

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: _____)

Board of Education Executive Summary

Academic Office: Issuance of NorCal Trade and Tech
Notice of Violations
August 1, 2019



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Notice of Violations

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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, sub(d).)

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 seventytwo (72) hours prior to the August 1, 2019 Sacramento City Unified School District

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

This serves as official notification, pursuant to California Education Code section 47607, subdivision (d) and the California Code of Regulations, Title 5, section 11968.5.2, 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 Charter. This Notice of Violations ("Notice") is issued by the Board in accordance with action taken at its August 1, 2016 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's charter is required to notify the charter school in writing of any violation and 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)

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 students.² The Charter School operates two in-District locations at 8821 41st Avenue, Suite 1, Sacramento, CA 95824, 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 of [sic] stands if/when we get additional funding, the first thing that will be paid are payroll taxes and [sic] personnel. Nothing else to discuss [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

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 overestimated 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 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, pur[

CASAS scores. (p. atp. 37, 41.) CASAS scores from the entire school ar

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 87100-87300, and California Code of Regulations, Title 2, section 18730.

NorCal

According to the Secretary of State, Stay Safe Solutions, Inc. is registered as a California Domestic Stock Corporation and its type of business "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) 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 general document storage, document pickup 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 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, -n1y-9(de)

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, "For a pupil 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 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 requirements of section 47612.1 and 2(k)(4)(l)-223(S)-4(c)(4.0)(i) in pve1

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. (

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.

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 are set forth in 95 C.F.R. § 95.101(a)(1)(i)-(v).

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 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 27.12(s))TJ ()Tj EMC /P <</M2ID 11 >>B

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 D.) 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 E.) 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 of [sic] stands if/when we get additional funding, the first thing that will be paid are payroll taxes and [sic] personnel. Nothing else to discuss [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 academic assessments and tested academic reports be provided within 45 days of the March 20 letter, along with proof that school 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 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,

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 the District 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 visits. Between the months of October 2018 and June 2019, when 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, see p. 3.) District staff usually observed less than ten students (2018)-10c-4(i. ()Tx8)3(us)-1 e-12(yTJ 0.00

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

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 Shoemaker, was serving as treasurer for the NorCal Board. It is unclear whether Mr. Shoemaker participated in NorCal's decision to contract with Stay Safe Solutions. However, (d) (i)-2(n)

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 If 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 23 months” using remaining grant funds (email attached as Exhibit R.) As of April 24, 2019, the loan

- x 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.

- x Provide proof of legal compliance with Education Code section 47605.1, subdivision (g), the California Code of Regulations

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.