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**MEMORANDUM**

DATE: **October 8, 2014**

TO: **Kim-Shree Maufas, Commissioner  
Chair, SFUSD Curriculum and Program Committee**

FROM: **Michael Davis  
Director, Charter Schools**

SUBJECT: **STAFF REPORT: REVIEW OF PETITION FOR NEW SCHOOL SAN FRANCISCO**

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In the public meeting of September 9, 2014, the San Francisco Board of Education received a petition from The New School of San Francisco seeking authorization to operate a K-12 Public charter school. The petition was referred to the Curriculum and Program Committee. The budget and financial elements of the petition were reviewed using the criteria prescribed in California Education Code section 47605 as outlined in the SFUSD Charter Petition Review Matrix, and considered by the Budget and Business Services Committee on October 1, 2014. The results of the full petition review (budget and financial, as well as educational program) are included in the attached SFUSD Charter Petition Review Matrix, and discussed below.

**Staff Review – SFUSD Petition Review Matrix**

The Complete SFUSD Charter School Petition Review Matrix is attached. The petition outlines a K-12 school starting with 2015-16 enrollment of 88 pupils in grades K and 1, growing to 264 pupils in grades K-5, in 2019-20. For start-up costs, the Petitioners have raised \$200,000 in grants, received a pledge of \$515,000 in interest-free loans, and plan to apply for a \$250,000 loan from the Charter School Finance Authority. The Petition includes detailed five year budget and cash flow projections

**Educational Program**

The matrix review found the Educational Program elements of the Petition to be “Sufficient”

**Budget and Financial**

The matrix review found the financial elements of the petition discussed below to be “Insufficient”. These concerns were shared with the Petitioners and discussed in the October 1, 2014 meeting of the Budget and Business Services Committee.

### **Insufficiencies/Concerns**

- 1.** As stated above, the Petitioner's start-up funding includes a pledged \$515,000 interest-free loan to be received in varying amounts over the period beginning July 31, 2015 and ending July 31, 2019. The loan is to be repaid by December 31, 2020. The loan proceeds would exceed 10% of operating costs in the second year of operation, and either failure to receive pledged funds, or repayment of those funds prior to 2021 (which does not appear in the budget) could negatively affect solvency.
- 2.** The five-year salary and benefits budget assumes a STRS employer contribution rate of 8.25% in each year of operation. Under the STRS "Fix" plan agreed to this year by the Governor and Legislators, the STRS employer rate for the 2015-16 school year is 10.73%, and will rise to 19.1% in 2020.
- 3.** The cash flow documents provided reflect extremely low cash balances in years one and two, and assume no expenditures in the month of July for each year.

The Petitioners provided amending and clarifying information to the Budget and Business Services Committee.

## ECLOSURE 2: RESPONSE TO FINDINGS

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*The New School of San Francisco* ("NSSF" or "Charter School") submitted a petition for the establishment of a charter school to the San Francisco Unified School District (the "District") on September 9, 2014. On October 28, 2014, the District Board of Education unanimously voted to deny authorization of the charter petition without adopting written findings of fact as required by Education Code Section 47605(b). Instead, the District Board of Education included the following language in its oral motion to deny the NSSF charter petition: "the petitioners are demonstrably unlikely to successfully implement the program set forth in the petition."

To date, we have not received the District Board of Education's written findings of fact for denial. Thus, the purpose of this response is to demonstrate our attempt to resolve any and all concerns, and factual and legal inaccuracies raised during the review process, as well as respectfully request your support for approval of the NSSF charter. As the District Board of Education did not adopt legally compliant findings of fact, this response should not be interpreted to codify the concerns expressed by District staff during the charter review process as the District Board of Education's own findings of fact; rather, this response is provided to the California Department of Education and State Board of Education as context for the denial of our charter petition.

At the outset, we point out that the Education Code provides specific guidance to school district governing boards to approve the establishment of charter schools. Education Code Section 47605(b) states:

*In reviewing petitions for the establishment of charter schools ... the chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged.*

Education Code Section 47605(b) also provides the legal basis for the denial of a charter petition as follows:

*The governing board of the school district shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice. The governing board of the school district shall not deny a petition for the establishment of a charter school unless it **makes written factual findings, specific to the particular petition, setting forth specific facts** to support one or more of the following findings:*

*(1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.*

*(2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.*

*(3) The petition does not contain the number of signatures required by subdivision (a) [of Education Code Section 47605].*

*(4) The petition does not contain an affirmation of each of the conditions described in subdivision (d) [of Education Code Section 47605].*

*(5) The petition does not contain reasonably comprehensive descriptions of [the 16 required elements].*

The District Board of Education cited during the October 28<sup>th</sup> 2014 Board of Education meeting that, "the petitioners are demonstrably unlikely to successfully implement the program set forth in the petition."

The aforementioned oral motion does not meet the requirements of Education Code Section 47605(b) because it is not in the form of written factual findings, specific to the NSSF charter petition, setting forth specific facts to support is

conclusion; therefore, the District Board of Education’s motion does not meet the legal standard for denial of a charter petition. We can only guess as to why the charter was denied. Below is a summary of the events and discussion points leading up to the District’s denial. It is important to note that all questions raised by District staff and Board of Education commissioners during the review process were promptly and thoroughly responded to in writing (see ‘Summary.Events.Documentation’ in Enclosure 2, which summarizes all documentation and provides each item in order as presented to the district during the petitioning window of September 9<sup>th</sup>, 2014 – October 28<sup>th</sup>, 2014).

The explicit and interpreted concerns raised are detailed below:

	Concerns + Responses	Key Documentation
<p><b>Budget Committee Hearing</b></p>	<p>There were three concerns raised in the Budget Matrix and Memo provided by the District on 9.30.14:</p> <ol style="list-style-type: none"> <li>1. The guaranteed no-interest loan of \$515,000 exceeds 10% of operating costs in the second year of operation, which is too much ‘soft’ revenue.</li> <li>2. The five-year salary and benefits budget assumptions were outdated per the 2014-2019 STRS employer contribution rates.</li> <li>3. There are ‘low’ cash balances in years 1 and 2 and no expenditures in the month of July for each year.</li> </ol> <p>→ NSSF’s response:                      The concerns were thoroughly addressed through the submission of a revised budget and budget narrative, which was provided to the District on 10.1.14 at the hearing. Changes in revised budget included:</p> <ol style="list-style-type: none"> <li>1. Removing the no-interest loan, which, in turn, capped all “soft” revenue below 10% and ensuring stronger cash flow in all years.</li> <li>2. Updating STRS assumptions.</li> <li>3. Lowering teacher and administrative salaries, which resulted in improved, net-positive cash balance in all months of all years, never dropping below \$91,000 (with reserves).</li> </ol> <p>It is important to note that <u>no additional concerns</u> were raised during the hearing discussion or thereafter with respect to the budget. Thus, it can be assumed that the revised budget met all expectations for the District Staff.</p>	<p>Budget Matrix; provided by Mike Davis on 9.30.14 (document #2)</p> <p>Budget Memo &amp; Staff Report; provided by Mike Davis on 9.30.14 (document #3)</p> <p>Revised budget, narrative and response to concerns; provided by NSSF on 10.1.14 (documents #5 – 7)</p>
<p><b>Curriculum Committee Hearing</b></p>	<p>There were no concerns raised in the Curriculum Matrix and/or Memo provided by the District on 10.7.14. In fact, we received a ‘solid’ mark for every curriculum element outlined in the staff matrix. In the committee meeting discussion, a few comments and questions were surfaced by Commissioners. The questions were largely vague and lacked specifics. We were not given time to respond in the course of the meeting as two Commissioners had to leave. Instead, we were told we could respond to the questions as a written follow-up, which we promptly did (see document #12).</p> <p>Broadly speaking (given Commissioners often spoke in the form of <i>comments</i> rather than questions we could respond to), the issues raised in the course of the meeting included:</p> <ul style="list-style-type: none"> <li>• Asking how the use of restorative practices look in our approach to discipline;</li> <li>• Wanting to better understand our ELD strategies;</li> <li>• Comments that it is difficult to teachers with BCLAD certification;</li> <li>• Curiosity around what authentic partnership with other SFUSD schools might look like;</li> <li>• Wanting examples of ‘model’ schools that have shaped NSSF’s school design; and,</li> <li>• Concerns around K-12 authorization given one Commission’s opinion that: 1) there are no current K-12 models of success in SFUSD; 2) attempts in the past to build K-12 schools have failed; and, 3) is it risky to approve the full build out for middle and high school when only the elementary (K-5) curriculum is provided.</li> </ul>	<p>Curriculum Matrix; provided by Mike Davis on 10.7.14 (document #9)</p> <p>Curriculum Memo &amp; Staff Report; provided by Mike Davis on 10.7.14 (document #10)</p> <p>Responses to questions and concerns following the curriculum hearing, provided by NSSF on 10.14.14 (document #12)</p>

	<p>→ <u>NSSF's response and actions:</u></p> <p>Given we were not able to respond to many of the comments and questions raised at the meeting, we put together a thorough package addressing all topics raised. We erred on the side of providing more information than requested and where possible, we directed Commissioners to specific pages in our petition where we detail elements that they had questions about (indicating, in other words, they had not actually read the petition). This package was presented to the School Board on 10.14.14 (document #12). By way of brief summary, we addressed each point as follows:</p> <ul style="list-style-type: none"> <li>• <u>Restorative Practices:</u>                  In Element J, we discuss our intent to incorporate restorative practices in our approach to discipline. To build off this, we created an overview of our philosophy and approach to discipline and its relationship to community building, social-emotional learning and identity development by providing a matrix with concrete examples of student topics and outcomes. Additionally, we illustrated what this might look like in action by providing examples of teacher responses to various student misbehaviors.</li> <li>• <u>English Learner Strategies:</u>                  Element A details multiple strategies to meet the needs of all English Language Learners and track their on-going progress and development. In addition to pointing Commissioners to the right pages in the petition where this information can be found, we summarized the strategies for them in this response package.</li> <li>• <u>Diversity in Teaching Staff:</u>                  We list the networks and partnerships we have developed to recruit teachers from diverse backgrounds.</li> <li>• <u>Collaboration with SFUSD Principals:</u>                  We have been incredibly deliberate over the past 8 months about building relationships with school leaders across San Francisco – both to learn from them and to create network of sharing innovations and best practices related to teaching and learning. Many of these principals signed a letter of support, highlighting their interest in establishing a collaborative partnership with NSSF to share ideas, work together and learn from one another. Concrete examples of collaboration topics were also outlined.</li> <li>• <u>Learning from Excellent Models:</u>                  A list was provided of all schools the NSSF co-founders have visited and the key ideas/learnings taken away from each visit. This is in addition to the 50+ Community-based organizations and preschools presented in the Executive Summary of the petition.</li> <li>• <u>K-12 Authorization:</u>                  We include a letter expressing our willingness to be authorized as a K-5 school (and submit a separate petition for 6-12 in due course), despite requesting K-12 authorization in the petition. More than anything, we demonstrated an attempt to work with the district, follow their wishes and make changes that address their concerns.</li> </ul>	
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It is important to note that questions raised by staff and Board of Education members during the review process concerned resolvable matters that could have been dealt with between the petitioners and the District in a memorandum of understanding, or imposed conditions on the school's opening and operation. Moreover, we found that many of the concerns raised were based on incorrect facts, a partial reading or misreading of the petition, conjecture, or standards that go beyond the requirements set forth in law.

Given the above and the lack of legally compliant, written factual findings, we see no legal basis for denial of The New School of San Francisco charter petition.