



SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item 8.6

Meeting Date: December 7, 2017

Subject: Consider Resolution No. 2976 and 2977: Initial Charter Petition for Success Skills, Inc.: NorCal Trade and Tech

- Information Item Only
- Approval on Consent Agenda
- Conference (for discussion only)
- Conference/First Reading
- Conference/Action
- Action
- Public Hearing

Division: Academic Office

Recommendation: To take action to approve or deny the Initial Charter Petition for Success Skills, Inc.: NorCal Trade and Tech

Background/Rationale: Sacramento City Unified School District received Success Skills, Inc.: NorCal Trade and Tech's initial charter petition on October 17, 2017. District staff met with NorCal Trade and Tech for a capacity interview on November 1, 2017 and conducted a comprehensive review of the initial charter petition and related submissions. The Governing Board held a public hearing in accordance with Education Code Section 47605 (b) to consider the level of support for the initial charter petition of NorCal Trade and Tech on November 16, 2017. The staff's analysis will be presented for Board Action on December 7, 2017.

Financial Considerations: The financial considerations are outlined within the Executive Summary.

LCAP Goal(s): Family and Community Empowerment

Documents Attached:

1. Executive Summary
2. Resolutions 2976 and 2977
3. Charter Petition (Proposed): <http://www.scusd.edu/charter-petitions>
4. Appendices (Proposed): <http://www.scusd.edu/charter-petitions>

Estimated Time of Presentation: 10 minutes

Submitted by: Iris Taylor, Chief Academic Officer
Jack Kraemer, Innovative Schools and
Charter Oversight, Director

Approved by: Jorge A. Aguilar, Superintendent

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I. OVERVIEW / HISTORY

Action Proposed:

Sacramento City Unified School District (“District”) Staff and legal counsel have reviewed the charter petition (“Petition”) submitted by Success Skills Inc. (“SSI”), a 501(c)(3) non-profit organization (“Petitioner”), proposing the creation of NorCal Trade and Tech (“NTT” or “Charter School”). After careful review, District Staff have identified a number of concerns within the Petition, including, but not limited to, the Charter School’s educational plan, finances, facilities, and governance, which are set forth in this report. As a result, District Staff believe deficiencies in the Petition could warrant a denial of the Petition on the following grounds, pursuant to Education Code section 47605:

1. The petitioner is demonstrably unlikely to successfully implement the program set forth in the petition.
2. The petition does not contain reasonably comprehensive descriptions of certain required elements set forth in Education Code section 47605, subdivisions (b)(5)(A- O).

In order to deny a Petition on the grounds set forth above, Education Code section 47605, subdivision (b) requires the Governing Board to make “written factual findings, specific to the particular Petition, setting forth specific facts to support one or more” of the grounds for denying the charter. Therefore, if the District Board determines it will deny this Petition, District Staff recommend that the Board adopt the proposed findings of fact, set forth below, as its own findings.

History:

On or about October 17, 2017, the District received an Initial Petition proposing the creation of the Charter School by SSI. The District held a public hearing on November 16, 2017, so that the District’s Governing Board (“Board”) could consider the “level of support for the petition by teachers employed by the district, other employees of the district, and parents.” (Ed. Code § 47605, subd. (b).)

While SSI has not previously operated a charter school, over the last decade, it has served veterans and disabled adults through career education. (Petition, p. 14.) The Petitioner proposes to establish a charter school to primarily serve adults for high school completion, and adult elementary programs, including adult basic education and English language development. (Petition, p. 8.) The Petitioner states, “NORCAL Trade and Tech will help adults to learn both the basic academic skills and knowledge necessary to survive in the 21st century, as well as the

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vocational skills necessary to earn a livable wage.” (Petition, p. 15.) Petitioner proposes to initially offer a truck and bus driving training program, and will later offer programs for auto body repair, diesel mechanics, building, and construction. (Petition, p. 21.) In addition to the educational and technical programs mentioned, NTT states they will provide services to students through partnerships with Workforce Innovation and Opportunity Act (“WIOA”) providers. (Petition, p. 50.)

Petitioner desires to locate the proposed charter school on District property at 24th and Florin in South Sacramento. (Petition, p. 15.) During the 2018-2019 school year, the Petitioner hopes to enroll two hundred (200) students, while increasing enrollment by two hundred (200) students each subsequent school year. (Petition, p.15.) Petitioner estimates a total enrollment of one thousand (1,000) students by the 2022-2023 school year, its fifth year of operation. (Petition, p. 15.)

II. DRIVING GOVERNANCE

The Charter Schools Act of 1992 (“Act”) governs the creation of charter schools in the State of California. The Act includes Education Code section 47605, subdivision (b), which provides the standards and criteria for petition review, and provides that a school district governing board considering whether to grant a charter petition “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.” (Ed. Code, § 47605, subd. (b).) Specifically, the governing board may not deny a petition unless it makes written factual findings setting forth specific facts to support one, or more of six findings:

- 1) The charter school presents an unsound educational program for the students to be enrolled in the charter school;
- 2) The petitioner is demonstrably unlikely to successfully implement the program set forth in the petition;
- 3) The petition does not contain the number of signatures prescribed by Education Code section 47605, subdivisions (a)(1)(A) or (a)(1)(B);
- 4) The petition does not contain an affirmation of each of the conditions set forth in Education Code section 47605, subdivision (d), including that the charter school: (1) will be nonsectarian in its admission policies, employment practices and all other operations; (2) will not charge tuition; and (3) will not discriminate against any student on the basis of the characteristics set forth in Education Code section 220;

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- 5) The petition does not contain reasonably comprehensive descriptions of fifteen certain elements in its program and operations as set forth in Education Code section 47605, subdivision (b)(5) (A-O), which describes fifteen separate elements that must be addressed in every petition to establish a charter school. These elements include a description of the School's governance structure, admissions policy, health and safety and student discipline policies; or
- 6) The petition does not contain a declaration of whether or not the charter school shall be deemed the exclusive public employer of the employees of the charter school for purpose of Chapter 10.7 of Division 4 of Title 1 of the Government Code.

Charter school petitions are also required to include discussion of the impact on the chartering district, as well as, the facilities to be utilized by a proposed charter school, the manner in which administrative services will be provided, potential civil liabilities for the school district, and a three year projected operational budget and cash flow. (Ed Code § 47605, subd. (g)).

Results of Petition Review (Findings of Fact Determinations):

The Petition evaluation that follows summarizes the consensus of the District reviewers with respect to the educational program and proposed school operations. The following Findings of Fact, and specific facts in support thereof, have been grouped for convenience under the aforementioned grounds for denial of the Petition. Certain Findings of Fact support more than one ground for denial of the Petition.

A. Petitioner is Demonstrably Unlikely to Successfully Implement the Programs Set Forth in the Petition

When determining whether Petitioner is likely to successfully implement the program described in the Petition, it is the District's practice to evaluate the Petitioner's ability to: demonstrate that it is familiar with the content of the Petition and the requirements of law applicable to the proposed school, present a realistic financial and operational plan, have the necessary background in areas critical to the Charter School's success, or have a plan for securing the services of individuals with the necessary background, including curriculum, instruction, assessment, finance and business management. Based upon the information provided in the Petition, Petitioner is demonstrably unlikely to successfully implement the educational program for the following reasons:

- i. The Petition fails to clearly identify the facilities where the Charter School will locate.

Petitioner's failure to clearly identify the facilities that the Charter School will use illustrates that

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the Petitioner is not in compliance with the law, therefore, is demonstrably unlikely to successfully implement the program set forth in the Petition. California Education Code section 47605, subdivision (a)(1) states, “A charter school may propose to operate at multiple sites within the school district if each location is identified in the charter school petition.” (Underline added.)

Petitioner identifies only one site in the Petition stating, “NTT would like to open at the former SAC City (SCUSD) adult education facility at 24th and Florin in South Sacramento.” (Petition, p. 15.) However, when reviewing the Appendix, Petitioner proposes two resources centers that were never mentioned in the Petition. (Appx., p. 154.) Failure to clearly describe the facilities that the Charter School seeks to operate in the Petition violates the Charter Schools Act, as cited above, and would prevent the successful implementation of the educational program set forth in the Petition. (Ed. Code § 47605(a)(1).)

Additionally, while Petitioner proposes the use of the “former SAC City adult education facility at 24th and Florin in South Sacramento” (Petition, p. 15.), Petitioner did not submit a timely request (which was due November 1, 2017) for facilities with the District in accordance with California Proposition 39. (Ed. Code § 47614.) Therefore, it is not clear that the Charter School will be allotted the facilities where it wants to operate its school. If Petitioner intends to lease the property outside of Proposition 39, this would be done through the District’s surplus property process. (BP 3280.)

ii. The Petitioner Fails to Provide a Clear and Comprehensive Budget

- a. The Petition fails to provide consistent Average Daily Attendance (“ADA”) projections for the proposed Charter School.

Petitioner fails to present consistent ADA figures, which would impact the Petitioner’s budget and cash flow projections.

The Charter School will seek Local Control Funding Formula (“LCFF”) funding, which will be determined by the Charter School’s ADA. ADA is defined as “the total days of student attendance divided by the total days of instruction.”¹ Therefore, lower attendance rates will reduce a school’s funding. The most recently reported ADA figures for the State of California indicate that the average ADA for unified school districts was 94.89% for the 2015-2016 school year.² However, this ADA figure was calculated using educational programs with compulsory

¹ <https://www.cde.ca.gov/ds/fd/ec/currentexpense.asp>

² http://www.sscal.com/fiscal_print.cfm?contentID=21195

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attendance (students who are 5 to 16 years of age). Petitioner's proposed program would serve adults, therefore, would have non-compulsory attendance.

Petitioner states, "In adult-focused charter schools, daily enrollment is lower than average daily attendance due to students not having compulsory attendance combined with life issues that adults face which kids often do not have, such as issues with childcare for the day." (Emphasis added.) (Petition, p. 15.) The Petitioner then establishes an attendance goal of 40%. (Petition, p. 18.) Given that Petitioner estimates an enrollment of 200 students during the first year of operations, a 40% attendance goal would result in an ADA of only 80 students.

However, when reviewing the budget, the Petitioner has based the cash flow projections on an ADA of 90% of the enrollment. (Appx., p. 121.) Therefore, Petitioner is estimating the ADA to be 180 students. Based upon the Petitioner's per pupil LCFF funding estimate of \$9,953.19 per student, for an ADA of 180 students, the LCFF revenues would be \$1,791,574.20. (Appx., p. 122.) However, using the Petitioner's goal of an ADA of only 40% of the enrollment, this would only amount to LCFF revenues of \$796,255.20. These differing ADA projections amount to a difference of \$995,319. These ADA projections would likely result in the Charter School's insolvency.

- b. The Petition fails to present an adequate financial plan for the operation of the proposed Charter School.

In order to successfully implement the educational program set forth in the Petition, the Petitioner should provide a detailed budget that ensures the financial stability of the proposed Charter School.

Petitioner states, "NTT expects to have an Average Daily Attendance of at least 180 students in its first year of operation, which will generate at least \$1,411,953 of revenue. Additional state and other funding for the first year is estimated to be at least \$601,475, for an estimated total revenue of at least \$2,013,428. Expenses for the first year are estimated to be \$1,702,596, leaving an 18% reserve of \$310,833." (Petition, p. 54.)

Petitioner's financial projections and cash flow are based on the assumption of the Charter School receiving a "5-Year \$250,000 State Revolving Fund Loan assumed @ 0.50% in July 2018." (Appx., p.121.) District Staff are concerned that Petitioner has not secured alternative sources of funding in the event that the loan is not approved. In the event that the aforementioned loan is not approved, the Charter School would immediately be indebted in the amount of \$59,039. (Appx., p. 128.) Although, assuming the loan is approved, the Charter School could have sufficient funds during its first year of operations.

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However, even if Petitioner receives the loan mentioned above, based upon the Petitioner's submitted budget, adequate reserves may not be available to the Charter School during the second year of operation. During the 2019-2020 school year, the Petition indicates that the Charter School would only have \$17,924 in reserves during the month of January. If the Charter School's cash flow projections are incorrect, or if unforeseen expenses occur, this could render the Charter School insolvent.

The limited cash reserves maintained by the Charter School become more alarming because the Petition identifies positions for both Assistant Teachers and Paraeducators (Petition p. 45-46), but the Petitioner itself does not delineate the specific positions that have been budgeted for, and it is not clear either position is included in the budget. (Appx., p. 118.) If these positions have not been budgeted for, this oversight alone would place the Charter School in fiscal dire straits during its second year of operations during the month of January, if not sooner.

Given these potential cash flow shortfalls, the Charter School may use "Alternative Financing". (Petition, p. 54.) This means that the Charter School would sell future receivables in order to secure immediate funding. District Staff are concerned that this practice could result in even more financial instability for the Charter School. If the Petitioner sells future receivables based upon inaccurate ADA projections and ADA generated revenues, and those are inaccurate, those payments could not be made.

The Board should be aware that several of Petitioner's budget spreadsheets state that "Year 1" of the Charter School's operations is during 2017-2018, which is incorrect. (Appx., p. 111-116.) Additionally, District Staff have concerns regarding NTT's management heavy staffing levels, which would include four and a half (4.5) management positions, while only having eight (8) teachers during the first year. (Appx., p. 118.) Staffing numbers beyond the first year are not provided in the Petition or clearly identified in the budget, while student enrollment is expected to increase significantly.

iii. The Petition Raises Concerns Regarding the Charter School's Governance Structure

- a. Petitioner's Board fails to comply with the legal requirements of the Brown Act.

Petitioner states that its board will comply with the Brown Act. (Petition, p.43.) However, its board has conducted itself in ways that do not comply with the law. Additionally, the Board's meeting minutes illustrate that Board meetings lack even the most basic formalities. This issues are illustrated by, but not limited to, the following actions:

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- Board members propose a meeting “to be held by email”. (October 3, 2017 Board meeting minutes.)
- The Board’s Bylaws do not indicate where meeting agendas will be posted prior to meetings or where members of the public can view the agendas. (Appx., 94-106.)
- Board meeting minutes received by the District illustrate that meeting agendas frequently do not contain a brief general description of each matter to be discussed as required by the Brown Act. (See Board meeting minutes.)

Given the current concerns regarding SSI’s Board meetings, it is concerning that the Petition states, “Prior to the end of the first year of operation all board members shall attend governance training and Brown Act training.” (Petition, p. 44.) These trainings should occur as soon as possible in order to prevent further Brown Act violations and ensure public participation in the Charter School’s governance.

- b. Current Board policies may violate the Political Reform Act and create conflicts of interest.

The Political Reform Act states, “Assets and income of public officials which may be materially affected by their official actions *should be disclosed and in appropriate circumstances the officials should be disqualified from acting in order that conflicts of interest may be avoided.*” (Emphasis added.) (Gov. Code § 81002 (c).)

The Petition states, “No board member shall be an employee of the charter school, and any board member that may wish to become employed will follow the Political Reform Act and have no part in being involved in the vote for that position.” (Petition, p. 42.) While this language complies with the requirements of law, the Petitioner’s bylaws do not. Specifically, Section 5 of the bylaws state, “No more than 49 percent of the persons serving on the Board of Directors may be interested persons.” (Appx., p. 97.) Additionally, that same Section states, “However, any violation of this paragraph shall not affect the validity or enforceability of transactions entered into by the corporation.” (Appx., p. 97.) This not only allows interested members to take part in votes, but it also allows the Board to violate provisions of the Political Reform Act without any repercussions since participation of interested Board members will not affect the validity of transactions. In addition to these concerns, District Staff are concerned that a current Board member of SSI, Ward Allen, is a Board member but is also interested in teaching at the school. (Petition, p. 69-70.) If hired as a teacher at the proposed Charter School, Mr. Allen’s service on the Board would violate the Petitioner’s own policies proposed in the Petition, which prohibit employees from serving on the Charter School’s Board. (Petition, p. 42.)

- iv. The Petition Presents an Inadequate Plan for the Use of Technology

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In order to successfully implement the proposed educational program, the Petitioner should provide a detailed plan for the use of technology.

Petitioner states, “NTT shall utilize web 2.0 learning technologies and open educational resources (OERs), including Khan Academy, MOOCs (Massive Open Online Courses), Career courses from Ford Next Generation Learning, technology courses from GCFLearnFree, and online ESL sites.” (Petition, p. 30.)

Given the Petitioner’s proposed use of multiple online instructional resources, it is critical that students have access to technology. However, the Petition states:

“NTT shall apply for the Public Charter School Grant Program (PCSGP), and if it receives this funding, it shall use a significant portion to support instruction technology. If it does not receive this funding, then it plans to talk with its stakeholders to include funding in the LCAP for technology. The initial goal of the school is to have 1 computer to 4 students, and ultimately the school will work towards a 1 to 1 tablet/smartphone to student ratio.”

(Petition, p. 30.) As mentioned above, given the proposed Charter School’s limited budget and cash flow, if the School does not receive grant funding, it would be unlikely that NTT would have enough funds to pay for the technology out of its proposed budget. Therefore, unless stakeholders could fund the technology, students would be left without the necessary technology to complete extensive portions of the Charter School’s proposed online curriculum, which would impact the Charter School’s ability to successfully implement its proposed educational program.

v. The Requisite Signatures Attached to the Petition Raise Concerns Regarding the Interest of Proposed Teachers and Students

California Education Code section 47605, subdivision (a)(3), requires, “A petition shall include a prominent statement that a signature on the petition means that the parent or legal guardian is *meaningful interested* in having his or her child or ward attend the charter school, or in the case of a teacher’s signature, means that the teacher is *meaningfully interested* in teaching at the charter school.” (Emphasis added.)

Petitioner’s signature pages fail to comply with the required language of the statute. For the teachers’ signature pages, the document states that it is for teachers who “*meaningfully desire* to teach at NORCAL Trade and Tech”. (emphasis added.)(Petition, p. 69.) The student signature pages states, “[Students] hereby indicate *our desire to attend this school and our total support of the school*. We urge the School Board to approve the NORCAL Charter Petition.” (Petition, p. 71.) Neither of these statements on the teacher or student signature pages contain the required

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statutory language that indicates teachers and students are *meaningfully interested* in teaching at the school or attending the school. Additionally, the student signature page fails to identify any specific school or even indicate that the Petition is being submitted to the Sacramento City Unified School District for consideration.

Additionally, several of the teachers' signatures submitted with the Petition are from individuals whose names also appear on NTT's other petitions submitted to Twin Rivers Unified School District and Dixon Unified School District and signed in September 2016. The current Petition contains the signatures of eight (8) teachers. (Petition, p. 69-70.) However, five (5) of the eight (8) signatures were also submitted with Petitioner's previously submitted petitions, which were signed over a year ago. Specifically, Ward Allen, Derrick Aguiar, Sergey Ivanyenk, Merlyn Lund, and Ken Shoemake's names appear on all three petitions. (See NTT petitions submitted to Twin Rivers Unified School District and Dixon Unified School District.)(Petition, p. 69-70.)

B. The Petition Does Not Contain Reasonably Comprehensive Descriptions of Certain Required Elements Set Forth in Education Code section 47605, Subdivisions (b)(5)(A-O).

The Petition serves as the Petitioner's proposal for the Charter School's establishment and operation. As such, the Petition must provide reasonably comprehensive descriptions of certain essential elements in its program and operations as required in Education Code section 47605, subdivisions (b)(5)(A-O). The following elements do not meet this standard due to incomplete or inadequate information, which in some instances contradict the requirements of the law:

i. The Petition Does Not Contain a Reasonably Comprehensive Description of the Educational Program

- a. Petitioner fails to provide a comprehensive description of how the educational program will be implemented.

1. The Educational Program, Overall

The Petition states, "NTT will primarily serve adults, but will allow normal high school age students to be admitted following our admission policy. All students will receive both academic learning as well as career technical education (CTE), allowing students to combine high school completion with solid job skill training." (Petition, p. 19.)

Petitioner also states, "NTT will also provide adult elementary education, also known as "adult basic education" (ABE), and may include adult English as a second language (ESL), and thus may serve grade levels from 1 to 12. (Although as will be discussed in the Appendix, in practice it will officially have grade levels 1, 2, and 12.)" (Petition, p. 20.) In addition to all of these student groups, who will have differing needs and

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potentially speak different languages, the proposed Charter School intends to offer CTE programs, beginning with a “Class A Truck and Bus Driving training program, and later, both Diesel Mechanic and Auto Body Repair programs.” (Petition, p. 21.)

Given the large number of educational programs proposed by Petitioner, the potential need for the programs to be taught in multiple languages, and the addition of CTE programs, District Staff are concerned that Petitioner did not provide a detailed staffing plan that describes how each staff member will work to implement these programs. Also of concern, Petitioner proposes only hiring eight (8) teachers during the first year of operation (Appx., p. 118.), which may result in inadequate staffing numbers to implement all of the proposed programs. Petitioner fails to clearly articulate what role WIOA providers and other organizations will serve in delivering the curriculum. For example, is Petitioner developing and delivering all CTE courses independently, which would take considerable staff time and energy, or are these CTE programs being offered by other providers? Based upon the information in the Petition, these roles are unclear.

Additionally, the Petition fails to describe how the Charter School’s staff members will be adequately trained and certified to properly deliver the educational program. For example, if CTE courses are provided by the school and not other organizations, how will the Charter School ensure that they have instructors who are appropriately certified to teach Truck and Bus Driving, Diesel Mechanic, Auto Body repair, and Culinary programs? Petitioner should clarify how the Charter School will successfully implement these various programs and serve the needs of all the Charter School’s students.

Contributing to the confusion, Petitioner only provided a sample unit and lesson plans, not complete course descriptions, in the Petition. (Appx., p. 223-229.) None of the submitted lesson plans contain any reference to Common Core Standards. They also fail to provide a clear understanding of the Petitioner’s programs because the lesson plans only cover a small portion of the Petitioner’s proposed educational program.

2. Instructional Delivery

Petitioner states that educational instruction for these programs will be provided using the following methods:

- Classroom-Based Individualized Learning Labs
- Classroom-Based Set-Paced Courses
- Classroom-Based Mixed-Paced Courses
- “Round Robin” Courses
- Community Classrooms and Cooperative Vocational Education

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(Petition, p. 22-24.) However, the Petition does not clearly identify how these instructional methods will be implemented. For example, will all of the aforementioned instructional methods be used for all grade levels or will specific methods be used for each program? This is unclear based upon the information provided in the Petition, which simply list multiple instructional methods, but fails to describe how these instructional methods will be used with different student groups. (Petition, p. 22-24.) The Petition also fails to provide a sufficient description of how the Charter School will provide remediation and extension programs to students. Instead, the Petition only provides vague statements such as, “These students will be held to high expectations, and student supports will be made available to support these students in pursuing their goals and aspirations.” (Petition, p. 24.)

3. Inconsistent Career Technical Education (“CTE”) Programs

Petitioner does not provide a reasonably comprehensive description of the CTE programs that the Charter School will offer. In the Petition, Petitioner states, “In addition to Transportation (Truck & Bus Driving, Diesel Mechanic, Auto Body Repair), NTT also plans to provide CTE career pathways in Building and Construction Trades Pre-Apprenticeship (HVAC/R, Metal Fabrication, and other construction trades).” (Petition, p. 21.) However, in the Appendix, Petitioner, mentions, “NTT plans to have a facility use agreement with the St. Rose church at 5905 Franklin Blvd., Sacramento, CA 95823. This site has a commercial kitchen, which NTT plans to utilize for a culinary program, which will also help serve food to the homeless populations.” (Appx., p. 154.)

These inconsistent statements regarding the CTE programs that the Charter School will offer is concerning. It implicates that the Charter School lacks a clear vision and plan regarding course offerings. Additionally, this is the first mention in the Petition that Petitioner will utilize any facilities besides the former SCUSD Tech Center at 24th and Florin or provide a culinary program to students. (Appx., p. 154.) These inconsistencies highlight that Petitioner fails to provide a clear description of the educational program and how it will successfully be delivered to students of the school.

- b. The Petition lacks a reasonably comprehensive description of how English language programs will be delivered to students.

Petitioner proposes three different EL programs in the Petition. These programs include: Adult Elementary English Language Development, Adult Bilingual Secondary English Language Development, and Adult High School English Language Development. (Petition, p. 25-26.) It should be noted that these EL programs in the Petition do not match those included in the Student Handbook, which include Elementary Level English

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Language Development, Bilingual High School Completion, and High School with English Support. (Appx., p. 156-157.) Additionally, it appears that the Bilingual High School Completion program is only offered for Spanish. (Appx., p. 156.) However, Petitioner states "... if sufficient students who speak other languages request such a program we will work to provide it." (Appx., p. 156.)

These proposed EL programs raise many concerns. First, it is unclear how the Petitioner will successfully deliver elementary content intended for first or second grade students to adults enrolled in the Adult Elementary English Language Development program. For example, how will Petitioner make curriculum developed for a six (6) year old student relevant to an adult student? Second, given the diverse demographics of the Sacramento City Unified School District, it is highly likely that students who speak languages other than Spanish, such as Hmong and Vietnamese, will be enrolled in the EL programs. Petitioner fails to provide information regarding how these programs will be adequately staffed and how the education program will be successfully delivered to the various groups of students within the proposed courses. Third, Petitioner fails to provide information regarding how the Charter School will deliver the core curriculum content to EL students. Petitioner should clarify how the Charter School will successfully implement these EL programs and deliver services to EL students.

- c. The Petition lacks a clear understanding of Special Education requirements for adult students.

The Petition states, "NTT shall initially remain, by default, a public school of SCUSD for the purposes of special education, pursuant to Education Code Section 47641(b)." (Petition, p. 28.) Petitioner also states, "... the Charter School seeks services from the District for special education students enrolled in the Charter School..." (Petition, p. 29.) "However, the Charter School reserves the right to contract with service providers outside the District when appropriate." (Petition, p. 29.)

District Staff are concerned that Petitioner does not understand the requirements of the District SELPA because contracting out special education services is not a practice consistent with being a "School of the District". Additionally, Petitioner states in the Appendix that it will be a part of the El Dorado SELPA. (Appx., p. 121.) Therefore, it is unclear how Petitioner intends to deliver special education services to qualifying students.

Additionally, since the Charter School intends to serve adults, Petitioner fails to mention that special education services are only required for students under the age of twenty-two (22). (Education Code § 56026.) At age of twenty-two (22), services should be provided

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to these students by the Alta California Regional Center, which is the case manager for adults with disabilities. There is no mention of Regional Center services in the Petition.

ii. The Petition Does Not Contain a Reasonably Comprehensive Description of the Charter School's Health and Safety Plan

Pursuant to Education Code section 47605, subsection (b)(5)(F), a charter petition should include "procedures that the school will follow to ensure the health and safety of pupils and staff."

Petitioner states, "The Charter School shall adhere to an Emergency and Safety Handbook (See Appendix M – Emergency and Safety Handbook.) This handbook includes procedures about fire, flood, earthquake, terrorist threats, and hostage situations." (Petition, p. 48.) However, when reviewing Appendix M, Petitioner's Emergency and Safety Handbook only contains five (5) pages of information, and it fails to include procedures for floods, terrorist threats, and hostage situations, as stated in the Petition. (Appx., p. 202-206.)

In addition to these concerns, Petitioner fails to provide information regarding how students will be screened for admission to the Charter School. This is particularly important given that the Petitioner may have students who are minors enrolled in the same programs as ex-offender adult students. (Petition, p. 24.) Failure to properly screen students, could put students and staff at risk. There is no discussion in the Petition on this important issue.

iii. The Petition Does Not Contain a Reasonably Comprehensive Description of the Charter School's Plan to Achieve Racial and Ethnic Balance

A charter petition must include a reasonably comprehensive description of "the means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted..." (Ed. Code, § 47605, subd. (b)(5)(G).) The Petition does not contain a reasonably comprehensive plan to achieve racial and ethnic balance and fails to illustrate that it has an understanding of the racial and ethnic makeup of the District.

Petitioner states, "NTT shall proactively reach out to traditionally underrepresented racial-ethnic communities through working with various racial-ethnic news media, and participating in events targeted towards different specific racial-ethnic groups." (Petition, p. 49.) However, when reviewing the Petitioner's recruitment methods, the Petitioner fails to list any specific locations, dates, times, or organizations where the Charter School's outreach events will occur. (Petition, p. 49.) Even more concerning, the Petitioner does not include any information regarding the current racial and ethnic makeup of the Sacramento City Unified School District or the geographic area it serves. Given the generalized recruitment tactics and the omission of the

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District' student demographics, it may be difficult for the Charter School to achieve a racial and ethnic balance that is reflective of the District.

iv. The Petition Does Not Contain A Reasonably Comprehensive Description of the Charter School's Admissions Requirements

California Education Code section 47605, subsection (b)(5)(H), requires a charter school to identify "admissions requirements, if any." The Petition lacks a comprehensive description of admissions requirements and the enrollment process.

Since NTT is claiming an exclusive partnership with WIOA, the Board should be aware that the Petitioner requires all students to qualify for WIOA in order to attend the proposed Charter School. (Petition, p. 50.)

The Petition states that the Charter School will have an "online admissions process available via its website". (Petition, p. 51.) "After receiving the online application, NTT shall load this information into its student information system (SIS) to have the student pre-enrolled." (Petition, p. 51.) After receiving the online application, students will be contacted, and requested to attend an orientation (generally weekly)... (Petition, p. 51.) "Upon admission to NTT, a student's grade level will be determined based upon their CASAS scores, and the rigor of the education program they are joining." (Petition, p. 51.) "NTT does not expect to have the need for using a lottery system, given that it will generally have an open entry system of enrollment." (Petition, p. 52.)

Petitioner's proposed online admissions process fails to consider that one group the Charter School proposes to educate is homeless adults, who may not have internet access to complete an online application. (Petition, p. 20.) This is a concern for any of the socio-economically disadvantaged students that NTT intends to serve. This application should be made available via alternative methods.

Additionally, when reviewing the online application form, the current online enrollment form is thirteen (13) pages and requires an unusual amount of information from potential students. (Appx., p. 210-222.) Given the length of the online enrollment form, this may make it difficult for non-English speaking students to complete the enrollment form because it does not appear that the form is available in languages other than English. The Petitioner also fails to provide sufficient information regarding enrollment timelines. (Petition, p. 51-52.)

v. The Petition Does Not Contain Reasonably Comprehensive Description of the Procedures for Suspensions and Expulsions

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California Education Code section 47605, subdivision (b)(5)(J), requires a charter petition to contain, “The procedures by which pupils can be suspended or expelled.”

Petitioner states, “NTT shall follow SCUSD’s procedures for suspending and expelling students, as codified in SCUSD’s A.R. 5144.1, and AR 5144.2 for students with disabilities.” (Petition, p. 55.) While this process is adequate for suspensions and expulsions, District Staff find other statements by Petitioner concerning. Petitioner states, “NTT may disenroll adult students who stop attending, or otherwise indicate that they no longer wish to attend the school.” (Petition, p. 55.) Additionally, the Petition states, “NTT shall not “counsel out students” although teachers and administrators may have honest conversations with adult students about the appropriateness (or lack thereof) of student behavior. Adult students always have the right to leave the school based upon such conversations.”

On October 13, 2017, Governor Brown signed AB 1360 into law, which amended Education Code section 47605, to add the following section to the Education Code requiring charter petitions to:

Contain a clear statement that no pupil shall be involuntarily removed by the charter school for any reason unless the parent or guardian of the pupil has been provided written notice of intent to remove the pupil no less than five schooldays before the effective date of the action. The written notice shall be in the native language of the pupil or the pupil’s parent or guardian or, if the pupil is a foster child or youth or a homeless child or youth, the pupil’s educational rights holder, and shall inform him or her of the right to initiate the procedures specified in clause (ii) before the effective date of the action. If the pupil’s parent, guardian, or educational rights holder initiates the procedures specified in clause (ii), the pupil shall remain enrolled and shall not be removed until the charter school issues a final decision. For purposes of this clause, “involuntarily removed” includes disenrolled, dismissed, transferred, or terminated.

(Education Code § 47605 (b)(5)(J)(iii).) While this legislation does not become effective until January 1, 2018, Petitioner should explain how NTT will comply with the requirements of AB 1360 and revise its policies accordingly to ensure that students are not dismissed without proper due process procedures, as required by law.

- vi. The Petition Does Not Contain Reasonably Comprehensive Description of Attendance Alternatives

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California Education Code section 47605, subdivision (b)(5)(L), requires charter petitions to include, “The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.”

The Petition states, “For minors, this is an especially important choice to consider before enrolling in NORCAL Trade and Tech, *as you may or may not have the option of returning to your former school.*” (Emphasis added.) (Petition, p. 57.) This statement is concerning to District Staff because it may lead a reasonable reader to believe that if he or she enrolls in the proposed Charter School, he or she may not be able to pursue an education at another school.

C. Other Concerns Regarding the Petition

1. The Charter School improperly claims an exception to geographic restrictions.

The Charter School claims an exemption from the geographic and site limitations contained in the Charter Schools Act, without qualifying for that exemption.

Petitioner proposes the operation of a number of resource centers and school sites, all of which are currently located within the boundaries of the District. Specifically, the Petitioner proposes sites at 24th and Florin, 3821 41st Avenue, and 5905 Franklin Boulevard. (Petition, p.153-154.) However, Petitioner claims that it meets the federal Workplace Innovation and Opportunity Act exemption provided in Education Code section 47605.1, subdivision (g) (1):

NTT shall comply with California Education Code Sections 47605.1(g) and 47612.1, which exempts charter schools from age and jurisdiction (geographical) requirements so long as the charter school provides instruction exclusively in the partnership with the Workforce Innovation and Opportunity Act (WIOA), or another allowable program. (Petition, p. 19.)

Pursuant to Education Code section 47605, subdivision (a) (1), a charter school must “operate *within the geographic boundaries of that [chartering] school district.*” (Emphasis added.) A charter school may only operate outside of the geographic boundaries of its chartering district if a specific statutory exception applies. The operation of a charter school outside of the chartering school district should be the rare exception, not the rule. However, after the Court of Appeal decision in *Anderson Union High School District v. Shasta Secondary Home School* (2016) 4 Cal.App.5th 262, which held that the geographic and site restrictions contained in the Charter Schools Act apply to all charter schools, there is a trend by charter schools to claim federal Workplace Innovation and Opportunity Act (“WIOA”) affiliation in order to exempt the charter school from any geographic restrictions, at all.

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A charter school may be exempt from the Charter School Act's geographic restrictions if it operates in exclusive partnership with a federal Workplace Innovation and Opportunity Act program ("WIOA"). Education Code section 47605.1, subdivision (g)(1) provides:

(g) Notwithstanding any other law, the jurisdictional limitations set forth in this section do not apply to a charter school that provides instruction exclusively in partnership with any of the following:

(1) The federal Workforce Innovation and Opportunity Act (29 U.S.C. Sec. 3101 et seq.).

No court of appeal in California has reviewed the WIOA exemption, and there is very little guidance available regarding the proper interpretation of the exemption. However, the WIOA exemption was the subject of recent litigation heard by the San Diego County Superior Court. While superior court decisions are not precedential, they are persuasive authority. In *Grossmont Union High School District v. Julian Union Elementary School District et al.* (Super. Ct. San Diego, 2017, No 37-2015-00033720), the Superior Court determined that the Diego Valley Public Charter School did not qualify for the WIOA exemption because some of the instruction offered by the charter school was not provided by or in partnership its WIOA providers:

[S]ome of the instruction provided by Diego Valley [the charter school at issue in the litigation] is not in partnership with WIOA providers. Therefore, based on the plain meaning of the language within Section 47605.1(g)(1), instruction at Diego Valley is not provided exclusively in partnership with WIOA providers.

(*Grossmont Union High School District v. Julian Union Elementary School District et al.* (Super. Ct. San Diego, 2017, No 37-2015-00033720).) District Staff agree with the Superior Court's interpretation that the WIOA exemption is only applicable if a charter school's entire educational program is provided exclusively in partnership with a WIOA provider. In other words, the San Diego Superior Court appears to conclude that *if any of the instructional options offered by the charter school are not provided in partnership with a WIOA provider, then the charter school does not qualify for use of the WIOA exemption.*

Here, as contemplated in the Petition, the majority of the Charter School's educational program is not delivered by a WIOA provider and is not affiliated with the WIOA program, and therefore the WIOA exemption does not apply. The Petition states, "NTT will provide classroom-based instruction where the students will be engaged in required educational activities under the immediate supervision of an instructor with appropriate legal qualifications. More than 80% of the instructional time offered by NTT will be at a school site." (Petition, p. 22.) Because the classroom based curriculum provided by the Charter School is not in partnership with WIOA

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providers, the Charter School's program is not provided exclusively in partnership with WIOA providers as required by Education Code section 47605.1 (g)(1). Petitioner's submitted WIOA Memorandum of Understandings ("MOUs") fail to include important details that would be necessary for an exclusive partnership. (Appx., p. 250-252.) When reviewing the Department of Labor's sample WIOA MOU, it is clear that Petitioner's WIOA MOUs lack basic fundamentals required of a WIOA partnership.³ Specifically, Petitioner fails to provide adequate details regarding basic information recommended by the Department of Labor for WIOA MOUs including, but not limited to, the following:

- Specific services that will be provided by WIOA partners.
- The roles and responsibilities of WIOA partners.
- How the costs of services will be allocated between NTT and WIOA providers.

(Appx., p. 250-252.) Petitioner included a memorandum detailing the Petitioner's position that the Charter School qualifies under the WIOA exemption because all of its students are required to enroll in WIOA. Specifically, the memorandum provides:

What is "exclusive", is that no student can attend the charter school (or for the exemption, a particular program) without being enrolled in a WIOA ... program under the terms of an exclusive partnership agreement.

(Appx., p. 177.) Petitioner fails to acknowledge that the statute requires *all instruction to be provided in exclusive partnership with a WIOA program*. As written, the Petition does not present an educational program where this is the case. If the exemption only required a charter school to have a single WIOA-affiliated program, then any charter school could simply offer WIOA as one aspect of their program and be fully exempt from the geographic restrictions of the Charter School's Act. This runs contrary to the California legislature's intent that the operation of a charter school outside of the chartering school district should be the rare exception, not the rule.

2. Petitioners have employed a "shotgun" approach to submitting petitions.

Board members appear to disregard the time, resources, and finances of districts in which they submit petitions. Per the January 4, 2017 Board meeting minutes, a Board member stated, "Filing multiple petitions may improve our chances for success." The meeting minutes also indicate that little effort was put into NTT's petitions. Specifically, during the December 2, 2016 meeting, a Board member stated, "Our petitions are also somewhat problematic since what I wrote was based on what the three of us had written in 2013 and there may be some errors that

³ (https://ion.workforcegps.org/resources/2017/03/23/13/30/Sample_MOU_Infrastructure_Costs_Toolkit?p=1.)

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now need correcting.” These statements are troubling because the District invests substantial resources to review each charter school petition submitted to the District. These investments include extensive time of District Staff, District Board members, and legal counsel. Each petition submitted to the District also requires an expenditure of District funds to complete a thorough review of the charter school petition. Given the extensive investment by the District, the District expects each petitioner to submit timely and well thought out petitions for review. Not to simply submit several petitions to several districts with the hope that one is approved.

3. Board members’ other charter school is under investigation.

The current Board Secretary for NTT, Ward Allen, was one of the founders of the Highlands Community Charter School (“HCCS”) authorized by the Twin Rivers Unified School District. (Petition, p. 14.) Mr. Allen’s participation in leadership at HCCS was touted in the Petition for NTT. However, at the direction of the Sacramento County Office of Education, HCCS is currently under investigation and audit by the Fiscal Crisis Management and Assistance Team (“FCMAT”) due to its reimbursement practices.⁴ When District Staff inquired about the investigation, NorCal stated that the issues came after the departure of both Ward Allen and Mike Brunelle from HCCS. NorCal also stated that HCCS staff and its board have engaged in voluntary FCMAT training. However, the Board should be aware that the investigation is still ongoing. Further, these practices now in question appear to have occurred at the time of Mr. Allen’s and Mr. Brunelle’s tenure.

4. NTT’s submitted bylaws do not appear to be registered with the Secretary of State.

While SSI is registered as a corporation with the State, the Secretary of State’s website does not contain a copy of the bylaws included in the Appendix. (Appx., p. 94-106.) The only documents available on the Secretary of State’s contain SSI’s old mission statement, “To provide housing, substance abuse, case management, and employment training services for low income veterans, disabled veterans, or homeless veterans and their families, and to serves individuals with severe disabilities.” (Certificate of Amendment of Articles of Incorporation, Filed 09/03/2010.) These documents clearly do not include NTT’s new mission of providing adult education programs through SSI’s proposed Charter School.

The bylaws contained in the Appendix also appear to lack basic formalities such as signatures, dates, or a seal. Petitioner should explain if the bylaws in the Appendix were filed with the Secretary of State, and if so, when they were drafted, signed, and submitted to the Secretary.

⁴ <http://www.sacbee.com/news/investigations/the-public-eye/article133622034.html>

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III. BUDGET

State income and various other income sources to the District are reduced when students living in District boundaries enroll at a charter school. Under Education Code section 47604, subdivision (c), a school district that grants a charter to a charter school to be operated by, or as, a nonprofit public benefit corporation is not held liable for the charter school's debts or obligations as long as the school district complies with all oversight responsibilities. The District will continue to have monitoring and oversight responsibility for charter school finances, as specified in the Charter Schools Act.

IV. GOALS, OBJECTIVES, AND MEASURES

Not Applicable.

V. MAJOR INITIATIVES

Not Applicable.

VI. RESULTS

Due to concerns described in this report, District Staff recommend that Sacramento City Unified School District Board of Education conference and take action to approve or deny the Petition under the California Charter Schools Act, with due consideration of the factual findings in this report. The factual findings in this report demonstrate that the Petition meets the following conditions for denial under Education Code § 47605:

- 1) The Petitioner is demonstrably unlikely to successfully implement the program set forth in petition.
- 2) The Petition does not contain reasonably comprehensive descriptions of the required charter elements.

VII. LESSONS LEARNED / NEXT STEPS

District Staff recommends that the Board approve Resolution 2976 to approve the Petition or approve Resolution 2977 and adopt these written Findings of Fact as its own to deny the Petition.

The initial charter petition is available online at: <http://www.scusd.edu/charter-petitions>

**SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
RESOLUTION NO. 2976
RESOLUTION TO APPROVE THE INITIAL CHARTER PETITION OF
SUCCESS SKILLS, INC.: NORCAL TRADE AND TECH**

WHEREAS, petitioners for Success Skills, Inc. (“Petitioners”) submitted to Sacramento City Unified School District (“District”) an initial charter petition (“Petition”), dated October 17, 2017 for NorCal Trade and Tech; and

WHEREAS, the District’s Governing Board held a public hearing on November 16, 2017 and took board action on December 7, 2017; and

WHEREAS, the Governing Board has considered the level of public support for NorCal Trade and Tech and has reviewed the Petition, including all supporting documentation; and

WHEREAS, in reviewing the Petition, the Governing Board has been guided by the intent of the California 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; and

NOW, THEREFORE, BE IT RESOLVED that the Sacramento City Unified School District Board of Education hereby approves the Petition of NorCal Trade and Tech.

BE IT FURTHER RESOLVED the term of the charter shall be for five (5) years, beginning on July 1, 2018 and expiring June 30, 2023.

BE IT FURTHER RESOLVED that the Petition approval is conditional upon signed Memorandums of Understanding for Operations and Special Education by Petitioners and District no later than March 1, 2018.

PASSED AND ADOPTED by the Sacramento City Unified School District Board of Education on this 7th day of December, 2017, by the following vote:

AYES: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____
ATTESTED TO:

Jorge A. Aguilar
Secretary of the Board of Education

Jay Hansen
President of the Board of Education

**SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
RESOLUTION NO. 2977
RESOLUTION TO DENY THE INITIAL CHARTER PETITION OF SUCCESS SKILLS, INC.:
NORCAL TRADE AND TECH**

WHEREAS, petitioners for Success Skills, Inc. (“Petitioners”) submitted to Sacramento City Unified School District (“District”) an initial charter petition (“Petition”), dated October 17, 2017 for NorCal Trade and Tech; and

WHEREAS, the District’s Governing Board held a public hearing on November 16, 2017 and took board action on December 7, 2017; and

WHEREAS, the Governing Board has considered the level of public support for NorCal Trade and Tech and has reviewed the Petition, including all supporting documentation; and

WHEREAS, in reviewing the Petition, the Governing Board has been guided by the intent of the California 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; and

WHEREAS, the District staff reviewed and analyzed the Petition and supporting documents for legal, programmatic, and fiscal sufficiency, and has identified deficiencies in the Petition, such that the Petition should be denied; and

NOW, THEREFORE, BE IT RESOLVED that the Sacramento City Unified School District Board of Education hereby adopts the written Staff Report and Proposed Findings of Fact regarding NorCal Trade and Tech; and

BE IT FURTHER RESOLVED, that based on the Findings of Fact set forth in the Executive Summary, the petitioners are demonstrably unlikely to successfully implement the program set forth in the Petition.

BE IT FURTHER RESOLVED, that based on the Findings of Fact set forth in the Executive Summary, the petition does not contain reasonably comprehensive descriptions of required elements of the Petition.

BE IT FURTHER RESOLVED, that for the reasons given above, the Petition is hereby denied.

PASSED AND ADOPTED by the Sacramento City Unified School District Board of Education on this 7th day of December, 2017, by the following vote:

AYES: ____

NOES: ____

ABSTAIN: ____

ABSENT: ____

ATTESTED TO:

Jorge A. Aguilar
Secretary of the Board of Education

Jay Hansen
President of the Board of Education