



# SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item# 10.5

**Meeting Date:** August 1, 2019

**Subject:** Approve Issuance of NorCal Trade and Tech Notice of Violations

- 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:** Take action to issue the Notice of Violations to NorCal Trade and Tech.

**Background/Rationale:** Sacramento City Unified School District (“District”) granted NorCal Trade and Tech’s (“NorCal”) initial petition on January 18, 2018, for a term of five years, beginning on July 1, 2018 and expiring June 30, 2023. Pursuant to NorCal’s petition, the charter school seeks to serve adult students over 18 years old and high school students under the provisions of the Workforce Investment Opportunity Act (WIOA). Over the past year, NorCal has operated in violation of its charter, engaged in fiscal mismanagement, and breached compliance with law. Due to the aforementioned, District is issuing a Notice of Violations to NorCal Trade and Tech. The staff’s analysis will be presented for Board Action on August 1, 2019.

**Financial Considerations:** Legal costs associated with the Notice of Violations

**LCAP Goal(s):** Family and Community Empowerment

**Documents Attached:**

1. Executive Summary
2. Notice of Violations
3. Exhibits to Notice of Violations – available upon request from the Board of Education Office

**Estimated Time of Presentation:** 5 minutes

**Submitted by:** Iris Taylor, Chief Academic Officer and Ed Sklar,  
Lozano Smith

**Approved by:** Jorge A. Aguilar, Superintendent

# Board of Education Executive Summary

## Academic Office: Issuance of NorCal Trade and Tech

### Notice of Violations

August 1, 2019



## I. Overview

### *Action Proposed:*

Sacramento City Unified School District (“District”) and legal counsel have conferred on the operational and fiscal performance and practices of NorCal Trade and Tech (“NorCal”). After careful review, District staff have identified a number of concerns and violations over the past year. As a result, District Staff believe NorCal has operated in violation of its charter, engaged in fiscal mismanagement, and breached compliance with law. A Notice of Violation is the first step in the charter revocation process. Due to the aforementioned, this Board is asked to issue a Notice of Violations to NorCal Trade and Tech.

### *History:*

Sacramento City Unified School District (“District”) granted NorCal Trade and Tech’s (“NorCal”) initial petition on January 18, 2018, for a term of five years, beginning on July 1, 2018 and expiring June 30, 2023. Pursuant to NorCal’s petition, the charter school seeks to serve adult students over 18 years old and high school students in partnership with the Workforce Innovation Opportunity Act (WIOA) program.

## II. Driving Governance:

Pursuant to section 47607, subdivision (d), the authorizing entity of a school’s charter is required to notify the charter school in writing of any violation and to give the charter school a reasonable opportunity to remedy the violation prior to revocation. Pursuant to section 47607, subdivision (c), the authorizing entity may revoke the charter of a charter school if it finds, through a showing of substantial evidence, that the charter school:

- (1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter;
- (2) Failed to meet or pursue any of the pupil outcomes identified in the charter;
- (3) Failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement; and/or
- (4) Violated any provision of law.

The chartering authority is to consider increases in pupil academic achievement for all groups of pupils served by the charter school as the most important factor in determining whether to revoke a charter. (Ed. Code, § 47607, subd. (c)(2).)

## IDENTIFICATION OF VIOLATIONS

## Board of Education Executive Summary

### Academic Office: Issuance of NorCal Trade and Tech

#### Notice of Violations

August 1, 2019



1. NorCal has committed material violations of conditions, standards, and procedures in the Charter.

NorCal has violated its Charter with respect to student assessment, staff professional development, school safety, conflict of interest provisions, and its Workforce Innovation and Opportunity Act ("WIOA") program.

2. NorCal has engaged in fiscal mismanagement.

NorCal drastically over-estimated its projected average daily attendance ("ADA"), which resulted in advancement of funds from the state far in excess of what the Charter School should have been awarded. Now, the Charter School is likely required to reimburse the State of California for a portion or all of that over-advancement. The Charter School also received a large grant from the CDE, but did not comply with terms of the grant, so now must reimburse the CDE for the full grant amount. Additionally, NorCal is delinquent on its payroll, payroll taxes and required contributions to its employees' CalSTRS accounts.

3. A number of NorCal's practices constitute violations of the law, including, but not limited to, a number of violations identified above in sections one and two.

To the District's knowledge, NorCal's fiscal mismanagement has precluded the Charter School from paying salary and benefits to its employees for recent pay periods, in violation of Labor Code section 204 et seq. As mentioned above, NorCal's violations of the conflict of interest and WIOA provisions in its Charter may also constitute violations of the law.

#### **III. Budget:**

Legal costs associated with the Notice of Violation

#### **IV. Goals, Objectives and Measures:**

NA

#### **V. Major Initiatives:**

NA

#### **VI. Results:**

Due to concerns and violations described in the report, District staff recommend that Sacramento City Unified School District Board of Education ("Board") conference and take action to issue the Notice of Violations to NorCal Trade and Tech. The findings in the report demonstrate that the NorCal violations meet the following conditions pursuant to section 47607, subdivision (c):

## Board of Education Executive Summary

Academic Office: Issuance of NorCal Trade and Tech

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- (1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter.
- (2) Failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement.
- (3) Violated any provision of law.

### **VII. Lessons Learned/Next Steps:**

District staff recommend that the Board conference and take action to issue the Notice of Violations to NorCal Trade and Tech.

**NORCAL TRADE & TECH**  
**(5 Cal. Code Regs., § 11968.5.2, subd. (a).)**

In accordance with the California Code of Regulations, Title 5, section 11968.5.2, subdivisions (a) and (b), the Sacramento City Unified School District (“District”) provides the following notice to NorCal Trade & Tech and the Governing Board of Success Skills, Inc. at least seventy-two (72) hours prior to the August 1, 2019 Sacramento City Unified School District Board of Education (“District Board”) meeting:

**PLEASE TAKE NOTICE** that at or about **6:30 p.m. on August 1, 2019**, the District Board will meet at the Serna Center Community Conference Rooms, 5735 47th Avenue, Sacramento, CA 95824, and will consider whether to issue the Notice of Violations, attached hereto, based upon NorCal Trade & Tech’s violations of the law, its charter, as well as its fiscal mismanagement.

**NOTICE OF VIOLATIONS TO  
NORCAL TRADE & TECH AND SUCCESS SKILLS, INC.  
(5 Cal. Code Regs., § 11968.5.2, subd. (b).)**

This serves as official notification, pursuant to California Education Code section 47607, subdivision (d)<sup>1</sup> and the California Code of Regulations, Title 5, section 11968.5.2 of the Sacramento City Unified School District’s (“District”) immediate concerns regarding Success Skills, Inc.’s (“Success Skills”) operation of NorCal Trade & Tech (“Charter School” or “NorCal”). These concerns, if not cured, may lead to revocation of NorCal’s Charter. This Notice of Violations (“Notice”) is issued by the Board in accordance with action taken at its August 1, 2019 meeting. The Board reserves its right to immediately revoke the Charter upon its written determination that any violations constitute a severe and imminent threat to the health and safety of the pupils. (Ed. Code, § 47607, subd. (d).) The Board also reserves the right to consider additional evidence presented to substantiate the violations enumerated below.

**LEGAL AUTHORITY FOR REVOCATION AND OPPORTUNITY TO REMEDY**

Pursuant to section 47607, subdivision (d), the authorizing entity of a school’s charter is required to notify the charter school in writing of any violation and to give the charter school a reasonable opportunity to remedy the violation prior to revocation. Pursuant to section 47607, subdivision (c), the authorizing entity may revoke the charter of a charter school if it finds, through a showing of substantial evidence, that the charter school:

- (1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter;
- (2) Failed to meet or pursue any of the pupil outcomes identified in the charter;
- (3) Failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement; and/or
- (4) Violated any provision of law.

The chartering authority is to consider increases in pupil academic achievement for all groups of pupils served by the charter school as the most important factor in determining whether to revoke a charter. (Ed. Code, § 47607, subd. (c)(2).)

**BACKGROUND INFORMATION**

The District granted NorCal’s initial petition to operate the Charter School (“Charter” or “Charter Petition”) on January 18, 2018, for a term of five years, beginning on July 1, 2018 and expiring June 30, 2023. (Charter Petition attached as **Exhibit A.**) On or

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<sup>1</sup> All statutory references herein are to the California Education Code, unless otherwise indicated.

about July 1, 2018, the District entered into a Memorandum of Understanding (“MOU”) with NorCal further defining the roles and responsibilities of the Charter School. (Charter School MOU between the District Board of Education and Success Skills, Inc. regarding NorCal Trade & Tech. attached as **Exhibit B.**)

The Charter proposes the Charter School will serve adult students over 18 years old, and potentially a limited number of high school age students.<sup>2</sup> The Charter School operates two in-District locations at 3821 41st Avenue, Suite 1, Sacramento, CA 95824 and 2401 Florin Rd, Sacramento, CA 95822, and one location outside the District’s boundaries at 10620 Schirra Avenue, Mather, CA 95655. The Charter School is operated by Success Skills, Inc., a nonprofit public benefit corporation.

Over the past year, NorCal has operated in violation of its Charter and the law and demonstrated indifference to the District and numerous other state agencies, including the California Department of Education (“CDE”) and the California State Teachers’ Retirement System (“CalSTRS”). After the Charter School was notified by these agencies about a number of concerns regarding deficiencies, including violations of the Charter and the law, and promised to remediate such concerns, the Charter School ultimately continued its problematic practices. During its one and only school year of operation, NorCal has demonstrated rampant fiscal mismanagement, failed to pay its employees, and failed to adequately pay into retirement benefits for its employees, among other things. The District has warned NorCal about a number of additional concerns, including, but not limited to, the presence of students’ children on campus during instructional time, and employees beginning work at the Charter School before clearance of a criminal background check.

The District has repeatedly offered to help NorCal solve a number of its management issues, but these offers have received flippant responses from the Charter School. For example, following the District’s inquiry into missed CalSTRS contributions, NorCal’s Director, Mike Brunelle, emailed the District, on June 26, 2019, stating, “We currently have a cash flow of \$1500. If you can figure out how to pay anything with that, let me know. As ot [sic] stands if/when we get additional funding, the first thing that will be paid are payroll taxes snd [sic] personnel. Nothing else to discusd [sic].” Such unwillingness to collaborate with the District, alongside the stark financial state of the Charter School, has only increased the District’s concerns about NorCal’s ability to successfully dig itself out of the financial hole. Based on NorCal’s severe mismanagement of operations over the past year, and despite repeated opportunities to remedy its problematic conduct, the District now has no choice but to issue this Notice.

## **IDENTIFICATION OF VIOLATIONS**

### **1. NorCal has committed material violations of conditions, standards, and procedures in the Charter.**

NorCal has violated its Charter with respect to student assessment, staff professional

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<sup>2</sup> NorCal has not confirmed that it served any high school age students during the 2018-2019 school year.

development, school safety, conflict of interest provisions, and its Workforce Innovation and Opportunity Act (“WIOA”) program.

**2. NorCal has engaged in fiscal mismanagement.**

NorCal drastically over-estimated its projected average daily attendance (“ADA”), which resulted in advancement of funds far in excess of what the Charter School should have been awarded. Now, the Charter School is likely required to reimburse the State of California for a portion or all of that over-advancement. The Charter School also received a large grant from the CDE, but did not comply with terms of the grant, so now must reimburse the CDE for the full grant amount. Additionally, NorCal is delinquent on its payroll, payroll taxes and required contributions to its employees’ CalSTRS accounts.

**3. A number of NorCal’s practices constitute violations of the law, including, but not limited to, a number of violations identified above in sections one and two.**

To the District’s knowledge, NorCal’s fiscal mismanagement has precluded the Charter School from paying salary and benefits to its employees for recent pay periods, in violation of Labor Code section 204 et seq. As mentioned above, NorCal’s violations of the conflict of interest and WIOA provisions in its Charter may also constitute violations of the law.

Throughout this Notice, the District will request a number of documents from the Charter School as related to each violation, pursuant to Education Code section 47604.3.

**EVIDENCE SUPPORTING ALLEGATIONS OF VIOLATIONS**

**1. Material violations of the conditions, standards, and procedures in the charter.**

**a. Inconsistent Student Assessment.**

NorCal’s Charter states that the Charter School will assess students’ abilities utilizing assessments such as the Comprehensive Adult Student Assessment System (“CASAS”). (**Exhibit A**, p. 25.) CASAS is an assessment system focused on adults that allows schools to track student progress for adult basic education, English language learners, and pre-employment skills. CASAS is commonly used by WIOA and adult education programs in place of the California Assessment of Student Performance and Progress (“CASPP”) to place students in appropriate grade-level courses and promote students to new grade levels. Per the Charter, each new student will take two CASAS assessments at orientation upon enrollment, which will allow NorCal to determine a student’s grade level and additional needs, like placement in the English Language Development program. (*Id.* at p. 51, 156.) The Charter vows to use CASAS scores to measure overall student progress, and specifies the initial expected outcomes for each grade level based on CASAS scores, as well as the ultimate goal for improvement of each grade level’s



CASAS scores. (*Id.* at p. 37, 41.) CASAS scores from the entire school are supposed to be reviewed and analyzed by the staff and the Board at least once per quarter to measure progress toward the school's outcomes. (*Id.* at p. 41.) Such assessments are intended to allow NorCal to identify both low and high-achieving students and make appropriate accommodations for such students. (*Id.* at p. 25.)

The District believes NorCal students have not been assessed using CASAS, as promised in the Charter. Without such assessments, it is unclear how NorCal is fulfilling its promises in the Charter to use CASAS for grade level determination and academic progress monitoring.

Please provide documentation proving that students were initially assessed using CASAS at orientations on September 4, 2018 or September 5, 2018. Please also provide evidence of consistent CASAS assessment and subsequent score analysis. The Charter School is encouraged to submit any additional evidence regarding compliance with the Charter as related to CASAS assessment.

#### **b. Incomplete Orientation and Professional Development**

NorCal's Charter states that its new teachers will participate in three weeks of orientation with the Director of Curriculum and Instruction, as well as ongoing professional development throughout the school year. (**Exhibit A**, p. 46.) Based on sign-in sheets submitted to the District for August and September 2018 trainings, not *all* teachers have participated in the promised orientation and professional development. For example, the sign-in sheet for an August 18, 2018 training only reflects attendance of five of the ten teachers who attended trainings on August 15, 2018 and August 16, 2018. (Sign-in sheets attached as **Exhibit C**.)

Please submit additional evidence proving *all* teachers attended *all* trainings and professional development events throughout the school year, as promised in the Charter.

#### **c. Inadequate Safety Plan and Training**

The Charter states NorCal will have a school safety plan detailing safety procedures for each specific school site. (**Exhibit A**, p. 47.) NorCal's School Wide Safety Plan prohibits non-student minors in the classroom to prevent distractions, and due to potential safety concerns, were minors allowed in a mainly adult school without proper supervision. (School Wide Safety Plan attached as **Exhibit D**; see p. 2.)

Contrary to NorCal's School Wide Safety Plan, students' young children between the ages of two and six have been observed in the classroom on numerous occasions, despite repeated warnings from the District on November 6, 2018 and February 21, 2019. (Warning emails attached as **Exhibit E**.) As stated in NorCal's School Wide Safety Plan, children's presence on campus is distracting for students and poses safety concerns. The presence of young, unsupervised children in NorCal's job-training courses involving

heavy machinery, like the truck-driving program, is especially concerning to the District from a safety standpoint.

Please submit evidence regarding NorCal's plan for full compliance with the provision of its School Wide Safety Plan regarding students' children on campus.

#### **d. Conflict of Interest Violation**

Members of NorCal's Board of Directors ("Board") must comply with the Conflict of Interest Policy of Success Skills, Inc. (**Exhibit A**, p. 42.) This Conflict of Interest Policy requires all employees, including Board members, who hold positions involving decision-making, to file a Statement of Economic Interest disclosing reportable sources of income that may be affected materially by a decision made or participated in by the employee. (**Exhibit A**, pp. 107-110.) Such a requirement mirrors the legal requirements set forth in Government Code sections 87100 and 87300, and California Code of Regulations, Title 2, section 18730.

NorCal applied for funding from the CDE's Public Charter Schools Grant Program ("PCSGP"), and its application was approved in May 2018; the Charter School received such funds shortly thereafter. To ensure compliance with the PCSGP Grant requirements, the CDE performed a monitoring site review of NorCal on February 20, 2019 and found the Charter School was not in compliance with a number of PCSGP requirements. These findings were laid out in a letter sent to NorCal and the District on March 20, 2019 (the "March 20 Letter"; attached as **Exhibit F**.) The monitoring site review revealed that NorCal used \$54,857.50 of Grant funds to pay a vendor, Stay Safe Solutions, for services while the President/Chief Executive Officer of Stay Safe Solutions, Ken Shoemake, was serving as treasurer for the NorCal Board. (See **Exhibit F**, pp. 1-2.) CDE's March 20 Letter notified NorCal that, "A board member financially benefitting from a school purchase, may be considered a conflict of interest," and that the expense was not in NorCal's Board-approved budget. (*Id.* at p. 2.) The March 20 Letter then demanded that NorCal submit its Conflict of Interest Policy to the CDE, along with proof of Board approval of expenditures to Stay Safe Solutions and a "revised Quarter 1 general ledger that show[s] all charges to Stay Safe Solutions (\$54,857.50) being transferred out of the PCSGP account." (*Id.*) The Charter School had 45 days from the date of the letter to remedy the issues found during the monitoring review. (*Id.* at p. 4.)

On July 10, 2019, the CDE notified NorCal of the termination of its PCSGP Award based on the Charter School's failure to address the findings from the site monitoring visit within the 45-day window. (Grant Termination Letter attached as **Exhibit G**.) To date, NorCal has still not provided CDE with its Conflict of Interest Policy, proof of Board approval of expenditures to Stay Safe Solutions, or a "revised Quarter 1 general ledger that show[s] all charges to Stay Safe Solutions (\$54,857.50) being transferred out of the PCSGP account." (*Id.*)

According to the Secretary of State, Stay Safe Solutions, Inc. is registered as a California Domestic Stock Corporation and its type of business is “government sales.” (Statement of Information attached as **Exhibit H**.) Stay Safe Solutions’ Articles of Incorporation states the purpose of the corporation “is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business, or the practice of a profession permitted to be incorporated by the California Corporations Code.” (Articles of Incorporation attached as **Exhibit I**.) Bloomberg Business describes Stay Safe Solutions as a company that “provides small business, disabled veteran business enterprise, and SDVO solutions to secure primary and subcontractor contracts for goods and services with the State of California, the federal government, and other public sector agencies. It offers a selection of police, military, correctional, emergency, medical, and security company equipment and gear; document storage, document pick-up and preparation, hard copy information capturing, validation and indexing, data retention administration, and converting it to electronic media for archival and retrieval; shredding and recycling solution for businesses, including regular scheduled route service and purge/clean-out service; and utilities, modular building, trucking/hauling, rental, and building construction services, as well as involves in wood and metal framing, drywall, concrete construction, and weatherization project. The company also provides MRO products, general office supplies, presentation products, warehouse and safety items, janitorial products, break room supplies, hardware, and water chemical products; tradeshow displays, clothing, or company incentives; and employment services and solutions, including temporary and contract staffing, recruiting, payroll, training, educational books and materials, drug and alcohol surveillance and testing, electronic monitoring, and background investigation and employee screening services.”<sup>3</sup> Thus the purpose of Stay Safe Solutions, run by NorCal Board member Shoemake, remains largely ambiguous.

NorCal has not provided the CDE (nor the District) with a description of what services or products were purchased with the \$54,857.50 payment to Stay Safe Solutions. Based on the business’s description, it is unclear what sort of business NorCal would have with Stay Safe Solutions.

Please provide documentation showing Board approval of NorCal’s payment of \$54,857.50 of PCSGP Grant funds to Stay Safe Solutions, along with an invoice or other documentation showing what was purchased from the company. Please also provide Mr. Shoemake’s Statement of Economic Interest disclosing his interest in Stay Safe Solutions to the Charter School, and any other documentation reflecting Mr. Shoemake was not in violation of the NorCal’s Conflict of Interest Policy.

**e. Failure to Partner with WIOA Providers**

**i. WIOA Exemption**

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<sup>3</sup> <https://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapid=82081522>, visited July 15, 2019 at 4:38 p.m.

The Charter asserts all instruction will be provided exclusively in partnership with a WIOA-funded organization. (**Exhibit A**, p. 19.) This structure exempts NorCal from age and geographical requirements for charter schools, as provided in sections 47605.1 and 47612.1 (the “WIOA exemption”). More specifically, charter schools that provide instruction exclusively in partnership with a WIOA-funded organization are exempt from the age requirements of section 47612.1, subsection (b), which states, “To remain eligible for generating charter school apportionments, a pupil over 19 years of age shall be continuously enrolled in public school and make satisfactory progress towards award of a high school diploma.” Charter schools that provide instruction exclusively in partnership with a WIOA-funded organization are also exempt from the requirement in section 47605.1 that the charter school must be located within the boundaries of its authorizing school district. If NorCal does not, in fact, provide its instruction exclusively in partnership with a WIOA-funded organization, it must comply with the location and age requirements listed above, and would suffer related funding ramifications.

The Charter School operates one site in Mather, California, which is located outside the District’s boundaries and relies on the WIOA exemption. Without providing instruction exclusively in partnership with a WIOA-funded organization, NorCal cannot lawfully operate any locations outside the District’s boundaries pursuant to the WIOA exemption. The Charter School also provides instruction to students over 19 years of age, and the Charter affirmatively states NorCal serves almost exclusively adult students over the age of 19. The District also understands that NorCal serves adult students in all stages of life, and its students over age 19 have unlikely been “continuously enrolled in public school.” Therefore, NorCal also relies on the WIOA exemption to bypass the age requirements of section 47612.1 and to receive its Local Control Funding Formula (“LCFF”) funding from the State.

NorCal’s written partnerships with WIOA providers at the time of petitioning were with Asian Resources and Sacramento Employment and Training Agency (“SETA”). (**Exhibit A**, p. 20.) However, NorCal’s only WIOA-related requirement for students to graduate is to “interact with WIOA agencies and their career counselors and job developers.” (*Id.*) Such interaction is not sufficient to claim all instruction is provided exclusively in partnership with a WIOA-funded organization. Further, the MOU between SETA and NorCal only requires SETA to, “provide services to WIOA Registrants that are enrolled in, or seeking enrollment in, Charter School,” and to “[a]ssist Charter School students or applicants by providing available and appropriate WIOA services.” (MOU attached as **Exhibit J**; see p. 2.) In *Grossmont Union High School District v. Julian Union Elementary School District et al.* (Super. Ct. San Diego 2017), No 37-2015-00033720, (“*Grossmont*”), the Superior Court determined that the Diego Valley Public Charter School did not provide all instruction in partnership with a WIOA-funded organization because some of the instruction offered by the charter school was not provided by or in partnership with its WIOA providers, and the school was therefore ineligible for the WIOA exemption.<sup>4</sup>

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<sup>4</sup> Superior court decisions are persuasive, but do not set precedent. However, no appellate court decisions on this topic currently exist to provide guidance.

Here, based on the Charter’s limited requirements for interactions between students and NorCal’s WIOA providers, it is clear that some instruction is not provided by or in partnership with its WIOA providers. Also, the vague MOU language stating SETA agrees to “provide services,” and “assist Charter School students” does not make it clear that all instruction from NorCal to its students is “provided in partnership with SETA” or another WIOA-funded organization. Finally, NorCal has provided no evidence that all of its students are “WIOA Registrants,” as required by NorCal’s MOU with SETA. The District recently reached out to SETA to inquire about its relationship with NorCal. (Email chain with SETA attached as **Exhibit K**.) The District learned from SETA that as of July 3, 2019, SETA has “no information available” about the number of NorCal students who are “WIOA Registrants” or even the number of NorCal students utilizing SETA services. (**Exhibit K**, p. 1.) SETA also informed the District that the last contact between SETA and NorCal was over ten months ago, in September 2018. (*Id.*)

Looking to the *Grossmont* Court’s decision for guidance, NorCal does not provide all instruction exclusively in partnership with a WIOA-funded organization, as stated in the Charter, and appears ineligible for the WIOA exemption.<sup>5</sup>

Please provide documentation of NorCal’s compliance with prerequisites for the WIOA exemption, including evidence that (1) NorCal operates exclusively in partnership with a WIOA-funded organization, and (2) all NorCal students are WIOA Registrants.

## **ii. WIOA Qualification**

The Charter mirrors statutory requirements of the WIOA codes and regulations that require students to meet specific eligibility requirements in order to qualify for WIOA services. (**Exhibit A**, p. 50.) These elaborate eligibility requirements for Adult WIOA programs are spelled out in the United States Code, title 29, section 3101 et seq.

Please provide documentation proving that all students meet the statutory qualifications required by WIOA.

## **iii. Irregular Student Progress Monitoring**

The Charter vows to regularly monitor student progress through CASAS, as required by WIOA funding requirements. (**Exhibit A**, p. 25.) For the reasons mentioned in section 1(a) above, the Charter School has not regularly tracked progress using CASAS, which is a violation of both the Charter and WIOA funding requirements.

Please provide documentation proving the frequency with which NorCal assesses its students using CASAS, and data regarding progress of NorCal students based on CASAS assessments.

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<sup>5</sup> The Charter School may attempt to rationalize its failure to provide instruction exclusively in partnership with a WIOA-funded organization by citing 5 CCR 11960(c)(2)(b), but the fact that NorCal has had no contact with SETA since September 2018 shows no affiliation with a WIOA-funded organization.

## 2. **Fiscal Mismanagement**

The Charter states, “[t]he school will ensure sufficient attendance to receive apportionment funding that will fulfill all financial obligations of the school, as well as having a healthy reserve at the end of the school year...Weekly review of the budget, attendance, and expenses by the School’s Principal, along with quarterly review of these by the board will ensure financial stability.” (**Exhibit A**, p. 17.) NorCal has completely failed to abide by such promises, as explained below.

### a. **Concerns with Second Interim Report and Fiscal Recovery Plan**

The issues revealed in NorCal’s Second Interim Budget Report, submitted to the District on March 14, 2019, raises several concerns. These include the enormous disparity between the Charter School’s projected 200 ADA in the Charter, and the actual ADA of 28.71; the resulting debt of \$320,965 payable to the State of California based on an advance for inaccurate projected ADA funding; and the Charter School’s need for over \$700,000 to continue operations for the 2019-2020 school year. (Second Interim Budget attached as **Exhibit L**; see p. 2.) This attendance discrepancy is in violation of the Charter’s promise to “ensure sufficient attendance to receive apportionment funding that will fulfill all financial obligations of the school.” (**Exhibit A**, p. 17.)

The Second Interim Budget Narrative also promised the Charter School would engage in “deep cuts to staffing and programs in March 2019.” (**Exhibit L**, p. 3.) Despite this promise, NorCal did not make enough significant cuts to its staff in March 2019 or in subsequent months.

NorCal has failed to provide an adequate plan for its fiscal survival past the 2019 summer months. The District received a vague Fiscal Recovery Plan from NorCal, dated March 25, 2019, that stated, “Overall, we are optimistic that we will be able to secure Bridge funding.” (Fiscal Recovery Plan attached as **Exhibit M**.) NorCal has not secured such additional funding. (Email chain attached as **Exhibit N**; see p. 2.) The Plan also states, “If the worst case scenario happens and we cannot secure additional bridge funding, we will most likely suspend instruction by the end of this week.” (**Exhibit M**.) NorCal continued to operate and provide instruction through mid-June and spent amounts on payroll that were even higher than the amounts allotted for payroll in the Second Interim Budget. (**Exhibit N**, p. 4.) NorCal has not taken steps to close the school, either, as was promised if no additional financing was obtained. (*Id.* at p. 2)

Please provide evidence of Board approval of the Second Interim Report. Please also submit an updated Fiscal Recovery Plan, including a plan for how to increase enrollment and maintain fiscally sound ADA numbers.

### b. **Insufficient STRs and Payroll Reporting/Contributions**

Pursuant to Education Code section 23005, employers are required to submit monthly reporting to CalSTRS no later than 44 days after the month that the service was

performed. CalSTRS notified the District, on June 20, 2019, that NorCal has not submitted such required monthly reports for the past two required periods. (CalSTRS Letter attached as **Exhibit O**.) NorCal’s failure to make required CalSTRS contributions may result in liability for the District and the County Office of Education. (Ed. Code, § 23007.)

NorCal notified the District on June 26, 2019, that it was aware of its delinquency for CalSTRS contributions, but stated NorCal’s cash flow as of that date was only about \$1,500. (Email attached as **Exhibit P**.) As stated above, NorCal’s Director, Mike Brunelle, emailed the District, on June 26, 2019, in response to its concern about NorCal’s CalSTRS and payroll tax delinquency stating, “We currently have a cash flow of \$1500. If you can figure out how to pay anything with that, let me know. As ot [sic] stands if/when we get additional funding, the first thing that will be paid are payroll taxes and [sic] personnel. Nothing else to discusd [sic].” (*Id.*) This response indicates NorCal’s Director fails to appreciate the seriousness of its CalSTRS and payroll delinquencies and has a plan to pay these important expenses. Further, Mr. Brunelle completely dismissed the District’s offer to meet with NorCal in an effort to assist the Charter School in discussing avenues to improve its dire financial situation. The District has also not received notification from NorCal since June 26, 2019 that it has secured additional funding, as mentioned in Mr. Brunelle’s email.

To date, NorCal’s delinquency on payment of CalSTRS contributions and payroll taxes has reached a critical level, and must be corrected immediately. The Charter School’s deficiency potentially jeopardizes the ability of its employees to receive full service credit and benefits.

Please provide proof of full payment of CalSTRS contributions and payroll taxes.

### **c. Public Charter School Grant Program**

The CDE’s monitoring site review of NorCal, on February 20, 2019, for compliance with PCSGP Grant requirements, found—in addition to the violations discussed above in section 1(d)—the Charter School was not in compliance with a number of additional PCSGP requirements. (See **Exhibit F**.) The CDE found NorCal did not provide adequate evidence of school-wide academic assessments and requested academic reports be provided within 45 days of the March 20 Letter, along with proof that school-wide academic data was disseminated to all stakeholders. (*Id.* at p. 2.)

The site review also found NorCal was not in compliance with a number of PCSGP fiscal control and accounting procedures. (**Exhibit F**, p. 3.) The March 20 Letter noted CDE’s concern with the inconsistency of NorCal’s student enrollment data, which was 28.7 ADA in its Period 1 ADA report. (*Id.*) The CDE found NorCal did not obtain the required permission to purchase a number of items over \$5,000 prior to purchase, including Driving Simulators, but subsequently claimed such expenses on its first quarter expense report. (*Id.*) Additionally, the March 20 Letter noted that NorCal did not provide Personnel Activity Reports (“PARs”), as already requested by the CDE, for

vague expenditures including the following: “Teacher: \$12,377.60; Teacher Stipends/Extra Duty: \$13,562.34; Administrators: \$450; and Administrators: \$1,800.” (*Id.*)

As a result of the aforementioned concerns, the CDE demanded in the March 20 Letter that NorCal submit: (1) “The most recent certified attendance reports to show a more accurate enrollment number,” (2) a copy of “quotes received for driving simulators and a description of how the purchase supports the charter school and grant objectives and why it is a necessary and reasonable [expense] to support the school,” (3) a budget revision request prior to purchases made over \$5,000 moving forward, and (4) copies of PARs for all personnel costs claimed from the first quarter of the 2018-2019 school year, including the employee’s name, hours, dates worked, tasks completed, employee signature, and supervisor signature. (*Id.*)

The March 20 Letter notified NorCal that reimbursements from CDE to NorCal were placed on hold for 45 days starting as of the date of the letter, and would be cleared once the Charter School provided evidence of compliance with the CDE’s concerns noted in the March 20 Letter. (*Id.* at p. 4.) The March 20 Letter also notified NorCal of the CDE’s ability to “terminate the grant and require the repayment of any PCSGP funds received” if the requested evidence was not timely provided. (*Id.*)

On July 10, 2019, the CDE notified NorCal of the termination of its PCSGP Award based on the Charter School’s failure to address CDE’s concerns laid out in the March 20 Letter by the 45-day deadline. (**Exhibit G**, p. 1.) NorCal did not provide the CDE with any of the documentation requested in the March 20 Letter. (*Id.*) Therefore, NorCal must now reimburse the CDE for the entirety of the PCSGP Grant. (*Id.* at p. 2.)

To date, the District is not aware of NorCal’s compliance with the CDE demands related to PCSGP funds. Please notify the District of the current total amount NorCal must repay the CDE, including reimbursement for the ADA over-apportionment and the PCSGP Grant funds, and the due dates for such payments.

**d. Inadequate Financial Monitoring and Oversight by NorCal’s Board of Directors**

The Charter states NorCal’s Principal will review the Charter School’s budget, attendance, and expenses on a weekly basis, and the Board will review the same on a quarterly basis, to ensure financial stability. (**Exhibit A**, p. 17.) NorCal’s March 25, 2019 Fiscal Recovery Plan states, “As of March 25, 2019, NorCal Trade & Tech does not have sufficient funds to make future monthly payroll. We were not informed of this fact until March 12th, which left us in a serious bind.” (**Exhibit M**.)

The absence of communication between NorCal’s Board and staff that led to the Board’s unawareness of NorCal’s dire financial condition until two weeks before its fiscal recovery plan was due to the District is unacceptable and in violation of the Charter School’s promise for regular review of its budget, attendance, and expenses by the



Principal and the Board to ensure financial stability. The District has also not received timely submissions of NorCal Board agendas and minutes to enable it to determine adequacy of supposed Board fiscal monitoring and oversight. (**Exhibit A**, p. 17.)

Please submit all NorCal Board agendas and minutes to date, along with evidence of the Board's financial oversight practices.

**e. Inadequate attendance monitoring, tracking, and ADA reporting**

NorCal's Second Interim Budget reported an ADA of 28.71. NorCal's ADA submissions do not appear to reconcile with the attendance observed during frequent District site visits. Between the months of October 2018 and June 2019, whenever District staff visited all three NorCal sites in one day, they never observed more than a total of 17 students at all sites combined. (Oversight notes attached as **Exhibit Q**; see p. 3.) District staff usually observed less than ten students in class, and on a number of occasions observed no students in class. (*Id.*) Further, a number of sign-in and sign-out times on NorCal's sign-in sheets do not correspond with actual student arrival and departure times. For example, on one occasion, when District staff was present at one of NorCal's sites to perform oversight observations, 9 out of 12 students were already signed out for 12 p.m. or 3:00 p.m. when the time was only 11:00 a.m. (*Id.* at p. 2.) Some sign-in sheets viewed by District staff did not even have columns for sign in or out times. (*Id.* at p. 4.)

Please submit all student sign-in sheets and student information systems attendance information for the 2018-2019 school year. If NorCal keeps monthly attendance tracking data, please also provide that data.

**3. Legal Violations**

**a. Political Reform Act of 1974**

NorCal's Conflict of Interest Policy prevents Board members from participating in decisions where they have a disqualifying interest, and adopts the definition of "disqualifying interest" as set forth in the Political Reform Act of 1974 (Gov. Code §§ 87100, et seq.) and its implementing regulations. (**Exhibit A**, p. 107.). Pursuant to the California Code of Regulations, Title 2, section 18730, "No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect...on the official or a member of his or her immediate family or on...Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management." Such an interest in a transaction constitutes a "disqualifying interest." (*Id.*) If a NorCal Board member has disqualifying interest in a transaction, the interest shall be disclosed at the meeting during which consideration of the decision in which the Board member has an interest takes place. (**Exhibit A**, p. 108.) The disclosure "shall be made part of the Board's official record," and the Board member "shall refrain from participating in the decision in any way (i.e., the Board member with the

disqualifying interest shall refrain from voting on the matter and shall leave the room during Board discussion and when the final vote is taken).” (*Id.*)

The CDE’s February 20, 2019 monitoring site review revealed that NorCal used \$54,857.50 of Grant funds to pay a vendor, Stay Safe Solutions, for services while the President/Chief Executive Officer of Stay Safe Solutions, Ken Shoemake, was serving as treasurer for the NorCal Board. It is unclear whether Mr. Shoemake participated in NorCal’s decision to contract with Stay Safe Solutions. However, Mr. Shoemake held an executive position in Stay Safe Solutions at the time of the transaction, and therefore: 1) held a position as an officer in the company, as contemplated by the Political Reform Act, and 2) NorCal’s transaction with Stay Safe had a reasonably foreseeable material financial effect on Mr. Shoemake. Therefore, Mr. Shoemake held a disqualifying interest in the transaction and could not have lawfully participated in the Board’s decision to approve the transaction, pursuant the California Code of Regulations, Title 2, section 18730.

Please provide the Board’s “official record” reflecting the disclosure of Mr. Shoemake’s disqualifying interest, and proof that Mr. Shoemake did not participate in the Board’s decision to enter into the \$54,857.50 transaction with Stay Safe Solutions.

**b. Education Code Section 47605.1, Subdivision (g)**

As mentioned in section 1(e) of this Notice, section 47605.1, subdivision (g) exempts charter schools that provide instruction “exclusively in partnership” with WIOA from the requirement that all locations be within the boundaries of the school’s authorizing district. Based on the above analysis, NorCal has not provided clear evidence that it operates “exclusively in partnership” with WIOA. If such evidence is not provided to the District, NorCal will not qualify for the WIOA exemption in section 47605.1, subdivision (g), and the Charter School’s location in Mather, California that relies on such exemption will be improperly located in violation of section 47605.1.

Please provide relevant evidence that may prove compliance with the WIOA exemption.

**c. Education Code section 47612, Subdivision (b)**

As mentioned in section 1(e) of this Notice, section 47612.1 exempts charter schools that provide instruction “exclusively in partnership” with WIOA from requirements in section 47612, subdivision (b), which states, “To remain eligible for generating charter school apportionments, a pupil over 19 years of age shall be continuously enrolled in public school and make satisfactory progress towards award of a high school diploma.” Based on the above analysis, NorCal has not provided clear evidence that it operates “exclusively in partnership” with WIOA. If such evidence is not provided to the District, NorCal will not qualify for the WIOA exemption in section 47612.1, will likely be in violation of section 47612, subdivision (b), and will also have improperly received ADA apportionments pursuant to its violation of the same section.

Please provide relevant evidence that may prove compliance with the WIOA exemption.

**d. Labor Code Section 204, et seq.**

Labor Code section 204, subdivision (a), requires “[a]ll wages...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.” NorCal’s March 25, 2019 Fiscal Recovery Plan stated the Charter School “does not have sufficient funds to make future monthly payroll.” (**Exhibit M.**) However, as of April 3, 2019, according to Mr. Brunelle, NorCal suddenly had sufficient funds to pay teachers \$34,000 per month “for the next 2-3 months” using remaining grant funds. (Email attached as **Exhibit R.**) As of April 24, 2019, the loan NorCal applied for to cover additional costs was not approved. (**Exhibit N**, p. 2.) The Charter School admitted to the District in May 2019 that all teachers were furloughed in an effort to save money, and all employees were volunteering to keep the Charter School’s doors open. (Fiscal Recovery Plan and related email string attached as **Exhibit S.**) The District subsequently provided advice to NorCal regarding its concern about the legality of unpaid volunteer teachers and staff, and NorCal agreed to put two instructors back on payroll. (*Id.* at p. 2.) To date, however, the District is unaware if NorCal has been able to pay its employees that are on payroll. If in fact, NorCal is not timely or fully paying its employees every two weeks, such conduct constitutes a clear violation of Labor Code section 204, potentially subjecting NorCal to additional penalties and liabilities beyond the late payroll amounts.

Please provide payroll stubs or equivalent information for all employees in the last eight payroll cycles, to confirm NorCal’s compliance with Labor Code section 204.

**REASONABLE TIME TO REMEDY VIOLATIONS**

Pursuant to Education Code section 47607, subdivision (d), and California Code of Regulations, Title 5, section 11968.5.2, the Board issues this Notice of Violations. Specifically, the Charter School must remedy each and every one of the above-noted violations to the satisfaction of the District, no later than **September 1, 2019**. Remedies should include, but are not limited to:

- Provide evidence regarding compliance with the Charter as related to CASAS assessment, teacher orientation and professional development requirements, the District’s health and safety concerns, the Conflict of Interest Policy and related CDE demands, and WIOA programs—specifically—proof of WIOA Registration for all students enrolled with NorCal.

- Provide a revised Fiscal Recovery Plan explaining how NorCal proposes to eliminate its deficit while providing a quality educational program despite any potential expenditure reductions, including an operational plan for reducing expenditures and reflecting appropriate staffing, expenditures supporting NorCal's annual goals and student outcomes, accurate ADA funding, and other necessary and appropriate expenditures. The Recovery Plan must show how the Charter School will maintain operations with a surplus.
- Provide proof of legal compliance with Education Code section 47605.1, subdivision (g), the California Code of Regulations, Title 2, section 18730, and Labor Code section 204.
- Provide all NorCal Board agendas and minutes to date, all student sign-in sheets and SIS attendance information for the 2018-2019 school year, and proof of up to date payment of CalSTRS contributions and payroll taxes.

Pursuant to the California Code of Regulations, Title 5, section 11968.5.2, subdivision (c), the Charter School is entitled to respond in writing to this Notice and attach supporting evidence of its refutation, remedial action, or proposed remedial action, if any.

Please submit this response to:

Sacramento City Unified School District  
ATTN: Chief Academic Officer  
5735 47th Avenue  
Sacramento, CA 95824

## CONCLUSION

Pursuant to Education Code section 47607, subdivision (d), and the California Code of Regulations, Title 5, section 11968.5.2, subdivision (c), all of the above violations must be remedied.

Through this Notice, the District is affording the Charter School the opportunity to remedy the violations noted above on or before **September 1, 2019**. If the Charter School fails to remedy the issues and provide the requested information on or before that date, the Board will notify Charter School of its intent to revoke the Charter. To the extent required by section 47607, subdivision (c)(2), the Board shall consider increases in pupil academic achievement for all groups of pupils served by the Charter School as the most important factor prior to acting upon a recommendation for revocation of the Charter. This Notice does not limit the Board's ability to issue a subsequent Notice of Violations should additional issues be identified beyond those specified herein.

**If there are local assessments or any other measurements of pupil academic achievement that NorCal asserts should be considered regarding increases in pupil**

**academic achievement as the most important factor throughout the revocation process, the District requests that NorCal provide those local assessments or other measurements to the District at the same time it responds to this Notice.**