



# SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item 9.2

**Meeting Date:** January 18, 2018

**Subject:** Consider Resolution No. 2976 or 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 (Action Anticipated: \_\_\_\_\_)
- 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 was presented for Board Action on December 7, 2017. Thereafter on that date, NorCal Trade and Tech and the Governing Board mutually agreed to extend Board Action to January 18, 2018 to enable NorCal Trade and Tech to provide written clarification on numerous matters within the Petition. NorCal Trade and Tech timely submitted their Response on December 19, 2017. The staff's analysis incorporating the Response will be presented for Board Action on January 18, 2018.

**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>
5. NorCal Trade and Tech Response: <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”) and NorCal Trade and Tech Detailed Response to SCUSD Concerns Regarding Original Petition Submission (“Response”) 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 and Response, including, but not limited to, the Charter School’s educational plan, finances, and facilities, 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).) Board Action was agendized for December 17, 2017. On that date, Petitioner and the Board mutually agreed to extend Board Action to January 18, 2018, to enable Petitioner to provide written clarification on numerous matters within the Petition. Petitioner timely submitted their Response on December 19, 2017.

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

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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 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

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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;

- 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)).

*For the purposes of efficacy, context, and ease of review, the integrity of the language from the original Executive Summary has been maintained and provided below. A summary of the Petitioner's responses to the Executive Summary, a summary of the Petitioner's proposed amendments to the Petition, and the Charter Review Team's commentary to the Response is italicized and located immediately below each issue. Petitioner's responses to individual Board Member concerns have been included at the end of this document for review.*

#### **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

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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 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.)

*Summary of Petitioner’s Response: Petitioner believes that the District should clarify what it considers part of the Petition because the facilities details were included in the Appendix. Additionally, the proposed use of the Louise Perez Resource Center, is not a “resource center” as used in Education Code section 47605.1, sub. (c). Instead, it is an existing site used by many community based organizations. Petitioner claims that the Petition clearly states that they were referring to classroom sites, not resource centers based upon the information included in their Petition on page 22. Petitioner amends its Petition to use the site at [insert pad address][sic] for the classroom space and pad to teach behind-the-wheel training of Truck Driving. In addition, NTT plans to open classrooms at 3821 41st Ave, Suite A, Sacramento, CA in the Louise Perez Resource Center and classrooms at MSGR Kavanagh Center at 5905 Franklin Blvd.,*

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*Sacramento, CA 95823 as enrollments increase. The Petitioner states the Charter School will use these sites to start the school, if the site at 24th and Florin is not available.*

*However, if the site at 24th and Florin is used, NTT will identify funds from grants or the Charter School's regular funding formula to improve the site. Petitioner identifies that the site needs to be cleaned, have the HVAC addressed, but that no significant structural issues are needed. The Petitioner claims that there are not any Field Act requirements for adult serving charter schools, and the Charter School will schedule the classes of any high school age students in modular buildings that meet Field Act requirements. Petitioner claims that no cost estimates on the scope of these repairs is provided because only one hour was provided to inspect the site. Petitioner's full response is at pages 6-7 of its response.*

*Charter Review Team's (CRT) Commentary Regarding Petitioner's Written Response: In addition to the requested 24<sup>th</sup> and Florin district-owned property, Petitioner cites the use of an undetermined site (currently pursuing a lease at N. 16<sup>th</sup> and McCormack per response for member Vang) for classroom space and pad to teach behind-the-wheel training of Truck Driving along with classrooms at 3821 41<sup>st</sup> Avenue (Louise Perez Resource Center) and 5905 Franklin Blvd. (Msgr. Kavanagh Center). Petitioner provided nominal information regarding facility configurations (administrative office, classrooms, cafeteria-MPR, and restrooms), funding sources, costs, timelines, and lease agreement information. The fact is that Petitioners don't know what the costs are to make the proposed site compliant and usable for their program. No specifics have been provided.*

*Petitioner states that they will identify funds to modify and improve the infrastructure of the 24<sup>th</sup> and Florin site if provided by the District. It is unclear what improvements are needed and the financial contributions expected of the District for initial use and in the future. Petitioner claims, on page 2 of its response, in a response to Board Member Pritchett, that it has increased its facilities budget to address the issues at 24th and Florin site. However, the CRT was unable to identify any specific funds allocated for this purpose in the new budget pages provided by Petitioner. Petitioner should clarify what additional funds it has allocated for this purpose. Petitioner's assertion that Adult Serving Charter Schools do not need to comply with the Field Act raises issues that the Board should be aware of. Specifically, Education Code section 17328, specifically excludes "any building owned or occupied by a unified school district, high school district, or a county superintendent of schools which is used exclusively for adult education purposes" from the requirements of the Field Act. However, the Petitioner's proposed program may admit high school age students, which would prevent the site from being used "exclusively for adult education purposes". Also, while charter school facilities are generally exempt from the Field Act, the District is not. (Ed. Code §47610.5.) This could present legal liability for the District in the event that a high school aged student attending class at the proposed facility, located on District property, was injured due to noncompliance with the Field Act. Additionally,*

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*any improvements made that do not comply with the Field Act would later have to be made compliant with the Field Act, if the District wished to use the facility in the future.*

#### 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.”<sup>1</sup> 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.<sup>2</sup> However, this ADA figure was calculated using educational programs with compulsory 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.

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

<sup>2</sup> [http://www.sscal.com/fiscal\\_print.cfm?contentID=21195](http://www.sscal.com/fiscal_print.cfm?contentID=21195)

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*Summary of Petitioner's Response: Petitioner claims that the 90% ADA is based on the daily attendance with a total enrollment of 200 students, which would result in a daily attendance and an ADA of 180 students. Petitioner explains that the 40% cumulative attendance rate refers to the annual cumulative enrollment, which would consist of 400 to 450 students, due to higher dropout rates for adult students. Petitioner states a 40% cumulative annual attendance rate of 400 to 450 students would result in an average daily attendance of around 180 students. Petitioner will amend the Petition to include the following language in the Petition, "The 40% School Attendance Rate is measured against the annual enrollment, as this is the methodology used by the School Accountability Report Card. The 90% school attendance rate used elsewhere is measured against the daily enrollment, which excludes students who have dropped out of the school in the middle of the year." Petitioner's full response is at pages 8-9 of its response.*

*CRT's Commentary Regarding Petitioner's Written Response: Petitioner's response explaining the 90% ADA rate versus the 40% annual enrollment illustrates a very high student dropout rate at the school. It is not clear as to what the ebb and flow of enrollment at the school will look like over the course of the school year. The CRT is concerned about the impact on instruction, marketing, admissions, enrollment, record keeping, and operations with an enrollment requirement of 450 students to meet the 180 student ADA in the initial school year. The concept of enrolling 400-450 students, in year 1, was not discussed, at all, in the Petition. Additionally, the ability to enroll the necessary quantity of students in the initial year, and higher quantities of students in the subsequent years leading to the Year 5 projected enrollment of 1000 students and ADA of 900 appears ambitious. 2,500 students would need to be enrolled, in year 5, utilizing the Petitioner's ADA calculations. The required number of students the Charter School would need to enroll raises questions regarding whether or not the Petitioner can recruit this many students in order to meet the proposed ADA goals to receive the estimated LCFF funding amounts. The CRT's concerns are elevated after learning that the Highlands Community Charter School, chartered by the Twin Rivers Unified School District, which NorCal Tech and Trade is modeled after, is already operating sites and offering most of the programs proposed by Petitioner within the boundaries of SCUSD. (See <http://www.hccts.org/locations/>.) Given the Adult Education programs already offered by SCUSD, and those offered by the Highlands Community Charter School, Petitioner may have trouble recruiting the necessary numbers of students to meet its ADA projections. Members of the CRT team also have concerns that 90% ADA may not be obtainable for an adult education program based on attendance at other adult education programs within the District.*

- 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.

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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.

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

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provided in the Petition or clearly identified in the budget, while student enrollment is expected to increase significantly.

*Summary of Petitioner's Response: The Petitioner claims that the ratio of average daily attendance to average daily enrollment will be 90%, resulting in an ADA of 180. Petitioner updated LCFF funding calculations to the latest available funding rates, which results in slightly higher revenues than in the original budget. Petitioner hopes to utilize State Revolving Fund Loans and/or funds from the Public Charter School Grants, if awarded. In the event that neither of these funding sources come to fruition, Petitioner will start the school at an undetermined later date or with lower initial enrollment. Petitioner claims that factoring or selling future receivables is based on selling certified ADA numbers and guaranteed LCFF payments. Therefore, the Charter School could not sell future receivables based on uncertified ADA numbers, which would prevent the Charter School from selling future receivables that were not covered by the school's LCFF payments. Petitioner provided an updated budget that reflects updated LCFF funding rates, revises budgets pages to indicate that year one of operations would be 2018-2019 (not 2017-2018), and provides staffing details for year one of operations. Petitioner's full response is at pages 8-22 of its response.*

*CRT's Commentary Regarding Petitioner's Written Response: The CRT notes that factored receivables may cover factored payments on an item to item basis. This fact alone does not constitute a solvent budget. ADA actuals that are lower than projections negatively impact budgets and cash flow. Given the significant quantities of enrolled students required on an annual basis and the disenrollment rate of students, the potentially wild fluctuations in actual enrollment is of concern to the CRT. Additionally, factoring is generally at a cost disadvantage when compared to credit lines and loans. CRT notes that Petitioner cites all 8 initial teachers as Step 1 on the salary scale with an approximate salary of \$44,562. This does not appear to align with the teaching experience of those teacher who signed the Petition. It seems to indicate, per the budget, that only beginning teachers can be hired.*

### 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. These issues are illustrated by, but not limited to, the following actions:

- Board members propose a meeting "to be held by email". (October 3, 2017 Board meeting minutes.)

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- 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.

*Summary of Petitioner's Response: Petitioner alleges that the District requested that Success Skills, Inc. conduct a board meeting during a SCUSD Board meeting, which would have been a Brown Act violation. Petitioner claims that as a public benefit corporation that does not run a charter school, it does not yet need to follow the Brown Act. Petitioner claims that it is dedicated to following the Brown Act and has made efforts to ensure agendas are Brown Act compliant and appropriate timelines are followed to provide notice of meetings. However, Petitioner does not agree to make any amendments to the Petition, but will endeavor to have Brown Act trainings for the Board occur sooner rather than later. Petitioner's full response is at page 32 of its response.*

*CRT's Commentary Regarding Petitioner's Written Response: Petitioner's Bylaws, which were submitted with the Charter Petition as "adopted" by the Success Skills, Inc. Board stated that Petitioner will follow the requirements of the Brown Act. (Appx. B, p. 99.) However, Petitioner now states that: A) Petitioner did not submit its Bylaws to the Secretary of State until December 7, 2017; and B) Petitioner was not obligated to comply with the Brown Act until it was a Charter School. Petitioner should have complied with the Brown Act once it adopted its Bylaws stating it would do so. Regardless, Petitioner now seems to recognize its Brown Act obligations.*

- 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

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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.)

*Summary of Petitioner’s Response: Petitioner acknowledges that current Board policies may violate the Political Reform Act and create conflicts of interest. Petitioner claims this was an honest mistake that results from part of their bylaws being designed for public benefits corporations that do not operate charter schools. Petitioner amended its Bylaws to include a new section 5, which complies with the Political Reform Act. Petitioner states that this revision to their Bylaws was adopted on December 6, 2017 and sent via postal mail on December 7, 2017 to the Secretary of State. Petitioner’s full response is at page 33 of its response.*

*CRT’s Commentary Regarding Petitioner’s Written Response: The CRT is content with the Petitioner’s written response.*

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

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

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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.

*Summary of Petitioner’s Response: Petitioner claims that the software products mentioned in the Petition are all offered to students free of charge. The Charter School also has a backup plan of acquiring computers from the State Surplus, in the event that it does not receive grant funding. The Charter School will use these to teach students how to use technology and will also use technology as part of some of its course offerings. Petitioner amends the Petition to explain that it will apply for the Public Charter School Grant Program, and if it receives this funding, will use a significant portion of these funds for instructional technology. However, if Petitioner does not receive the grant funding, the Charter School will speak with its stakeholders and use less expensive technology, such as technology acquired from state surplus. Petitioner further explains how technology will be used in the school and provides more details regarding the software that the Charter School plans to use. Petitioner’s full response is at page 34 of its response.*

*CRT’s Commentary Regarding Petitioner’s Written Response: The CRT remains concerned with Petitioner’s plan for the use of technology. Petitioner’s proposed curriculum requires extensive use of online resources. However, Petitioner’s plan for technology could result in limited or dated, obsolete technology being provided to students, which would impact student learning. Petitioner should provide a detailed plan regarding how it would fund technology through stakeholders, or acquire sufficient and adequate technology resources from state surplus, to ensure sufficient technology is available to successfully implement the proposed online 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.)

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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

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.)

*Petitioner's Response: Petitioner believes that its teacher signature pages are compliant with the law, but acknowledges that its student signature pages do not comply with the law. Petitioner claims the student signatures were collected to illustrate student interest in the school, and that the teacher signatures adequately fulfill the legal requirement. Additionally, Petitioner does not believe there is a problem with using the same teacher signatures on charter petitions submitted to multiple districts. Petitioner does not believe any amendments to the Petition are necessary because they believe that their teacher signature page complies with the law. Petitioner's full response is at page 35 of its response.*

CRT's Commentary Regarding Petitioner's Written Response: The CRT is content with the Petitioner's written response.

#### 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:

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#### 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 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.

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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.

*Summary of Petitioner's Response: Petitioner disagrees that the descriptions of some elements were not reasonably comprehensive because the lengths of the descriptions were similar to other petitions that have been approved by the District and other charterers. Petitioner touts the experience of those involved in the Charter School. Petitioner also believes it is important to not "over-describe elements" because it is best to make data driven decisions and develop curriculum when all teachers can be involved. Petitioner also points out that what is in the Petition is essentially law. Therefore, by not over-describing elements, the Petitioner can have flexibility and not be required to request material changes that have to be approved by the SCUSD Board. Petitioner acknowledges that it could have done a better job of explaining that programs will grow over time and not all be listed up front. Petitioner states the credentials that teachers will hold are described in the Appendix. Petitioner does not believe that more information needs to be added to the Petition at this time and that its explanation is sufficient. Petitioner's full response is at page 36 of its response.*

*CRT's Commentary Regarding Petitioner's Written Response: Petitioner has identified first year programs as high school completion, Truck Driving, and Elementary English Language Development. However, Petitioner has failed to provide any further descriptions of the curriculum beyond the few sample lesson plans submitted initially with the Petition and seems to indicate that the Charter School will create the curriculum after it has hired staff. The CRT could not garner additional clarification from the written response. The CRT is concerned about the ability of a teaching staff comprised solely with beginning teachers, per the Salary Details in the Response, meeting the demands and challenges as listed above and being tasked with creating the complete curriculum for courses. The 1st and 2nd grade curriculum to be developed, that Petitioner acknowledges, needs to be relevant to adults, will be novel. This is something that should be presented, at least in part, to the District as part of the Petition. Additionally, CRT is wary of any information that utilizes under-describing of elements as a strategy to gain flexibility and avoid the need for material charter revisions that would require a vote of the SCUSD Board. A comprehensively written petition allows the District to perform its oversight obligations.*

### 2. Instructional Delivery

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

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

(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.)

*Summary of Petitioner’s Response:* Petitioner provides information about instructional methods for its students. For Adult Elementary, Petitioner will use Round Robin or Mixed-Pace courses and students will be leveled based upon their CASAS scores. Adult High School programs will be taught using individualized learning labs. A variation of methods will be used to teach CTE programs. Petitioner does not believe that further additions are necessary and that its response is sufficient. Petitioner’s full response is at page 37 of its response.

*CRT’s Commentary Regarding Petitioner’s Written Response:* The CRT is concerned that Petitioner’s response only provides insight into the instructional methods that will be used to deliver content but fails to describe the curriculum that will be taught, how class time will be structured (i.e., instruction, individualized learning, group learning), and how teachers will address the individualized needs of students exhibiting various levels of proficiency.

### 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.

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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.

*Summary of Petitioner’s Response: Petitioner states that Truck Driving will be the first CTE program to become operational. Culinary is the next planned CTE program, but the program will not begin until the right teacher is found and equipment can be acquired. Petitioner states other programs will be developed based upon resources that are available. Petitioner amends the Petition to clarify that in addition to Truck and Bus Driving other CTE programs will be added based upon the availability of an appropriate site, appropriate equipment and the right teacher. Any new sites will be submitted to SCUSD as a material revision. Petitioner’s full response is at page 37 of its response.*

*CRT’s Commentary Regarding Petitioner’s Written Response: The CRT is concerned about the lack of details regarding the Truck Driving program. Additionally, Petitioner states that CTE programs will be developed based upon the resources available. It is notable that program development does not consider the demands and marketplace of the students and their respective careers of interest. Additionally, Petitioner’s proposed CTE programs seem to lack any reliance on WIOA providers. Instead, Petitioner appears to be developing, staffing, providing the facilities, and determining when to roll out these CTE programs without any support or assistance from WIOA partners, which again raises questions regarding Petitioner’s claimed “exclusive partnership” with WIOA providers.*

- 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.

*Summary of Petitioner's Response: Petitioner states that the "Adult Elementary English Language Development" program in the Petition is the same as the "Elementary Level English Language Development" program in the handbook, but that the word "Adult" was not needed because adults would be reading the handbook. Petitioner also states the handbook contains more programs than will initially be offered because it wanted to show that it could support all of these types of programs. Initially, the Charter School will offer Adult Elementary Language Development and Spanish Bilingual Secondary English Language Development. Petitioner states it is not planning to use curriculum for a 6 year for adult first grade, but instead wants to ensure that adults can meet the educational content standards that would be expected of a U.S. 6 year old, with a focus on elementary English by using curriculum designed for adult learners. Petitioner does not believe that further revisions are needed at this time and that its explanation is sufficient. Petitioner's full response is at page 38 of its response.*

*CRT's Commentary Regarding Petitioner's Written Response: The CRT is concerned that Petitioner is presenting a novel program, which places adults in first and second grades, without providing any description of the curriculum or describing how the Charter School will make the curriculum relevant to adults.*

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

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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 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.

*Summary of Petitioner’s Response: Petitioner claims the language used in the Petition was intended to give it an option regarding whether to use the District’s special education services or join a SELPA. Petitioner claims that the District prefers that the Charter School provide its own services and join a different SELPA. Petitioner states that IDEA does not require that special education services be provided to students over 21 (in some cases 22) years of age. Petitioner will use 504 plans and accommodations to serve students who were previously in special education and does not believe Regional Center services will be needed in most cases. Petitioner amends the Petition to remove previous language and indicates that it will become an independent LEA in a SELPA for the purposes of special education. Petitioner will work with SCUSD’s Special Education Department to determine which SELPA option will work best for all parties involved. Petitioner’s full response is at page 39 of its response.*

*CRT’s Commentary Regarding Petitioner’s Written Response: The CRT is not aware of any statements made to NorCal regarding the District’s preference that NorCal join another SELPA. The CRT is also concerned that the Charter School downplays the services its students will need to receive from the Regional Center.*

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

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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.

*Summary of Petitioner’s Response: Petitioner will use SCUSD adult school’s emergency practices. Petitioner believes it would be illegal for them to screen potential students, but the Charter School plans to counsel minor students and their parents to inform them that the minor student may be attending classes with former felons. Petitioner will amend the Petition to include sections from SCUSD’s Adult Education Handbook to the Charter School’s emergency handbook to address situations that are currently not included in the Charter School’s Emergency Handbook. Petitioner will also work with its legal counsel to add a section to the Charter School’s handbook that addresses the issue of the Charter School being legally required to accept all students. Petitioner’s full response is at pages 39-40 of its response.*

*CRT’s Commentary Regarding Petitioner’s Response: The CRT is concerned about Petitioner simply using the SCUSD adult school’s procedures as a substantive portion of their safety plan. The CRT is unaware of Petitioner’s level of knowledge and understanding of the most current SCUSD plans, as well as the associated training to ensure appropriate implementation of the plans. The CRT’s primary concern is to ensure Petitioner takes measures to ensure safety for students due to the adult population to be served by the Charter School, some with previous criminal records. The CRT has grave concerns that the Petitioner’s plan as stated in the written response is only and simply “to counsel any minors (and their parents) who wish to enroll in the school to understand that some of our students are former felons” rather than implementing procedural and operational measures to ensure safety for all. This concern is elevated by the fact that many of the adult students may be taking classes with minors, yet the Charter School has no procedure to screen potentially dangerous offenders, including sex offenders. To not have any process in place is not acceptable.*

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#### 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

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

*Petitioner’s Response: Petitioner claims that Title 5 regulations presume that racial and ethnic balance has been achieved absent specific information to the contrary. Petitioner does not believe any information to the contrary exists here. Petitioner also does not believe specific dates, times, and locations of recruitment efforts are necessary until after pre-enrollment, which will allow it to make data driven decisions. Petitioner amends the language in its Petition to indicate that it will use Census and SCUSD data to review the racial and ethnic balance during its annual LCAP review process. Petitioner’s full response is at page 40 of its response.*

*CRT’s Commentary Regarding Petitioner’s Written Response: The CRT disagrees with the Petitioner’s assertion that the requirements of this element is “presumed to have been met, absent specific information to the contrary.” The specific information to the contrary is the CRT’s stated concern in the Executive Summary about the Petitioner’s lack of a recruitment plan specific to the population served by SCUSD. Additionally, Petitioner’s amendment to include “by consulting both Census and SCUSD data” does not fully satisfy the process as a plan based on the review must also be included and implemented. Petitioner’s response has not provided information to further clarify this Element. Their response ignores the CRT’s stated concerns. Namely: the Petition fails to identify the current demographics of SCUSD, the Petition fails to identify specific recruitment events that would result in a student population that reflects the*

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*demographic makeup of SCUSD, and the Petition fails to include a plan that would correct any racial or ethnic imbalances.*

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.)

*Summary of Petitioner's Response: Petitioner will attempt to reduce the number of questions on its online application. Petitioner will also provide applications in the main office and assist students would may need help completing the enrollment application. Petitioner amends the*

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*Petition to include additional language indicating that the Charter School will assist students with the application, if they desire it. Petitioner's full response is at page 41 of its response.*

*CRT's Commentary Regarding Petitioner's Written Response: The CRT is concerned that the Petitioner is unaware of the demarcation between the application process and the enrollment process. The extensive application-enrollment process may potentially discourage enrollment due to the extensive amount of information requested of the student prior to being offered a "seat" at the school.*

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

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

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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.

*Summary of Petitioner’s Response: Petitioner will provide written notice at least 5 schooldays prior to disenrolling a student. Petitioner states that this is consistent with the requirements of AB 1360. Petitioner amended the Petition to include language requiring written notice to the student and the student’s parent or guardian, if under 18 years old, at least five schooldays notice prior to removing a student from the school. Petitioner’s full response is at page 42 of its response.*

*CRT’s Commentary Regarding Petitioner’s Written Response: The CRT is concerned that Petitioner’s current policy, while providing proper notice, does not provide a hearing or other procedures to challenge a disenrollment. This does not comply with the requirements of AB 1360.*

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

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.

*Summary of Petitioner’s Response: Petitioner states that when writing the Petitioner it has a broad view of where students may come from, and it wanted to provide a disclaimer that legally protected it from over promising something to a student that the Charter School would have no control over. Petitioner amends the Petition to include the required statutory language informing students that they are not required to attend NorCal and explains that other education options are available to students. Petitioner’s full response is at page 42 of its response.*

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*CRT's Commentary Regarding Petitioner's Written Response: The CRT is content with the Petitioner's written response.*

### 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 Workplace 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.

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:

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(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 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.<sup>3</sup> Specifically, Petitioner

<sup>3</sup> ([https://ion.workforcegps.org/resources/2017/03/23/13/30/Sample\\_MOU\\_Infrastructure\\_Costs\\_Toolkit?p=1.](https://ion.workforcegps.org/resources/2017/03/23/13/30/Sample_MOU_Infrastructure_Costs_Toolkit?p=1.))

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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.

Summary of Petitioner's Response: *Petitioner claims that the sample MOU cited in SCUSD's analysis was not one for a charter school and a WIOA agency, but instead is a sample MOU between a local board and one-stop partners. Petitioner believes that using this MOU would make them non-compliant with the law because no exclusivity is required by the MOU used in SCUSD's analysis. Petitioner acknowledges that the MOU could be more specific, but states that the MOU with the Asian Resource Center meets Ed. Code and Title 5 requirements. Petitioner will amend the Petition to remove the geographic exemption language from the Petition. However, Petitioner maintains the language that an exclusive partnership still exists between the Charter School and WIOA in order to claim an exemption to the age limits set forth in Education Code section 47612 subdivision (b), which will allow the Petitioner to receive LCFF funding for adult students enrolled in the school. Petitioner's full response is at page 43 of its response.*

CRT's Commentary Regarding Petitioner's Written Response: *The Board should be aware that, while Petitioner dropped its claim regarding an exemption from geographic restrictions under Education Code section 47605.1(g)(1), Petitioner is still claiming an exclusive partnership with WIOA providers under Education Code section 47612.1. By claiming an exclusive partnership with WIOA, Petitioner will not be required to meet the requirements of Education Code section*

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*47612(b), which requires students over 19 years of age or older to be continuously enrolled and making progress towards a degree in order to be counted toward ADA figures. By claiming the exclusive partnership with WIOA, in accordance with Education Code section 47612.1, Petitioner will be allowed to claim ADA for adult students who have not been continuously enrolled in school, which will allow the Charter School to receive LCFF funding for its adult students. The CRT questions whether the Petitioners have an “exclusive partnership” with WIOA providers. Both WIOA MOUs submitted to SCUSD by the Petitioner lack critical details and are labeled “Affiliation Agreements”. Petitioner’s proposed model also lacks many of the characteristics expected of adult charter schools who maintain exclusive partnerships with WIOA. Here, it appears that Petitioner will only refer all students for services with WIOA providers. This differs from other adult charter schools in exclusive partnership with WIOA because those schools typically bring the educational component to the WIOA partners’ locations, which functions to embed the educational program that the charter school offers into the WIOA program. The close relationship between the WIOA providers and the charter schools in those instances appears more like an exclusive partnership than simply referring students to WIOA providers like Petitioner proposes in their MOUs with WIOA providers. Furthermore, Petitioner is developing, staffing, providing the facilities, and determining when to roll out the CTE programs without any input or assistance from the WIOA providers it claims to be in exclusive partnership with. This calls into question whether NorCal is even eligible to receive LCFF funding.*

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 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.

*Summary of Petitioner’s Response: Petitioner states NTT has been more focused on who will be served, than initially deciding clearly on where they would be served. But the question of where to serve these students is important. And the answer to where to petition often boils down to*

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*seeing which district is most forward-looking and willing to see past the “charter” label, and instead see how NORCAL Trade & Tech can actually be of benefit to the district, without most of the issues that charter schools may bring to a district. So early on, the NTT board believed that they could improve their chances of finding the right district to work with by approaching multiple districts. Petitioner states each of the original districts approached had one reason or another that it did not appear that NTT would be a good win-win. In the case of Dixon, as Mike Brunelle explained, it just didn’t work because there wasn’t the facilities available that would make it work. In other cases, politics of various forms got in the way. And in other cases, we probably just didn’t do a good enough job of explaining ourselves. In none of the cases were the petitions denied. Petitioner’s full response is at page 3 of its response in its comments to Board Member Vang.*

*CRT’s Commentary Regarding Petitioner’s Written Response: The CRT maintains its concerns regarding Petitioner’s use of the “shotgun” approach. Tremendous district resources are expended leading up to Public Hearings. It is noted that four of the five petitions submitted to other school districts progressed to Public Hearings. Had Petitioner engaged in adequate research and discussions with each of the districts prior to petition submission, petition withdraws may have been avoided and thus limiting the expenditures of the respective districts. Petitioners also claim that they missed the deadline to submit a charter petition with this District for the 16-17 school year, which, per AR 0420.4, is between September 1st and March 1st of the prior school year. So Petitioners started submitting petitions elsewhere. Petitioner claims that it wants to educate a specific population in the Sacramento area but failed to consider the transportation concerns regarding the specific population the Charter School wishes to educate. This issue becomes more relevant when considering that Petitioner submitted petitions to Districts, such as Dixon Unified School District, which is farther away from the population center of Sacramento and would create further transportation issues for the identified student population.*

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.<sup>4</sup> 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

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

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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.

*Summary of Petitioner's Response: Petitioner states that Board members do not have any current involvement with Highlands Community Charter School, but acknowledges that the Highlands Community Charter School is under investigation by FCMAT. Petitioner states that Mike Brunelle was the Board President of Highland during the first year of operations only, and that Ward Allen's involvement with the school ended prior to the investigation starting. Petitioner states that SCUSD should follow constitutional due process requirements and not prejudge the investigation, especially since Petitioner claims that nearly half of FCMAT audits find that no fraud or illegal activities occurred. Petitioner's full response is at page 44 of its response.*

*CRT's Commentary Regarding Petitioner's Written Response: The CRT does not know what the FCMAT findings will be, on the individual Petitioner's involvement, if any, with the issues being reviewed by FCMAT. However, it was Petitioners, themselves who put their operation of Highland Community Charter School at issue in the pending Petition. Petitioners specifically tout their involvement and experience in founding the Highlands Community Charter School multiple times throughout their Petition. In regards to Ward Allen, "In 2013, he and three other started Highlands Community Charter School." (Petition, p. 14.) In regarding to SBAC and enrollment data, "SCUSD may wish to look at data from Highlands Community Charter School, which Ward Allen was a co-founder..." (Petition, p. 34.) Petitioner even states in its response, "We also want to point out that the experience of those involved in the charter school is extensive. Much of the experience of Mike Brunelle and Ward Allen has been with SCUSD, and their record can speak for itself; such as the former SCUSD truck driving program winning the Drucker Award. They also gained experience from their work with Highlands Community Charter School, both from what has been successful at that school, and mistakes made." (Petitioner's Response, p. 36.)*

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

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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.

*Petitioner's Response: The Bylaws were adopted by the Success Skills Board and mailed to the Secretary of State on December 7, 2017. Petitioner's full response is at page 44 of its response.*

*CRT's Commentary Regarding Petitioner's Written Response: The CRT has no further comment on the Petitioner's response.*

Petitioner also provided written responses to the information cited in Jack Kraemer's December 8, 2017 email to Mike Brunelle as well as individual Board member concerns from the December 7, 2017 Board meeting. Each respective Board member will self-determine the adequacy of their respective provided responses and has the prerogative to inquire further at the January 18, 2018 Board meeting.

#### Petitioner's Responses to Board Member Concerns:

##### Board Member Comments

During the December 7 SCUSD Board Meeting, each of the board members addressed a variety of thoughts, questions, and concerns. Each of these general topics are addressed below, in the order presented. While several board members echoed similar thoughts, to avoid redundancy, each topic is only addressed once, with generally who raised the topic first.

The Petitioner's responses included below have been briefly summarized for your review.

##### Board Member Pritchett

###### Discrepancy between the 40% and 90% Attendance Goals

*Summary of Petitioner's Response:* Petitioner state that for the operations of an adult-serving charter school, sometimes it is appropriate to use the daily enrollment of the school, and sometimes it is appropriate to use the cumulative annual enrollment. When estimating how much attendance will occur for budgeting purposes, it is appropriate to compare how many students attend on a particular day to how many students who were enrolled on that particular day. Or to measure this across the year, to compare the average daily attendance to the average daily enrollment. This is where Petitioner estimates that 90% of currently enrolled students will attend on a daily basis. But for the purposes of Petitioner's annual goals, Petitioner claims it is required to follow the SARC methodology as much as possible, and so Petitioner derives the

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40% by comparing average daily attendance to cumulative annual enrollment. *Petitioner's full response is at page 1 of its response.*

*CRT's Commentary Regarding Petitioner's Written Response:* *The CRT noted its concerns regarding Petitioner's assertion of a 90% ADA and a 40% cumulative annual enrollment on page 7 of the Executive Summary.*

#### Avoiding Additional Costs for 24<sup>th</sup> & Florin Agreement

*Summary of Petitioner's Response:* Petitioner understands that SCUSD does not want to take on additional costs. Petitioner also recognizes that because there may be more improvements needed to 24<sup>th</sup> and Florin than originally expected, Petitioner has increased its facilities budget in the amended charter petition that will be considered on January 18<sup>th</sup>. *Petitioner's full response is at page 2 of its response.*

*CRT's Commentary Regarding Petitioner's Written Response:* *The CRT noted its concerns regarding the necessary improvements needed to make the 24th and Florin site ready for student use on page 5 of the Executive Summary.*

#### Districts Requirements and Liabilities for an Adult Charter

*Summary of Petitioner's Response:* Petitioner claims that adult-serving charter schools have either the same requirements as a traditional K-12 charter school, or have lower requirements and liabilities, because laws generally believe that adults should have more self-responsibility and less need for the state to step in. And, 24<sup>th</sup> and Florin was originally an adult school campus, so it is likely that it meets the requirements for an adult-serving charter school. *Petitioner's full response is at page 2 of its response.*

*CRT's Commentary Regarding Petitioner's Written Response:* *The CRT noted its concerns regarding the necessary improvements needed to make the 24th and Florin site ready for student use on page 5 of the Executive Summary.*

#### Board Member Ryan

##### Having a Continuance to the January 18 Board Meeting

*Summary of Petitioner's Response:* Petitioner believes that the continuance to January 18 is of benefit, although Petitioner is "a bit dismayed" that it was only given until December 19 to submit its response, given that it would seem more reasonable to allow until early January for a response. *Petitioner's full response is at page 2 of its response.*

*CRT's Commentary Regarding Petitioner's Written Response:* *In order for the CRT to have appropriate time to review the responses, issue findings, provide findings to the Board, and properly prepare the item for the January 18th Board meeting, time was of the essence in*

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*receiving the Petitioner's responses. The need for this quick turnaround was also required due to the closing of the District Office for the Holiday Break.*

#### Board Member Minnick

##### Impact on SCUSD if NTT does not make Projected Attendance

*Summary of Petitioner's Response:* Petitioner explains that in an adult-serving charter school, enrollment occurs year-round, because the students are not in a school. Because of this, hiring of staff will follow enrollment, such that only as enrollment grows, will staff be hired. This is hard to document in the budget that we submitted, as it is a very data driven decision, which occurs on a shorter timescale than the yearly budget. But, DMS, our back office provider, has significant experience with ensuring that charter schools stay solvent, and Mike Brunelle has extensive experience with adult school fiscal matters. *Petitioner's full response is at page 2 of its response.*

*CRT's Commentary Regarding Petitioner's Written Response:* The CRT is concerned that *Petitioner's response does not consider the fixed costs associated with the operation of a charter school. It is true that staffing levels can be reduced to lower costs, in the event that the Charter School does not make its projected attendance, which help to maintain the Charter School's financial stability. However, Petitioner fails to consider that the costs for facilities and other items will be fixed costs, meaning these costs are set expenditures that cannot be reduced, in the event that the school cannot enroll enough students. Therefore, if Petitioner does not meet its projected attendance, this could result in financial instability for the Charter School. Additionally, while having an experienced team will help with fiscal matters, Petitioner fails to address how it will solve under enrollment issues if they arise and how this could specifically impact SCUSD.*

##### Overall Fiscal Impact of Adult Charter on SCUSD

*Summary of Petitioner's Response:* NTT would not use any of the funding from the adult school. Instead, as a charter school, NTT intends to earn the same LCFE apportionment funding as other charter schools, but does so without taking any students who the district earns that type of funding for. *Petitioner's full response is at page 3 of its response.*

NTT can have the following positive fiscal impact on SCUSD:

- SCUSD will receive at least a 1% oversight fee
- If NTT uses 24<sup>th</sup> and Florin or other district site(s), SCUSD will receive revenue for this
- NTT will refer adults who already have a U.S. high school diploma to the Skill Center
- SCUSD and NTT may find other win-win relationships which produce additional SCUSD revenues

In addition to the fiscal benefits, NTT can have other positive outcomes for SCUSD:

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- More of the population of SCUSD will have more education
- Parents of SCUSD students will be more capable of helping their kids
- Economic improvement for SCUSD
- *CRT's Commentary Regarding Petitioner's Written Response: The CRT acknowledges Petitioner's comments.*

#### Board Member Vang

##### NTT's Multiple Petitions

*Summary of Petitioner's Response:* Petitioner states NTT has been more focused on who will be served, than initially deciding clearly on where they would be served. But the question of where to serve these students is important. And the answer to where to petition often boils down to seeing which district is most forward-looking and willing to see past the "charter" label, and instead see how NORCAL Trade & Tech can actually be of benefit to the district, without most of the issues that charter schools may bring to a district. So early on, the NTT board believed that they could improve their chances of finding the right district to work with by approaching multiple districts. Petitioner states each of the original districts approached had one reason or another that it did not appear that NTT would be a good win-win. In the case of Dixon, as Mike Brunelle explained, it just didn't work because there wasn't the facilities available that would make it work. In other cases, politics of various forms got in the way. *Petitioner's full response is at page 3 of its response.*

*CRT's Commentary Regarding Petitioner's Written Response:* The CRT stated it concerns regarding the Petitioner's "shotgun" approach of submitting petitions on page 29 of the Executive Summary.

##### Why NTT is Petitioning SCUSD

*Summary of Petitioner's Response:* Petitioner states Mike Brunelle and Ward Allen have a long history with SCUSD and there was discussion about how great it would be to be able to have the charter school at 24<sup>th</sup> and Florin, where the adult school previously was. Petitioner claims when Mike and Ward were both no longer a part of Highlands Community Charter School, and started to think about which district would be the best to work with, SCUSD was on their minds. But given SCUSD's board policies about when a petition must be submitted, it was not possible to submit a petition early on. *Petitioner's full response is at page 3 of its response.*

*CRT's Commentary Regarding Petitioner's Written Response:* The CRT addresses its concerns regarding Petitioner's response on page 29 of the Executive Summary.

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#### Potential Safety and Noise Issues in the Neighborhood from Truck Driving

Summary of Petitioner's Response: To not cause noise to the neighborhood, NTT is pursuing a lease of space at N. 16<sup>th</sup> and McCormack for all the behind-the-wheel truck driving training. *Petitioner's full response is at page 3 of its response.*

CRT's Commentary Regarding Petitioner's Written Response: *The CRT addresses concerns with Petitioner's proposed facilities on page 5 of the Executive Summary.*

#### Board Member Cochrane ESL being Taught with Adult Education in SCUSD

Summary of Petitioner's Response: Petitioner believes there is a large need for Adult EL course and that there are more Adult EL students than can be served by SCUSD and NTT combined. Petitioner claims when it comes to serving adults who need to learn English, there are differences between an adult school English as a Second Language (ESL) program, and an adult-serving charter schools English Language Development Program. In the adult-serving charter school, English learners attend generally for no less than 4 hours per day, 5 days a week, requiring more commitment than an adult school's ESL program. (On the flip side, an adult school's ESL's program can be more flexible to adults whose schedule can't fit an adult charter school's requirements). Petitioner states, in an adult-serving charter school, English learners are in a complete adult elementary program, and receive appropriate instruction in history, civics, math and science. While adult school's generally offer this type of instruction to English learners, by the nature of an adult-serving charter school, they must ensure that students have learned these topics. Petitioner does not believe its Charter School will be a competitor with the District and that many positive outcomes will be derived from their EL services. *Petitioner's full response is at page 4 of its response.*

CRT's Commentary Regarding Petitioner's Written Response: *The Charter School will not be recruiting a distinct population of students as Petitioner claims. Instead, the Charter School will be serving many of the same adult students that the District's ESL program current serves. The CRT also believes that there is significant overlap in the education program provided by the District and the Petitioner's proposed educational programs. The District's Adult ESL classes meet three hours a day five days a week in the morning with the possibility of students enrolling both morning and afternoon or only enrolling for the morning or the afternoon. Academics are also provided within the District's Adult ESL classes. ESL students are instructed in Civics within the program. After students have completed their ESL training, they progress to Math and other academic subjects, if they need them.*

#### Investigation of Highlands Community Charter School

Summary of Petitioner's Response: Petitioners recognize that when board members read that a charter school that Mike Brunelle and Ward Allen have been involved with, is under investigation, this is something that they rightfully could worry about. Petitioner states that Board members do not have any current involvement with Highlands Community Charter School, but acknowledges that the Highlands Community Charter School is under investigation

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by FCMAT. Petitioner states that Mike Brunelle was the Board President of Highland only during the first year of operations and that Ward Allen's involvement with the school ended prior to the investigation starting. Petitioner claims that nearly half of FCMAT audits find that no fraud or illegal activities occurred. Petitioner believes that unfortunately the wording used in the PowerPoint and in part of the Executive Summary did not provide proper context. *Petitioner's full response is at page 4 of its response.*

*CRT's Commentary Regarding Petitioner's Written Response:* *The CRT team has noted the Petitioner's commentary regarding the FCMAT investigation.*

#### Board Member Woo

##### Concerns about Deficiencies and Issue with only being Resolved by an MOU

*Summary of Petitioner's Response:* Petitioner believes that some issues can be resolved by an MOU. However, other issues are better solved by amending the Petition. Further, Petitioner believes that appropriate revisions can be made by the next Board meeting on January 18, 2018. While Petitioner notes the challenges presented by the short turnaround time, it believes that the main concerns were addressed by their amendments to the Petition. *Petitioner's full response is at page 5 of its response.*

*CRT's Commentary Regarding Petitioner's Written Response:* *While the CRT believes that some issues have been resolved satisfactorily, many areas of concern still exist.*

#### NTT Absorbing the Cost to Make 24<sup>th</sup> and Florin Usable for Adult Students

*Summary of Petitioner's Response:* We have adjusted our budget to be able to absorb reasonable costs of making 24<sup>th</sup> and Florin usable for our charter school. As noted earlier, this should cost no more than what is required for a traditional charter school that serves children, and may even cost less. *Petitioner's full response is at page 5 of its response.*

*CRT's Commentary Regarding Petitioner's Written Response:* *The CRT noted its concerns regarding the facilities costs of the site at 24th and Florin in the Executive Summary on page 5.*

#### Board Member Hansen

##### Community Support and the Mayor's Support

*Summary of Petitioner's Response:* Petitioner believes that the many letters of support from community leaders demonstrates that what NTT will do is valuable to Sacramento, and that the leaders of Success Skills, Inc. are respected in the community. Petitioner especially appreciates Mayor Steinberg's support, and believe that our adult-serving charter school will advance the excellent work he is doing to improve Sacramento economically, as well as ensuring that we help those who are in the most need. *Petitioner's full response is at page 5 of its response.*

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*CRT's Commentary Regarding Petitioner's Written Response: The CRT acknowledges Petitioner's commentary.*

### 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

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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 January 18, 2018; 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 April 19, 2018.

**PASSED AND ADOPTED** by the Sacramento City Unified School District Board of Education on this 18<sup>th</sup> day of January, 2018, by the following vote:

AYES: \_\_\_\_  
NOES: \_\_\_\_  
ABSTAIN: \_\_\_\_  
ABSENT: \_\_\_\_  
ATTESTED TO:

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Jorge A. Aguilar  
Secretary of the Board of Education

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Jessie Ryan  
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 January 18, 2018; 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 18<sup>th</sup> day of January, 2018, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ATTESTED TO:

\_\_\_\_\_  
Jorge A. Aguilar  
Secretary of the Board of Education

\_\_\_\_\_  
Jessie Ryan  
President of the Board of Education