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SACRAMENTO ■ LOS ANGELES ■ SAN DIEGO ■ WALNUT CREEK

SEPTEMBER 23, 2016

VIA: U.S. MAIL AND EMAIL

jose.cole-gutierrez@lausd.net

REPLY TO SACRAMENTO OFFICE

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José Cole-Gutiérrez, Director
Charter Schools Division
Los Angeles Unified School District
333 S. Beaudry Ave., 20th Floor
Los Angeles, CA 90017

Re: Response to Notice of Violations

Dear Mr. Cole-Gutiérrez:

Our office serves as legal counsel for El Camino Real Alliance (“ECRA”), the nonprofit public benefit corporation that operates El Camino Real Charter High School (“ECRCHS” or the “Charter School”). ECRCHS in receipt of the Notice of Violations (“NOV”) issued by the Los Angeles Unified School District (“LAUSD” or the “District”) Board of Education on August 23, 2016. This letter contains ECRCHS’s response to the NOV (“Response”) and supporting evidence (see attached Appendix A for a list of all Appendices).

SUMMARY OF REMEDIES

The ECRA Board approached the NOV response very seriously, and with a strong commitment to remedying all alleged violations, to the ultimate satisfaction of the District Board and staff. The ECRA Board understands the gravity of the NOV itself, as well as its allegations. The ECRCHS community, too, has been very involved in resolving the matters addressed herein. The Charter School strongly believes that it has cured all alleged violations, and also that it has put in place mechanisms to ensure that such items do not happen again. The items identified in the NOV occurred in the past; the remedies implemented ensure that they will not be repeated.

It is the intent of the ECRA Board that this process not proceed past the NOV stage. For that reason, the ECRA Board has taken decisive action to remedy the identified violations. Included among ECRA Board actions taken are:

- Remedying all alleged violations.
- Contracting with the Fiscal Crisis and Management Assistance Team to review the internal accounting system, make recommendations for changes to the internal controls and processes, and train employees on the internal controls. Contract was entered into prior to issuance of NOV.

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- Contracting with an independent investigator to investigate concerns raised by the LAUSD Charter Schools Division in a Notice to Cure in October of 2015. Contract was entered into prior to issuance of NOV.
- Revoking American Express cards from all employees, except one card that is stored in the Charter School's safe and does not leave campus. The card revocation occurred in two steps, one in March of 2016, and the second in May of 2016.
- Implementing changes to the Fiscal Policies and Procedures, including:
 - Prohibiting the purchase of alcohol, or any items related to the consumption of alcohol, with Charter School funds.
 - Prohibiting personal use of Charter School credit or charge cards, and mandating that employees document the “who, what, where, when, and why” of requested charges, before the purchase is made.
 - Requiring that all out of state travel must be approved by the ECRA Board Travel Committee, based upon documentation from the requestor of: a summary of the purpose of travel, educational or professional benefit, number of employees attending, and estimated cost.
 - Prohibiting air travel on first class, business class, economy plus, and other similar fare classes.
 - Prohibiting meals paid for with Charter School funds from occurring off campus, except those where students are present or those associated with out of town travel.
 - Requiring that all meals must be substantiated with: the purpose of the meeting or agenda; the items ordered or a detailed receipt; the number of individuals in the party; and names of the attendees or a sign-in sheet.
 - Reinstating the requirement that employees are personally responsible for any purchases made that are not accompanied by a receipt.
 - Revising the Reimbursement Request Form to mandate that employees document the “who, what, where, when, and why” of requested reimbursements.
 - Monthly Board review of all credit and charge card expenses incurred.

Additionally, the ECRA Board has taken employee actions. While those actions cannot be shared in this document due to the confidentiality of personnel matters, the Board and the employees have authorized disclosure of those actions to the District in a private setting.

LEGAL STANDARD

Title 5, California Code of Regulations (“5 CCR”) Section 11968.5.2 sets forth the procedures that a chartering authority and a charter school must follow during charter revocation proceedings. Once a Notice of Violation is issued, a charter school must: “[s]ubmit to the chartering authority a detailed, written response addressing each identified violation which shall include the refutation, remedial action taken, or proposed remedial action by the charter school specific to each alleged violation.” 5 CCR 11968.5.2(c)(1). A charter school must also: “[a]ttach to its written response supporting evidence of the refutation, remedial action, or proposed remedial action, if any, including written reports, statements, and other appropriate documentation.” 5 CCR 11968.5.2(c)(2).

The NOV contains a procedural defect in that it did not include evidence that the District consider increases in pupil academic achievement for all groups of pupils served by ECRCHS as the most important factor in determining whether to revoke its charter, in accordance with Education Code Section 47607(c)(2).

RESPONSES TO ALLEGED VIOLATIONS

In accordance with these procedures, ECRCHS has included excerpts of the alleged violations contained in the NOV, highlighted in gray, followed the Charter School's responses, in plain text. For each alleged violation, ECRCHS has identified whether it refutes, has remedied, or will remedy the alleged violation, included a discussion thereof, and included supporting evidence of the refutation, remedial action, or proposed remedial action.

A. Failure to Meet Generally Accepted Accounting Principles, and Fiscal Mismanagement (Ed. Code § 47607(c)(1)(C))

1. Lack of Adequate Fiscal Policies and Procedures Prior to January 1, 2016

Between November 2013 and December 2015, ECRCHS failed to adequately review and update its Fiscal Policies and Procedures for soundness, and monitor its budget and finances to evaluate proper resource allocation. As a result, ECRCHS's Fiscal Policies and Procedures remained substantially inadequate through December 2015, and failed to safeguard against abuses. During such time, numerous, seemingly exorbitant, personal, and/or improper expenses were incurred and processed without scrutiny.

ECRCHS Response: Refute, remedy

Remedy. The Charter School has remedied this alleged violation by revising its Fiscal Policies and Procedures ("FPP") twice during the 2015-16 fiscal year. Many revisions to the Fiscal Policies and Procedures were implemented upon suggestions from the CSD. Recognizing that additional changes still needed to be made, the ECRA Board took further action to revise the Fiscal Policies and Procedures during its meeting on September 21, 2016. (Appendix B, Fiscal Policies and Procedures effective September 22, 2016.¹) The major changes to this version of the FPP were highlighted above, and are also detailed below in response to specific allegations in the NOV

Refute. ECRA also respectfully disagrees with the statement that it did not adequately monitor its budget and finances to evaluate proper resource allocation. Since its conversion to a charter school in 2011, ECRA has amassed a very healthy budget reserve, in excess of the percentage recommended in Regulations and by the District. ECRA also has \$2.7 million set aside in ECRA's retiree benefits trust, through June 30, 2016. This trust is held exclusively for the benefit of

¹ For the District's convenience, this Appendix contains both a clean and a redline version of the FPP effective 9/22/16.

ECRCHS teachers. This safety net is even more impressive given the fact that the Charter School receives substantially less apportionment per ADA than the average high school in LAUSD.

The ECRA Board acknowledges its own responsibility to maintain sound Fiscal Policies and Procedures. As an organization focused on learning, the Charter School has utilized the Notice to Cure and NOV process to take a very close look at the efficacy of its Fiscal Policies and Procedures and to make meaningful change. It should not go without saying, however, that CSD consistently approved of, and, indeed, praised ECRCHS in the financial area during its annual oversight visits. On a 1-4 scale, with 4 being the highest, ECRCHS received the following scores in finance during oversight visits:

- 2011-12: 2²
- 2012-13: 3
- 2013-14: 4
- 2014-15: 4
- 2015-16: 1

During the period the NOV identifies, CSD was awarding ECRCHS the highest score possible for financial operations during oversight visits. After remedying all of the alleged violations and following the guidance of the CSD, ECRCHS anticipates future awards of high oversight visit scores. The Charter School remains committed to following “best practices” with regard to fiscal policy and to collaborating with CSD to maintain the highest score.

a. Inadequate Credit Card Policy

As various times during the 2014 – 2015 and 2015 – 2016 school years, ECRCHS held American Express, California Credit Union, The Home Depot, and Smart & Final credit cards. These credit cards were used by Chief Business Officer Marshall Mayotte, Executive Director David Fehte, Assistant Principal of Curriculum Yvonne Halski, Assistant Principal of Athletics Dean Bennett, Human Resources Manager Terri Keas; and at times, ECRCHS staff members.

Deficiencies in the credit card policy were even identified in the June 30, 2015, Independent Auditor’s Report, which noted the lack of “written formal internal control policies...designed to provide a standard process that is followed and monitored on a regular and systematic basis to ensure that all expenditures made are [s]chool related, appropriate and properly documented.” (June 30, 2015, Independent Auditor’s Report, attached hereto as Exhibit 16, p. 000470-000513. The Independent Auditor’s Report further recommended that ECRCHS’s management “better monitor the usage of each credit card” and “modify the written policy to ensure that the ‘Who, What, Where, Why and When’” details are included for each credit card and ensure that all detailed receipts be attached to the recapitulation form for substantiation.”

ECRCHS Response: Refute, remedy

² It is our understanding that a 2 is the highest score awarded by CSD to any new charter school.

Remedy. On May 18, 2016, the ECRA Board took action to rescind all American Express charge cards³ issued to ECRCHS employees, with the exception of the one remaining card held by the Chief Business Officer. (Appendix C, ECRA Board meeting minutes.) That one remaining charge card does not leave the school site. It is locked in a safe on the ECRCHS campus, and is only used by accounting department employees for recurring charges or charges made during school hours, including school supplies, instructional materials, pupil transportation, technology, assistive technology, furniture, athletic equipment, school food, dues, subscriptions, and other items related to Charter School operations. (Appendix B, Fiscal Policies and Procedures effective September 22, 2016.)

The ECRA Board took action to cancel ECRCHS's California Credit Union ("CCU") charge cards on March 25, 2015 and ECRCHS staff submitted a request to cancel the charge cards on April 14, 2015 (Appendices D–E, ECRA Board meeting minutes and confirmation of cancellation by CCU.) The charge cards were re-cancelled at the March 16, 2016 Board meeting after ECRCHS received a statement showing zero balance (Appendices F and E, ECRA Board meeting minutes or confirmation of cancellation by CCU.) On April 14, 2016, ECRCHS staff confirmed via email with Patrick Zarifian of the California Credit Union that the cards had been cancelled on March 16, 2015 (Appendix E, confirmation of cancellation by CCU.)

The Home Depot and Smart & Final credit cards are ECRA Board approved credit cards with pre-approved limits to specifically allow the woodshop teacher, drama teacher and home economics teacher to make purchases of up to \$500/month, each. (The cards have a limit of \$1,000 within a monthly statement period.) The alleged violations regarding purchases made on these cards are addressed below.

Refute. The NOV intimates that ECRA took no action in response to the Independent Auditor's Report. The Charter School refutes the accuracy of this claim. The Independent Auditor's Report covered the fiscal year ending June 30, 2015. However, the report was dated November 13, 2015 (Appendix G, 2014-15 Independent Auditor's Report) and was received more than two weeks after CSD's Notice to Cure dated October 28, 2015. After receiving the Notice to Cure and the Independent Auditor's Report, ECRA made changes to its Fiscal Policies and Procedures to address the concerns identified in both documents. (Appendix H, FPP effective 1/1/16; Appendix I, ECRA 12/9/15 Board meeting minutes.)

The ECRA Board has asked for the additional changes to the Fiscal Policies and Procedures, which became effective on September 22, 2016, to be reviewed by the Independent Auditor during its audit of the 2015-16 fiscal year.

A sampling of 425 credit card expenses incurred by Mr. Mayotte, Mr. Fehte, Ms. Halski, Mr. Bennett, and Ms. Keas using ECRCHS-issued credit cards revealed that countless expenses were

³ American Express cards are "charge" cards, not "credit" cards. As a charge card, a yearly use fee is paid and there are no penalties or interest charges incurred if payment in full is not made prior to the next month's statement date.

incurred without adherence to any uniform procedure, and without verification of the necessary details. These expenses include, but are not limited to, the following:

ECRCHS Response: Refute, remedy

Remedy. For purposes of this Response to the NOV, we have specifically addressed each of the expenses that CSD identified in the NOV.⁴ If CSD wishes to subsequently identify any other expenditures, we would immediately address the same, but those subsequently identified expenditures cannot lawfully be considered as part of a Notice of Intent to Revoke on this issue. (5 CCR 11968.5.2(d)(1).)

Refute. Charter schools are not legally obligated to follow a “uniform procedure.” Indeed, the definition of this term was not provided, and no governmental or quasi-governmental entity has developed or issued a “uniform procedure” for charter schools to follow. ECRA understands that the State of California Fiscal Crisis and Management Assistance Team is preparing, and will release, a “Fiscal Best Practices Manual” (the “Manual”) in early 2017. Upon release and review, ECRA may replace its FPP with the policy in the Manual or amend this policy pursuant to the Manual. (Appendix B, Fiscal Policies and Procedures effective September 22, 2016.)

ECRCHS had adopted FPP in place, and in many of the identified instances, it followed its own policies. The original version of the Charter School’s FPP followed a template provided by its back office services provider. The CSD did not express concern over the template FPP when it was in use by ECRCHS. The ECRA Board took action on September 21, 2016 to substantially strengthen the FPP from its original version and the two interim sets of revisions. The term “verification of the necessary details” is not defined. The NOV must contain specific details and definitions in order for the Charter School to be able meaningfully respond to allegations.

- Dining charges
 - June 26, 2014, charge of \$630.09 at Monty’s Steak and Seafood (David Fehte)
 - Remedy. Mr. Fehte no longer has any ECRA/ECRCHS charge or credit cards. (Appendix C, ECRA 5/18/16 Board meeting minutes.) Any future school meals must be submitted for reimbursement or charged to the one remaining American Express charge card in accordance with ECRA FPP. On September 21, 2016, the ECRA Board voted to amend the ECRA FPP to require the following information and documentation to substantiate business and staff meals: purpose of the meeting or agenda; items ordered or detailed receipt; number of individuals in the party, names of attendees, or sign in sheet. (Appendix B, FPP effective 9/22/16; Appendix J, draft⁵

⁴ We note that if CSD reviewed 425 credit card expenses, the number of such expenses that it alleges to have violated policy necessarily cannot be “countless.”

⁵ We note that the meeting minutes are in draft form because the ECRA Board has not yet held a Board meeting during which it could approve the minutes. The minutes, however, reflect actions taken during the public Regular meeting on September 21, 2016.

- ECRA 9/21/16 Board meeting minutes.) This language was intentionally chosen to reflect the requirement identified in the NOV.⁶
- Refute. At the time of the expense, ECRCHS did not have contemporaneous FPP barring business meals, setting limits on business meals, or specifying that certain information or documentation must be submitted to substantiate business meals. As such, there was not a uniform procedure or process in place against which the Charter School could verify of the necessary details, as suggested by the NOV.
 - July 25, 2014, charge of \$247.56 at Nick & Stef's Steakhouse (Marshall Mayotte)
 - Remedy. Mr. Fehte no longer has any ECRA/ECRCHS charge or credit cards. (Appendix C, ECRA 5/18/16 Board meeting minutes.) Any future school meals must be submitted for reimbursement or charged to the one remaining American Express charge card in accordance with ECRA FPP. On September 21, 2016, the ECRA Board voted to amend the ECRA FPP to require the following information and documentation to substantiate business and staff meals: purpose of the meeting or agenda; items ordered or detailed receipt; number of individuals in the party, names of attendees, or sign in sheet. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)
 - Refute. Mr. Mayotte never dined at this restaurant, and his charge card is stored in the school safe and never taken off campus. The charge instead appears on Mr. Fehte's statement in Item #2375; Mr. Mayotte's name is at the top of the page only because the statements were "prepared for" him by American Express, since they are sent to the Charter School in his name. (Appendix K, D. Fehte credit card statement for the period covering July 25, 2014). Per ECRCHS FPP in place at the time, the Executive Director was permitted to "authorize expenditures, without pre-approval, within the approved budget." (Appendix L, pre-2016 Fiscal Policies and Procedures.)
 - August 4, 2015⁷, charge of \$151.30 at Cavarettas Italian (Yvonne Halski)
 - Remedy. Ms. Halski no longer works for ECRA, and no employee aside from the Chief Business Officer has an ECRA/ECRCHS charge card. (Appendix C, ECRA 5/18/16 Board meeting minutes.) Any future school meals must be submitted for reimbursement or charged to the one remaining American Express charge card in accordance with ECRA FPP. On September 21, 2016, the ECRA Board voted to amend the ECRA FPP to require the following information and documentation to substantiate business and staff meals: purpose of the meeting or agenda; items ordered or detailed receipt; number of individuals in the party, names of attendees,

⁶ This meal substantiation requirement is stricter than IRS Publication 463, which does not require an itemized receipt and which only requires a receipt that shows amount, date, name and address if the cost of the meal exceeds \$75.00.

⁷ We note that the August 4, 2015 date listed in the NOV is the date the expenditure appears on the credit card statement. It does not match the date on the receipt. We found this to be the case with multiple food and hotel charges. In order to maintain alignment of this Response to the NOV, we have utilized the same dates as those listed in the NOV, and have not identified all discrepancies herein. We could prepare a variance table, if desired by the District.

- or sign in sheet. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.) The Charter School was not intentionally unclear in the register, and will take steps to provide more expected descriptions going forward.
- Refute. The purpose of this meal was an “Administrative Working Luncheon.” (Appendix M, receipt.) Per ECRCHS FPP in place at the time, an Assistant Principal was permitted to “authorize expenditures, without pre-approval, within the approved budget.” (Appendix L, pre-2016 Fiscal Policies and Procedures.)
 - October 2, 2015, charge of \$518.90 at Monty’s Steak and Seafood (David Fehte)
 - Remedy. Mr. Fehte no longer has any ECRA/ECRCHS charge or credit cards. (Appendix C, ECRA 5/18/16 Board meeting minutes.) Any future school meals must be submitted for reimbursement or charged to the one remaining American Express charge card in accordance with ECRA FPP. On September 21, 2016, the ECRA Board voted to amend the ECRA FPP to require the following information and documentation to substantiate business and staff meals: purpose of the meeting or agenda; items ordered or detailed receipt; number of individuals in the party, names of attendees, or sign in sheet. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)
 - Refute. ECRCHS did not have contemporaneous FPP barring business meals, setting limits on business meals, or specifying that certain information or documentation must be submitted to substantiate business meals. As such, there was not a uniform procedure or process in place against which the Charter School could verify of the necessary details, as suggested by the NOV.
 - December 2, 2014, charge of \$1,139.38 at Monty’s Steak and Seafood (David Fehte)
 - Remedy. Mr. Fehte no longer has any ECRA/ECRCHS charge or credit cards. (Appendix C, ECRA 5/18/16 Board meeting minutes.) Any future school meals must be submitted for reimbursement or charged to the one remaining American Express charge card in accordance with ECRA FPP. On September 21, 2016, the ECRA Board voted to amend the ECRA FPP to require the following information and documentation to substantiate business and staff meals: purpose of the meeting or agenda; items ordered or detailed receipt; number of individuals in the party, names of attendees, or sign in sheet. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)
 - Refute. ECRCHS did not have contemporaneous FPP barring business meals, setting limits on business meals, or specifying that certain information or documentation must be submitted to substantiate business meals. As such, there was not a uniform procedure or process in place against which the Charter School could verify of the necessary details, as suggested by the NOV.

- **Travel charges**
 - June 19, 2014, charge of \$533.04 at Denver Airport Marriott, which included the lounge cost of \$37.55 (David Fehte)
 - **Remedy.** Mr. Fehte no longer has any ECRA/ECRCHS charge or credit cards. (Appendix C, ECRA 5/18/16 Board meeting minutes.) On September 21, 2016, the ECRA Board voted to amend the ECRA FPP to state that personal use of the [Charter Management Organization’s (“CMO”)] credit cards is prohibited.⁸ State laws prevent the unauthorized loaning and/or misappropriation of public funds. Accidental personal use of the CMO’s credit card must be brought to the immediate attention of the employee’s direct administrative supervisor and will be dealt with on a case-by-case basis. In all cases, reimbursement for accidental charges shall be paid in full within 30 days of the purchase. Reimbursement of the personal expense in this manner is required, but shall not prevent ECRA from taking further action against the employee. Interest charges will accrue at the then-applicable IRS-established rate when reimbursement is not made in 90 days from the personal charge. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)
 - **October 16, 2015, charge of \$1,469.30 at Delta Air Line (David Fehte)**
 - **Remedy.** Mr. Fehte no longer has any ECRA/ECRCHS charge or credit cards. (Appendix C, ECRA 5/18/16 Board meeting minutes.) As of September 1, 2016, all employees submit travel requests through the Charter School’s Enterprise Resource Planning (“ERP”) system⁹, which was initially implemented on July 1, 2015. These requests must be approved by Authorizing Personnel, as defined in the FPP. On September 21, 2016, the ECRA Board voted to amend the ECRA FPP to require all employees requesting out of state travel to present the ECRA Board Travel Committee, which consists of two (2) ECRA Board members, with a summary of the purpose of travel, educational or professional benefit, number of employees attending, and estimated cost. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)
 - **Refute.** Mr. Fehte’s card was used to purchase travel and lodging for Assistant Principal David Hussey, who oversees the international student

⁸ This step exceeds the District’s own policy regarding personal charges on LAUSD American Express Business Cards. In a September 15, 2015 Inter-Office Correspondence to all LAUSD American Express Business Cardholders, the District states: “[i]n the event the Corporate Card was used for personal charges, the card holder will be responsible for the prompt reimbursement to the District.” The Inter-Office Correspondence does not prohibit personal use. Available at: <http://achieve.lausd.net/cms/lib08/CA01000043/Centricity/Domain/330/American%20Express%20Policy%20Guide%2020150828%20v5.pdf>

⁹ The ERP is an ECRA-developed software program that manages and tracks the requests, approvals, and flows of all ECRCHS purchases. Teachers and administrators use the software to document reimbursement requests and track requested expenditures. The accounting staff use the software to ensure that the FPP are followed. The ERP has built-in rules that require multiple layers of approval before expenditures are made an approved. CSD’s Central Business Adviser has viewed the software, and has suggested revisions, which have been implemented.

program, so Mr. Hussey could meet with foreign exchange agencies and create new partnerships with schools in other countries. Per ECRCHS FPP in place at the time, the Executive Director was permitted to “authorize expenditures, without pre-approval, within the approved budget.” (Appendix L, pre-2016 Fiscal Policies and Procedures.)

- **Miscellaneous charges**
 - February 7, 2015, charge of \$27.22 at Bed, Bath & Beyond (Terri Keas)
 - Remedy. Ms. Keas no longer works for ECRA, and no employee aside from the Chief Business Officer has an ECRA/ECRCHS charge card. (Appendix C, ECRA 5/18/16 Board meeting minutes.) Any future staff purchases must be submitted for payment or reimbursement in accordance with ECRA FPP.
 - Refute. Ms. Keas’ card was used to purchase items for the Principal’s Conference Room on campus. (Appendix N, receipt.) Per ECRCHS FPP in place at the time, Ms. Keas was an authorized credit card holder, and since the expense was under \$100, Ms. Keas was not required to obtain signed permission from the Executive Director and/or Assistant Principals before making the purchase. Per ECRCHS Fiscal Policies and Procedures at the time, Ms. Keas received verbal authorization from the Executive Director and/or Assistant Principals before making this purchase, which was under \$100. (Appendix L, pre-2016 Fiscal Policies and Procedures.)
 - February 9, 2015, charge of \$30.00 at Verizon Wireless (Yvonne Halski)
 - Remedy. Ms. Halski no longer works for ECRA, and no employee aside from the Chief Business Officer has an ECRA/ECRCHS charge card. (Appendix C, ECRA 5/18/16 Board meeting minutes.) Any future staff purchases must be submitted for payment or reimbursement in accordance with ECRA FPP.
 - Refute. Ms. Halski’s card was used to purchase mobile broadband access for an iPad for school purposes. (Appendix O, receipt.) Per ECRCHS FPP in place at the time, an Assistant Principal was permitted to “authorize expenditures, without pre-approval, within the approved budget.” (Appendix L, pre-2016 Fiscal Policies and Procedures.) In addition, per Ms. Halski’s 2014-17 employment agreement, ECRCHS agreed to provide an Apple iPad and an iPhone at the Charter School’s expense (Appendix P, Y. Halski Employment Agreement).
 - March 19, 2015, charge of \$225.67 at Macy’s (David Fehte)
 - Remedy. Mr. Fehte no longer has any ECRA/ECRCHS charge or credit cards. (Appendix C, ECRA 5/18/16 Board meeting minutes.) On September 21, 2016, the ECRA Board voted to amend the ECRA FPP to prohibit personal charges on any ECRA/ECRCHS charge or credit cards issued to employees. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.) Accidental personal use of the CMO’s credit card must be brought to the immediate attention of the

employee's direct administrative supervisor and will be dealt with on a case-by-case basis.

- Refute. This was an inadvertent personal charge that was reimbursed by Mr. Fehte to ECRCHS. The reimbursement check for this charge is attached. (Appendix Q, check.)
- July 28, 2015, charge of \$59.23 at Adil Limousine Service (David Fehte)
 - Remedy. Mr. Fehte no longer has any ECRA/ECRCHS charge or credit cards. (Appendix C, ECRA 5/18/16 Board meeting minutes.) On September 21, 2016, the ECRA Board voted to amend the ECRA FPP to prohibit personal charges on any ECRA/ECRCHS charge or credit cards issued to employees. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)
 - Refute. This was an inadvertent personal charge that was reimbursed by Mr. Fehte to ECRCHS. The reimbursement check for this charge is attached. (Appendix R, check¹⁰.)

Dining receipts were provided without indication of the purpose of the meeting, items ordered, number of individuals in the party, or names of attendees. Sometimes the cost of the meal as shown on the receipt differed from the amount on the corresponding charge on the credit card statement due to the addition of gratuity. Without itemized receipts, it is also unknown whether alcohol was improperly purchased in violation of section 32435 of the Education Code.

ECRCHS Response: Refute and remedy

Refute. Education Code Section 32435 does not apply to charter schools as per the terms of Education Code Section 47610. During the August 23, 2016 LAUSD Board meeting, CSD's Business Adviser was asked a direct question from a Board member about whether it is unlawful for a charter school to purchase alcohol with public monies. CSD's Central Business Adviser did not opine on the legality of this. Instead, he stated that CSD would "write up" a charter school that spent public dollars on alcohol. This alleged violation has no basis in law.

Remedy. ECRA and ECRCHS voluntarily agree to comply with Education Code Section 32435.

On September 21, 2016, the ECRA Board voted to amend the ECRA FPP to require documentation of: the purpose of the meeting; items ordered; number of individuals in the party or names of attendees; identification of gratuity; and the prohibition of the purchase of alcohol with Charter School monies for any Charter School-related meal charged to an ECRA/ECRCHS charge or credit card, or for which reimbursement is sought. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)

¹⁰ This check is for the combined reimbursement of this expense and another personal expense; accordingly, the total on the check does not match the Adil Limousine Service charge.

In addition, travel charges were incurred without: 1) pre-approval per ECRCHS policy; and, 2) explanation as to the nature of the travel, as will be discussed more fully below.

Refute. The NOV did not include any evidence, let alone substantial evidence, that travel charges were incurred without pre-approval per ECRCHS policy. The other alleged violation is addressed below.

Further, supplemental charges for first- and business-class airfare were incurred without supporting documentation to justify ticket upgrades.

Remedy. On September 21, 2016, the ECRA Board voted to amend the ECRA FPP to state that only pre-approved coach class, economy, “Wanna Get Away,” or promotional discounted airfare ticketing will be paid by ECRA/ECRCHS for documented school related travel. *First class, business class, economy plus, and other similar fare classes will not be paid for or reimbursed by ECRA.* (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)

With regard to the charge to Verizon Wireless, ECRCHS’s Fiscal Policies and Procedures did not outline acceptable usage charges to be paid by ECRCHS.

Remedy. Ms. Halski no longer works for ECRA, and no employee aside from the Chief Business Officer has an ECRA/ECRCHS charge card. (Appendix C, ECRA 5/18/16 Board meeting minutes.) Any future staff purchases must be submitted for payment or reimbursement in accordance with ECRA FPP.

Refute. Ms. Halski’s card was used to purchase mobile broadband access for an iPad for school purposes. (Appendix O, receipt.) Per ECRCHS FPP in place at the time, an Assistant Principal was permitted to “authorize expenditures, without pre-approval, within the approved budget.” (Appendix L, pre-2016 Fiscal Policies and Procedures.) In addition, per Ms. Halski’s 2014-17 employment agreement, ECRCHS agreed to provide an Apple iPad and an iPhone at the Charter School’s expense. (Appendix P, Y. Halski Employment Agreement.)

b. Personal Expenses

Among the 43 identified personal expenses in the sample of transactions reviewed, 7% were not reimbursed to ECRCHS.

Refute. **There are no personal charges that have not been reimbursed to ECRCHS.** This fact has been substantiated by both an internal review, and also by the independent investigator ECRA hired to review such expenditures. The items identified in the NOV are either not personal expenses, or have been paid back.

The internal designations that ECRCHS applied to the identified expenditures were misinterpreted. None of the charges identified below were personal.

- [O]n August 28, 2014, a charge of \$1,853.49 was incurred by Mr. Fehte at BSN Sports
 - Remedy. Now that ECRCHS processes its own checks, the Charter School does not need to inform the back office accounting firm that a reimbursement is needed. Further, Ms. Halski no longer works for ECRA, and no employee aside from the Chief Business Officer has an ECRA/ECRCHS charge card. (Appendix C, ECRA 5/18/16 Board meeting minutes.) Any future staff purchases must be submitted for payment or reimbursement in accordance with ECRA FPP.
 - Refute. This was not a personal charge. Additionally, the charge does not appear on Mr. Fehte’s statement, but Ms. Halski’s statement. (Appendix S, Y. Halski credit card statement for the period covering August 28, 2014) The purchase was for softball equipment. The statement lists the expense as “Reimbursement Needed,” “Subsidized,” and “Athletics,” and includes a detailed description of the equipment purchased. The designation as “Reimbursement Needed” is a reminder to the back office services firm to prepare a check from the athletics trust account to reimburse the ECRCHS general fund for the expense. It has nothing to do with inadvertent personal charges. The trust account did reimburse the ECRCHS general fund for this expenditure. (Appendix T, BSN Sports Order Confirmation.)

- [O]n June 4, 2015, a charge of \$299.21 was incurred by Mr. Fehte at Marriott, Woodland Hills
 - Remedy. Ms. Halski no longer works for ECRA, Mr. Fehte no longer has an ECRA/ECRCHS charge card, and no employee aside from the Chief Business Officer has an ECRA/ECRCHS charge card. (Appendix C, ECRA 5/18/16 Board meeting minutes.) Any future staff purchases must be submitted for payment or reimbursement in accordance with ECRA FPP. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.) On September 21, 2016, the ECRA Board voted to amend the ECRA FPP to require the following information and documentation to substantiate business and staff meals: purpose of the meeting or agenda; items ordered or detailed receipt; number of individuals in the party, names of attendees, or sign in sheet. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)
 - Refute. This was not a personal charge. The expense is described as “Additional payment for TRAM Luncheon for staff 6/2/2014.” The total charge, along with a description of the event and a notation that the charges were split between the credit cards or two administrators—Ms. Halski and Mr. Fehte. There is no notation in the NOV exhibits that this was specifically marked as an expenditure requiring reimbursement.

- [O]n November 20, 2014, a charge of \$84.93 was incurred by a staff member using Ms. Halski's credit card.
 - Remedy. Now that ECRCHS processes its own checks, the Charter School does not need to inform the back office accounting firm that a reimbursement is needed. Further, Ms. Halski no longer works for ECRA, and no employee aside from the Chief Business Officer has an ECRA/ECRCHS charge card. (Appendix C, ECRA 5/18/16 Board meeting minutes.) Any future staff purchases must be submitted for payment or reimbursement in accordance with ECRA FPP.
 - Refute. This was not a personal charge, as alleged. The expense is listed as "Reimbursement Needed," "Restricted," and "Careers in Entertainment Academy." (Appendix U, Credit Card Recap Statement 12/8/14.) The description also lists "Omnidirectional Condenser Microphone." The designation as "Reimbursement Needed" denotes that a trust account will reimburse the ECRCHS general fund for the expense. Yvonne Halski purchased the item for Ms. Estrin, an ECRCHS teacher, for use by the Careers in Entertainment Academy. Per ECR Fiscal Policies and Procedures in place at the time of purchase, an Assistant Principal was permitted to "authorize expenditures, without pre-approval, within the approved budget."

These transactions were specifically marked as expenditures requiring reimbursement, but there is no documentation to evidence that they were reimbursed.

Remedy. Now that ECRCHS processes its own checks, the Charter School does not need to inform the back office accounting firm that a reimbursement is needed.

Refute. The designation as "Reimbursement Needed" denotes that an athletics, booster, or student trust account will reimburse the ECRCHS general fund for the expense. It has nothing to do with inadvertent personal charges. Had CSD simply asked ECRCHS staff what the designation meant, both District and Charter School resources would not have been expended on this aspect of the NOV.

Even when personal expenses were reimbursed, payment was sometimes not received until months after the expenses were incurred. For example, on January 18, 2016, Executive Director David Fehte charged \$71.04 at National Car Rental. Reimbursement for this charge was not received from Mr. Fehte until two months later, when Mr. Fehte provided a personal check dated "March 23, 2017 [presumably March 23, 2016]" for the "accidental" charge.

Remedy. Mr. Fehte no longer has any ECRA/ECRCHS charge or credit cards. (Appendix C, ECRA 5/18/16 Board meeting minutes.)

Proposed remedy. On September 21, 2016, the ECRA Board voted to amend the ECRA FPP to state the personal use of the CMO's credit cards is prohibited. State laws prevent the unauthorized

loaning and/or misappropriation of public funds. Accidental personal use of the CMO's credit card must be brought to the immediate attention of the employee's direct administrative supervisor and will be dealt with on a case-by-case basis. In all cases, reimbursement for accidental charges shall be paid in full within 30 days of the purchase. Reimbursement of the personal expense in this manner is required, but shall not prevent ECRA from taking further action against the employee. Interest charges will accrue at the then-applicable IRS-established rate when reimbursement is not made in 90 days from the personal charge. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)

Refute. The phrasing of the introductory clause for this alleged violation suggests that one or more personal charges that were incurred on ECRA/ECRCHS charge or credit cards were not reimbursed. That allegation is not supported by fact or by the allegations and documentation provided in the NOV.

In addition, there exist numerous other suspicious transactions which cannot be identified as being personal and/or improper expenditures due to lack of sufficient documentation. ECRCHS has not provided any evidence that the responsible employees have been held accountable for this misuse of public funds, and those employees remain in their administrative positions at ECRCHS.

Refute. The NOV does not provide any evidence, let alone substantial evidence, that any of the above charges were personal. Without any detail, this alleged violation cannot be utilized as a means to revoke the ECRCHS charter, as the Charter School will be denied the right to respond. (5 CCR 11968.5.2.) Further, CSD has not substantiated a misuse of public funds, so it cannot rely on this allegation.

2. Failure to Comply with Then-Existing Fiscal Policies and Procedures Through December 2015

ECRCHS's fiscal mismanagement was further exacerbated by its lack of oversight to ensure that its employees acted in accordance with the existing, albeit deficient, fiscal guidelines. Indeed, the independent auditor noted that "[a]lthough [ECRCHS]'s management is fully aware of the policies in place it appears as though sometimes they are not being adhered to by certain employees."

It appears that the [ECRCHS fiscal] guidelines were implemented, in part, by compiling credit card expenses on Credit Card Recap summaries for review and approval by the Executive Director and Assistant Principal prior to payments on the credit cards were due. This, however, was not consistently and appropriately implemented, as Credit Card Recap summaries were sometimes prepared after payment on the credit card was made, or not prepared at all. Descriptions of expenditures were frequently inaccurate on Credit Card Recap summaries, such as dining expenses categorized as "Other Supplies." In addition, the Credit Card Recap summaries were improperly reviewed and approved, as they were frequently signed after payment on the credit card was made and by persons seeming to lack approval authority. Finally, several instances of late credit card payment were discovered, though the amount of penalty and interest accrued could not always be determined due to incomplete credit card statements.

Remedy. For 2016-17, ECRCHS will work with the Financial Crisis and Management Assistance Team (“FCMAT”) to review internal controls and recommend changes, while also providing periodic training to the staff. Attached as Appendix V, please find screenshots of the ERP expense approval process. FCMAT has already been on campus (on September 22, 2016) to begin its review.

In the Enterprise Resource Planning system, purchase requisitions are made by employees and approved by Authorizing Personnel, as defined in the FPP. Only after these steps have been fulfilled may the Charter School’s charge card may be used to make the purchase. All of the supporting documents are uploaded into the ERP. The payment of the credit or charge card is made after a subsequent/redundant authorization from an Assistant Principal.

Furthermore, ECRCHS will continue to work with a back office services firm, currently EdTec, which it has done since charter conversion, to learn best practices and continue to provide a second pair of eyes on the financials.

a. Unauthorized Miscellaneous Expenses

Numerous charges incurred using ECRCHS’s credit cards, even those appearing to be for legitimate school-related purposes, did not comply with existing policies and procedures in place at the time the purchases were made. These transactions include, but are not limited to, the following:

- November 7, 2014, charge of \$262.97 at Maneri Sign Company, Inc. (Dean Bennett)
 - Remedy. Mr. Bennett no longer has an ECRA/ECRCHS charge card. (Appendix F, ECRA 3/16/16 Board meeting minutes.) Any future expenditures must be submitted for payment or reimbursement in accordance with ECRA FPP. In addition, ECRCHS’ ERP system will track purchases from requisition/budget to payment with two authorizations before and after purchase.
 - Refute. The purpose of this charge was for “2 Special 36x24 R/W BE w/Graffiti Shield,” that are part of the Charter School’s safe school plan and modeled after signs used by LAUSD schools. (Appendix W, quote and invoice.) Mr. Bennett is an Assistant Principal. Per ECRCHS Fiscal Policies and Procedures at the time, an Assistant Principal was permitted to “authorize expenditures, without pre-approval, within the approved budget.”
- July 14, 2015, charge of \$1,961.32 at Real Volleyball (Dean Bennett)
 - Remedy. Mr. Bennett no longer has an ECRA/ECRCHS charge card. (Appendix F, ECRA 3/16/16 Board meeting minutes.) Any future expenditures must be submitted for reimbursement in accordance with ECRA fiscal policies. In addition, ECRCHS’ ERP system will track purchases from

requisition/budget to payment with two authorizations before and after purchase.

- Refute. This charge was a purchase of volleyball equipment ordered for the Charter School's volleyball teams. (Appendix X, invoice.) The credit card recap is not included in CSD's exhibits, but records at the Charter School show the "Budget" to be "Boys Volleyball." The equipment was purchased by Assistant Principal Dean Bennett on his school credit card, and shipped to ECR's Athletic Director at the Charter School's address. Per ECR Fiscal Policies and Procedures at the time, an Assistant Principal was permitted to "authorize expenditures, without pre-approval, within the approved budget."
- October 7, 2015, charge of \$91.70 at Woodland Warner Flower (Terri Keas)
 - Remedy. Reimbursement was made to the general fund by Friends of ECR, a parent fundraising group. (Appendix Y, reimbursement check #2470.) This group generously reimburses the Charter School for purchases related to employee morale, among many other important things. The credit card recap is not included in CSD's exhibits, but records at the Charter School show the "Resource" code to be "9151-0 Fundraising, Restricted." In addition, ECRCHS' ERP system will track purchases from requisition/budget to payment with two authorizations before and after purchase.
 - Refute. This charge was incurred by Ms. Keas, a Board authorized card holder. (Appendix Z, order summary.)
- October 16, 2014, charge of \$261.98 at The Home Depot
 - Refute. The Home Depot and Smart & Final credit cards are Board approved credit cards with pre-approved limits to specifically allow the woodshop teacher, drama teacher and home economics teacher to make purchases of up to \$500/month, each. No violation occurred with these purchases. CSD has not shown proof of purchases made by unauthorized users of these credit cards.
- October 20, 2014, charge of \$485.73 at The Home Depot
 - Refute. The Home Depot and Smart & Final credit cards are Board approved credit cards with pre-approved limits to specifically allow the woodshop teacher, drama teacher and home economics teacher to make purchases of up to \$500/month, each. No violation occurred with these purchases. CSD has not shown proof of purchases made by unauthorized users of these credit cards.
- December 17, 2014, charge of \$205.37 at Smart & Final
 - Refute. The Home Depot and Smart & Final credit cards are Board approved credit cards with pre-approved limits to specifically allow the woodshop teacher, drama teacher and home economics teacher to make purchases of up to \$500/month, each. No violation occurred with these purchases. CSD has not shown proof of purchases made by unauthorized users of these credit cards.

- January 22, 2015, charge of \$535.00 at Amazon.com (Yvonne Halski)
 - Remedy. Ms. Halski no longer works for ECRA, and no employee aside from the Chief Business Officer has an ECRA/ECRCHS charge card. (Appendix C, ECRA 5/18/16 Board meeting minutes.) In addition, ECRCHS' ERP system will track purchases from requisition/budget to payment with two authorizations before and after purchase.
 - Refute. This expense is listed as "Non Capitalized Equipment 4400," "Restricted," "Subsidized," and "Careers in Entertainment Academy." (Appendix AA, credit card payment recap dated 2/12/15.) The description lists "Careers in Entertainment Academy – Restricted – El Camino Real CHS – K. Messadeih Canon EOS Rebel T3i Digital SLR Camera W/EFS 18-55." Yvonne Halski purchased the item for Kim Messadieih, an ECRCHS teacher, for use by the Careers in Entertainment Academy. (Appendix AA, credit card payment recap dated 2/12/15.) Ms. Halski was an Assistant Principal. Per ECR Fiscal Policies and Procedures at the time, an Assistant Principal was permitted to "authorize expenditures, without pre-approval, within the approved budget."

- May 28, 2015, charge of \$146.52 at Smart & Final
 - Refute. The Home Depot and Smart & Final credit cards are Board approved credit cards with pre-approved limits to specifically allow the woodshop teacher, drama teacher and home economics teacher to make purchases of up to \$500/month, each. No violation occurred with these purchases. CSD has not shown proof of purchases made by unauthorized users of these credit cards.

- October 7, 2015, charge of \$474.66 at BigRentz.com (Dean Bennett)
 - Remedy. Mr. Bennett no longer has an ECRA/ECRCHS charge card. (Appendix F, ECRA 3/16/16 Board meeting minutes.) Any future expenditures must be submitted for reimbursement in accordance with ECRA FPP. In addition, ECRCHS' ERP system will track purchases from requisition/budget to payment with two authorizations before and after purchase.
 - Refute. This charge is described as "Football Budget (CHARTER)." (Appendix BB, receipt of payment.) Dean Bennett is an Assistant Principal. Per ECR Fiscal Policies and Procedures at the time, an Assistant Principal was permitted to "authorize expenditures, without pre-approval, within the approved budget."

- December 11, 2015, charge of \$262.48 at Keurig Green Mountain (Terri Keas)
 - Remedy. Ms. Keas no longer works for ECRA, and no employee aside from the Chief Business Officer has an ECRA/ECRCHS charge card. (Appendix C, ECRA 5/18/16 Board meeting minutes.) Any future staff purchases must be submitted for payment or reimbursement in accordance with ECRA FPP.
 - Refute. This charge was incurred by Ms. Keas, a Board authorized card holder. (Appendix CC, order confirmation.) The charge description is listed as

“Principal’s Conference Room.” (Appendix CC, order confirmation.) Per ECR Fiscal Policies and Procedures, the Executive Director was permitted to “authorize expenditures, without pre-approval, within the approved budget.” Per ECRCHS Fiscal Policies and Procedures at the time, Ms. Keas received verbal authorization from the Executive Director and/or Assistant Principals before making this purchase. (Appendix L, pre-2016 Fiscal Policies and Procedures.)

- December 18, 2015, charge of \$73.30 at Woodland Warner Flower (Terri Keas)
 - Remedy. Reimbursement was made to the general fund by Friends of ECR, a parent fundraising group. (Appendix DD, reimbursement check.) This group generously reimburses the Charter School for purchases related to employee morale, among many other important things. The credit card recap is not included in CSD’s exhibits, but records at the Charter School show the “Resource” code to be “9151-0 Fundraising, Restricted.” In addition, ECRCHS’ ERP system will track purchases from requisition/budget to payment with two authorizations before and after purchase.
 - Refute. This charge was incurred by Ms. Keas, a Board authorized card holder. (Appendix EE, receipt.)

To begin, some of the above-listed purchases appear to have been made by individuals other than those identified as authorized purchasers. Therefore, per ECRCHS’s Fiscal Policies and Procedures, the purchasing party/parties were not authorized to incur these charges without necessary pre-approval.

Refute. All identified charges were properly authorized in accordance with contemporaneous ECRCHS Fiscal Policies and Procedures, as detailed above.

Additionally, for purchases in excess of the \$100 threshold, purchase requisitions and authorization by the Executive Director and/or Assistant Principal were required. No evidence of such purchase requisitions or prior authorization for the above-listed transactions were found to validate the transactions. Not only did these expenses lack sufficient supporting documentation and evidence of prior approval to ensure that the purchases were budgeted, allowable, appropriate and/or consistent with school-wide purchasing policies and procedures; the majority of the charges were not properly reconciled in Credit Card Payment Recap summaries, or reviewed prior to the deadlines for payment on the credit cards.

Refute. Credit and charge cards issued to individuals were approved by the ECRA Board. The specific credit and charge card purchases identified above were made by administrators or teachers, all of whom had purchasing authority. Most of those purchases were done upon request from a teacher or department chair via email, verbal communications or a written note. Credit card purchases approved by the ECRCHS/ECRA Board were made by the authorized teacher with a \$500 monthly limit at specific companies, like Home Depot or Smart and Final.

The ECRCHS accounting staff prepared all credit card recaps for an administrator to review. After review, the credit card recaps were sent to the back office accounting firm for payment. At the back office services firm, an additional review was done by their staff before checks were issued. It was not uncommon for the back office services firm to process payment after two weeks of receipt of payment requests. A typical purchase might pass through two to three hands at ECRCHS and another two to three hands at the back office services firm before a payment is made.

Additionally, administrators regularly discussed financial and budget issues with the Chief Business Officer at the weekly administrators' meeting. The CBO regularly performed variance analysis and benchmarking of the financials, which is sufficient for a single site school.

Remedy. ECRCHS' ERP system will track purchases from requisition/budget to payment with two authorizations before and after purchase.

b. Unauthorized Travel Expenses

The travel policy in ECRCHS's November 20, 2013, ECRCHS Fiscal Policies and Procedures, provided that all out-of-town travel must be pre-approved by the Assistant Principal(s). It, however, failed to account for any checks or balances to authorize travel expenses incurred by those in superior positions, namely Mr. Fehte and Mr. Mayotte.

Remedy. On September 21, 2016, the ECRA Board voted to revise the Fiscal Policies and Procedures to mandate that a threshold determination of the propriety of out of state must be made by an ad hoc ECRA Board Travel Committee, which consists of two (2) ECRA Board members. Employees requesting out of state travel must present the Travel Committee with a summary of the purpose of travel, educational or professional benefit, number of employees attending, and estimated cost. Authorizing Personnel (as defined in the FPP) may only pre-approve the travel and costs if the Travel Committee has approved the trip. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)

Among the unauthorized transactions were numerous travel expenses which lacked requisite pre-approval by the Assistant Principal(s):

- June 1, 2014, charge of \$2,528.00 at Southwest Airlines (Yvonne Halski)
 - Remedy. On September 21, 2016, the ECRA Board voted to revise the Fiscal Policies and Procedures to mandate that a threshold determination of the propriety of out of state travel must be made by an ad hoc ECRA Board Travel Committee, which consists of two (2) ECRA Board members. Employees requesting out of state travel must present the Travel Committee with a summary of the purpose of travel, educational or professional benefit, number of employees attending, and estimated cost. Authorizing Personnel (as defined in the FPP) may only pre-approve the travel and costs if the Travel Committee has approved the trip. (Appendix B, FPP effective 9/22/16; Appendix J, draft

- ECRA 9/21/16 Board meeting minutes.)
- Refute. As the Assistant Principal in charge of procurement, Ms. Halski, by allowing Stephanie Franklin to use her card for the expense, pre-authorized the travel expense. (Appendix FF, flight reservation confirmation.) The reason for the purchase on the documentation was “Academic Decathlon.” Travel date was listed on the documentation as June 9, 2014. ECRCHS students listed on the documentation were presented with a proclamation on the California State Senate Floor by Senator Fran Pavley on June 9, 2014. LAUSD’s John Marshall High School students were also presented with a proclamation on the same date by Senator Kevin de Leon.
- July 2, 2014, charge of \$857.88 at Mandalay Bay in Las Vegas, Nevada (Marshall Mayotte)
 - Remedy. On September 21, 2016, the ECRA Board voted to revise the Fiscal Policies and Procedures to mandate that a threshold determination of the propriety of out of state must be made by an ad hoc ECRA Board Travel Committee, which consists of two (2) ECRA Board members. Employees requesting out of state travel must present the Travel Committee with a summary of the purpose of travel, educational or professional benefit, number of employees attending, and estimated cost. Authorizing Personnel (as defined in the FPP) may only pre-approve the travel and costs if the Travel Committee has approved the trip. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)
 - Refute. This is not Mr. Mayotte’s charge. Mr. Fehte’s card was used to authorize Mr. Delgado’s lodging during the National Charter Schools Conference – thus demonstrating pre-authorization. Food and beverage costs were incurred over a 3-day period. (Appendix GG, hotel receipt.) Per ECR Fiscal Policies and Procedures at the time, the Executive Director was permitted to “authorize expenditures, without pre-approval, within the approved budget.” (Appendix L, pre-2016 Fiscal Policies and Procedures.)
 - July 16, 2014, charge of \$423.50 at Marriott Hotel in Woodland Hills, California (Marshall Mayotte)
 - Remedy. Mr. Fehte no longer has any ECRA/ECRCHS charge or credit cards. (Appendix C, ECRA 5/18/16 Board meeting minutes.) Any future expenses must be submitted for reimbursement in accordance with ECRA FPP. Further, on September 21, 2016, the ECRA Board voted to amend the ECRA FPP to prohibit personal charges on any ECRA/ECRCHS charge or credit cards issued to employees. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)
 - Refute. This is not Mr. Mayotte’s charge. The charge instead appears on Mr. Fehte’s statement. (Appendix HH, D. Fehte’s credit card statement dated 7/28/14.) This was an inadvertent personal charge, and was not for Charter

School-related travel. The charge was marked as “Personal – Reimbursement Requested.” (Appendix II, documentation of reimbursement.)

- **January 27, 2015, charge of \$335.60 at Southwest Airlines (Yvonne Halski)**
 - **Remedy.** Ms. Halski no longer works for ECRA, and no employee aside from the Chief Business Officer has an ECRA/ECRCHS charge card. (Appendix C, ECRA 5/18/16 Board meeting minutes.) On September 21, 2016, the ECRA Board voted to revise the Fiscal Policies and Procedures to mandate that a threshold determination of the propriety of out of state must be made by an ad hoc ECRA Board Travel Committee, which consists of two (2) ECRA Board members. Employees requesting out of state travel must present the Travel Committee with a summary of the purpose of travel, educational or professional benefit, number of employees attending, and estimated cost. Authorizing Personnel (as defined in the FPP) may only pre-approve the travel and costs if the Travel Committee has approved the trip. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)
 - **Refute.** Ms. Halski, who was an Assistant Principal and in charge of General Procurement, charged the trip, and thus pre-authorized the travel expense. The passenger is listed as David Fehte. (Appendix JJ, flight reservation confirmation.) The description on the receipt includes “Dave Fehte” and “Academic Decathlon.”

- **March 10, 2015, charge of \$412.20 at Southwest Airlines for travel between Burbank and San Antonio, Texas (David Fehte)**
 - **Remedy.** Mr. Fehte no longer has any ECRA/ECRCHS charge or credit cards. (Appendix C, ECRA 5/18/16 Board meeting minutes.) On September 21, 2016, the ECRA Board voted to revise the Fiscal Policies and Procedures to mandate that a threshold determination of the propriety of out of state must be made by an ad hoc ECRA Board Travel Committee, which consists of two (2) ECRA Board members. Employees requesting out of state travel must present the Travel Committee with a summary of the purpose of travel, educational or professional benefit, number of employees attending, and estimated cost. Authorizing Personnel (as defined in the FPP) may only pre-approve the travel and costs if the Travel Committee has approved the trip. The FPP also include requirements for airfare, lodging, and meals. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)
 - **Refute.** Mr. Fehte did not travel to San Antonio, TX; that is where the travel agency is located. Mr. Fehte traveled from Burbank to Sacramento, CA for the CCSA Conference and Academic Decathlon State Championship. (Appendix KK, credit card payment recap dated 4/14/15.) The travel agent made an error and wrote “Burbank San Antonio” instead of “Burbank Sacramento,” and this line was erroneously referenced in the credit card payment recap. This flight aligns with other charges made in Sacramento by Mr. Fehte during his

attendance at the CCSA Conference and Academic Decathlon State Championship. (Appendix KK, credit card payment recap dated 4/14/15 showing Mr. Fehte's hotel charges for Academic Decathlon.)

- March 13, 2015, charge of \$885.96 at US Airways for travel between Los Angeles and Greensboro, North Carolina (David Fehte)
 - Remedy. Mr. Fehte no longer has any ECRA/ECRCHS charge or credit cards. (Appendix C, ECRA 5/18/16 Board meeting minutes.) Further, on September 21, 2016, the ECRA Board voted to amend the ECRA FPP to state that Personal use of the CMO's credit cards is prohibited. State laws prevent the unauthorized loaning and/or misappropriation of public funds. Accidental personal use of the CMO's credit card must be brought to the immediate attention of the employee's direct administrative supervisor and will be dealt with on a case-by-case basis. In all cases, reimbursement for accidental charges shall be paid in full within 30 days of the purchase. Reimbursement of the personal expense in this manner is required, but shall not prevent ECRA from taking further action against the employee. Interest charges will accrue at the then-applicable IRS-established rate when reimbursement is not made in 90 days from the personal charge. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)
 - Refute. This was an inadvertent personal charge that was reimbursed by Mr. Fehte to ECRCHS. The reimbursement check for this charge is attached.¹¹ (Appendix LL, check.)
- March 21, 2015, charge of \$695.85 at Sacramento Marriott (David Fehte)
 - Remedy. Mr. Fehte no longer has any ECRA/ECRCHS charge or credit cards. (Appendix C, ECRA 5/18/16 Board meeting minutes.) Any future travel must be paid for or submitted for reimbursement in accordance with ECRA FPP. Further, on September 21, 2016, the ECRA Board voted to revise the Fiscal Policies and Procedures to mandate that a threshold determination of the propriety of out of state must be made by an ad hoc ECRA Board Travel Committee, which consists of two (2) ECRA Board members. Employees requesting out of state travel must present the Travel Committee with a summary of the purpose of travel, educational or professional benefit, number of employees attending, and estimated cost. Authorizing Personnel (as defined in the FPP) may only pre-approve the travel and costs if the Travel Committee has approved the trip. The FPP also include requirements for airfare, lodging, and meals. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)
 - Refute. This charge is documented as "Hotel Marriott Rancho Cordova CA 3/17-20 Conference, AcaDeca." Mr. Fehte did not stay in this hotel; other

¹¹ The check covers more charges than the one identified herein. Accordingly, the amount of the check does not match the identified expenditure (it exceeds it).

Charter School employees did. This stay was pre-approved by an Assistant Principal as required. Additionally, Ms. Halski previously booked Mr. Fehte's flight to attend the event.

- March 23, 2015, charge of \$1,846.77 at Citizen Hotel in Sacramento (David Fehte)
 - Remedy. Mr. Fehte no longer has any ECRA/ECRCHS charge or credit cards. (Appendix C, ECRA 5/18/16 Board meeting minutes.) Further, on September 21, 2016, the ECRA Board voted to revise the Fiscal Policies and Procedures to mandate that a threshold determination of the propriety of out of state must be made by an ad hoc ECRA Board Travel Committee, which consists of two (2) ECRA Board members. Employees requesting out of state travel must present the Travel Committee with a summary of the purpose of travel, educational or professional benefit, number of employees attending, and estimated cost. Authorizing Personnel (as defined in the FPP) may only pre-approve the travel and costs if the Travel Committee has approved the trip. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)
 - Refute. This charge is documented with the description "Hotel 3/18-22 Sacramento Conference, AcaDeca Competition." This stay was pre-approved by an Assistant Principal as required. (Appendix KK, credit card payment recap dated 4/14/15, signed by Ms. Halski.)
- November 19, 2015, three charges of \$422.38 at Hyatt Hotel in Burlingame, California (Marshall Mayotte)
 - Remedy. On September 21, 2016, the ECRA Board voted to revise the Fiscal Policies and Procedures to mandate that a threshold determination of the propriety of out of state must be made by an ad hoc ECRA Board Travel Committee, which consists of two (2) ECRA Board members. Employees requesting out of state travel must present the Travel Committee with a summary of the purpose of travel, educational or professional benefit, number of employees attending, and estimated cost. Authorizing Personnel (as defined in the FPP) may only pre-approve the travel and costs if the Travel Committee has approved the trip. The FPP also include requirements for airfare, lodging, and meals. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)
 - Refute. This charge was incurred by Mr. Mayotte on behalf of 3 other employees traveling to the Charter Schools Development Center conference in Burlingame: Susan Kim, Sarah Sands, and Emese Gaspar. This stay was pre-approved by the CBO, who is an approved administrator under the Travel Policy the Board approved on June 25, 2014. (Appendix MM, three hotel receipts with three distinct guest names.)

The above-listed charges not only lacked pre-approval by the Assistant Principal(s) as required by

its Fiscal Policies and Procedures, they were also unsupported by documentation indicating the purpose or details of travel; and were not reviewed to verify that the charges were budgeted, allowable, appropriate, and/or consistent with school-wide purchasing policies and procedures. Furthermore, several transactions were not included on a Credit Card Recap summary to undergo review. Even when the transactions were included in Credit Card Payment Recap summaries, they were not reviewed by the appropriate individuals before payments on the credit cards were due.

The June 1, 2014, charge of \$2,528.00 at Southwest Airlines by Yvonne Halski appears to have been incurred in connection with the Academic Decathlon. However, the 2014 Academic Decathlon was held in April 2014. There is no documentation to support this charge, other than a confirmation receipt.

Remedy. On September 21, 2016, the ECRA Board voted to revise the Fiscal Policies and Procedures to mandate that a threshold determination of the propriety of out of state must be made by an ad hoc ECRA Board Travel Committee, which consists of two (2) ECRA Board members. Employees requesting out of state travel must present the Travel Committee with a summary of the purpose of travel, educational or professional benefit, number of employees attending, and estimated cost. Authorizing Personnel (as defined in the FPP) may only pre-approve the travel and costs if the Travel Committee has approved the trip. The FPP also include requirements for airfare, lodging, and meals. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)

Refute. As the Assistant Principal in charge of procurement, Ms. Halski, by allowing Stephanie Franklin to use her card for the expense, pre-authorized the travel expense. CSD Exhibit 37 – Part 2, Items #2348-2340 included the reason for the purchase on the documentation “Academic Decathlon.” Travel date was listed on the documentation as June 9, 2014. ECRCHS students listed on the documentation were presented with a proclamation on the California State Senate Floor by Senator Fran Pavley on June 9, 2014. LAUSD’s John Marshall High School students were also presented with a proclamation on the same date by Senator Kevin de Leon.

The July 2, 2014, charge of \$857.88 at Mandalay Bay in Las Vegas, Nevada by Marshall Mayotte similarly appears to have a school-related purpose (Common Core Conference); however, only a receipt was provided in support of this charge and includes food and beverage costs in excess of \$250, as well as a spa tip of \$20.

Remedy. On September 21, 2016, the ECRA Board voted to revise the Fiscal Policies and Procedures to mandate that a threshold determination of the propriety of out of state must be made by an ad hoc ECRA Board Travel Committee, which consists of two (2) ECRA Board members. Employees requesting out of state travel must present the Travel Committee with a summary of the purpose of travel, educational or professional benefit, number of employees attending, and estimated cost. Authorizing Personnel (as defined in the FPP) may only pre-approve the travel and costs if the Travel Committee has approved the trip. The FPP also include requirements for airfare, lodging, and meals. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)

Refute. This is not Mr. Mayotte's charge. Mr. Fehte's card was used to authorize Mr. Delgado's lodging during the National Charter Schools Conference, thus demonstrating pre-authorization. Food and beverage costs were incurred over a 3-day period. (Appendix GG, hotel receipt.) Per ECRCHS Fiscal Policies and Procedures at the time, the Executive Director was permitted to "authorize expenditures, without pre-approval, within the approved budget." (Appendix L, pre-2016 Fiscal Policies and Procedures.) It is our understanding that Mr. Delgado is researching the spa tip charge.

A dining charge at SW Steakhouse, on July 3, 2014, in the amount of \$621.85, was incurred during Marshall Mayotte's travel for the conference, without an itemized receipt, names of those in attendance, or explanation as to the purpose of the meal.

Remedy. On September 21, 2016, the ECRA Board voted to revise the Fiscal Policies and Procedures to mandate that a threshold determination of the propriety of out of state must be made by an ad hoc ECRA Board Travel Committee, which consists of two (2) ECRA Board members. Employees requesting out of state travel must present the Travel Committee with a summary of the purpose of travel, educational or professional benefit, number of employees attending, and estimated cost. Authorizing Personnel (as defined in the FPP) may only pre-approve the travel and costs if the Travel Committee has approved the trip. The FPP also include requirements for airfare, lodging, and meals. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)

Refute. Mr. Mayotte never dined at this restaurant. The charge instead appears on Ms. Halski's statement. (Appendix NN, Ms. Halski's credit card statement dated 7/28/14 and receipt.) The receipt lists the names of those in attendance and an explanation for the meal, which occurred during the National Charter Schools Conference.

Finally, ECRCHS's November 20, 2013, travel policy also provided that "employees will be reimbursed for overnight stays at hotels/motels when pre-approved by an administrator and the event is more than 50 miles from either the employee's residence or the school site.") On at least one occasion, however, charges were incurred for hotel accommodations despite the employee's place of residence or school site location less than 50 miles from the hotel. For example, Mr. Fehte used ECRCHS's American Express credit card for a reservation at the Marriott at Burbank Airport on April 16, 2015, the day prior to his April 17, 2015, travel to Louisville, Kentucky.

Remedy. On September 21, 2016, the ECRA Board voted to revise the Fiscal Policies and Procedures to mandate that a threshold determination of the propriety of out of state must be made by an ad hoc ECRA Board Travel Committee, which consists of two (2) ECRA Board members. Employees requesting out of state travel must present the Travel Committee with a summary of the purpose of travel, educational or professional benefit, number of employees attending, and estimated cost. Authorizing Personnel (as defined in the FPP) may only pre-approve the travel and costs if the Travel Committee has approved the trip. The FPP also include requirements for distance/location of hotels. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16

Board meeting minutes.)

The ECRA Board has also demanded repayment of this charge from Mr. Fehte.

This, as with countless other charges, were made without documentation of the purpose of the expense; verification that the charge was budgeted, allowable, appropriate, and/or consistent with school-wide purchasing policies and procedures in advance of the transaction; and review through Credit Card Payment Recap summaries before payment was rendered or due.

Refute. The term “countless” cannot be lawfully used to substantiate a Notice of Violation. The CSD must provide substantial evidence to support this claim, which, at a minimum, involves specifically identifying the allegedly improperly documented charges.

c. Inadequate Approval Process

ECRCHS has indicated that it would make changes to its Enterprise Resource Planning (“ERP”) system to facilitate the proper approval of purchases and its current Fiscal Policies and Procedures include guidelines for this process; however, as of April 12, 2016, ERP had yet to be fully implemented. The District seeks confirmation that an adequate requisition system is in place that allows for the review of the nature of each expense, the estimated cost, and purpose.

Remedy. CSD’s Central Business Adviser was provided a demonstration of the ERP system during his June 23, 2016 visit to ECRCHS. It is our understanding that his concerns were noted and additional changes were made to the ERP’s controls. The ERP had been implemented for administrators throughout the 2016 calendar year for testing purposes. The teachers received training of the new ERP system on the first week of the 2016-17 school year. Appendix OO, teacher training instructions.

ECRCHS’s November 20, 2013, Fiscal Policies and Procedures further states that the “[ECRA Board] must review all expenditures.” However, expense reports submitted by the Executive Director were approved by the Chief Business Officer or Assistant Principal, with no indication of approval by the ECRA Board. As previously mentioned, Credit Card Payment Recap summaries were reviewed and approved by individuals seeming to lack such authority, and after payments on the credit card were due. For example, the Credit Card Payment Recap for the above-listed November 21, 2014, and November 30, 2014, purchases, was signed by Accounting Technician II Myra Geronimo and Ms. Halski, after the due date of December 16, 2014. Mr. Fehte also signed, but did not date, the Credit Card Payment Recap.

Remedy. The only charge card remaining is under the CBO’s name, and is maintained on campus, in the school safe. Furthermore, charge cards will not be paid before they are reviewed. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)

Refute. The full paragraph of “[ECRA Board] must review all expenditures” in the November 20, 2013 Fiscal Policies and Procedures reads: “The Governing Board must review all expenditures.

This will be done via approval of a check register which lists all checks written during a set period of time and includes check #, payee, date, and amount.” Thus, Board review and approval of the check register indicates Board approval of expenditures.

Further, ECRA Board members demanded credit card statements with the check registers as additional back-up.

3. There is a Continued Lack of Adequate Fiscal Policies and Procedures After January 1, 2016 and July 1, 2016 Updates

Despite having undergone two updates in an approximate seven-month period, ECRCHS has failed to satisfactorily remedy concerns and cure deficiencies in its Fiscal Policies and Procedures; and therefore, its current Fiscal Policies and Procedures continue to be inadequate and effectively address all of the District’s concerns.

a. Credit Card Use

[T]he District directed ECRCHS to update its credit card use policy. This directive specified that such policy should be revised to include threshold amounts, qualify the types of transactions to be charged on school-issued credit cards, and specify that expenses which do not fall under the credit card use policy must be submitted and paid for through the check disbursement process. Although ECRCHS updated its Fiscal Policies and Procedures to include a separate credit card policy, this policy still does not include threshold amounts, qualify the types of transactions to be charged on school-issued credit cards, and specify that expenses which do not fall under the credit card use policy must be submitted and paid for through the check disbursement process.

Remedy. On September 21, 2016, the ECRA Board voted to amend the ECRA FPP to include threshold amounts, qualify the types of transactions to be charged on school-issued credit cards, and specify that expenses which do not fall under the credit card use policy must be submitted and paid for through the check disbursement process. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)

Additionally, ECRCHS assured the District that its Fiscal Policies and Procedures would be updated to “eliminate the practice of allowing employees to reimburse [ECRCHS] for personal use of [ECRCHS] credit cards.” The updates, however, do not eliminate this practice; but rather, maintain some degree of permissibility, as they advise that such use is “discouraged and should be minimized as it creates the appearance of possible fraud.”

Remedy. On September 21, 2016, the ECRA Board voted to amend the ECRA FPP to unambiguously prohibit personal use of ECRA/ECRCHS credit and charge cards. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)

Indeed, despite two updates to its FPP and Procedures beginning January 1, 2016, ECRCHS credit cards continue to be used for expenses without prior approval or documentation beyond a receipt

or invoice. These transactions, some of which are specifically identified as being personal charges, include:

- March 4, 2016, charge of \$82.02 at Woodland Warner Flower (Terri Keas)
 - Remedy. Reimbursement was made to the general fund by Friends of ECR, a parent fundraising group. (Appendix PP, reimbursement check #2478.) This group generously reimburses the Charter School for purchases related to employee morale, among many other important things. In addition, ECRCHS' ERP system will track purchases from requisition/budget to payment with two authorizations before and after purchase.
 - Refute. This was not a personal charge, as alleged. This charge was incurred by Ms. Keas, a Board authorized card holder, and was for Charter School purposes. (Appendix QQ, confirmation receipt.)
- March 5, 2016, charge of \$125.50 at Cavarettas Italian (Terri Keas)
 - Remedy. On September 21, 2016, the ECRA Board voted to amend the ECRA FPP to require the following information and documentation to substantiate business and staff meals: purpose of the meeting or agenda; items ordered or detailed receipt; number of individuals in the party, names of attendees, or sign in sheet. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)
 - Refute. This was not a personal charge, as alleged. This charge was incurred by Ms. Keas, a Board authorized card holder. (Appendix RR, receipt.) The charge was for an "Admin – lunch mtg 3/14/16."
- March 8, 2016, charge of \$30.24 at American Airlines for a flight upgrade (David Fehte)
 - Remedy. Mr. Fehte no longer has any ECRA/ECRCHS charge or credit cards. (Appendix C, ECRA 5/18/16 Board meeting minutes.) Any future travel must be paid for or submitted for reimbursement in accordance with ECRA FPP. Further, on September 21, 2016, the ECRA Board voted to amend the ECRA FPP to unambiguously prohibit personal charges on ECRA credit and charge cards. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)
 - Refute. This was identified as a personal charge and was reimbursed by Mr. Fehte prior to the payment due date. (Appendix SS, receipt; Appendix TT, reimbursement documentation.)
- March 16, 2016, charge \$521.96 at Southwest Airlines (David Fehte)
 - Remedy. On September 21, 2016, the ECRA Board voted to revise the Fiscal Policies and Procedures to mandate that a threshold determination of the propriety of out of state must be made by an ad hoc ECRA Board Travel Committee, which consists of two (2) ECRA Board members. Employees requesting out of state travel must present the Travel Committee with a summary of the purpose of travel, educational or professional benefit, number of employees attending, and estimated cost. Authorizing

- Personnel (as defined in the FPP) may only pre-approve the travel and costs if the Travel Committee has approved the trip. The FPP also include requirements for airfare, lodging, and meals. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)
- Refute. This was not a personal charge, as alleged. Mr. Fehte incurred this charge for travel to the Academic Decathlon State Championship in Sacramento. (Appendix UU, Travel Itinerary/Invoice.)
- March 20, 2016, charge of \$770.40 at Hyatt Regency in Long Beach, California (Marshall Mayotte)
 - Remedy. On September 21, 2016, the ECRA Board voted to revise the Fiscal Policies and Procedures to mandate that a threshold determination of the propriety of out of state must be made by an ad hoc ECRA Board Travel Committee, which consists of two (2) ECRA Board members. Employees requesting out of state travel must present the Travel Committee with a summary of the purpose of travel, educational or professional benefit, number of employees attending, and estimated cost. Authorizing Personnel (as defined in the FPP) may only pre-approve the travel and costs if the Travel Committee has approved the trip. The FPP also include requirements for airfare, lodging, and meals. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)
 - Refute. This was not a personal charge, as alleged. This charge was incurred on Mr. Mayotte's card for Assistant Principal Lisa Ring's travel to the California Charter Schools Association Conference in Long Beach. (Appendix VV, receipt/evidence that charge was for the CCSA Conference.) These stays were pre-approved by an Assistant Principal as required. (Appendix WW, documentation of approval.)
 - March 21, 2016, charge of \$520.51 at The Citizen Sacramento (David Fehte)
 - Remedy. Mr. Fehte no longer has any ECRA/ECRCHS charge or credit cards. (Appendix C, ECRA 5/18/16 Board meeting minutes.) On September 21, 2016, the ECRA Board voted to revise the Fiscal Policies and Procedures to mandate that a threshold determination of the propriety of out of state must be made by an ad hoc ECRA Board Travel Committee, which consists of two (2) ECRA Board members. Employees requesting out of state travel must present the Travel Committee with a summary of the purpose of travel, educational or professional benefit, number of employees attending, and estimated cost. Authorizing Personnel (as defined in the FPP) may only pre-approve the travel and costs if the Travel Committee has approved the trip. The FPP also include requirements for airfare, lodging, and meals. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)
 - Refute. This was not a personal charge, as alleged. This charge was incurred by Mr. Fehte for travel to the Academic Decathlon in Sacramento. This stay was pre-approved by an Assistant Principal as required.

b. Address Verification on Purchase Orders

An invoice for the purchase of Robotic Materials showed a delivery address other than the school address, and was addressed to an individual other than the person who requested the purchase. The District, therefore, requested that ECRCHS “instruct the finance office to ensure that only the school address [is] used on the sales order prior to processing payments.” ECRCHS explained that this was a “one-time exception,” in which it “ordered equipment for the Robotics Club during the summer break and requested that the equipment be delivered to a student’s home so the Robotics Club members could utilize the equipment during summer break”.

In fact, there was a further transaction to reimburse an ECRCHS staff person who received an Amazon delivery at a West Hills Address rather than at school, and this transaction occurred during the school year.

Remedy. On September 21, 2016, the ECRA Board voted to amend the ECRA FPP to require that only the Charter School address is used on the sales order prior to processing payments, and that it is the responsibility of the finance office to ensure that this policy is followed. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)

Refute. This reimbursement was for three items purchased for the Academic Decathlon team. Two items (a memory card and a camcorder) were delivered to a teacher’s home – totaling \$83.49, and the remaining item was delivered to the Charter School. (Appendix XX, receipt.) This purchase was authorized by Yvonne Halski and was reimbursed according to policy.

Proper remedial action would have been to “instruct the finance office to ensure that only the school address [is] used on the sales order prior to processing payments” as requested by the District to prevent future, unexempt [*sic.*] misuse, and/or maintain appropriate documentation to warrant exception. Instead, ECRCHS simply explained the “one-time exception” and determined that “[n]o further update [was] needed” to address the issue.

Remedy. On September 21, 2016, the ECRA Board voted to amend the ECRA FPP to require that only the Charter School address is used on the sales order prior to processing payments, and that it is the responsibility of the finance office to ensure that this policy is followed. (Appendix B, FPP effective 9/22/16; Appendix J, draft ECRA 9/21/16 Board meeting minutes.)

4. Failure to Meet Generally Accepted Accounting Principles

In carrying out and managing its financial activities, ECRCHS has failed to operate in accordance with even the most basic accounting principles. For purposes of Education Code section 47607, generally accepted accounting principles is defined [in] the *California School Accounting Manual*...

Refute. The California School Accounting Manual (“CSAM”) does not apply to charter schools on its own terms or through application of Education Code Section 47610. Nevertheless, ECRA frequently references the CSAM in its internal and external accounting practices. In addition, the

term Generally Accepted Accounting Principles (“GAAP”) applies to commonly accepted ways of recording and reporting accounting information. ECRCHS’ accounting is done by a back office provider that follows GAAP.

Based on the above, it appears that ECRCHS’s fiscal mismanagement resulted from more than inadequate policies and lack of oversight to ensure compliance; it resulted, in part, from the actions of ECRCHS officers and administrators who took advantage of their authority and accessibility to public funds for their personal benefit, as well as the insufficient monitoring by the ECRA governing board representatives. At this point, there is no evidence the ECRA Board has fulfilled its responsibilities in to hold its employees accountable for these actions.

Remedy. The ECRA Board has taken action against its employees, and is actively monitoring continued compliance in order to ensure that the occurrences identified in the NOV do not recur. The ECRA Board has recognized and identified substantial areas of improvement for its employees, and has taken steps to greatly enhance its oversight procedures. The ECRA Board also recognizes that it will continue to take corrective measures with employees, until such time as operations run with the level of transparency and commitment to GAAP that assures the Board that the changes have been ingrained in daily operations. While personnel actions must remain confidential, the Board and the employees have authorized private disclosure of these actions to LAUSD staff or legal counsel, in a confidential setting. Our office has already reached out to LAUSD legal counsel to set up an appointment.

Refute. The District has no evidence to support its conclusion that ECRA employees were not held accountable for actions related to the items documented in the NOV. Indeed, the ECRA Board discussed Public Employee Discipline/Dismissal/Release during the closed session portion of its Board meetings on: 10/26/15; 1/20/16; 2/10/16; 3/16/16; 4/29/16; 5/18/16; 5/31/16; 7/19/16. While not all of these dates involved discipline of employees for the items identified in the NOV, the ECRA Board has taken action to discipline employees for those reasons.

B. Violations of Law

1. Violation of Open Meeting Laws

ECRCHS has violated provisions of law, including the following provisions of the Brown Act contained in the Government Code:

- Section 54954.2: This section requires, in part, meeting agendas to contain descriptions, in clear and unambiguous terms, of each item of business to be transacted or discussed at the meeting, including closed session items; and limits action or discussion to items appearing on the agenda only.

Refute: The “clear and unambiguous” standard described in the NOV does not appear in the Ralph M. Brown Act (“Brown Act”), Government Code § 54950 *et seq.* Section 54954.2, the provision of the Brown Act referenced in the NOV, provides, in relevant part,

that meeting agendas must contain “a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words.” (Gov. Code § 54954.2(a)(1).) The Charter School’s Board meeting agendas meet this legal requirement, and the NOV contains no evidence to the contrary.

Proposed remedy: ECRA would be glad to send its agendas to the CSD or LAUSD General Counsel’s Office for review and input, for a period of 3-6 months, should the District agree, and at the District’s election.

Section 54954.2 also requires that the agendas include information regarding requests for disability-related modifications and accommodations to facilitate participation in public meetings.

Remedy: Since June 22, 2016, all ECRA Board meeting agendas have provided information regarding requests for disability-related modifications and accommodations in accordance with Government Code Section 54954.2(a)(1), and all future agendas will provide notice of the same. (Appendix YY, June 22, 2016 ECRA Board meeting agenda; July 19, 2016 ECRA Board meeting agenda; and August 10, 2016 Board meeting agenda.)

- On at least four occasions since October 2015, the ECRA Board has violated section 54954.2 of the Government Code by taking action at meetings on items agendized as informational and for discussion only.

Refute: Government Code Section 54954.2(a)(2) provides, in relevant part: “No action or discussion shall be undertaken on any item not appearing on the posted agenda” subject to specified exceptions. On each of the four occasions identified in the NOV, a description of the item appeared on posted agenda, and, thus, provided notice to the public and stakeholders. The only concern expressed in the NOV is that the agendas stated that the purpose of the item was for discussion or information rather than for action or vote. Notably, with one exception, we are unaware of any complaints from members of the public or stakeholders alleging a lack of notice in relation to the identified items. Further, the Brown Act does not expressly require that the agenda distinguish between items for Board action, and items for discussion only. Such descriptions are provided for convenience.

Remedy: In an abundance of caution and in order to ensure that members of the public and stakeholders have notice and an opportunity to comment, during its September 21, 2016 meeting, the ECRA Board remedied the alleged violations by re-agendizing the items as action items for re-approval and ratification by the ECRA Board. In one instance identified below, the item has already been remedied. (Appendix J, draft ECRA 9/21/16 Board meeting minutes.)

Proposed remedy: Going forward, the ECRA Board commits to never take action on an item that is listed as Discussion or Information/FYI.

The agenda for the ECRA Board meeting on October 26, 2015, included an item for the “Discussion on bylaws, voting and membership,” with the purpose indicated as “Discuss” only. However, the minutes and audio recording of the meeting reflect that this discussion item resulted in the ECRA Board’s vote to “create a committee to nominate a community member to fill the Board vacancy.”

Remedy: The October 26, 2015 Board meeting agenda provided an item for “Discussion on bylaws, voting and membership” as well as a separate item for “Discussion regarding identifying potential board positions and procedures for filling positions.” (Appendix ZZ, October 26, 2015 ECRA Board meeting agenda.) The action taken by the ECRA Board that is questioned by the NOV is the ECRA Board action to create an advisory sub-committee to nominate a community member to fill a Board vacancy. Subsequently, on the December 9, 2015 meeting agenda, the ECRA Board provided an item for “Discuss and Approve Larry Rubin as a Board Member Representing the Community” with the purpose listed as “Vote.” (Appendix AAA, December 9, 2015 ECRA Board meeting agenda.) The Board meeting minutes indicate that the ECRA Board accepted the nominating committee’s recommendation, and Larry Rubin was appointed by a unanimous vote of the ECRA Board on December 9, 2015. (Appendix I, December 9, 2015 ECRA Board meeting minutes.) The nominating committee was a temporary committee created for a limited purpose, and it no longer exists.

In accordance with the purpose of the Brown Act, the agenda items were sufficiently descriptive to provide notice to any members of the public or stakeholders interested in the potential creation of committee to nominate potential new Board members as the public had notice that the ECRA Board would be discussing “potential board positions and procedures for filling positions.” Notably, we are unaware of any complaints from members of the public alleging a lack of notice of the creation of the nominating committee. Further, the Brown Act does not expressly require that the agenda distinguish between items for board action, and items for discussion only. Such descriptions are provided for convenience.

Moreover, even if the Brown Act were interpreted to technically require that the October 26, 2015 agenda contain further description of a possible Board action to create a nominating committee, the action was cured by providing notice to the public of the nomination of a potential new Board member by posting the December 9, 2015 meeting agenda. As such, the alleged violation has already been remedied by providing notice of the ultimate action at issue, and an opportunity for public comment.

Proposed remedy: Going forward, the ECRA Board commits to never take action on an item that is listed as Discussion or Information/FYI.

For the ECRA Board meeting on November 18, 2015, the agenda included an item to “Discuss Charter Oversight Committee – Roles and Election committee,” with the purpose indicated as “Discuss” only. The minutes and audio recording of the meeting, again, reflect that the ECRA Board improperly took action by vote on this item designated for discussion only, voting to “form an ad hoc committee...to review, digest and receive recommendations and feedback from stakeholders to create an Oversight Committee that is in accordance with the ECRCHS Charter.”

Refute: As above, in accordance with the purpose of the Brown Act, the agenda item for “Discuss Charter Oversight Committee – Roles and Election committee” was arguably sufficiently descriptive to provide notice to any members of the public interested in the potential creation of an ad hoc committee to review, digest, and receive recommendations and feedback from stakeholders regarding the creation of an oversight committee. Notably, we are unaware of any complaints from members of the public or stakeholders alleging a lack of notice of the creation of the ad hoc committee. Further, the Brown Act does not expressly require that the agenda distinguish between items for Board action, and items for discussion only. Such descriptions are provided for convenience.

Remedy: In an abundance of caution and in order to ensure that members of the public and stakeholders have notice and an opportunity to comment, during its September 21, 2016 meeting, the ECRA Board remedied the alleged violations by re-agendizing the creation of the ad hoc committee to review, digest, and receive recommendations and feedback from stakeholders regarding the creation of an oversight committee for the purpose of a “Vote.” In so doing, members of the public will be provided full notice of the proposed action, and will have an additional opportunity for public comment. The ECRA Board also cured any alleged violation of the Brown Act by approving and ratifying the past action at the September 21, 2016 Board meeting. (Appendix J, draft ECRA 9/21/16 Board meeting minutes.)

Proposed remedy: Going forward, the ECRA Board commits to never take action on an item that is listed as Discussion or Information/FYI.

According to the December 9, 2015 ECRA Board meeting agenda, the ECRA Board was to “Review and Approve the Updated Fiscal Policies;” however, this item was presented on the agenda as “FYI” only. Rather than being limited to an informational item, however, the ECRA Board took action to approve updated fiscal policies. Recognizing that this item was listed on the meeting agenda as informational only, ECRA Board member Jackie Keene abstained from the vote for the reason that she was not prepared to vote on the updated policies.

Refute: As above, in accordance with the purpose of the Brown Act, the agenda item for “Review and Approve the Updated Fiscal Policies” was sufficiently descriptive to provide notice to any members of the public interested in updates to the fiscal policies of ECRA, especially as the term “approve” is used in the description. The audio recording of the December 9, 2015 ECRA Board meeting, available at <http://ecrchs.net/ecr-board/materials-recordings/>, indicates that the use of “FYI” was a clerical error. Further, the Brown Act does not expressly require that the agenda distinguish between items for Board action, and items for discussion only. Such descriptions are provided for convenience.

Remedy: In an abundance of caution and in order to ensure that members of the public and stakeholders have notice and an opportunity to comment, during its September 21, 2016 Board meeting, ECRA re-agendized the approval of updated FPP for the purpose of a “Vote.” (Appendix J, draft ECRA 9/21/16 Board meeting minutes.)

Proposed remedy: Going forward, the ECRA Board commits to never take action on an item that is listed as Discussion or Information/FYI.

The agenda for the ECRA Board meeting on March 16, 2016, included an “FYI” item for an update on a Unified Teachers of Los Angeles (“UTLA”) agreement. The meeting agenda further explained that the agreement would be approved at a later board meeting “to provide an update of what is in the agreement.” The minutes of the March 16, 2016, meeting, however, show that the ECRA Board moved and approved to vote on the agreement after the closed session at the end of the March 16, 2016, meeting, upon a teacher’s request to approve the contract that evening and the UTLA representatives’ requests for the Board to convene a special meeting for such action. The UTLA agreement does not appear on the agendas or minutes of subsequent meetings.

Refute: As above, in accordance with the purpose of the Brown Act, the agenda item for “ECR-UTLA Agreement Update” was sufficiently descriptive to provide notice to any members of the public or other stakeholders interested in the Board’s discussion and vote. Notably, we are unaware of any complaints from members of the public or stakeholders alleging a lack of notice of the approval of the UTLA Agreement. Further, the Brown Act does not expressly require that the agenda distinguish between items for Board action, and items for discussion only. Such descriptions are provided for convenience.

Remedy: In an abundance of caution and in order to ensure that members of the public and stakeholders have notice and an opportunity to comment, during its September 21, 2016 Board meeting, ECRA re-agendized the approval and ratification of the UTLA Agreement for the purpose of a “Vote.” In so doing, members of the public will be provided full notice of the proposed action, and will

have an additional opportunity for public comment. Also, the ECRA Board cured any alleged violation of the Brown Act by approving and ratifying the past action at an agendized Board meeting. (Appendix J, draft ECRA 9/21/16 Board meeting minutes.)

Proposed remedy: Going forward, the ECRA Board commits to never take action on an item that is listed as Discussion or Information/FYI.

- o ECRA’s meeting agendas have routinely failed to include clear and unambiguous item descriptions. For example, the agenda for the May 18, 2016, meeting states, “Four candidates are running for the upcoming teacher and community representative spots.” However, the candidates are not identified in the agenda; and the minutes reflect that a meeting participant complained of the failure to provide candidate information for public review in advance of the meeting.

Refute: The “clear and unambiguous” standard described in the NOV does not appear in the Brown Act. The Brown Act provides, in relevant part, that meeting agendas must contain “a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words.” (Gov. Code § 54954.2(a)(1).)

Further, although the NOV alleges that the agendas “routinely” failed to meet the invented standard, CSD provides only one alleged example. Yet, the example offered fails to describe any legal violation.

The agenda item at issue on the May 18, 2016 Board meeting agenda stated “Update: Teacher & Community Representative Candidates Introduction” followed by further description “Four candidates are running for the upcoming teacher and community representative spots.” (Appendix BBB, May 18, 2016 Board meeting agenda.) This description is more than sufficient to provide notice of the introduction of new candidates. The Brown Act contains no express or implied requirement to list candidates’ names on Board meeting agendas. Further, the Brown Act expressly provides a procedure for members of the public to request public records provided to Board members in connection with open session items under Government Code Section 54957.5, and all ECRA Board meeting agendas from June 22, 2016 forward provide notice to the public of this right and the location for the inspection of the public records.

Moreover, in this specific instance, although one parent at the meeting stated that the public should be advised of candidates prior to Board meetings, the express purpose of the May 18, 2016 Board meeting was to *introduce* candidates prior to voting on the candidates. This is demonstrated by the agenda for the June 22, 2016 Board meeting, which provided a subsequent item for the vote to approve the

appointment of community members to the Board. (Appendix YY, June 22, 2016 Board meeting agenda.] As a result of the introduction on May 18, 2016, members of the public had notice of the names of candidates for a full month prior to the vote on June 22, 2016, which thereby provided the public with ample notice and multiple opportunities to provide public comment on the candidates.

Proposed remedy: ECRA would be glad to send its agendas to the CSD or LAUSD General Counsel's Office for review and input, for a period of 3-6 months, should the District agree, and at the District's election.

- o Finally, ECRA's meeting agendas do not include any information regarding the accommodation of individuals with disabilities, such as how, to whom, and when a request for disability-related modification or accommodation may be made in order to enable participation in the meetings.

Remedy: Since June 22, 2016, all ECRA Board meeting agendas have provided information regarding requests for disability-related modifications and accommodations in accordance with Government Code Section 54954.2(a)(1), and all future agendas will provide notice of the same. (Appendix YY, June 22, 2016 ECRA Board meeting agenda; July 19, 2016 ECRA Board meeting agenda; and August 10, 2016 Board meeting agenda.)

Further, starting with the September 21, 2016 meeting, ECRA will include the following statement on all of its meeting agendas: "Requests for disability related modifications or accommodations shall be made 24 hours prior to the meeting to the office assistant in person or by calling (818) 595-7500." (Appendix CCC, September 16, 2016 ECRA Board meeting agenda, September 21, 2016 ECRA Board meeting agenda.)

- Section 54956(b): This section provides that a "legislative body shall not call a special meeting regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits, of a local agency executive." On the agenda for the December 16, 2015, special board meeting, appears an agenda item to "Review and Approve Executive Salary Table" for the Executive Director and Chief Business Officer.

Refute: As indicated in the December 16, 2015 Board meeting minutes, the Board voted to postpone the approval of the Executive Salary Table until a Regular Board meeting, in accordance with the Brown Act. (Appendix DDD, December 16, 2015 ECRA Board meeting minutes.) Thus, no violation occurred. The Charter School is aware that the contracts of educational executives cannot be approved during a Special meeting, and can only be approved during Regular meetings.

- Section 54957.5(b): This section requires that meeting agendas list the address of the location where members of the public can access public records relating to agenda items

for open sessions. ECRA has failed to include such information on its meeting agendas.

Remedy: All Board meeting agendas from June 22, 2016 forward have included notice that any public records relating to an agenda item for an open session of the ECRA Board are available for public inspection at 5440 Valley Circle Blvd., Woodland Hills, California 91367, and all future agenda will continue to provide notice of the same in accordance with Government Code Section 54957.5. (Appendix YY, June 22, 2016 ECRA Board meeting agenda; July 19, 2016 ECRA Board meeting agenda; and August 10, 2016 Board meeting agenda.)

- Section 54954.5: This section establishes the required information for agenda descriptions on closed session items regarding conferences with labor negotiators. Substantial compliance is satisfied by including the following information: (1) “Agency designated representatives: (Specify names of designated representatives attending the closed session) (If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)”; and (2) “Employee organization: (Specify name of organization representing employee or employees in question),” or “Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations).”

ECRA has failed to include the required information relating to a conference with labor negotiators. The agenda for the March 16, 2016, meeting includes the description, “Conference with Labor Negotiators (i.e. David Fehte and Marshall Mayotte)” as an item for closed session, appearing to be in reference to the review and approval of the UTLA agreement, mentioned above. Although the ECRCHS designated representatives are identified in the agenda, the employee organization is not specified.

Refute: Government Code Section 54954.5 does not contain required agenda language for closed sessions. Rather, Section 54954.5 states, in relevant part, “...the agenda *may* describe closed sessions as provided below.” (Emphasis added.) To this end, a California Court of Appeal has stated: “Section 54954.5 does not provide the exclusive means of compliance with agenda specification requirements.” (*Moreno v. City of King* (2005) 127 Cal.App.4th 17, 27.) Further, the Attorney General has explained: “In order to assist legislative bodies in preparing agendas for closed-session meetings, the Legislature enacted section 54954.5 which establishes a model format for closed-session agendas. Use of the model format is strictly voluntary on the part of the body.” (California Attorney General’s Office, *The Brown Act*, p. 22 (2003), available at http://ag.ca.gov/publications/2003_Intro_BrownAct.pdf.)

With respect to authorized closed sessions for labor negotiations under Government Code Section 54957.6, the only express notification requirement in the Brown Act is that the legislative body must publicly identify its designated representatives. (Gov. Code § 54957.6(a).) There is no express requirement to identify the employee organization.

Accordingly, the March 16, 2016 ECRA Board meeting agenda provided a Brown Act-compliant description of the closed session agenda item by identifying the authorized purpose for the closed session and the designated representatives.

Furthermore, the audio recording of the March 16, 2016 ECRA Board meeting, available at <http://ecrchs.net/ecr-board/materials-recordings/>, indicates that the Board opted not to enter closed session for the purpose of labor negotiations. Therefore, no violation occurred.

The ECRA Board certainly has not concern about specifying the particular union on future agendas.

- Section 54957.7: This section sets forth the requirement that items to be discussed in closed session be disclosed in advance in open meetings. ECRA has failed to properly detail closed session items in agendas or document that such items were properly reported out in open sessions.

Refute: The NOV is unclear as to the nature of the alleged violation, whether it has to do with an alleged failure to publicly announce closed session items prior to closed session, an alleged failure to properly describe closed session items (which is not a requirement specified in Section 54957.7, the cited provision), an alleged failure to document that such items were properly reported out in open session, or all three.

Section 54957.7 states, in relevant part: “(a) Prior to holding any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. ... (b) After any closed session, the legislative body shall reconvene into open session prior to adjournment and shall make any disclosures required by Section 54957.1 of action taken in the closed session.”

- *public announcement prior to closed session*

While Section 54957.7 requires a legislative body to publicly announce closed session items prior to closed session, the Notice of Violations does not identify any specific instances of alleged violation of this requirement by the ECRA Board. The Brown Act intends for this announcement to be oral. For the meeting agenda, a brief description of the closed session items is sufficient. (Gov. Code § 54954.2(a)(1).)

- *description of closed session items*

The NOV states that “ECRA has failed to properly detail closed session items in agendas.” While the NOV does not specify where the alleged violation can be found, the NOV cites the following possible candidates: Exhibit 30, the September 16, 2015 ECRA Board meeting agenda, and Exhibit 32, the December 16, 2015 ECRA Board meeting

agenda. (Exhibits 31 and 33 are not candidates because they contain the September 16, 2015 ECRA Board meeting minutes and December 16, 2015 ECRA Board meeting minutes, respectively.)

The September 16, 2015 ECRA Board meeting agenda contains one closed session item listed as “Closed Session – Public Employee Discipline/Dismissal/Release.” (Appendix CCC, September 16, 2016 ECRA Board meeting agenda.) As discussed above, Government Code Section 54954.5 provides the model format for closed session agenda items. Specifically, Section 54954.5 states: “No legislative body or elected official shall be in violation of Section 54954.2 or 54956 if the closed session items were described in substantial compliance with this section.” Under Section 54954.5(e), the model closed-session agenda format for a public employee discipline, dismissal, or release is “Public Employee Discipline/Dismissal/Release.” Section 54954.5(e) expressly states: “No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee.” Therefore, the description of the only closed session agenda item in the September 16, 2015 ECRA Board meeting agenda is sufficient under the express terms of the Brown Act.

The December 16, 2015 ECRA Board meeting agenda does not contain any closed session items. (Appendix EEE, December 16, 2015 Board meeting agenda.) Therefore, the Notice of Violations fails to identify any violation of the Brown Act requirements to describe closed session agenda items.

- *public report following closed session*


The Notice of Violations states that “ECRA has failed to ... document that such [closed session] items were properly reported out in open sessions.” However, neither Section 54957.7 nor any other provision of the Brown Act requires the ECRA Board to document that it publicly reported out following closed session. Therefore, the Notice of Violations failed to identify any violation of the Brown Act.

* * *

*José Cole- Gutiérrez, Director
Charter Schools Division
Re: Response to Notice of Violation
SEPTEMBER 23, 2016
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As documented herein, the ECRA Board has understood all of the District's concerns about ECRCHS operations, and has taken decisive steps to remedy the alleged violations. With the alleged violations remedied, we anticipate that the District will not take further action toward the revocation of the El Camino Real Charter High School.

Sincerely,
**LAW OFFICES OF
YOUNG, MINNEY & CORR, LLP**


**JANELLE A. RULEY
ATTORNEY AT LAW**

ENCLOSURES

CC: ECRA BOARD