

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

ssb-csd-mar18item09

# California State Board of Education March 2018 Agenda Item #06

## Subject

Petition for the Establishment of a Charter School Under the Oversight of the State Board of Education: Consideration of Knowledge Is Power Program East Side High School, which was denied by the East Side High School District and the Santa Clara County Board of Education.

## Type of Action

Action, Information, Public Hearing

## Summary of the Issues

On August 17, 2017, the East Side High School District (ESHSD) voted to deny the Knowledge Is Power Program (KIPP) East Side High School (KESHS) petition by a vote of three to two.

On November 1, 2017, the Santa Clara County Board of Education (SCCBOE) voted to deny the KESHS petition by a vote of four to two. The KESHS petitioners submitted a petition on appeal to the State Board of Education (SBE) on November 28, 2017.

Pursuant to California *Education Code* (*EC*) Section 47605(j), petitioners for a charter school that have been denied at the local level may petition the SBE for approval of the charter, subject to certain conditions.

## Recommendation

The California Department of Education (CDE) recommends that the SBE hold a public hearing to approve the request to establish KESHS, a grade nine through grade twelve charter school, for a five-year term, of July 1, 2018 through June 30, 2023, under the oversight of the SBE, based on the CDE’s findings pursuant to *EC* Sections 47605(b)(1), 47605(b)(2), 47605(b)(3), 47605(b)(4) 47605(b)(5), 47605(b)(6), and *California Code of Regulations*, Title 5 Section 11967.5.1. The meeting notice for the February 7, 2018, Advisory Commission on Charter Schools (ACCS) meeting is located on the SBE ACCS Web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice020718.asp>.

## Advisory Commission on Charter Schools Recommendation

The ACCS considered the KESHS petition for establishment at its February 7, 2018, meeting. The ACCS moved to recommend approval of the KESHS petition on appeal. The motion passed by a vote of six to one.

## Brief History of Key Issues

The CDE received a petition for establishment from KESHS on November 28, 2017.

KESHS seeks to provide a site-based educational program, targeting traditionally underserved pupils in the ESHSD. Central to the KESHS mission to develop poised, confident, articulate leaders who will use their education and life experience to create positive change in their own lives, within their communities, and among our global society, is an unwavering belief that all pupils can succeed in the nation’s most competitive colleges when provided with extended time for learning inside and outside of the classroom; a rigorous, college-preparatory education; and a wide range of supports (Attachment 3, p. 8 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a3.pdf>).

In considering the KESHS petition for establishment, CDE staff reviewed the following:

* KESHS charter petition for establishment (Attachment 3 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a3.pdf>).
* Educational and demographic data of schools where pupils would otherwise be required to attend (Attachment 2 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a2.docx>).
* KESHS budget and financial projections (Attachment 4 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a4.pdf>).
* ESHSD Findings for Denial (Attachment 5 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a5.pdf>).
* SCCBOE Findings of Denial and Petitioner’s Response (Attachment 6 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a6.pdf>).
* Appeal of SCBOE Denial of KESHS Cover Letter Dated November 28, 2017 (Attachment 7 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a7.pdf>).
* Letter Dated November 28, 2017, Describing the Changes to the KESHS Charter Petition to the SBE (Attachment 8 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a8.pdf>).
* Sample KIPP High School Student Daily Schedules (Attachment 9 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a9.pdf>).
* El Dorado County Charter Special Education Local Plan Area (SELPA) Letter Dated December 9, 2016, regarding KIPP Bay Area Schools (KBAS) (Attachment 10 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a10.pdf>).
* KBAS Bylaws (Attachment 11 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a11.pdf>).
* KBAS Stamped Articles of Incorporation (Attachment 12 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a12.pdf>).
* KBAS Board Job Description (Attachment 13 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a13.pdf>).
* KBAS Conflict of Interest Code, July 2015 (Attachment 14 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a14.pdf>).
* KBAS Executive Team Job Descriptions (Attachment 15 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a15.pdf>).
* KBAS Emergency Response Plan Template (Attachment 16 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a16.pdf>).
* KBAS Pupil Suspension and Expulsion Policy (Attachment 17 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a17.pdf>).
* KBAS Employee Handbook (Attachment 18 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a18.pdf>).
* Sample KESHS Annual Goals, Actions, and Outcomes to Achieve State Priorities (Attachment 19 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a19.pdf>).
* Sample KESHS Application and Registration Materials (Attachment 20 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a20.pdf>).
* KBAS Board of Directors 2016–17 (Attachment 21 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a21.pdf>).
* KBAS Board Profiles 2016–17 (Attachment 22 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a22.pdf>).

### Ability to Successfully Implement the Intended Program

The CDE finds that the KESHS petitioner is demonstrably likely to successfully implement the intended program, as the petitioner has presented a realistic financial and operational plan for KESHS.

The CDE finds that the KESHS petition is consistent with sound educational practice and presents a reasonably comprehensive description of the educational program.

#### Budget

The CDE reviewed the KESJHS budget and multi-year fiscal plan and concludes that the financial plan is fiscally sustainable due to positive ending fund balances of $697,804; $887,129; and $1,219,158 with reserves of 35.3, 28, and 28.7 percent for fiscal year (FY) 2018–19 to 2020–21, respectively.

The CDE has reviewed the additional information received from the KESHS petitioner on February 2, 2018, and February 12, 2018, to address concerns regarding philanthropic funding. The petitioner provided financial statements, bank account statements, a letter from the KBAS Board Chair, and draft resolution from the KBAS Board. The KESHS multi-year projected budget includes fundraising of $1,315,015; $562,061; and $315,623 for FY 2018–19 through 2020–21, respectively.

The CDE finds the additional information provided is sufficient to address the concerns regarding philanthropic funding.

#### Employee Salaries

The CDE has reviewed the additional information received from the petitioner on February 2, 2018, and February 12, 2018, to address concerns regarding the salaries and full-time equivalent of certificated and classified positions. The petitioner provided the full-time equivalent salary by position and total salaries by position. The CDE finds the salaries for both certificated and classified employees appear to be reasonable.

The CDE finds the additional information provided is sufficient to address the concerns regarding salaries and full-time equivalent of certificated and classified positions.

#### Projected Rental Expenditure

The CDE has reviewed the additional information received from the petitioner on February 2, 2018, and February 12, 2018, to address concerns regarding the projected rental expenditure for FY 2018–19 through 2020–21. The petitioner projects the rental expenditure to be two percent of funding in Local Control Funding Formula (LCFF) as they expect to obtain a Proposition 39 facility.

The CDE finds the additional information provided is sufficient to address the concerns regarding the projected rental expenditure for FY 2018–19 through 2020–21.

#### California State Teachers’ Retirement System

The CDE has reviewed the additional information received from the petitioner on February 2, 2018, and February 12, 2018, to address concerns regarding the California State Teachers’ Retirement System (CalSTRS) for all certificated positions. The petitioners clarified KBAS will not offer CalSTRS. Employees will participate in the federal Social Security system and have the option to participate in the KBAS sponsored 401(k) retirement savings plan.

The CDE finds the additional information provided is sufficient to address the concerns regarding the CalSTRS for all certificated positions.

#### Regional Support Office Fees

The CDE has reviewed the additional information received from the petitioner on February 2, 2018, and February 12, 2018, to address concerns regarding the regional support office fees. The KESHS petitioner holds the charters and operates the schools. There are no services agreements between them. The petitioner provided a detailed narrative and assumption for regional support office fees of $156,690; $320,812; and $482,572 for FY 2018–19 through 2020–21, respectively, which represents approximately 12 percent of LCFF.

The CDE finds the additional information provided is sufficient to address the concerns regarding the regional support office fees.

#### District and County Office of Education Findings

A detailed analysis of the petition review is provided in Attachment 1.

##### ESHSD Findings

On August 17, 2017, the ESHSD denied the KESHS petition based on the following motions (Attachment 5 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a5.pdf>):

* Motion One – It is recommended that the Board of Trustees approve the proposed KESHS charter petition submitted by KIPP Bay Area Schools’ (KBAS’) authorized lead petitioner, April Chou. The Administration recommends that the KESHS charter be approved for a term of five years, commencing on July 1, 2018, and ending on June 30, 2023. The motion failed by a vote of two to three.
* Motion Two – Motion to deny the proposed KESHS charter petition submitted by the KBAS authorized lead petitioner, April Chou. The motion carried by a vote of three to two.

##### SCCBOE Findings

On November 1, 2017, the SCCBOE denied the KESHS petition on appeal based on the following (Attachment 6 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a6.pdf>):

* Governance Structure – The petition must contain the inclusion and implementation of the above-described interpretations and requirements, with regard to *Government Code* Section 1090 and the Political Reform Act of 1974, as well as the inclusion in the Memorandum of Understanding of additional supplemental information consistent with the SCCBOE's expectations of charters under its oversight.
* The CDE notes that KESHS did not agree to include these interpretations and requirements; therefore, the SCCBOE denied the KESHS petition.

A detailed analysis of the review of the entire petition is provided in Attachment 1 of Agenda Item 09 on the ACCS February 7, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-feb18item09a1.docx>.

## Summary of Previous State Board of Education Discussion and Action

Currently, 30 charter schools operate under SBE authorization as follows:

* One statewide benefit charter, operating a total of six sites
* Seven districtwide charters, operating a total of 18 sites
* Twenty-two charter schools, authorized on appeal after local or county denial

The SBE delegates oversight duties of the districtwide charters to the county office of education of the county in which the districtwide charter is located. The SBE delegates oversight duties of the remaining charter schools to the CDE.

## Fiscal Analysis

If approved as an SBE-authorized charter school, the CDE would receive approximately one percent of the revenue of the charter school for the CDE’s oversight activities. However, no additional resources are allocated to the CDE for oversight.

## Attachment

* **Attachment 1:** California State Board of Education Standard Conditions on Opening and Operation (4 Pages)