the product of criminal negligence in ascertaining legal obligations. Public officials and others should not be criminally liable for a reasonable, good faith mistake regarding their legal responsibilities.

(*Stark, supra*, 52 Cal.4th at 400.) Under *Stark*, a member of a non-profit board does not “willfully” violate the law by taking an action that is based upon an objectively reasonable (albeit erroneous) mistake of law.

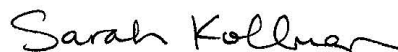
Conclusion

While a charter school receives state apportionment funds, and operates like a traditional public school in certain respects, it is very likely that a charter school is not a “school district” for purposes of school construction (including competitive bidding and design-build procurement) and is not a “political subdivision” whose expenditures for construction projects, repairs and alterations are “public works” that require the payment of prevailing wages, or compliance with other public works requirements. Therefore, it is very likely that construction and repair work paid for by a charter school out of its apportionment dollars is not an activity “paid for in whole or in part out of public funds” as those terms are defined in the prevailing wage law, and thus that the Charter School does not need to ensure compliance with prevailing wage and public works requirements when performing the work at issue. However, as no court of law or state agency has opined on this specific issue, we cannot provide absolute assurance as to how this issue will be interpreted in that circumstance.

Please do not hesitate to contact me should you have any questions.

Very truly yours,

**LAW OFFICES OF YOUNG,
MINNEY & CORR, LLP**



**SARAH J. KOLLMAN
ATTORNEY AT LAW**

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