

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

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# California State Board of Education January 2020 Agenda Item #18

## Subject

The New School of San Francisco: Consideration of a Material Revision of the Charter to Change from Kindergarten through Grade Five to Kindergarten through Grade Eight, which was denied by the San Francisco Unified School District.

## Type of Action

Action, Information, Public Hearing

## Summary of the Issue

The New School of San Francisco (NSSF), a State Board of Education (SBE)-authorized charter school, is seeking a material revision of its charter to change from kindergarten (K) through grade five to K through grade eight.

NSSF currently serves 288 pupils in K through grade five on a Proposition 39 agreement with San Francisco Unified School District (SFUSD) for a facility at 655 De Haro Street, San Francisco, California. NSSF was approved by the SBE on March 12, 2015, to serve K through grade five for a five-year term, which expires on June 30, 2020.

NSSF submitted a renewal petition to the SFUSD on June 14, 2019. SFUSD considered the NSSF petition submitted as the following: (1) a renewal of the existing petition serving K through grade five, and (2) a material revision to expand the grade levels NSSF serves through grade eight (Attachment 5, pp. 1–2). On September 24, 2019, the SFUSD Board denied both items of the NSSF petition by a unanimous vote of six to zero.

The NSSF petitioner submitted a renewal petition on appeal, which included a material revision to the original charter to expand to serve grade six through grade eight, to the SBE on September 30, 2019.

## California Department of Education Recommendation

The California Department of Education (CDE) proposes to recommend that the SBE hold a public hearing to approve the request for a material revision to the NSSF charter petition to change from K through grade five to K through grade eight, based on the CDE’s findings pursuant to *Education Code* (*EC*) Section47605 and *California Code of Regulations*, Title 5 Section 11967.5.

The NSSF petition is consistent with sound educational program and the petitioners are demonstrably likely to successfully implement the intended program.

However, as outlined in the item for the renewal of NSSF, if approved by the SBE, and as a condition of approval, NSSF will be required to revise the petition in order to reflect the SBE as the authorizer and include the necessary language for the following required charter elements: Employee Qualifications, Racial and Ethnic Balance, Admission Requirements, and Dispute Resolution Procedures.

In order to increase NSSF’s ability to reflect the student population of SFUSD, the CDE recommends an additional change to the admission preferences as outlined below:

* The petitioners will be required to revise the lottery admission preferences outlined in Element 8–Admission Requirements as follows:
  1. Pupils eligible for free and reduced-price meals who reside within the boundaries of SFUSD, with a 33 percent minimum for each grade
     + For the 2020–21 school lottery, the CDE is requiring a 50 percent floor for K and sixth grade
  2. Siblings of pupils admitted to or attending NSSF
  3. Children of employees and board members of NSSF, not to exceed 10 percent of the total enrollment
  4. All other pupils residing in the boundaries of SFUSD
  5. Pupils residing outside the boundaries of SFUSD
* By June 1, 2020, the petitioners will be required to revise the Community Engagement Plan in the petition to include a Transportation Plan to address the transportation challenges socioeconomically-disadvantaged families may encounter upon enrollment in NSSF.
* The petitioners will be required to provide an update of the school’s percentage of enrollment of socioeconomically-disadvantaged pupils by grade level at each monthly oversight phone call.
* By May 1 of each year, the petitioners will be required to submit a report to the CDE, upon the completion of NSSF annual enrollment lotteries, outlining the racial and ethnic balance of each pupil as determined by each lottery.

## Advisory Commission on Charter Schools Recommendation

The Advisory Commission on Charter Schools (ACCS) considered the NSSF petition for renewal at its December 10, 2019, meeting. The ACCS did not move CDE staff recommendation to deny the NSSF request for material revision and moved to recommend approval of the material revision submitted with CDE staff recommendations implemented, which are as follows:

* The petitioners will be required to revise Element 5–Employee Qualifications by identifying the positions that NSSF regards as key in each category.
* The petitioners will be required to revise Element 7–Racial and Ethnic Balance to incorporate the Community Engagement Plan into the NSSF petition.
* The petitioners will be required to revise Element 8–Admission Requirements to reorder the NSSF admission preferences to achieve a racial and ethnic balance that is reflective of SFUSD.
* The petitioners will be required to revise Element 14–Dispute Resolution Procedures by including the necessary language.

The motion to recommend approval of the material revision passed by a vote of six to one.

The meeting notice for the December 10, 2019, ACCS meeting is located on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice121019.asp>.

## Educational Program

The vision and mission of NSSF is that all San Francisco pupils, regardless of their background, receive an education equal to their extraordinary potential. NSSF intends to serve 348 pupils in K through grade six in 2020–21 and 468 pupils in K through grade eight by 2024–25. NSSF was designed in partnership with parents, educators, pupils, city leaders, and community organizations in 2014 to incubate and deliver an alternative, exceptional approach to teaching and learning. The petition states a need for excellent and equitable schools in San Francisco and that NSSF addresses this need by carrying out the following: (1) cultivating twenty-first century learning, (2) creating equity for all pupils in San Francisco, (3) retaining the rich diversity the city has to offer, and (4) creating a K through grade twelve school (Attachment 3, pp. 19–25). The overarching goal and vision for NSSF is to serve pupils K through grade twelve; however, NSSF is currently seeking a material revision to change from serving pupils K through grade five to K through grade eight.

The NSSF’s K through grade eight model provides a continuum of inquiry-based instructional services that builds upon NSSF’s current K through grade five model and fosters a cohesive learning and developmental arc that reflects pupils’ unique learning modalities and needs. Every pupil at NSSF has an Individualized Learning Plan (ILP), co-created with families and educators to engage the pupil’s curiosities as well as address the pupil’s strengths, skills, motivations, and academic readiness. Goals that inform the unique strategies, resources, and groupings are put into place by educators to ensure each pupil is making progress. ILPs ensure that every pupil receives what they need, not what is identical. As pupils progress into upper elementary and middle school, they take on more ownership of their ILP by writing personal goals and reflecting on their progress (Attachment 3, pp. 26–31).

The petition states that the NSSF curriculum utilizes the following to guide instruction and academic performance goals:

* Pupils’ academic, personal, social, and emotional growth
* Common Core State Standards
* Next Generation Science Standards
* History-Social Science Framework
* English Language Development Standards
* State Content Standards

NSSF plans to maintain a small community of 60 pupils for middle school and ensure a low pupil-to-teacher ratio by employing a co-teaching model with at least three teachers per grade. NSSF’s instructional approach incorporates an inquiry-based model with personalized learning, integrated social-emotional development, and connectedness to the community and world. NSSF follows a rigorous, inquiry-based instructional model and has developed curricula that enables pupils to ask questions, make discoveries, observe patterns, and exhibit creativity. In middle school, the inquiry-based instructional model further engages pupils’ curiosity, allowing pupils to control the direction of their learning by allowing them to ask, explore, and show what they know. Additionally, this model lends itself to strong differentiation, which gives pupils a multitude of experiences, provocation, materials, and ways to access learning (Attachment 3, pp. 26–35).

In addition to pupils’ academic needs, NSSF considers pupils’ diverse cultural needs. The petition states that NSSF puts equity at the forefront of its practice, meaning that all pupils have what they need to thrive both personally and academically. The petition further states that conversations regarding identity, race, privilege, and equity start in K and become richer and more nuanced through middle school. NSSF also supports the personal, social, and emotional growth of middle-school pupils. The petition states that to build community and establish trusting relationships between pupils and adults, NSSF implements pod time four times per week for middle school pupils and focuses on helping pupils navigate the transition to early adolescence. Pod time is similar to an advisory program, carefully planned to develop a strong community, explore social-emotional and personal development, and resolve conflicts. In middle school, pupils are also encouraged throughout the day to consider how they and others are feeling through community, small group collaboration, and individual reflection (Attachment 3, pp. 36–49).

During the middle school years, NSSF plans to support the continuous development of leadership skills as well as cross-age learning and engagement among middle-school pupils. The NSSF petition states that elementary pupils already demonstrate their leadership skills in a variety of roles every day and that the following new opportunities would be on the horizon for middle school pupils (Attachment 3, p. 37):

* Leadership among peers – clubs and work with peers
* Leadership in community – broader community impact
* Leadership in learning – conferences and choice

**Professional Development**

The NSSF petition outlines the unique features of professional development for middle school teachers, which incorporate the following (Attachment 3, pp. 65–66):

* Ample planning time
* Collaboration
* Specialization
* Constant growth opportunities
* Personalization

## Past History

NSSF was originally approved by the SBE on March 12, 2015, for a five-year term, which expires on June 30, 2020.

By fiscal year (FY) 2024–25, NSSF intends to serve 468 pupils in K through grade eight. The petition states that NSSF’s vision and mission is that all San Francisco pupils, regardless of their background, receive an education equal to their extraordinary potential. NSSF’s instructional approach incorporates an inquiry-based model with personalized learning, integrated social-emotional development, and connectedness to the community and world.

NSSF currently serves 288 pupils in K through grade five on a Proposition 39 agreement with SFUSD for a facility at 655 De Haro Street, San Francisco, California. The petition states that NSSF plans to request facilities from SFUSD through Proposition 39. If NSSF is unable to secure facilities, NSSF will secure appropriate private facilities within SFUSD boundaries (Attachment 3, p. 140).

## Ability to Implement

### Fiscal Analysis

The NSSF multi-year projected budget includes the following projected pupil enrollment (Attachment 4):

* 348 K through grade six in 2020–21
* 408 K through grade seven in 2021–22
* 468 K through grade eight in 2022–23
* 468 K through grade eight in 2023–24
* 468 K through grade eight in 2024–25

The CDE concludes that the NSSF projected budget is viable with the projected enrollment of 348, 408, and 468 and positive ending fund balances of $473,555; $479,423; and $532,947 with reserves of 9.4, 8.3, and 8.4 percent for FYs 2020–21 through 2022–23, respectively.

## Past History Under State Board of Education Authorization

Overall, NSSF has a record of educational success over its five years of operation. The CDE finds that NSSF implements the program as described in the current charter petition and the school leadership provides regular updates to CDE staff, both formally and informally. NSSF is in compliance with the NSSF charter petition and the Memorandum of Understanding (MOU) between the SBE and NSSF. However, NSSF has been issued four Letters of Concern detailing noncompliance in the area of teacher credentialing. NSSF has appropriately responded to all letters of concern in the areas of teacher credentialing from the CDE and corrected any needed actions as recommended.

Additionally, NSSF has had a good financial record under SBE authorization. NSSF’s FY 2019–20 preliminary budget report indicates that NSSF is projecting a positive ending fund balance of $520,772 and reserves of 11.43 percent, which is above the recommended 5 percent in reserves outlined in the MOU between NSSF and the SBE. The CDE reviewed the audited financial data from the 2017–18 audit report that reflected an unqualified status. In addition, NSSF’s current enrollment of 288 is approximately three times the enrollment stated in the original petition.

The following outlines NSSF’s fiscal standing based on the annual SBE Fiscal Memorandums issued over the last four years:

* August 1, 2019: Good financial standing, which means that a charter school has demonstrated an ability to operate with a balanced budget; maintain stable enrollment and attendance ratios; manage cash liquidity; maintain a low debt level; maintain a positive fund balance; and has met the recommended reserve level specified in the MOU.
* August 1, 2018: Good financial standing, which means that a charter school has demonstrated an ability to operate with a balanced budget; maintain stable enrollment and attendance ratios; manage cash liquidity; maintain a low debt level; maintain a positive fund balance; and has met the recommended reserve level specified in the MOU.
* August 10, 2017: Poor financial condition, which means that a charter school is in danger of jeopardizing their fiscal operations going forward. Timely and appropriate action by the charter school’s board is critical in addressing and mitigating the serious decline in financial condition. Specifically, charter schools in poor financial condition have a negative fund balance and no reserve. These schools do not have an adequate cash level and have a high debt level.

As shown on the 2017–18 audit report, NSSF remedied this poor condition by demonstrating an ability to operate with a balanced budget, maintaining a positive ending fund balance of $279,964 with approximately 8 percent in reserves. NSSF also maintained a low debt level of 0.79 with adequate cash liquidity. Additionally, NSSF maintained stable enrollment by increasing its enrollment from 184 pupils in 2017–18 to 235 pupils in 2018–19.

* April 1, 2016: Fair financial condition, which means that a charter school is showing some signs of fiscal distress and needs to take appropriate action to address the decline in financial condition. Specifically, a charter school in fair financial condition may have an out-of-balance (deficit spending) budget; declining enrollment or attendance ratio; cash liquidity that is not adequate; a debt level that is high; declining or low fund balances; or a reserve level that is below the level required in the MOU.

Additionally, as part of oversight, as the California Assessment of Student Performance and Progress data and fiscal reports become available, the CDE will continue to monitor the fiscal viability and academic performance of NSSF, which could result in the CDE requesting a written response, an action plan, or additional documentation.

## Charter Elements

The CDE finds that the NSSF petition does not provide a reasonably comprehensive description of the following required charter elements (Attachment 1, p. 3):

### Employee Qualifications

The NSSF petition does not present a reasonably comprehensive description of employee qualifications. The petition identifies general qualifications for NSSF positions of employment (Attachment 3, pp. 106–109); however, the petition does not identify those positions that NSSF regards as key in each category nor does it specify the additional qualifications expected of individuals assigned to those positions.

#### Condition of Approval

If approved by the SBE, as a condition for approval, the petitioners will be required to revise the petition in order to reflect the SBE as the authorizer and include the necessary language for Element 5–Employee Qualifications by identifying the positions that NSSF regards as key in each category.

**Racial and Ethnic Balance**

The NSSF petition does not present a reasonably comprehensive description of the means for achieving racial and ethnic balance. The following table shows the 2018–19 demographic data for NSSF and SFUSD. The data show that the racial and ethnic balance served by NSSF is not reflective of that of SFUSD.

**2018–19 Demographic Data for NSSF and SFUSD (Percentage of Pupils Enrolled)**

| School | English Learners | Special Education | Socio-economically Disadvantaged | African American | Hispanic/  Latino | White |
| --- | --- | --- | --- | --- | --- | --- |
| NSSF | 9.4 | 7.2 | 11.5 | 5.1 | 20.9 | 52.8 |
| SFUSD | 28.1 | 11.5 | 54.7 | 8.1 | 31.5 | 14.3 |

The petition states that NSSF shall adhere to a Community Engagement Plan (Attachment 8, pp. 144–151), which combines effective recruitment strategies with resources to attract and retain a diverse pupil body and to ensure that the population of pupils is reflective of the general population within the territorial jurisdiction of SFUSD (Attachment 3, p. 114); however, the plan is located in the NSSF petition appendices and is not included in the petition. Additionally, the CDE is concerned that the racial and ethnic balance has not been achieved in the five years NSSF has been in operation, and that the preferences currently written in Element 8–Admission Requirements of the petition will not yield a racial and ethnic balance reflective of SFUSD.

#### Condition of Approval

If approved by the SBE, as a condition for approval, the NSSF petitioner will be required to complete the following: revise the petition to reflect the SBE as the authorizer; include the necessary language for Element 7–Racial and Ethnic Balance, incorporating the Community Engagement Plan in the NSSF petition; and revise the preferences in Element 8–Admission Requirements.

**Admission Requirements**

The NSSF petition does not present a reasonably comprehensive description of admission requirements. The 2018–19 demographic data show that the racial and ethnic balance served by NSSF is not reflective of that of SFUSD. The CDE is concerned that preferences currently written in Element 8–Admission Requirements of the petition will not yield a racial and ethnic balance reflective of SFUSD. Additionally, the NSSF petition states that NSSF has been fully enrolled and has maintained a waitlist for all grades since the school’s opening. For the 2018–19 school year, NSSF has 444 pupils on the waitlist for K through grade four (Attachment 3, p. 116). The CDE is concerned that with sibling preference being first in NSSF’s lottery, it is unlikely that NSSF will be able to achieve racial and ethnic diversity with the proposed admission requirements.

The petitions states that NSSF shall admit all pupils who wish to attend. The NSSF petition states that in the case of a public random drawing, admission preferences shall be in the following order (Attachment 3, p. 115):

1. Siblings of pupils admitted to or attending NSSF
2. Pupils eligible for free and reduced-price meals who reside within the boundaries of SFUSD, not to exceed 33 percent for each grade
3. Children of employees and board members of NSSF, not to exceed 10 percent of the total enrollment
4. All other pupils residing in the boundaries of SFUSD
5. Pupils residing outside the boundaries of SFUSD

The petition notes that admission preference caps do not limit the number of pupils in each of these categories who will be enrolled in NSSF, only the scope of the preference. The NSSF petition outlines dates for the planned application, public random drawing, and admission schedule (Attachment 3, p. 116).

Additionally, the petition states that having one lottery for enrollment spanning K through grade eight will alleviate parent stress; preserve and strengthen parent networks; ensure a consistent and cohesive educational approach through middle school; and mitigate some of the adverse effects of school transitions at the end of grade five and grade eight (Attachment 3, p. 27).

#### Condition of Approval

If approved by the SBE, as a condition for approval, the NSSF petitioner will be required to revise the petition in order to reflect the SBE as the authorizer and include the necessary language for Element 8–Admission Requirements to reorder the NSSF admission preferences to achieve a racial and ethnic balance that is reflective of SFUSD.

### Dispute Resolution Procedures

The NSSF petition does not present a reasonably comprehensive description of dispute resolution procedures. The petition states that the costs of the mediator shall be split equally between SFUSD and NSSF, and that in the event the SFUSD Board of Education believes that a dispute relates to an issue that could lead to revocation of the charter, NSSF requests that this shall be noted in the written dispute statement, although NSSF recognizes it cannot legally bind SFUSD to do so (Attachment 3, p. 136).

#### Condition of Approval

If approved by the SBE, as a condition for approval, the NSSF petitioners will be required to revise the petition to include the necessary language for Element 14–Dispute Resolution Procedures by including the following language:

* Recognize that if the substance of a dispute is a matter that could result in the taking of appropriate action, including, but not limited to, revocation of the charter in accordance with *EC* Section 47604.5, the matter will be addressed at the SBE’s discretion in accordance with that provision of law and any regulations pertaining thereto.
* Recognize that the SBE cannot be pre-bound to a contractual obligation to split the costs of mediation or agree to mediation to resolve disputes.

## California Department of Education Staff Review

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

* NSSF Petition (Attachment 3 of the Agenda Item 03 on the December 10, 2019, Meeting Notice on the SBE ACCS web page located at <https://www.cde.ca.gov/be/cc/cs/accsnotice121019.asp>).
* Educational and demographic data of schools where pupils would otherwise be required to attend (Attachment 2 of the Agenda Item 03 on the December 10, 2019, Meeting Notice on the SBE ACCS web page located at <https://www.cde.ca.gov/be/cc/cs/accsnotice121019.asp>).
* NSSF Budget and Financial Projections (Attachment 4 of the Agenda Item 03 on the December 10, 2019, Meeting Notice on the SBE ACCS web page located at <https://www.cde.ca.gov/be/cc/cs/accsnotice121019.asp>).
* Letter Dated September 30, 2019, Description of Changes to NSSF Charter Renewal Petition on Appeal to the SBE (Attachment 5 of the Agenda Item 03 on the December 10, 2019, Meeting Notice on the SBE ACCS web page located at <https://www.cde.ca.gov/be/cc/cs/accsnotice121019.asp>).
* SFUSD September 24, 2019, Meeting Minutes, SFUSD Board of Education Report, and Petitioner’s Response (Attachment 6 of the Agenda Item 03 on the December 10, 2019, Meeting Notice on the SBE ACCS web page located at <https://www.cde.ca.gov/be/cc/cs/accsnotice121019.asp>).
* NSSF Board Member Resumes, Organizational Chart, Articles of Incorporation, Bylaws, and Conflict of Interest Code (Attachment 7 of the Agenda Item 03 on the December 10, 2019, Meeting Notice on the SBE ACCS web page located at <https://www.cde.ca.gov/be/cc/cs/accsnotice121019.asp>).
* NSSF Appendices and Attachments (Attachment 8 of the Agenda Item 03 on the December 10, 2019, Meeting Notice on the SBE ACCS web page located at <https://www.cde.ca.gov/be/cc/cs/accsnotice121019.asp>).

## San Francisco Unified School District Findings

On September 24, 2019, SFUSD staff recommended to deny the material revision based on the following findings (Attachment 6):

* The proposed material revision presents an unsound educational program for pupils to be enrolled in the charter school.
* The petitioner is demonstrably unlikely to successfully implement the proposed material revision set forth in the petition.
* The petition does not contain reasonably comprehensive descriptions of certain required elements set forth in *EC* sections 47605(b)(5)(A) through (O).

The SFUSD Board voted to unanimously deny the NSSF material revision.

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

Currently, 37 charter schools operate under SBE authorization as follows:

* One statewide benefit charter, operating a total of seven sites
* Seven districtwide charters, operating a total of 18 sites
* Twenty-nine 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.

## Attachments

* **Attachment 1:** California Department of Education Charter School Petition Review Form: The New School of San Francisco (44 Pages)
* **Attachment 2:** California State Board of Education Standard Conditions on Opening and Operation (4 Pages)