

BOARD REPORT

ENCORE JUNIOR AND SENIOR HIGH SCHOOL FOR THE ARTS

OPEN SESSION

JUNE 2024

TOPIC/AGENDA ITEM:

Executive Compensation Comparability Study

ISSUES INVOLVED/FISCAL IMPLICATIONS (IF ANY):

The California Nonprofit Integrity Act of 2004 mandates that the Board of Directors (“Board”) review comparable executive compensation packages for educational executives upon any of the following events: (1) initially upon hiring the educational executive; or (2) whenever the executive’s term of employment is renewed or extended; or (3) whenever the executive’s compensation is modified, unless the modification extends to substantially all employees in the organization (see Government Code §12586(g)).

In connection with the Board’s review of the Encore Junior and Senior High School for the Arts (“Encore”) Executive Director employment agreement, the Board must meet this due diligence requirement by reviewing and adopting a comparability study.

This review is essential in order to protect Encore (as a corporation) and the Board from IRS sanctions for “excess benefit transactions” and to establish a rebuttable presumption that the educational executive’s compensation is reasonable. Thus, the Board must meet the criteria set out by the IRS for conducting this review prior to any of the above changes in employment occurring. This review must occur without the participation of any individuals who possess a conflict of interest. Under the IRS regulations, any employees under the supervision of the Executive Director are automatically conflicted and must recuse themselves from any participation whatsoever in any aspect of this process.

Accordingly, outside counsel has produced a compensation comparability study (attached) for the Board’s review.

BOARD CHAIR’S RECOMMENDATION:

Based upon the above requirements, it is my recommendation that the Board review and accept the report reflecting comparable compensation.