

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Kiely Hosmon, Director, Youth Commission  
Itzel Estrada, Youth Commission

FROM: Angela Calvillo, Clerk of the Board by *Victor Young*

DATE: January 27, 2022

SUBJECT: RE-REFERRAL FROM BOARD OF SUPERVISORS

The Board of Supervisors has received the following proposed legislation which is being referred to the Youth Commission as per Charter, Section 4.124 for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

**File No. 220119 (Duplicated from File No. 211284)**

**Charter Amendment (Second Draft) to amend the Charter of the City and County of San Francisco to modify the process for expending funds in the Public Education Enrichment Fund to support the San Francisco Unified School District; and to require the School District to enter a data sharing agreement with the City and the Board of Education to submit a certification of compliance with specified governance requirements before the City appropriates funds to the San Francisco Unified School District not otherwise required by the Charter or State law; at an election to be held on June 7, 2022.**

Please return this cover sheet with the Commission's response to **Victor Young, Assistant Clerk, Rules Committee.**

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**RESPONSE FROM YOUTH COMMISSION**    Date: \_\_\_\_\_

\_\_\_\_\_ **No Comment**

\_\_\_\_\_ **Recommendation Attached**

\_\_\_\_\_  
**Chairperson, Youth Commission**

1 [Charter Amendment - Funding for the San Francisco Unified School District; Funding  
2 Conditions on City Appropriations for the School District]

3 **Describing and setting forth a proposal to the voters at an election to be held on June 7,**  
4 **2022 to amend the Charter of the City and County of San Francisco to modify the process**  
5 **for expending funds in the Public Education Enrichment Fund to support the San**  
6 **Francisco Unified School District; and to require the School District to enter a data sharing**  
7 **agreement with the City and the Board of Education to submit a certification of compliance**  
8 **with specified governance requirements before the City appropriates funds to the San**  
9 **Francisco Unified School District not otherwise required by the Charter or State law.**

10  
11 Section 1. Findings. The People of the City and County of San Francisco find as  
12 follows:

13 This Charter amendment shall be known as the Better Schools Initiative.

14 It is the intent and moral imperative of the City and County of San Francisco to provide  
15 every child and family—without exception—an opportunity to develop to their maximum  
16 potential. The extent to which we attend to the wellbeing of San Francisco’s children and  
17 families is an expression of our collective values and a vital investment in our collective  
18 aspirations. San Francisco will thrive when our children and families thrive.

19 This Charter amendment calls for a set of supports and improvements for the San  
20 Francisco Unified School District (SFUSD) Board of Education. Just as SFUSD’s dedicated  
21 teachers, administrators, and support staff serve our City’s students, so too should its Board  
22 members. All SFUSD students deserve to have Board members who are resolutely focused on  
23 the needs of students and their families and unswayed by issues that distract from that focus; who  
24 work effectively with the Superintendent as a governance team; who govern SFUSD with a long-  
25 term vision and in a fiscally prudent manner; and who take actions aligned with accepted  
governance best practices.

1           Given San Francisco’s moral imperative, we are compelled to act with urgency and  
2 determination to create public systems that live up to the ambitions of our youth and families.  
3 To that end, this measure creates structures and supports that ensure the SFUSD Board of  
4 Education is student-centered, strategic, fiscally responsible, professional, responsive to the  
5 community, transparent, and focused with the utmost determination on improving academic  
6 achievement and student wellbeing; requires agreements between SFUSD and the City to ensure  
7 public dollars are transparently spent on student enrichment; and reaffirms San Francisco’s  
8 commitment to supporting the vision of Universal Early Care and Education.

9  
10           Section 2. The Board of Supervisors hereby submits to the qualified voters of the City  
11 and County, at an election to be held on June 7, 2022, a proposal to amend the Charter of the  
12 City and County by adding Section 16.121, and revising Sections 16.123-2, 16.123-6, and  
13 16.123-8, to read as follows:

14           NOTE:           **Unchanged Charter text and uncodified text** are in plain font.  
15                           **Additions** are *single-underline italics Times New Roman font*.  
16                           **Deletions** are ~~*strike-through italics Times New Roman font*~~.  
17                           **Asterisks** (\* \* \* \*) indicate the omission of unchanged Charter  
18 subsections.

17                           **SEC. 16.121. DISCRETIONARY APPROPRIATIONS TO THE SAN FRANCISCO**  
18 **UNIFIED SCHOOL DISTRICT; CERTIFICATION REGARDING GOVERNANCE**  
19 **REQUIREMENTS AND DATA SHARING AGREEMENT.**

20                           **(a) Certification and Data Sharing Agreement Prior to Approval of Discretionary**  
21 **Appropriations to the San Francisco Unified School District. Prior to the City’s approval of**  
22 **any appropriation to the San Francisco Unified School District (“District”) not required by this**  
23 **Charter or State law, the following conditions must be met:**  
24  
25

1                   (1) The Board of Education must submit to the Mayor and the Board of  
2 Supervisors a written certification stating that the District and the Board of Education complied  
3 with the governance requirements of subsection (b) during the preceding calendar year. The  
4 certification shall be accompanied by a written report supporting the certification.

5                   (2) The District must enter into a data-sharing agreement with the City, or  
6 have an existing data-sharing agreement with the City, under which the District agrees to share  
7 any appropriate and relevant data with the Department of Children, Youth, and Their Families  
8 and the Office of Early Care and Education (or any successor agency) during the period in  
9 which the District will use the funds.

10                   **(b) Governance Requirements.**

11                   (1) Duties and Roles of the Board Education. The Board of Education shall  
12 exercise the following duties and roles as specified:

13                   (A) Vision and Strategy. To ensure the District has a strategic plan that  
14 reflects the vision, values, and needs of the San Francisco community and a Superintendent who  
15 is capable and supported to implement it, the Board of Education shall:

16                   (i) Establish the overall vision and high-level goals of the District  
17 and monitor progress toward those goals;

18                   (ii) Provide input on and approve the strategic plan proposed by  
19 the Superintendent under Section (b)(2)(B) of this Section and ensure the community's vision and  
20 values are represented in the plan;

21                   (iii) Support the Superintendent's efforts to implement the  
22 strategic plan, including supporting the coordination and collaboration with City departments  
23 serving children and families; and

24                   (iv) Serve as the appointing authority of the Superintendent and  
25 General Counsel but not dictate, suggest or interfere with respect to any appointment,

1 promotion, compensation, or disciplinary action regarding other District staff unless otherwise  
2 required by law; and conduct an annual evaluation of the Superintendent.

3 (B) Fiscal Oversight. To create the conditions and policies for the  
4 District to operate in an efficient and fiscally prudent manner, the Board of Education shall:

5 (i) In its discretion, approve the District's budget;

6 (ii) Request that the Superintendent present a financial impact  
7 analysis for any change in policy or practice that has total financial resource requirements  
8 totaling greater than \$2 million in one year or \$5 million over five years;

9 (iii) In its discretion, approve ballot measures proposed by the  
10 District, including bond measures;

11 (iv) In its discretion, approve contracts governing the terms and  
12 conditions of employment with labor organizations representing the District's employees;

13 (v) In its discretion, approve contracts above \$250,000 as well as  
14 those that require Board of Education approval under the California Education Code, but not  
15 dictate, suggest, or interfere with respect to any other contracts proposed or entered by the  
16 District;

17 (vi) In its discretion, approve capital projects; and

18 (vii) In its discretion, approve the settlement of legal proceedings  
19 involving the District.

20 (C) Separation of Duties. So that the Board of Education and  
21 Superintendent can fulfill their unique roles while working together as a governance team, the  
22 Board of Education and its members, as applicable, shall:

23 (i) Not perform administration or management functions that are  
24 clearly the responsibility of the Superintendent and staff;

1 (ii) Submit any requests for information from the District to the  
2 Superintendent or the Superintendent's designee and not directly to other District employees  
3 except with permission of the Superintendent; and

4 (iii) With the exception of complaints concerning the  
5 Superintendent of General Counsel and any complaints asserted within the parameters of an  
6 established whistleblower program, refer complaints about District administration or  
7 management to the Superintendent or Superintendent's designee so that they may receive proper  
8 consideration through the appropriate District process.

9 (D) Community Engagement. To understand and faithfully represent the  
10 community's vision and values, the Board of Education, and its members, as applicable, shall:

11 (i) Annually create and execute a plan for engaging with a broad  
12 and representative cross-section of the San Francisco community. The plan shall include  
13 dedicated activities where the primary goal is to listen to community members;

14 (ii) Subject to any applicable public noticing requirements, use  
15 methods other than public comment periods in regular and special board meetings to solicit  
16 feedback and input from the community. Methods may include but are not limited to facilitating  
17 small group listening sessions, observing School Site Council meetings, and volunteering in  
18 schools;

19 (iii) Ensure that forums for community engagement are accessible  
20 to community members who may not otherwise be able to attend regular or special Board of  
21 Education meetings;

22 (iv) Gather input from the community in advance of major policy  
23 decisions that would result in shifts in the District's overall vision and high-level goals; and

24 (v) Share information with the public regarding District  
25 performance and major policy decisions that impact student achievement or wellbeing.

1                                    (E) Governance Standards. To ensure the Board of Education models the  
2 highest standard of conduct and efficacy, the Board and its members, as applicable, shall:

3                                    (i) Keep academic achievement and wellbeing for all students as  
4 the primary focus of actions and decisions, and shall not hold any partisan principle, group  
5 interest, or personal interest above the education of students;

6                                    (ii) Act with integrity, treat others with dignity, and understand  
7 the implications of demeanor and behavior;

8                                    (iii) Assume collective responsibility for building unity and  
9 creating a positive organizational culture, including recognizing and respecting differences of  
10 perspective and style on the Board and among staff, students, families, and the community;

11                                   (iv) Manage Board meetings in a manner that allows for  
12 appropriate consideration of issues, respects community members' time and participation, and  
13 places central emphasis on student achievement and wellbeing;

14                                   (v) Ensure that individual Board members do not exercise the  
15 authority of the Board, for example by speaking on behalf of the Board, without express advance  
16 permission from the Board;

17                                   (vi) Ensure that individual Board members do not use their  
18 position as a Board member to attempt to influence District employees about issues specifically  
19 related to the Board member's child or child's school (when the child is attending a District  
20 school or may be attending a District school in the future); and

21                                   (vii) Adopt and periodically review and revise as appropriate  
22 governance principles, norms, and protocols.

23                                   (F) Professional Development. To support development of the  
24 knowledge, skills, habits, and mindsets of Board members to best serve the interests of San  
25 Francisco's children and to ensure the Board regularly assesses and reflects upon its



1 performance and identifies areas for improvement, the Board and its members, as applicable,  
2 shall:

3 (i) Regularly engage in training and ongoing coaching. Such  
4 training shall include, at a minimum, the following elements: monitoring and improving student  
5 outcomes, governance, financial and budgetary literacy, ethics, equity, community engagement,  
6 and leadership;

7 (ii) Ensure initial training on the above elements to new Board  
8 members before they assume office or within 60 days of assuming office;

9 (iii) Conduct an annual self-evaluation before completing the  
10 Board's evaluation of the Superintendent. The self-evaluation shall, at a minimum: assess the  
11 Board's contribution toward improving student outcomes including academic achievement and  
12 wellbeing, and assess the Board's adherence to its governance principles, norms, and protocols  
13 as adopted by the Board; and

14 (iv) Contract with one or more experts who are not employed by  
15 the District to facilitate the training, coaching, and self-evaluations required in subsections  
16 (b)(1)(F)(i)-(iii), provided that the Board and the Superintendent must agree on the selection of  
17 the experts; or provide opportunities to receive training from outside entities, including but not  
18 limited to conferences.

19 (G) Annual Report. To ensure the Board holds improving student  
20 outcomes as its highest priority, to ensure the general public has access to clear data regarding  
21 student outcomes, and to ensure the Mayor and Board of Supervisors can be effective partners  
22 with the District, the Board of Education shall:

23 (i) Request that the Superintendent create an easily  
24 understandable and succinct annual report that includes the District's progress toward its  
25

1 overall vision and high-level goals, including student outcome goals for individual student  
2 groups' academic achievement and wellbeing; and

3 (ii) Submit the report to the Mayor and the Board of Supervisors.

4 (H) By April 1 each year, each member of the Board of Education must  
5 certify in writing that they have read and understand the requirements contained in this  
6 subsection (b)(1).

7 (2) Duties and Roles of Superintendent. The role of the Superintendent is to  
8 oversee the management and administration of the District and execute its strategic plan. In  
9 addition to any responsibilities required by law or assigned to the Superintendent by the Board  
10 of Education, the Superintendent shall have the responsibilities listed below. These  
11 responsibilities may not be fulfilled by the Board of Education or by its individual members. The  
12 Superintendent shall:

13 (A) Implement the policies, vision, and goals set by the Board of  
14 Education;

15 (B) Develop and implement a strategic plan, including receiving Board of  
16 Education and community feedback concerning the plan;

17 (C) Unless otherwise required by law, serve as the appointing authority  
18 for all employees of the District except the General Counsel, which includes decisions regarding  
19 appointment, promotion, compensation, and disciplinary action;

20 (D) Receive and address complaints raised by families, students, staff,  
21 and members of the public concerning problems at schools, including but not limited to problems  
22 with families, students, District vendors, and staff except the Superintendent and the General  
23 Counsel, and with the exception of complaints submitted within the parameters of an established  
24 whistleblower program;

25 (E) Manage the District's budget approved by the Board of Education;

1 (F) Inform the Board of Education about progress toward strategic goals  
2 and significant operational issues on a timely and regular basis; and

3 (G) Present a financial impact analysis for any change in policy or  
4 practice that has total financial resource requirements totaling greater than \$2 million in one  
5 year or \$5 million over five years.

6 To the extent financial resources are required to satisfy the governance requirements of this  
7 subsection (b), the Board of Education shall include such resources in the District's budget.

8 **(c) Statement of Policy Concerning Qualities of Members of the Board of Education.**

9 The people of San Francisco believe that effective members of the Board of Education  
10 can come from all parts of the community and all backgrounds. The children of San Francisco  
11 deserve the best members of the Board of Education that the City has to offer, and to that end,  
12 the people of San Francisco aspire to seek members who, at a minimum, have demonstrated the  
13 following traits.

14 (A) Commitment to improving all students' outcomes, including academic  
15 achievement and wellbeing;

16 (B) Unqualified belief that all District students can achieve at high levels;

17 (C) Community leadership;

18 (D) Commitment to serving in a governance role and not performing duties  
19 reserved for management;

20 (E) Commitment to sound fiscal management and strategic resource allocation;  
21 and

22 (F) Ability to work collaboratively with colleagues and stakeholders who hold  
23 diverse points of view.

1           (d) No Conflict With State Law. This Section 16.121 is not intended to supersede State  
2 law and shall not be interpreted or applied so to create any requirement, power, or duty in  
3 conflict with State law.

4  
5           **SEC. 16.123-2. PUBLIC EDUCATION ENRICHMENT FUND.**

6           (a)     **Creating the Fund.** There shall be a Public Education Enrichment Fund. The  
7 City shall each year appropriate monies to the Public Education Enrichment Fund according to  
8 subsections (b), (c), and (d), below.

9           (b)     **Baseline Appropriations.**

10           (1) Amount of Baseline Appropriations. The Fund shall be used exclusively  
11 to increase the aggregate City appropriations to and expenditures for the San Francisco Unified  
12 School District. To this end, except as provided in subsection (b)(2) or in Section 16.123-8, the  
13 City shall not reduce the amount of such City appropriations (not including appropriations from  
14 the Fund and exclusive of expenditures mandated by state or federal law) in any year during  
15 which funds are required to be set aside under this Section 16.123-2 below the amount so  
16 appropriated for Fiscal Year 2002-2003 (“the base year”). These baseline appropriations shall be  
17 separate from the City’s annual contributions to the Public Education Enrichment Fund under  
18 subsection (c), and shall be appropriated by the City to the School District each year through and  
19 including Fiscal Year 2040-2041, except as provided in subsection (b)(2) or in Section 16.123-8.

20           The amount of the City’s baseline appropriations to the School District shall be adjusted  
21 for each year after the base year by the Controller based on calculations consistent from year to  
22 year by the percentage increase or decrease in City and County discretionary General Fund  
23 revenues. In determining City and County discretionary General Fund revenues, the Controller  
24 shall only include revenues received by the City and County that are unrestricted and may be  
25 used at the option of the Mayor and the Board of Supervisors for any lawful City purpose.

1 Additionally, in determining aggregate City and County discretionary General Fund revenues,  
2 the Controller shall not include revenues received by the City under the increased rates in  
3 Business and Tax Regulations Code Sections 953.1(g), 953.2(h), 953.3(h), 953.4(e), 953.5(d),  
4 953.6(f), 953.7(d), and 953.8(i) adopted by the voters at the general municipal election on  
5 November 3, 2020, and shall not include revenues received by the City under Article 36 of the  
6 Business and Tax Regulations Code adopted by the voters at the general municipal election on  
7 November 3, 2020. Errors in the Controller's estimate of discretionary revenues for a fiscal year  
8 shall be corrected by an adjustment in the next year's estimate. Using audited financial results for  
9 the prior fiscal year, the Controller shall calculate and publish the actual amount of City  
10 appropriations that would have been required under this baseline for the School District.

11 (2) **School District Spending Proposal and Data Sharing Agreement.**

12 (A) In Fiscal Year 2024-25, again in Fiscal Year 2028-29, and every  
13 fifth year thereafter, as a condition of receiving funds under this Section 16.123-2, the School  
14 District shall submit a proposal to the Department of Children, Youth, and Their Families, the  
15 Mayor, and the Board of Supervisors describing how it plans to use the baseline funds described  
16 in this subsection (b) during the subsequent five fiscal years consistent with the Charter, the  
17 Community Needs Assessment described in Section 16.108, the outcomes framework described in  
18 Section 16.127-5, and the Children and Families Plan described in Section 16.127-2, if that Plan  
19 has been published. The Board of Supervisors shall consider the report and shall approve or  
20 disapprove the School District's proposal by resolution. Before adopting such a resolution, the  
21 Board of Supervisors shall request recommendations from the School District's Public  
22 Education Enrichment Fund Community Advisory Committee, or any successor body created by  
23 the School District. If the Board of Supervisors adopts a resolution disapproving the School  
24 District's proposal, the School District may submit a modified proposal. The City shall not  
25 provide the School District any funds under this subsection (b) during the five-year period until

1 and unless the Board of Supervisors adopts a resolution, with approval by the Mayor, approving  
2 a proposal submitted by the School District.

3 (B) Beginning in Fiscal Year 2023-24, the City shall not provide the  
4 School District any funds under this subsection (b) in any fiscal year unless the School District  
5 has entered a data sharing agreement with the City in which the School District agrees to share  
6 any appropriate and relevant data with the Department of Children, Youth, and Their Families  
7 and the Office of Early Care and Education (or any successor agency) in that fiscal year.

8 \* \* \* \*

9  
10 **SEC. 16.123-6. EXPENDITURE PLANS.**

11 (a) No later than April 1 of each year ~~during the term of this measure~~, the San  
12 Francisco Unified School District ("District") and the Office of Early Care and Education  
13 ("OECE") or any successor agency shall each submit an expenditure plan for funding to be  
14 received from the Public Education Enrichment Fund for the upcoming fiscal year to the Mayor  
15 and the Board of Supervisors, in response to the Controller's March fund estimate for the coming  
16 fiscal year. The District's expenditure plan shall also (1) describe the District's plans to ensure  
17 oversight and transparency of the spending through regular review by the Board of Education,  
18 the District's Public Education Enrichment Fund Community Advisory Committee, or any  
19 successor body to that Committee created by the District, and (2) specifically describe plans to  
20 ensure oversight and transparency in the event the District considers changing its expenditure  
21 plan in the middle of the fiscal year.

22 (b) The plans shall include a budget for the expenditures, descriptions of programs  
23 and services, performance goals, student impact goals, target populations, hiring and recruitment  
24 plans for personnel, plans for matching or other additional funding, operating reserves,  
25 identification of carryover funds from the previous fiscal year and reallocation use for the

1 current fiscal year, and any other matters that the District and the OECE or any successor  
2 agency deem appropriate or the Mayor or the Board of Supervisors requests.

3 (c) In addition to the annual expenditure plan described in this Section 16.123-6, the  
4 District shall submit to the Mayor and the Board of Supervisors quarterly and year-end reports  
5 describing actual expenditures and activities as described in subsection (b), including but not  
6 limited to explanation of progress in design and delivery of programs, and in meeting student  
7 impact goals identified in the annual expenditure plan.

8 (ed) The Mayor ~~and~~ or the Board of Supervisors may request further explanation of  
9 items included in the plans, and the District and the OECE or any successor agency shall  
10 respond in a timely manner to such inquiries. The Board may place appropriations provided for  
11 under this measure on reserve until it has received adequate responses to its inquiries.

12  
13 **SEC. 16.123-8. ADJUSTMENTS.**

14 (a) **Audit Recommendations.** The Mayor and the Board of Supervisors may suspend  
15 the City's disbursements from the baseline appropriations or the Public Education Enrichment  
16 Fund under Sections 16.123-3, 16.123-4, or 16.123-5 in whole or in part for any year where the  
17 Controller certifies that the San Francisco Unified School District ("District") or the Office of  
18 Early Care and Education ("OECE") or any successor agency has failed to adopt audit  
19 recommendations made by the Controller.

20 As part of the audit function, the Controller shall periodically review performance and  
21 cost benchmarks developed by the ~~School~~ District and the OECE or any successor agency,  
22 including:

- 23 (1) Fund dollars spent for services, materials, and supplies permitted under the  
24 Charter;
- 25 (2) Fund dollars spent as reported to the City;

- 1 (3) Supporting documentation of Fund expenditures; and,  
2 (4) Progress towards established workload, efficiency, and effectiveness  
3 measures.

4 (b) **Reserve Policies.** The Mayor and the Board of Supervisors may suspend the City's  
5 disbursements from the baseline appropriations or the Public Education Enrichment Fund under  
6 Sections 16.123-2, 16.123-4, or 16.123-5 in whole or in part for any year where the Controller  
7 certifies that the ~~San Francisco Unified School~~ District or the OECE has failed to adopt reserve  
8 policies recommended by the Controller.

9 \* \* \* \*

10 ~~(d) **New Local Revenues.** The Board of Supervisors may, by ordinance, proportionally~~  
11 ~~reduce the contribution to the Public Education Enrichment Fund and the disbursements to the~~  
12 ~~San Francisco Unified School District and the OECE required by Sections 16.123-1 through~~  
13 ~~16.123-10 if the voters of San Francisco adopt new, dedicated revenue sources for the School~~  
14 ~~District or the OECE, and the offsetting reduction in disbursements is specifically authorized by~~  
15 ~~the local revenue measure.~~

16 (ed) **New State Revenues.** Following full implementation of the per-student funding  
17 targets outlined for ~~SFUSD~~ the District in the State's Local Control Funding Formula ("LCFF"),  
18 as adopted in 2013, the Board of Supervisors may, by ordinance, proportionally reduce the  
19 contribution to the Public Education Enrichment Fund and the disbursements to the ~~San~~  
20 ~~Francisco Unified School~~ District required by this measure if the percentage increase in per-  
21 pupil LCFF funding provided by the State of California to the ~~San Francisco Unified School~~  
22 District in any subsequent fiscal year exceeds the percentage increase in the City's cost of living  
23 during the previous fiscal year.

24 ~~The Board of Supervisors may, by ordinance, proportionally reduce the contribution to~~  
25 ~~the Public Education Enrichment Fund and the disbursements to the OECE if the State of~~



1 ~~California provides funding to the City for universal preschool, provided that such~~  
2 ~~disbursements are not required to match state and/or other funding.~~

3

4 APPROVED AS TO FORM:  
5 DAVID CHIU, City Attorney

6 By: \_\_\_\_\_ /s/  
7 JON GIVNER  
8 Deputy City Attorney

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