

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

ssb-csd-may18item04

# California State Board of Education May 2018 Agenda Item #12

## Subject

Renewal Petition for the Establishment of a Charter School Under the Oversight of the State Board of Education: Consideration of Spark Charter School, which was denied by the Santa Clara County Office of Education.

## Type of Action

Action, Information, Public Hearing

## Summary of the Issue(s)

On January 17, 2018, the Santa Clara County Office of Education (SCCOE) denied the renewal petition of Spark Charter School (SCS) by a vote of four to one with one absent Trustee.

The SCS petitioner submitted a petition on appeal to the State Board of Education (SBE) on January 29, 2018.

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 consider the CDE’s recommendation deny the request to establish SCS, a kindergarten through grade eight charter school, under the oversight of the SBE, based on the CDE’s findings pursuant to *EC* sections 47605(b)(1), 47605(b)(2), 47605(b)(5), and *California Code of Regulations*, Title 5 Section 11967.5.1.

The CDE finds that the SCS petitioner presents an unsound educational program and is demonstrably unlikely to implement the program set forth in the petition due to an unrealistic financial and operational plan.

Additionally, the CDE finds that the SCS petition does not provide a reasonably comprehensive description of the racial and ethnic balance, admissions requirements and method for measuring pupil progress. The meeting notice for the April 10, 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/accsnotice041018.asp>.

## Advisory Commission on Charter Schools Recommendation

The ACCS considered the SCS petition for establishment at its April 10, 2018, meeting. The ACCS moved to recommend approval of the SCS petition on appeal. The motion passed by a vote of five to two.

## Brief History of Key Issues

On November 21, 2013, the Sunnyvale School District (SSD) Board of Education (SSDBOE) adopted Resolution No. 14-05 granting conditional approval of the SCS, subject to compliance of conditions by April 1, 2014. On April 29, 2014, the SSDBOE took action to rescind its conditional approval of the SCS petition based upon SCS’s failure to comply with the conditions set forth in Resolution No. 14-05 and to supplement its findings that the petitioners are demonstrably unlikely to successfully implement the program set forth in the petition and the petition does not contain reasonably comprehensive descriptions of the required charter elements (Attachment 19 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a19.pdf>). On October 1, 2014, SCCOE approved the SCS charter petition on appeal. SCCOE granted SCS a three-year charter from July 1, 2015, through June 30, 2018.

SCS is a kindergarten through grade eight site-based charter school currently operating at Columbia Middle School at 739 Morse Avenue, Sunnyvale, CA 94085, in the SSD. In the first year of operation, 2015–16, enrollment was 141 pupils. In 2016–17, enrollment was 180 pupils, and in 2017–18, current enrollment is 248 pupils. SCS anticipates reaching 367 pupils by 2021–22 (Attachment 4 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a4.pdf>).

At the March 21, 2018, Santa Clara County Board of Education (SCCBOE) meeting, SCS stated that for the 2018–19 school year, the charter school has 290 students enrolled and 250 on the waitlist.

In considering the SCS petition, CDE staff reviewed the following:

* SCS Petition (Attachment 3 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a3.pdf>).
* SCS Data Tables (Attachment 2 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a2.docx>).
* SCS Budget and Financial Projections (Attachment 4 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a4.pdf>).
* Letter Dated January 29, 2018, SCS Renewal Petition Appeal to the SBE Cover Letter (Attachment 5 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a5.pdf>).
* Letter Dated January 26, 2018, Describing Changes to the SCS Petition Necessary to Reflect the SBE as the Authorizing Entity (Attachment 6 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a6.pdf>).
* SCCOE Findings for Denial and Petitioner’s Response (Attachment 7 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a7.pdf>).
* SCS Classroom Volunteer Guide (Attachment 8 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a8.pdf>).
* SCS Articles of Incorporation (Attachment 9 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a9.pdf>).
* SCS Bylaws (Attachment 10 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a10.pdf>).
* SCS Parent Agreement (Attachment 11 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a11.pdf>).
* Christy White and Associates Audit 2017 of SCS (Attachment 12 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a12.pdf>).
* SCS Family Handbook (Attachment 13 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a13.pdf>).
* SCS Calendars and Example Class Schedules (Attachment 14 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a14.pdf>).
* SCS Conflict of Interest Code (Attachment 15 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a15.pdf>).
* SCS Response to SSD Allegations at SCCOE Public Hearing (Attachment 16 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a16.pdf>).
* SCS First Interim Report 2017–18 (Attachment 17 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a17.pdf>).
* SCS Current Financial Report, January 2018 (Attachment 18 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a18.pdf>).
* SSDBOE November 21, 2013 Board Packet and Resolution No. 14-05 (Attachment 19 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a19.pdf>).
* SSDBOE April 29, 2014 Minutes and Staff Report for the SCS Charter Petition (Attachment 20 SCS Petition (Attachment 20 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a20.pdf>).

### Unsound Educational Program

The SCS petition is not consistent with sound educational practice and would not be of educational benefit to the pupils who attend, pursuant to *EC* Section 47607.

SCS has been in operation for three years. SCS’s academic performance is not, overall, at least equal to the academic performance of public schools SCS pupils would otherwise have been required to attend. Additionally, the SCS 2015–16 and 2016–17 California Assessment of Student Performance and Progress (CAASPP) results show that students have not experienced increases in pupil achievement, but, rather a significant decrease in English Language Arts (ELA) and mathematics for all pupils schoolwide and for significant subgroups.

Pursuant to *EC* Section 47607(a)(4)(A), SCCOE reviewed multiple sources of data and conducted a comparison of performance to its resident and comparable district schools. SCS provided a list of comparable district schools, which SCCOE included in its analysis. Additionally, SCCOE reviewed the alternative measures that SCS proposed in its renewal petition, including: Dynamic Indicators of Basic Early Literacy Skills (DIBELS) and Measurement of Academic Progress (MAP) for the 2016–17 school year (Attachment 7, pp. 5-6 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a7.pdf>). After reviewing the information presented by SCCOE, the CDE has determined that SCCOE’s review and analysis of the pupil achievement data pursuant to *EC* sections 47605(b) and 52052(e)(4) was comprehensive, and that SCCOE considered increases in pupil academic achievement for all groups of pupils served by SCS as the most important factor in determining whether to grant SCS’s renewal request.

### Inability to Successfully Implement the Intended Program

#### Fiscal Analysis

The SCS multi-year projected budget includes the following projected pupil enrollment (Attachment 4 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a4.pdf>):

* 286 kindergarten through grade eight in 2018–19
* 324 kindergarten through grade eight in 2019–20
* 350 kindergarten through grade eight in 2020–21
* 367 kindergarten through grade eight in 2021–22

The CDE reviewed the SCS projected budget and multi-year financial plan and the SCS first and second interim budgets and concludes that the multi-year financial plan is not fiscally viable with 0.1 percent reserve and an ending fund balance of $1,997 in 2018–19, due to the following factors:

* In June 2015, SCS was approved to borrow $250,000 through the Charter School Revolving Loan Fund administered by the California School Finance Authority (CSFA). The full amount borrowed was disbursed on June 26, 2015, with repayment beginning September 20, 2015. As of June 30, 2017, SCS had a balance of $150,000 as noted in the 2017 Audit (Attachment 12, p. 14 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a12.pdf>). The CDE notes that SCS cash flow for 2017–18 does account for the remittance of this $150,000 balance due at the end of the SCS charter term, June 30, 2018. The cash flow statements for Fiscal Years (FY) 2018–19 through 2020–21 show payments of $5,441 in August through May with no narrative or assumptions provided by SCS. CDE staff could not determine if future payments have been budgeted.
* SCS has a $39,000 outstanding payable to SSD from 2015–16 and 2016–17 for over allocation of Proposition 39 space. Additionally, SCS will be receiving a 2017–18 invoice from SSD for over allocation of Proposition 39 space for an estimated amount of $65,000. SCS has not budgeted for this expense item.

The CDE finds the SCS 2019–20 and 2020–2021 ending fund balances are projected to be positive, however, based on information presented at the January 2018 SCCOE Board meeting, the CDE has concerns about the ability for SCS to sustain fiscal viability. SCS has had to take multiple short-term loans from individuals for years 2016–17 and 2017–18 and on-going loans on receivables from Charter Asset Management (CAM).The most recent loan was a short-term emergency loan in October 2017 for $75,000 with a four percent interest rate due in two installments in November 2017 and December 2017. This on-going budget practice results in additional fees and costs to SCS’s cash flow.

On March 21, 2018, the SCCOE Charter Director provided the SCCOE Board with an update on the SCS Second Interim Budget. Charter Schools Division staff analysis found the second interim budgets positive only due to a three percent salary reduction to three SCS teachers and additional fundraising efforts. The charter planned on $126,000 in fundraising and at the second interim had confirmed receipt of $86,000.

##### Revenue

The SCS multi-year projected budget includes fundraising of $105,944, $120,020, and $129,652 for FY 2018–19 through 2020–21, respectively.

##### Expenditures

The SCS petitioner did not provide a detailed narrative and assumptions of the salaries and full-time equivalent (FTE) for certificated and classified positions. The SCS petitioner only provided the FTE for all employees and teachers without the breakdown of FTE for each classification. Therefore, the CDE is unable to determine if the expenditures for certificated and classified salaries are reasonable.

#### Charter Elements

##### Race and Ethnic Balance

SCS states in its petition that it maintains on file documentation of “efforts made to achieve racial and ethnic balance and the results achieved, as well an accurate accounting of the ethnic and racial balance of the students enrolled in the school. School leadership evaluates this data annually and revises its outreach plan as necessary.” (Attachment 3 p. 115 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a3.pdf>). This description does not present a reasonably comprehensive description of the means for achieving racial and ethnic balance, especially in light of the demographic information provided by the SCS petitioners. A chart of SCS demographics comparison to other schools in the Sunnyvale School District is located in the charter petition (Attachment 3. p. 153 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a3.pdf>).

The demographic information provided by SCS petitioners shows that efforts by SCS on achieving racial and ethnic balance do not result in SCS achieving a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district as required by *EC* Section 47605(b)(5)(G).

##### Admissions Requirements

The SCS petition does not present a reasonably comprehensive description of admission requirements. The petition presents incongruent language with regard to parent participation at SCS. The petition states that upon enrollment, each family is asked to complete a parent agreement. However, the form and the petition states that SCS understands that by law, no public school can require parent participation. Parent participation at SCS is not a requirement for application, and no pupils will be denied enrollment because parents have not participated (Attachment 11, pp. 1–2 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a11.pdf>).

Yet, the parent agreement requires parents to initial next to boxes whereby they (1) agree to participate in a scheduled shift of two hours per week, per pupil (up to a six hour maximum), and (2) agree to serve on one schoolwide committee. This requirement for parent participation can be viewed as a deterrent to admissions.

##### Measuring Pupil Progress

The SCS petition does not present a reasonably comprehensive description of the plan for utilizing data continuously to monitor and improve SCS’s educational program.

The petition includes a table that outlines the following: learner goals, proposed assessment tool and methods, and frequency of measurement; however, the petition states that the frequency is periodic, except for progress reports provided each trimester. While the petition states that SCS is committed to using pupil performance data to refine and improve the educational program, the CDE finds the administration of assessments on a periodic basis and the distribution of progress reports at each trimester to be insufficient at continuously monitoring and improving the educational program (Attachment 3, pp. 92–95 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a3.pdf>).

## County Board of Education Findings

### January 17, 2018, SCCOE Findings

On, January 17, 2018, the SCCOE denied the SCS petition based on the following findings (Attachment 7 of Agenda Item 04 on the April 10, 2018, Meeting Notice on the SBE ACCS Web page located at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr18item04a7.pdf>):

* SCS does not provide sufficient information in the renewal petition to substantiate all of the required elements for a sound educational program.
* Petitioners are not likely to successfully implement the program.
* The petition does not provide a sufficiently comprehensive description of all of the required elements.

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

Currently, 35 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-seven 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(s)

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