



SPECIAL MEETING OF THE GOVERNING BOARD

Written notice is hereby given, in accordance with Education Code Section 35144 and Government Code Section 54957.6, that a special meeting of the Governing Board of the National School District will be held as follows:

Administrative Center
1500 "N" Avenue
National City, CA 91950

Monday, May 8, 2017

Closed Session -- 5:00 p.m.

Open Session -- 6:00 p.m.

The business to be transacted at this meeting shall be limited to the following:

- 1. CALL TO ORDER**
- 2. PUBLIC COMMUNICATIONS**
- 3. ADJOURN TO CLOSED SESSION**
- 4. CLOSED SESSION**

Closed session in accordance with Government Code Section 54956.9:
CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION
One Case

- 5. RETURN TO OPEN SESSION**
- 6. CALL TO ORDER**
- 7. PLEDGE OF ALLEGIANCE**
- 8. ROLL CALL**
- 9. PUBLIC COMMUNICATIONS**

NATIONAL SCHOOL DISTRICT

1500 'N' Avenue • National City, CA 91950 • (619) 336-7500 • Fax (619) 336-7505 • <http://nsd.us>

Creating Successful Learners... Now

May 8, 2017

10. GENERAL FUNCTIONS

10.1. Consideration and action on Resolution to Revoke the Charter of Beacon Classical Academy, National City, and Findings of Fact pursuant to Education Code section 47607(e). Leighangela Brady,
Superintendent

11. ADJOURNMENT

A handwritten signature in blue ink that reads "Maria Dalla". The signature is written in a cursive style with a large initial "M".

Maria Dalla, Board President

May 5, 2017

May 8, 2017

Agenda Item: **1. CALL TO ORDER**

Agenda Item: **2. PUBLIC COMMUNICATIONS**

Quick Summary / Abstract: Public communication provides the public with an opportunity to address the Board regarding an item on the agenda or other topic. Anyone wishing to address the Board shall submit a “Request for Oral Communications” card. Cards are available near the entrance to the Board Room and are to be submitted to the Secretary. A member of the public who wishes to address the Board on any such matter(s) is limited to three (3) minutes for one matter up to a maximum of five (5) minutes for all matters unless such time limit is waived by a majority vote of the Board. There shall be a limit of twenty (20) minutes for any matter unless such time limit is waived by a majority vote of the Board. No Board action can be taken.

Agenda Item: **3. ADJOURN TO CLOSED SESSION**

Agenda Item: **4. CLOSED SESSION – 5:00 PM**

Quick Summary / Abstract: Closed session in accordance with Government Code Section 54956.9:
CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION
One Case

Agenda Item: **5. RETURN TO OPEN SESSION**

Agenda Item: **6. CALL TO ORDER**

Agenda Item: **7. PLEDGE OF ALLEGIANCE**

Agenda Item: **8. ROLL CALL**

Quick Summary / Abstract: Board:
Barbara Avalos
Maria Betancourt-Castañeda
Brian Clapper
Maria Dalla
Alma Sarmiento

Staff:
Leighangela Brady, Ed.D., Superintendent-Administration
Chris Carson, Assistant Superintendent-Business Services
Paula Jameson-Whitney, Assistant Superintendent-Educational Services
Cindy Frazee, Assistant Superintendent-Human Resources

May 8, 2017

Agenda Item: **9. PUBLIC COMMUNICATIONS**

Quick Summary /
Abstract:

Public communication provides the public with an opportunity to address the Board regarding an item on the agenda or other topic. Anyone wishing to address the Board shall submit a "Request for Oral Communications" card. Cards are available near the entrance to the Board Room and are to be submitted to the Secretary. A member of the public who wishes to address the Board on any such matter(s) is limited to three (3) minutes for one matter up to a maximum of five (5) minutes for all matters unless such time limit is waived by a majority vote of the Board. There shall be a limit of twenty (20) minutes for any matter unless such time limit is waived by a majority vote of the Board. No Board action can be taken.

May 8, 2017

Agenda Item: **10. GENERAL FUNCTIONS**

Agenda Item: **10.1. Consideration and action on Resolution to Revoke the Charter of Beacon Classical Academy, National City, and Findings of Fact pursuant to Education Code section 47607(e).**

Speaker: Leighangela Brady, Superintendent

Recommended Motion: Adopt Resolution

Attachments:
Resolution #16-17.36
Exhibits

National School District Resolution

#16-17.36

RESOLUTION OF THE GOVERNING BOARD OF THE NATIONAL SCHOOL DISTRICT TO REVOKE THE CHARTER OF BEACON CLASSICAL ACADEMY – NATIONAL CITY (FINAL DECISION)

WHEREAS, the establishment and operation of charter schools is governed by the Charter Schools Act of 1992, as subsequently amended, Education Code sections 47600 et seq. and implementing Title 5 of the California Code of Regulations;

WHEREAS, the National School District (“District”) serves as the charter authorizer of Beacon Classical Academy – National City (“Beacon”);

WHEREAS, Education Code section 47607 and Title 5 of the California Code of Regulations, sections 11965 and 11968.5.2, set forth specific procedures that a charter authorizer must follow to revoke a charter;

WHEREAS, in accordance with Education Code section 47607(c), a charter authorizer may revoke the charter of a charter school if it finds, through a showing of substantial evidence, that the charter school did any of the following:

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

WHEREAS, the District has complied with the requirements of Education Code section 47607 and Title 5 of the California Code of Regulations, sections 11965 and 11968.5.2, including the following:

1. On April 5, 2016, the District’s Governing Board (“District’s Board”) issued a written Notice to Cure to Beacon. The Notice addressed Beacon’s failure to comply with the obligations required under the Charter Schools Act and Beacon’s charter. It appeared that Beacon subsequently temporarily remedied the issues addressed in the Notice.
2. In August of 2016, the District reviewed Beacon’s publically released state assessment data and identified significant concerns regarding declining, extremely

low academic achievement levels across all grade levels served by Beacon. In September of 2016, while Beacon was presenting to the District's Board regarding unaudited actuals, the Board expressed concerns regarding Beacon's academic achievement data and requested that Beacon conduct a Board presentation regarding that data at the October Board meeting.

3. In October of 2016, following unannounced classroom visits to Beacon conducted by the District's Executive Cabinet members, the District identified concerns regarding Beacon's curriculum and instructional activities. Beacon again presented the same information to the District Board regarding academic achievement data. Following the presentation and additional meetings with Beacon's Executive Director, the District decided to conduct an instructional audit of Beacon's educational program.
4. On November 4, 2016, the District obtained notice from the City that Beacon's facility was red-tagged. On November 7, 2016, the District's Board convened a special Board meeting for purposes of conducting a Beacon site visit. On or about November 14, 2016 Beacon moved to a temporary facility, Bible Baptist Church. Beacon occupied Bible Baptist Church between until December 2, 2017.
5. Throughout November of 2016, the District conducted instructional and financial audits of Beacon's program. In response to a request for a letter of good standing, on November 17, 2016, the District determined that Beacon was not in good standing due to, among other things, concerns regarding student safety, academic achievement, and fiscal stability. Based on this determination, the District denied Beacon's request for a letter of good standing.
6. On December 9, 2016, the District provided written notice to Beacon that the District's Board would be considering the issuance of a Notice of Violation at its regularly-scheduled public Board meeting on December 14, 2016. The Notice included a copy of the draft Notice of Violation and corresponding exhibits.
7. On December 14, 2016, the District's Board approved the issuance of the Notice of Violation and corresponding exhibits (collectively, the "Notice of Violation") to Beacon.
8. On December 15, 2016, the District issued the Notice of Violation to Beacon. In the Notice of Violation, the District provided a reasonable opportunity of time for Beacon to remedy or refute the alleged violations. The District stated in the Notice of Violation that Beacon needed to remedy or refute the alleged violations on or before February 7, 2017.
9. On February 7, 2017, the District received a written response from Beacon concerning the alleged violations set forth in the Notice of Violation, including supplementary documents supporting Beacon's responses to several of the alleged violations ("Response").

10. District staff evaluated the Response and all documentation produced by Beacon. However, the District determined that Beacon had made assertions in its Response to refute or remedy certain alleged violations that did not appear to be supported with underlying information or evidence. Therefore, to complete its evaluation of the Response, the District gave Beacon a second opportunity to provide responsive data to the Notice of Violation.
11. On March 9, 2017, the District issued a Request for Information to Beacon seeking certain academic, operational, and fiscal information/supporting documentation. A copy of the Request for Information is attached as Exhibit 1 to the Notice of Intent to Revoke.
12. On March 15, 2017, Beacon responded to the District's Request for Information and produced supplemental information and documentation. (*See Exhibits 2 and 5 to the Notice of Intent to Revoke.*)
13. Following the District's review and evaluation of Beacon's Response, in addition to the supplemental information and documentation included in its response to the Request for Information, District staff determined that significant violations continued to exist, including Beacon's failure to adequately meet or pursue its measurable student outcomes; material violations of the conditions, standards, or procedures of its charter; fiscal mismanagement; and violations of law.
14. On April 4, 2017, nearly two months after Beacon's deadline to respond to the Notice of Violation, Beacon submitted supplemental documentation of fingerprinting clearances for two individuals the District identified in the Notice of Violation and draft Notice of Intent to Revoke. Beacon also provided additional assessment reports.¹ A copy of this documentation is included as **Exhibit A-1** and **Exhibit A-2**, respectively, to the Findings of Fact.
15. On April 5, 2017, the District's Board approved the issuance of a Notice of Intent to Revoke and Notice of Facts in Support of Revocation to Beacon ("Notice of Intent to Revoke").
16. On the same day, Beacon submitted a combination of copies and carbon copies of voided checks representing the 20 missing checks identified in the Notice of Intent to Revoke. A copy of this documentation is included as **Exhibit A-3** to the Findings of Fact.
17. On April 6, 2017, the District issued the Notice of Intent to Revoke to Beacon.
18. On April 12, 2017, the District's Board conducted a public hearing concerning the revocation of Beacon's charter.

¹ We have omitted any assessment reports submitted by Beacon that may contain personally identifiable student information.

19. On April 24, 2017, Beacon provided the District with copies of its amended Board meeting minutes for its meetings from August 16, 2016 through February 21, 2017. Copies of the minutes are attached as **Exhibit A-4** to the Findings of Fact.
20. On May 3, 2017, nearly *three months* after the deadline for Beacon to respond and present evidence to address the violations raised in the Notice of Violation, Beacon provided the District and each member of the District's Governing Board approximately 350 pages of supplemental information in connection with the violations raised in the District's Notice of Violation and Notice of Intent to Revoke. Despite the extremely late timing of Beacon's submission, the District made every effort to conduct a detailed review and evaluation of the materials. Although the District was under no legal obligation to consider supplemental evidence following the expiration of the February 7, 2017 remedy period, District staff conducted a limited review of Beacon's submission. The District determined that, on the whole, the supplemental information did not adequately remedy or resolve the outstanding violations identified by the District. Some components of the supplemental evidence were duplicative of information Beacon had already provided to the District, and most of the new information submitted was based on existing data and not substantively different than what Beacon had previously submitted to the District. A copy of the late submission is available at the District Office upon request.

WHEREAS, the District's Board has considered whether substantial evidence exists to support the Findings of Fact, attached hereto and incorporated herein as **Exhibit A** that Beacon has failed to adequately meet or pursue its measurable student outcomes; committed material violations of the conditions, standards, or procedures of its charter; engaged in fiscal mismanagement; and committed violations of law;

WHEREAS, in determining whether substantial evidence exists to support the Findings of Fact, the District's Board has considered the Notice of Violation and corresponding exhibits, Beacon's Response (including all supplementary documentation included therein), the Notice of Intent to Revoke and corresponding exhibits, the information presented during the public hearing concerning the revocation of Beacon's charter, and the supplemental documentation provided by Beacon on April 4 and 5, 2017, and May 3, 2017; and

WHEREAS, the District's Board has considered increases in student academic achievement for all groups of students served by Beacon as the most important factor in determining whether to revoke Beacon's charter.

THEREFORE BE IT RESOLVED, that the Governing Board of National School District hereby finds, determines, declares, orders, and resolves as follows:

1. The foregoing recitals are hereby adopted as true and correct.
2. The District's Board hereby adopts the Findings of Fact, as set forth in **Exhibit A**.

3. The District Board has determined that, based on the Findings of Fact described in **Exhibit A**, there is substantial evidence to support findings that Beacon has failed to adequately meet or pursue its measurable student outcomes; committed material violations of the conditions, standards, or procedures of its charter; engaged in fiscal mismanagement; and committed violations of law.
4. The District's Board hereby revokes Beacon's charter as of one week after the last date of Beacon's 2016-2017 school year, or June 30, 2017, whichever comes first, pursuant to Education Code section 47607 and based on the Findings of Fact set forth in **Exhibit A**.

PASSED AND ADOPTED by the District's Board on May 8, 2017 at a duly noticed meeting by the following vote:

AYES: _____ NOES: _____ ABSTAIN: _____ ABSENT: _____

I, _____, Clerk of the Governing Board of the National School District, HEREBY CERTIFY that the foregoing Resolution was duly introduced, passed and adopted by the Board at a meeting thereof held on May 8, 2017, by a vote of _____ to _____.

IN WITNESS THEREOF, I have hereto set my hand this ___ day of _____, 2017.

Clerk of the Governing Board

**EXHIBIT A
FINDINGS OF FACT**

I. FINDINGS OF FACT IN SUPPORT OF REVOCATION

A. Failure to Meet or Adequately Pursue Pupil Outcomes Identified in Beacon’s Charter.

In the Notice of Violation, the District alleged that Beacon has consistently failed to meet or adequately pursue student outcomes identified in its charter. Beacon provided written affirmative assurances in its charter petition that it will meet all statewide standards and conduct all mandated students assessments. Beacon also stated in its petition that it is “committed to establishing clear, measurable goals, and to regularly monitor and adjust its actions towards evidence of increased student learning.” Moreover, Beacon states that it will outperform comparison schools and/or neighborhood schools, as measured by state proficiency rates. Based on the findings of fact set forth below, the District has determined that significant violations continue to exist concerning Beacon’s student outcomes.

1. *Lack of Grade-Level Proficiency in English-Language Arts.*

Beacon states in its petition that 85% of students will demonstrate at least one year of growth towards grade-level proficiency in English reading and language arts. Students who are below grade level will make at least .5 years of growth. In the Notice of Violation, the District alleged that Beacon has failed to adequately pursue or meet this student outcome, noting that Beacon’s scores have dropped from the 2014-2015 school year (when Beacon operated under the authorization of Julian Union School District) to the 2015-2016 school year.

Beacon’s school-wide scores on the California Assessment of School Performance and Progress (“CAASPP”) for 2014-2015 in English-Language Arts demonstrate that 70% of Beacon’s student population who participated on the assessment did not meet grade-level proficiency standards. Specifically, 43% of students did not meet state standards and 27% of students nearly met state standards in English-Language Arts.

Beacon’s school-wide scores on the CAASPP for 2015-2016 in English-Language Arts demonstrate that 83% of Beacon’s student population who participated on the assessment did not meet grade-level proficiency standards. Specifically, 49% of students did not meet state standards and 34% of students nearly met state standards in English-Language Arts.

Based on a comparison of Beacon’s school-wide results on the CAASPP for English-Language Arts for the 2014-2015 and 2015-2016 school years, Beacon’s student population who participated in the assessment and failed to meet grade-level proficiency standards increased by 13% overall. Specifically, the number of Beacon students tested who did not meet grade-level proficiency standards increased by 6%, and the number of Beacon students tested who only nearly met grade-level proficiency standards increased by 7%. In other words, there was a 13% decline from the 2014-2015 school year to the 2015-2016 school year.

Beacon’s test scores on the CAASPP for the 2015-2016 school year in English-Language Arts are significantly below those of District students for each grade level tested, most notably in grades three and four in which *none* of Beacon’s students met or exceeded grade-level proficiency standards. The following chart provides a comparison of the percentage of students at Beacon and the District who met or exceeded the standard for English-Language Arts (“ELA”).

Percentage of Students Who Met or Exceeded Standard for English Language Arts		
Grade Level	Beacon Classical Academy	National School District
3	0	36
4	0	37
5	27	40
6	20	48
7	18	N/A
8	45	N/A

(See Exhibit B to Notice of Violation.)

Beacon’s Response/Remedy

In its Response, Beacon claims that the District applied a legal standard that “does not exist.” Beacon asserts that the District is only permitted to inquire whether the charter school met or pursued its outcomes, noting that there is “no legal room for a staff judgment as to whether the school *adequately* pursued the outcomes.” Beacon states that California is in the early stages of transitioning to a new statewide assessment program and, therefore, any data derived from state standardized testing “must be viewed through a critical lens.” Beacon interprets its stated outcome of 85% of students “will demonstrate at least one year of growth toward grade-level proficiency” to mean that students simply demonstrate growth toward proficiency, not that they achieve proficiency. Beacon claims that the District is, again, holding the charter school to a standard that does not exist.

Beacon includes a “Multiple Measures of Academic Achievement” report (“MMAA Report”) as Appendix C to its Response. According to Beacon, this report includes results of mid-year assessments that show growth across nearly all grade levels.

District’s Analysis of Beacon’s Response/Remedy

First, Beacon’s claim that the District applied a legal standard that “does not exist” is wholly without merit. Beacon’s assertion that the District is only permitted to inquire whether the charter school met or pursued its outcomes is not accurate. The District has a right to evaluate qualitatively if the charter school pursued its measurable outcomes. Without a qualitative assessment, there would be no way for the District to determine whether the charter school’s

pursuit toward meeting its measurable outcomes is actually meaningful. If the District were to apply Beacon's argument that this is a "binary consideration," the charter school could make statistically insignificant growth in student academic achievement and performance over a span of several school years but still be able to claim that it "pursued" its outcomes. One of the overarching purposes of the Charter Schools Act of 1992 is to "[h]old the schools established under this part accountable for meeting measurable pupil outcomes, and provide the schools with a method to change from rule-based to performance-based accountability systems." (Educ. Code § 47601(f).) Without the ability to qualitatively assess Beacon's progress on its measurable student outcomes, there is no way for the District to hold Beacon accountable for student academic performance and achievement.

Second, Beacon's position that California is in the early stages of transitioning to a new statewide assessment program and, therefore, any data derived from state standardized testing "must be viewed through a critical lens," does not relieve Beacon from pursuing or meeting its stated outcomes. All school districts, as well as charter schools, in California are currently held publicly accountable for their results on the new statewide assessment measures. Considering that 2014-2015 was the first pilot year for the administration of the CAASPP, the District would expect that Beacon's scores in English-Language Arts would have improved in the second year of the CAASPP administration. Rather, the scores declined.

Third, Beacon's petition clearly states that 85% of students "will demonstrate at least one year of growth toward grade-level proficiency." Beacon tries to interpret this stated outcome to mean that students simply demonstrate growth toward proficiency, not that they achieve proficiency. However, a plain reading of the stated outcome and a reasonable interpretation of the phrase "will demonstrate at least one year of growth toward grade-level proficiency" is that the goal is not grade-level proficiency, but "*one year of growth* toward proficiency." The District maintains, and the evidence supports, the conclusion that Beacon has failed to demonstrate that 85% of its students made "one year of growth" or that it has adequately pursued this outcome.

Fourth, Beacon's MMAA Report merely presents a summary of information with bar graphs and does not provide any raw data to substantiate the purported results, even though such information is easily accessible by Beacon. As such, it was impossible for the District to verify whether Beacon's students truly showed growth across nearly all grade levels. (*See* Appendix C to Beacon's Response.) Further, the mid-year assessment tool utilized by Beacon, the Northwest Evaluation Association ("NWEA") Measures of Academic Progress ("MAP") test, is based on normed proficiency, or a bell curve showing how students performed compared to others who took the test. The test does not indicate a student's actual proficiency.

More specifically, while the 2015-2016 MAP graph on slide 25 of the MMAA Report purports to show evidence of some growth, the actual number of scaled scores were not visible, and it was not possible to ascertain the amount of growth toward proficiency among Beacon students who took the test. Further, the RIT (Rasch Unit Scale) norm scores between grade levels vary on average between 4 and 15 points. However, the scales on the graphs presented by Beacon span intervals of 30 to 40 points, making it impossible to distinguish and evaluate progress.

Similarly, the 2016 spring to 2016 fall chart (slide 27) does not provide actual scaled score averages and no information has been provided as to NWEA's expectations on what scores

would indicate progress towards “one year’s worth of growth. In other words, by simply looking at the bar chart provided, there is no key to determine exactly what that growth looks like in terms of year-end expectations. Additionally, no slides indicated results of a winter assessment. The NWEA recommends that the MAP winter assessment administration be conducted between weeks 15 and 21 of school. Week 23 for Beacon was January 16, 2017, so Beacon should have administered an additional assessment to gauge growth using the MAP system.

In the MMAA Report, slide 34 is a comparison of the fourth quarter MC-Hardy reading assessment to 2016-2017 first and second quarter Developmental Reading Assessment (DRA) scores. While there purports to be growth between the first and second administration of the assessment, no assessment dates are provided. Accordingly, from the information Beacon provided, it is impossible to ascertain whether there would have been enough time to achieve a year’s worth of growth, or even if 85% of students are on target. For example, slide 35 shows that year-end norms are at least “12” measures away from the quarter 1 results, and the second grade class only improved “2” measures from quarter 1. This does not indicate progress towards one year of growth. Slide 38 of the MMAA Report provides information on upper grades reading growth using the McCall reading assessment. While there appears to be improvement for grades 6 and 7, the rest of the grades show minimal to no growth.

Beacon concludes the MMAA Report with the statement that “students are making progress towards academic goals. Achievement growth is projected to be higher than last year.” However, the charts presented are insufficient to support this claim. The lack of mid-year MAP assessment results, which should have been administered by mid-January, and the lack of exact scaled score averages, obfuscate the assertion that 85% of Beacon students will achieve one year of growth toward grade-level proficiency.

Based on the inadequacy of the information provided in Beacon’s MMAA Report, the District gave Beacon a second opportunity to provide responsive data to the Notice of Violation. On March 9, 2017, the District issued a Request for Information seeking the raw data to support the assertions made by Beacon in its MMAA Report regarding the MAP test results. A copy of the March 9, 2017 Request for Information is attached as Exhibit 1 to the Notice of Intent to Revoke.

On March 15, 2017, Beacon produced the MAP test raw data. A copy of the MAP test raw data is attached as Exhibit 2 to the Notice of Intent to Revoke. However, the raw data indicates that the test was administered six weeks past the normed assessment window, invalidating the results. Further, 17% of Beacon students are unaccounted for in the test results.

For MAP test results to be valid, the test must be administered during a specific testing window. According to NWEA, fall assessments should be administered between weeks two and eight of instruction. However, the information submitted by Beacon indicates that assessments for fall 2016-2017 were administered after the testing window had closed.

Specifically, Beacon began school on July 26, 2016. For the results to be valid, the fall MAP test should have been administered on or before October 11, 2016. However, at the Beacon Board meeting on February 2, 2016, Dr. Van Nice stated that the test was administered when Beacon was teaching about 180 students in the gym. Beacon taught classes in the gymnasium of their temporary facility, Bible Baptist Church, between November 14, 2016 and December 2, 2016. A

copy of excerpts from the transcribed audio recording of the February 2, 2017 Beacon board meeting is attached as Exhibit 3 to the Notice of Intent to Revoke. Since Beacon occupied Bible Baptist Church between November 14, 2016 and December 2, 2016, the MAP test was administered after the testing window had closed. November 14, 2016 was the start of the 14th week of instruction and six weeks past the maximum normed assessment window. Thus, any results from this MAP test are invalid.

Additionally, Dr. Van Nice mentioned in her presentation to Beacon's Board on February 2, 2017 that about 180 students were being taught in the gymnasium of Bible Baptist Church when the test was MAP administered. (See Supplemental Declaration of Dr. Leighangela Brady.) However, the MAP test raw data produced by Beacon indicates scores for only 151 students in Mathematics and 156 students for English Language Arts, which fails to account for 17% of Beacon students.

Beacon's Response also did not provide any clear indication of *what* Beacon is doing to improve student proficiency levels. While Beacon previously submitted a Strategic Plan following an instructional audit by the District, Beacon did not implement any changes. The concerns addressed in the instructional audit remain: Beacon has no stated time frames for improvement; there are no benchmarks (i.e., the plan merely includes a list of general practices and activities without any strategic improvement goals/actions); and there is no distribution of responsibility for implementation of the specific goals/actions addressed in the Strategic Plan.

Supplemental Information Submitted by Beacon Following Expiration of Remedy Period

On April 4, 2017, Beacon submitted reports for its winter MAP testing. According to Beacon, its students were demonstrating progress toward norms. Beacon also noted that the projected proficiency report for the winter term "looks better in regards to how [Beacon will] do on the CAASPP this Spring, the end of the school year." (See Exhibit A-2 to these Findings of Fact.)

District's Analysis of Supplemental Information

Although Beacon administered the MAP test for the winter term six weeks past the maximum normed assessment window, which rendered the results invalid, the District nevertheless conducted a supplemental evaluation of Beacon's MAP data for the fall and winter terms. The bulk of the data provided by Beacon was "norm" data that compares students to how other students perform on the same test nationwide. This data does not show student progress toward state standards, or current achievement of those standards.

According to NWEA, the NWEA's benchmark norms can be connected with the scale scores of the Smarter Balanced Assessments using the NWEA Linking Data Table. While Beacon continues to profess that it is demonstrating student progress toward norms, Beacon fails to recognize that achievement of the norm is not correlated to grade level proficiency in any grade level for ELA or Math. Student would need to exceed the norm to be projected to meet or exceed state expectations on the CAASPP.

Using correlative charts, current data indicates that four out of six grade levels at Beacon would not meet standards on the CAASPP in ELA, and two out of six grade levels are projected to

“nearly meet” standards in ELA. For Math, all six grade levels would not meet standards on the CAASPP test at this time.

Because norm data is used for the MAP test, there is no way to determine (based on this testing instrument) whether 85% of Beacon’s students are making a year of growth, or if the students who are below grade level are making at least 0.5 years of growth. The data shows that only fourth grade has made “projected growth” in ELA and/or Math. Even with this “projected growth,” fourth grade is projected to fall in the “not met” range of the CAASPP in ELA and Math. No other grade levels met projected grade level targets in either ELA or Math.

A copy of the District’s evaluation charts and summaries are included as **Exhibit A-5** to these Findings of Fact.

The District also notes that Beacon provided supplemental information in its May 3, 2017 submission to demonstrate growth and progress among its students in ELA and Math. However, based on the District’s limited review, the information presented does not alter or otherwise impact the District’s concerns noted above.

Conclusion

For all of the foregoing reasons, the District has found that Beacon has failed to refute or remedy this violation to the satisfaction of the District.

2. Lack of Grade-Level Proficiency in Mathematics.

Beacon states in its petition that 85% of students will demonstrate at least one year of growth toward grade-level proficiency in math. Students who are below grade level will make at least .5 years of growth. In the Notice of Violation, the District alleged that Beacon has also failed to adequately pursue or meet this student outcome. Similar to the scores for English-Language Arts, Beacon scores on the Mathematics portion of the CAASPP dropped from the 2014-2015 school year (when Beacon operated under the authorization of Julian Union School District) to the 2015-2016 school year.

Beacon’s school-wide scores on the CAASPP for 2014-2015 in Mathematics demonstrate that 88% of Beacon’s student population who participated in the assessment did not meet grade-level proficiency standards. Specifically, 57% of students did not meet state standards and 31% of students nearly met state standards in Mathematics.

Beacon’s school-wide scores on the CAASPP for 2015-2016 in Mathematics demonstrate that 94% of Beacon’s student population who participated in the assessment did not meet grade-level proficiency standards. Specifically, 65% of students did not meet state standards and 29% of students nearly met state standards in Mathematics.

When comparing Beacon’s school-wide results on the CAASPP for Mathematics for the 2014-2015 and 2015-2016 school years, the number of students tested who failed to meet grade-level proficiency standards increased by 8% overall.

Similar to the comparative scores for English-Language Arts, Beacon’s test scores on the CAASPP for the 2015-2016 school year in Mathematics are significantly below those of District students for each grade level tested, most notably in grades three, five, and seven in which *none* of Beacon’s students met or exceeded grade-level proficiency standards. The following chart provides a comparison of the percentage of students at Beacon and the District who met or exceeded the standard for Mathematics on the CAASPP.

Percentage of Students Who Met or Exceeded Standard for Mathematics		
Grade Level	Beacon Classical Academy	National School District
3	0	39
4	6	32
5	0	18
6	20	31
7	0	N/A
8	12	N/A

(See Exhibits B and C to Notice of Violation.)

Beacon’s Response/Remedy

In its Response, Beacon refutes the District’s allegation that it has failed to meet or adequately pursue the measurable student outcomes identified in its charter—specifically, the lack of grade-level proficiency in Mathematics. Beacon refers to the explanation in its Response in Section I.A.1. above.

Beacon further contends that it has provided substantial evidence that it has and continues to pursue the student objectives in its charter. Beacon notes that the report of mid-year assessments in the MMAA Report included as Appendix C to the Response shows growth across nearly all grade levels.

District’s Analysis of Beacon’s Response/Remedy

For all of the reasons stated above in the District’s findings of fact in Section I.A.1., Beacon failed to meet or adequately pursue pupil outcomes identified in Beacon’s charter for grade-level proficiency in Mathematics.

As stated above, CAASPP mathematics scores declined by 8% overall from the 2014-2015 school year to the 2015-2016 school year. The MMAA Report produced by Beacon in its Response also purports to demonstrate academic growth in Mathematics. However, in the MMAA Report, the slide labeled “Common Core Math Quarterly Progress and Norms” provides no information on the company that developed the assessment, the norming process, and the actual scaled score averages. Rather, Beacon only provided general bar graphs with no detailed

explanation or supporting data. Again, this MMAA Report does not provide enough specific information to allow the District to evaluate growth and proficiency among Beacon students.

Even the MAP test raw data produced by Beacon is insufficient to substantiate Beacon's claim of growth across all areas because the test was not administered during the required testing window to produce accurate results. As previously stated, it also appears to not account for participation by 17% of Beacon students.

Supplemental Information Submitted by Beacon Following Expiration of Remedy Period

Please refer to the summary of information and Findings of Fact set forth above in Section I.A.1.

District's Analysis of Supplemental Information

Please refer to the summary of information and Findings of Fact set forth above in Section I.A.1.

Conclusion

Based on the foregoing and the analysis above in Section I.A.1., the District has found that Beacon has failed to refute or remedy this violation to the satisfaction of the District.

B. Material Violation of Conditions, Standards, or Procedures in Charter.

1. *Health and Safety of Students.*

- (a) *Beacon is Utilizing Non-Licensed, Non-Department of Industrial Relations-Certified Contractors to Perform Work.*

Beacon affirms in its petition that it will "follow any and all federal, state, and local laws and regulations that apply to the Charter School." (See page 4 of 118 of charter petition.) Beacon hired contractors to perform work at the school that were neither licensed nor registered with the Department of Industrial Relations ("DIR").

Beacon's check register indicates that Beacon made payments in excess of \$1,000 to Michael Mossbarger, Martha Quezada, David Quezada, and Daniel Van Nice for services that include: handyman services, kitchen, cement, tile work, flooring, maintenance services, paint, garden construction, water heater installation, bathroom repair, welding, and trenching. The following is a breakdown of the cumulative dollar amounts paid to each of these individuals:

- \$5,477.61 (Check Nos. 744, 752, 773, 774, 781) to Michael Mossbarger from July 1, 2016 through September 30, 2016.
- \$3,000.00. (Check No. 587) to Martha Quezada from July 1, 2015 through September 30, 2016.
- \$28,084.54 (Checks Nos. 589, 590, 594, 599, 600, 607, 609, 620, 621, 622, 624, 625, 627, 628, 633, 634, 635, 636, 639, 640, 643, 658, 659, 660, 664, 666, 667, 668, 669, 670,

672, 678, 682, 683, 684, 700, 710, 730) to David Quezada from July 1, 2015 through September 30, 2016.

- \$6,250.09 (Checks # 591, 592) to Daniel Van Nice on February 17, 2016.

(See Exhibits D & E to Notice of Violation.)

Beacon's Response/Remedy

In its Response, Beacon claims that it is not subject to Section 1720 of the Labor Code because it is not a “political subdivision” to which this code section applies. Beacon references the mega waiver and states that none of the specific laws to which a charter school is subject requires compliance with public works laws.

Beacon also cites to a Department of Industrial Relations case, Public Works Case No. 2008-026 *King Chavez Preparatory Academy*, which found that a charter school is not a “political subdivision.” The DIR also found that a charter school’s receipt of state funding for educational services does not trigger public works requirements. Beacon states that the DIR has found that “public funds provided for operational purposes do not trigger compliance with the public works statute for incidental construction.”

Beacon claims that the case cited by the District in the Notice of Violation (i.e., Public Works Case No. 2002-084, *Mare Island Technology Academy*) predates the *King Chavez* case and is distinguishable because that case involved major construction of middle and high school facilities. Beacon claims that this case does not support the assertion that charter schools are subject to public works laws for routine maintenance and incidental handyman activities.

Beacon contends that the District must identify a source of public funds that were used to pay for the construction activities, or activities which otherwise trigger public works laws. Beacon claims that the District has only shown that Beacon paid for handyman services and other minor repairs using its operating funds.

Although Beacon refuted this alleged violation, Beacon stated that, going forward, it would “evaluate a handyman’s status with the DIR among factors it uses to select contractors.”

District's Analysis of Beacon's Response/Remedy

Although the District recognizes Beacon’s position as it relates to DIR certification of contractors it hired to perform work at the charter school, Beacon fails to address in its Response its use of non-licensed contractors.

The Contractors’ State License Law (California Business and Professions Code sections 7000 *et seq.*) sets out the specific licensing requirements for the contracting business. This includes the classifications of general engineering contracting, general building contracting, and specialty contracting. (See Cal. Bus. & Prof. Code § 7055.) All businesses or individuals who construct or alter any building or other structure in California must be licensed by the California Contractors State License Board (“CSLB”) if the total cost, including labor and materials, of one

or more contracts on the project is \$500.00 or more. (See Cal. Bus. & Prof. Code § 7048; Contractors State License Board website, available at: http://www.cslb.ca.gov/Contractors/Applicants/Contractors_License/No_Exam_Application/Before_Applying_For_License.aspx.) While there are narrow exemptions to this requirement, Beacon has presented no evidence that any apply in the instant circumstances.

Here, Beacon paid Michael Mossbarger, Martha Quezada, David Quezada, and Daniel Van Nice amounts that far exceeded the \$500.00 maximum noted above. However, based on the District's investigation of the licensing status of these individuals on the CSLB license database, there was no evidence that these individuals maintain the required licensing and are in good standing with the CSLB. Therefore, Beacon violated the law by hiring non-licensed contractors to perform labor or other work at the charter school. This exposes the charter school to potential liability and could compromise the safety and well-being of staff, students, and visitors to the extent that any of the work performed by the above-named individuals was not performed in a legally compliant, sound, and workmanlike manner.

Supplemental Information Submitted by Beacon Following Expiration of Remedy Period

In its May 3, 2017 submission, Beacon indicated that it included copies of the licenses, certifications, and proof of job skills for the above-named contractors.

District's Analysis of Supplemental Information

Based on the District's review of this documentation, there was no evidence presented that any of these contractors are licensed and in good standing with the CSLB.

Conclusion

For these reasons, the District has determined that Beacon has failed to refute or remedy this violation to the satisfaction of the District.

2. *Failure to Ensure an Appropriate Curriculum and Use of Grade-Level Textbooks for Its Students.*

In its petition, Beacon affirmatively states that it will follow the State of California Common Core Framework and Content Standards in all subjects including reading, language arts, math, science, social studies, physical education, and art. Beacon also indicates that it will "implement the instructional scope and sequence of skills to be taught as outlined in the various standards aligned curricula." (See page 23 of 118 of charter petition.)

Despite these assurances, however, the District alleged in the Notice of Violation that Beacon has failed to ensure an appropriate curriculum and use of grade-level textbooks for its students. During an unannounced visit to Beacon's school site on October 10, 2016, the District Superintendent, Assistant Superintendent of Human Resources, Assistant Superintendent of Educational Services, and Assistant Superintendent of Business Services observed that there was no curriculum in Beacon's classrooms and students did not appear to have access to grade-level textbooks to support their learning. District administration also witnessed Beacon students who were working on materials that were two to three grade levels below their own.

Subsequently, during an instructional audit that the District conducted beginning on November 3, 2016 and concluding on November 16, 2016, the District identified deficiencies in Beacon's instructional materials in the areas of English-Language Arts, math, and English Language Development ("ELD"), which supports Beacon's English Learner population. In its instructional audit report, the District issued findings that addressed the following:

- Beacon has failed to provide its students with a reading program or curriculum that supports and aligns with Common Core State Standards. Beacon uses the Fix It program, Spell to Write and Read, Wise Guide for Spelling, and English from the Roots Up, all of which are for foundational skills or to be used as grammatical guides. There is no evidence that Beacon offers its students a core reading/language arts program.
- Beacon has failed to provide a consistent, focused math curriculum for its students. Beacon appears to use three math programs, including Singapore Math, Eureka Math, and Buckle Down Math; however, there is no indication as to how this disjointed math curriculum provides for the vertical articulation needed for equity and coherence as students progress through the grade levels. In addition, Beacon has not shown evidence of staff training for effective use of these programs or how they address Common Core State Standards in math.
- Beacon has failed to provide an appropriate ELD curriculum to its English Learner students. In its Beacon Core Curriculum document for the 2016-2017 school year, Beacon merely lists Focus ELD and the San Diego Unified School District's Wiki Space resource share as instructional materials. The website listed for ELD resource materials does not provide any teacher instructions or directions on the purpose and target standard for each lesson. Moreover, the District is aware of no evidence that Beacon has formally purchased any of these instructional materials or trained its teaching staff on the appropriate and effective use of such curriculum.

(See Exhibit H to Notice of Violation; Declarations of Dr. Leighangela Brady and Paula Jameson-Whitney included with Notice of Violation.)

Beacon's Response/Remedy

In its Response, Beacon claims that the District's team must have visited Beacon's classrooms when the students' books were in their desks. Beacon states that it uses a Board-adopted reading program and mathematics curriculum that is aligned to Common Core State Standards. Beacon also states that it uses a Board-adopted ELD curriculum that is focused on providing support to English Learners so they may access the general education curriculum. As evidence, Beacon includes sample weekly learning plans and curriculum maps as Appendices N and O, respectively, in the Response.

District's Analysis of Beacon's Response/Remedy

In its Response, Beacon asserts that it uses a "Board-adopted" reading program and mathematics curriculum that is aligned to Common Core State Standards. However, Beacon has presented no

evidence of any Board agenda, meeting minutes, or other documentation that reflects the Board's adoption of such materials.

Beacon also claims that it uses a Board-adopted ELD program that is focused on providing support to English Learners so that they may access the general curriculum. However, Beacon has failed to present any evidence of such ELD curriculum with its Response. Specifically, there is no mention of ELD (e.g., ELD materials, time allocated for ELD instruction, etc.) in Beacon's weekly lesson plans or curriculum maps included in the Response. This raises serious concerns regarding whether Beacon is providing the necessary instruction and supports for this critical population of students. By failing to provide any evidence of an ELD curriculum for English Learner students enrolled in Beacon, the District has no way of evaluating whether English Learner students are receiving a sound and legally compliant education.

In addition, Beacon only provided sample weekly lesson plans for sixth and seventh grade. Considering the District's concerns regarding Beacon's instructional program, it should have provided lesson plans spanning all of the grade levels it serves to allow the District to evaluate the efficacy of the English-Language Arts, math, and ELD instruction that it purports to provide to its students.

Moreover, according to the curriculum maps included in the Response, students in kindergarten through second grade learn and review phonemes; however, there is no program mentioned for teaching reading to these students. Specifically, there are no reading groups, guided reading exercises, time allocated for reading, or reading materials listed. "Spell to Read and Write" is listed for the first time in second grade as a language arts resource. However, this program is described as a spelling program that turns into a reading program.

Supplemental Information Submitted by Beacon Following Expiration of Remedy Period

In its May 3, 2017 submission, Beacon included supplemental information concerning its purchase of ELD curriculum, resource materials and guides for ELA and Math instruction, and a letter from Dr. Van Nice expressing that Beacon's Board did not take action to adopt its curriculum. In the letter, Dr. Van Nice also noted that neither the charter petition nor the law require the Board to approve the curriculum utilized in the classroom.

District's Analysis of Supplemental Information

Based on the District's limited review of the supplemental information included in the May 3, 2017 submission, there is no evidence of any lesson plans, updated curriculum maps, or other materials for its span of grade levels to demonstrate Beacon's understanding of and ability to implement the curriculum in the classroom setting. As noted above, this restricts the District's ability to evaluate the efficacy of the ELA, math, and ELD instruction it provides to its students.

Conclusion

Based on the foregoing, the District has determined that Beacon has failed to refute or remedy this violation to the satisfaction of the District.

3. *Apparent Conflict of Interest / Violation of Government Code Section 1090 and Political Reform Act (Government Code §§ 81000 et seq.).*

Beacon includes an affirmative written assurance in its petition that it will comply with Government Code section 1090 *et seq.* and the Political Reform Act, and will adopt a Conflict of Interest Code necessary to comply with these statutes. (*See* page 61 of 118 of charter petition.)

Government Code section 1090 strictly prohibits officers, employees, and other members of the local agency from being financially interested in any contract made by them in their official capacity. Similarly, the Political Reform Act forbids public officials from using their official position to influence decisions in which they have a personal financial interest.

As part of the District's fiscal audit of Beacon, the District discovered payments to Daniel Van Nice in the amount of \$309.00, \$5,450.00, and \$309.48, respectively, for "in services" he provided to Beacon. It is the District's understanding that Daniel Van Nice is married to Dr. Alma Van Nice, who is the Executive Director of Beacon. This constitutes a direct conflict of interest in which Dr. Van Nice, in her official capacity as the Executive Director of Beacon, is financially interested in contracts made by Beacon with her husband. At the very least, Dr. Van Nice's private interests conflict with her official duties as the Executive Director of Beacon and create an appearance of impropriety.

(*See* Exhibits I & M to Notice of Violation.)

Beacon's Response/Remedy

In its Response, Beacon states that it hired Mr. Van Nice to perform emergency plumbing services and that Mr. Van Nice performed such serves at "one-third of the market rate." Beacon asserts that payments were reflected in the register and were kept fully transparent.

To avoid the appearance of a conflict of interest, Beacon has ceased doing business with Mr. Van Nice and has updated its Conflict of Interest Code to disqualify the Executive Director and other designated employees from making decisions where there is a reasonably foreseeable material financial effect on the person's immediate family. A copy of the updated Conflict of Interest Code is included as Appendix S to the Response.

In addition, Beacon includes a copy of a statement from Mr. Van Nice in the Response as Appendix R. In the statement, Mr. Van Nice states that he has performed work for Beacon for the past two and a half years, and he has received compensation from Beacon for his labor in the amount of \$5,540.00 and reimbursement for materials he purchased for Beacon in the amount of \$1,109.57. Mr. Van Nice indicates that he completed a Form 1099 and paid taxes on the labor compensation he received. Mr. Van Nice indicates that the compensation he received for his labor was fair and below the market rate. Mr. Van Nice states that his wife, Dr. Alma Van Nice, "did not request the work for which [he] was compensated nor did she have knowledge that [he] was going to request compensation."

Mr. Van Nice further expresses in his statement that he does not have the ability to pay back the compensation he received from Beacon at this time, noting that repayment is complicated since he already reported it and paid taxes on it. Consequently, Mr. Van Nice requests that Beacon's

Board of Directors set up a payback schedule or that the Board choose to recognize and accept payment for labor in lieu of the taxes that he had already paid to the state.

District's Analysis of Beacon's Response/Remedy

As noted in the District's Notice of Violation, Beacon affirms in its petition that it will comply with Government Code section 1090 *et seq.* (as well as the Political Reform Act) concerning conflicts of interest. Government Code section 1090 *et seq.* prohibits public officials from having a financial interest in any contract made by them in their official capacity, or by any board of which they are a member.

Beacon states that it has updated its Conflict of Interest Code to disqualify the Executive Director and other designated employees from making decisions where there is a reasonably foreseeable material financial effect on the person's immediate family. Beacon's Conflict of Interest Code, however, does not include any statement that it will comply with Government Code section 1090 or language reflecting that it will adhere to the specific requirements of this law. Rather, the language in its Conflict of Interest Code only tracks provisions of the Political Reform Act related to decisions that may have a "reasonably foreseeable material financial effect." (*See, e.g.,* Gov. Code § 87103.)

Beacon states that it has ceased doing business with Mr. Van Nice and includes a statement from Mr. Van Nice in its Response concerning the labor and materials he supplied to Beacon and the compensation he received. Mr. Van Nice states that his wife, Dr. Alma Van Nice, "did not request the work for which [he] was compensated nor did she have knowledge that [he] was going to request compensation." However, this does not negate the fact that Dr. Van Nice, in her official capacity as Executive Director of Beacon, *knowingly* signed checks and issued payment to her spouse on behalf of Beacon. As noted above, this constitutes a direct conflict of interest because Dr. Van Nice was financially interested in contracts made by Beacon with her husband.

In fact, the District discovered an additional check (Check #531) for \$66.68 issued to Mr. Van Nice that was originally omitted from Beacon's check registers but later provided in its Response. In addition, the Response includes a check for \$225.00 (Check # 561) issued to Alicia Van Nice. Although the District is not aware of Ms. Van Nice's relationship to Dr. Van Nice, it appears she may be an immediate family member or relative, given her last name.

A contract made in violation of Section 1090 is void and unenforceable. (Cal. Gov. Code § 1092.²) Moreover, any payments made to the contracting party (i.e., Mr. Van Nice) under a

² Government Code section 1092(a) states that "[e]very contract made in violation of any of the provisions of Section 1090 may be avoided at the instance of any party except the officer interested therein." Although this provision includes the phrase "may be avoided," courts have historically held that contracts made in violation of Section 1090 are void—not voidable. (*See Thomson v. Call* (1985) 38 Cal.3d 633; *Carson Redevelopment Agency v. Padilla* (2006) 140 Cal.App.4th 1323; *People ex rel. State of Cal. v. Drinkhouse* (1970) 4 Cal.App.3d 931; *see also Conflicts of Interest* (2010) California Attorney General's Office, available at: <http://ag.ca.gov/publications/coi.pdf> .)

contract made in violation of Section 1090 must be returned. Courts have routinely found that there should be no recovery for goods and services provided to a public agency by the contracting party where the contract violates Section 1090. (*See County of San Bernardino v. Walsh* (2007) 158 Cal.App.4th 533 [confirming that contractor is required to disgorge profits that resulted from a public official's Section 1090 violation].) The requirement that the contractor disgorge such profits applies irrespective of whether he or she willfully or intentionally violated Section 1090. (*Campagna v. City of Sanger* (1996) 42 Cal.App.4th 533, 538 ["A person who violates section 1090, regardless of whether the violation is intentional, forfeits any rights or interests flowing from the illegal contract."]; *see Conflicts of Interest* (2010) California Attorney General's Office, available at: <http://ag.ca.gov/publications/coi.pdf>.)

Here, although Beacon has ceased doing any further business with Mr. Van Nice, the Section 1090 violation already occurred. Yet, there is no evidence that Mr. Van Nice has returned the payments he received from Beacon for the labor and materials he provided. In fact, Mr. Van Nice specifically expresses in his February 6, 2017 statement that he "does not have the ability to compensate the school at this time." Instead, Mr. Van Nice merely proposes that Beacon's Board review the situation at its next Board meeting and either set up a payback schedule or, alternatively, he suggests that the Board recognize and accept payment for his labor in lieu of the taxes that he had already paid to the state. Notably, Beacon convened a regular Board meeting on February 21, 2017; however, there is no indication from the agenda that the Board considered or took action on any item concerning Mr. Van Nice's compensation for the labor and materials he previously provided to Beacon. A copy of Beacon's February 21, 2017 Board agenda is attached as Exhibit 5 to the Notice of Intent to Revoke.

Even if Beacon's Board had considered the issues raised in Mr. Van Nice's February 6, 2017 statement at its Board meeting, this would not absolve Mr. Van Nice from his obligation to disgorge his profits, nor would it "cure" the violation under Section 1090. Mr. Van Nice was required to return the financial benefits he received to Beacon, but he has failed to do so.

Supplemental Information Submitted by Beacon Following Expiration of Remedy Period

Beacon's April 11, 2017 Board meeting minutes indicate that its Board approved a schedule for reimbursement to Beacon in connection with the payments made to Daniel and Alicia Van Nice. A copy of Beacon's April 11, 2017 Board meeting minutes is attached as Exhibit A-6.

In its May 3, 2017 submission, Beacon also presented a summary of the amounts owed to Beacon, a Payment Agreement indicating that Dr. Van Nice would reimburse Beacon \$1,000 per month beginning in May 2017 until the full amount of financial benefits paid to Daniel and Alicia Van Nice is repaid, and a 2016 Form 1099 for Daniel Van Nice.

District's Analysis of Supplemental Information

Despite the prepayment plan, to date, there is no evidence indicating that any member of the Van Nice family has returned to Beacon the financial benefits they received in violation of Section 1090. Consequently, the Section 1090 violation has not been resolved.

Conclusion

Based on the foregoing, the District has determined that Beacon has failed to refute or remedy this violation to the satisfaction of the District.

4. *Failure to Meet Measurable Student Outcomes Described in Charter.*

The District's findings of fact in Section I.A. (Failure to Meet or Adequately Pursue Pupil Outcomes Identified in Beacon's Charter) above are hereby incorporated herein by this reference.

5. *Failure to Ensure Appropriate Number of Members Serving on Board of Trustees.*

Beacon states in its petition that it will be governed by the Board of Trustees of Beacon Classical Academy, Inc. and will include a minimum of five and a maximum of seven members. (*See* page 60 of 118 of charter petition.) However, at the time the District issued its Notice of Violation, Beacon's website indicated that it had four members serving on the board, including Mark Liuag, James Blasko, Karen Azochar-McManus, and Alicia Tripoli. Prior to the appointment of Alicia Tripoli, Beacon's Board of Trustees consisted of three members. In reviewing Beacon's Board minutes, District staff has noted that only two members were present at multiple board meetings convened by Beacon. Beacon also asserted to the District that the presence of its two Board members at these meetings constituted a quorum in compliance with the Brown Act.

The District approved Beacon's petition based, in part, on the understanding that it would be operating with a minimum number of five Board members. Beacon's failure to ensure the appropriate composition of its Board of Trustees is a direct violation of its charter.

(*See* Exhibit L to Notice of Violation; Declaration of Christopher Carson included with Notice of Violation.)

Beacon's Response/Remedy

In its Response, Beacon contends that its corporate bylaws permit vacancies on the Board of Trustees and that the language of the bylaws suggests that there may be a temporary period of time in which the Board falls below its minimum. Beacon also claims that the language infers "a reasonable grace period" for the filling of vacant slots in the event of an unexpected vacancy. In addition, Beacon asserts that the charter uses the term "will" as opposed to "shall" when identifying the minimum number of trustees, which Beacon interprets to mean a "future state of being." Finally, Beacon claims that the Board returned to its minimum number of trustees "following the reasonable period of time Beacon took to identify, recruit, and seat a qualified Trustee." Beacon includes a copy of its January 19, 2017 Board meeting minutes (during which a fifth trustee was seated) as Appendix X to the Response.

District's Analysis of Beacon's Response/Remedy

As noted above, Beacon asserts that there were vacancies on its Board, and that the language of its charter infers a reasonable grace period for filling vacant slots in the event of an unexpected vacancy. However, there is no indication from Beacon's Board meeting agendas or minutes of any Board vacancies to substantiate these statements. In fact, as reflected in Beacon's meeting agendas and minutes, Beacon was operating as a three-member Board until Ms. Tripoli's appointment on August 16, 2016. Therefore, while the District recognizes there may be circumstances that result in a reasonable delay in filling a vacant Board position, that is not the case here.

Moreover, Beacon directly acknowledges its obligation to ensure a minimum of five members on its Board, as set forth in its charter. Specifically, Beacon states in its Response that Beacon's Board returned to "its minimum number following the reasonable period of time Beacon took to identify, recruit, and seat a qualified Trustee." As evidence, Beacon enclosed as Appendix X to its Response a copy of the minutes for its Board meeting on January 19, 2017 during which it seated a *fifth* Board member.

To constitute a quorum for a five-member Board, Beacon was required to ensure that at least three members were present to consider, discuss, and vote on the items before it. All meetings in which Beacon had less than three members present did not constitute a quorum, which is a violation of the Brown Act.

Supplemental Information Submitted by Beacon Following Expiration of Remedy Period

The minutes from Beacon's April 11, 2017 Board meeting indicate that the Board re-voted to affirm Alicia Tripoli's appointment as a member of the Board. In addition, according to the minutes, the Board reviewed and re-voted on all action items on which Ms. Tripoli voted prior to her proper appointment. These include actions taken during the August 16, 2016, October 18, 2016, November 21, 2016, January 19, 2017, and February 2, 2017 meetings.

District's Analysis of Supplemental Information

The District appreciates that Beacon's Board re-voted on the items before the Board during the time period in which Alicia Tripoli was improperly appointed. However, the District notes that, despite the placement of the amended minutes for these meetings on the April 18, 2017 agenda, based on the observation of a District representative at the meeting, Beacon never formally took action to approve such amended minutes.

In addition, there was no evidence presented by Beacon to address those Board meetings held during the 2015-2016 school year in which less than a quorum was present. These include Board meetings on the following dates:

- August 25, 2015

- September 15, 2015³
- December 15, 2015
- April 12, 2016
- May 20, 2016

Therefore, Beacon failed to ensure an appropriately-constituted Board at these meetings in violation of its charter and the Brown Act.

Conclusion

Based on the foregoing, the District has determined that Beacon has failed to refute and/or remedy this violation to the satisfaction of the District.

C. Engaged in Fiscal Mismanagement.

In the Notice of Violation, the District asserted that Beacon has failed to prudently monitor and manage its budget and finances. The District has had ongoing concerns regarding financial documents provided to Beacon's Board of Trustees and other information submitted by Beacon to the District. The District conducted a comprehensive fiscal audit of Beacon's financial data and reporting, which revealed material misstatements on its check register detail, approximately 114 checks that were not accounted for, and several additional instances of fiscal mismanagement.

1. *No Evidence of Payment of Payroll Taxes for Substitute Services.*

Based on the District's review of Beacon's check register detail for July 1, 2016 through September 30, 2016 submitted to its Board of Trustees (report run on 10/18/16 at 4:22:47 p.m.), there was no proof of payment of payroll taxes to the Internal Revenue Service ("IRS") or Franchise Tax Board ("FTB") for the following payments issued by Beacon:

- Payment in the amount of \$375.00 to Genalyn Pascua for substitute services (Check # 748).
- Payment in the amount of \$600.00 to Margaret Bourdette for substitute services (Check # 761).
- Payment in the amount of \$315.00 to Lilian Choy for SOAR substitute services (Check # 768).
- Payment in the amount of \$305.00 to Lilian Choy (Check # 778).
- Payment in the amount of \$70.00 to Lilian Choy (Check # 780).

³ One Board member participated via conference call. However, there is no information documented in the meeting minutes to suggest that the teleconference location met the requirements of Government Code section 54953.

(See Exhibits E & M to Notice of Violation.)

Beacon's Response/Remedy

Beacon claims that the substitute teachers identified in the Notice of Violation were brought in to perform services as “independent contractors.” As such, Beacon claims it is not required to pay payroll taxes for non-employee independent contractors.

Beacon states that it issued each of these substitute teachers a Form 1099. Beacon asserts that it will not make this information public due to its sensitivity, but is willing to work with the District to provide proof.

District's Analysis of Beacon's Response/Remedy

Beacon's contention that the substitute teachers identified in the Notice of Violation are independent contractors is misplaced. This is an incorrect classification and such teachers should have been classified as “employees.” As explained in the Internal Revenue Service's Publication 15, Circular E, Employer's Tax Guide (2017), available at <https://www.irs.gov/pub/irs-pdf/p15.pdf>, a worker who performs services for an entity is an “employee” if the entity has the right to control what will be done and how it will be done. “This is so even if you give the employee freedom of action. What matters is that you have the right to control the details of how the services are performed.” (See Publication 15, p.11.) Further, if there is an employer-employee relationship, it does not matter if the employee is called an agent or independent contractor. Moreover, it does not matter how payments are measured or paid, what they are called, or if the employee works on a full-time or part-time basis. (*Id.*)

Treatment of substitute teachers as employees—not independent contractors—is also consistent with IRS rulings addressing this general issue. (See Rev. Ruling 70-363 [holding that instructors and their *substitute instructors* are employees, not independent contractors, of the college]; Rev. Ruling 70-308 [finding that part-time instructors hired by a school to teach courses for certain occupations in the airline industry are deemed employees of the school].) Like in Revenue Ruling 70-363, substitute teachers are required to have certain qualifications and be competent to substitute for the regular teachers at Beacon. Moreover, Beacon has the right to control the details of a substitute teacher's services and how such services will be performed (e.g., to report to work at a specific time, follow the assigned teacher's lesson plans for the day, adhere to school policies and procedures, etc.). Therefore, the substitute teachers Beacon employed are effectively employees of the charter school—even if such employment was through a staffing service like Teachers on Reserve.

Therefore, Beacon was obligated by law to pay its employer share of social security and Medicare taxes, as well as withhold income taxes, for these employees. Beacon is liable for the income tax withholdings from the employees regardless of whether the employees paid income taxes on their wages. (See Internal Rev. Code § 3509.) This liability, however, was never addressed in Beacon's financial statements provided to the District.

Supplemental Information Submitted by Beacon Following Expiration of Remedy Period

According to the April 11, 2017 meeting minutes, the Board tabled an item concerning a schedule for tax repayments for substitute teachers because “[f]urther research and legal counsel is needed.” (See Exhibit A-6 to these Findings of Fact.)

The April 18, 2017 meeting agenda reflects that the “Board will review and possibly approve a schedule for tax repayments of substitute teachers.” (See Exhibit A-7 to these Findings of Fact.)

In its May 3, 2017 submission, Beacon presented a draft letter, dated May 2, 2017, to send to those individuals who were incorrectly classified as independent contractors, certified mail receipts, and a summary chart of back taxes for the incorrectly classified individuals. Beacon also included a copy of its Teachers on Reserve School Service Agreement and a letter confirming that Teachers on Reserve pays all payroll taxes for its employees who substitute teach at client schools.

District’s Analysis of Supplemental Information

While the District recognizes recent attempts to address this violation, the District provided Beacon with notice of this issue in December 2016. Yet, it was not until May 2, 2017 that Beacon notified the improperly classified individuals of its intent to amend its tax filings for the 2014, 2015, and 2016 tax years to reflect that such individuals worked as employees for Beacon during the time periods in question.

In addition, to date, Beacon has presented no evidence that it has in fact paid its employer share of social security and Medicare taxes, as well as withhold income taxes, for these employees.

Conclusion

Based on the foregoing, the District has determined that Beacon has failed to refute or remedy this violation to the satisfaction of the District.

2. *Omitted Check Details.*

During the District’s review of the same check register detail described above, the District discovered that the register was not in numerical order, and there were several checks that Beacon completely omitted from its list to its Board of Trustees. The District requested copies of the missing checks, along with supporting documentation, from Beacon. In response, Beacon provided the District with copies of the omitted checks. Of the ten omitted checks, Beacon provided copies of seven written checks, and stated that three were voided. Of the seven copies of checks received, the total of the omitted checks from the check register detail is \$129,405.02. Due to the amount of these checks, the District determined there were material misstatements contained in the documents that Beacon provided to the District, its Board of Trustees, and members of the general public.

(See Exhibits E & M to Notice of Violation.)

Beacon's Response/Remedy

In its Response, Beacon states that it generated a report showing the check register detail through "Charter Vision," which is a client access portal associated with accounting software (i.e., Sage). This software is used by Beacon's back-office provider, Charter School Management Corporation ("CSMC"). The Charter Vision portal is a "convenience system" that allows Beacon to access limited financial information. Consequently, Charter Vision's check register reports are not all-inclusive and only include checks that are generated through Sage's accounts payable system. Beacon claims that its staff was not fully aware of this limitation.

Beacon states in its Response that when it began using CSMC, it was writing manual checks. So, CSMC agreed to amend its policies and procedures (which prevent use of manual checks cut onsite) and offered to manually enter such checks into Sage's accounts payable system. Beacon explains that the Check Register Detail Report provided to the District includes manual checks (three-digit check numbers) manually entered into accounts payable by CSMC and automatic checks generated by CSMC (five-digit check numbers). Beacon states that some of the manual checks "fell through the cracks" of this system.

Beacon claims, however, that all checks have been appropriately accounted for in Sage. Beacon indicates that all checks that the District identified as missing are included in the Sage report (Check/Payment Register Report) through January 24, 2017. Beacon includes a copy of this report in Appendix Y to the Response. Beacon notes that this is not a revised report that corrects and inserts checks; rather this is the "official report that contains all checks omitted from the Charter Vision report."

According to the Response, all checks that were omitted in the Charter Vision report "have always been captured in the Charter School's financial statements" which will be presented to Beacon's board regularly. Beacon offered to provide bank reconciliations regularly to the District.

Beacon states that, beginning July 1, 2017, it will cease issuing manual checks onsite. All checks will be issued by CSMC, and all reports will be generated through Sage.

District's Analysis of Beacon's Response/Remedy

Beacon is responsible for providing to the District, as the oversight agency, accurate financial information. Failure to provide such information hinders the District's ability to oversee and effectively monitor Beacon's fiscal actions. In its Response, Beacon attempts to explain why it has provided the District with materially misstated documents. However, following a thorough analysis of Beacon's explanation and supporting evidence to address this violation, the District has found that there continue to be omissions and inconsistencies in the financial information Beacon has reported.

First, Beacon states that, despite its imperfect system for its financial data, "all checks have always been accurately accounted for in Sage" and that the Sage report included as Appendix Y to its Response (i.e., the Check/Payment Register Report) includes all checks the District identified as missing. However, this is not the case. The following checks were missing in the

initial set of financial documents Beacon provided to the District and are listed as “is missing” in the check register resubmitted with Beacon’s Response:

- | | |
|----------------|----------------|
| 1. Check #113 | 11. Check #593 |
| 2. Check #115 | 12. Check #608 |
| 3. Check #449 | 13. Check #623 |
| 4. Check #464 | 14. Check #630 |
| 5. Check #482 | 15. Check #665 |
| 6. Check #503 | 16. Check #674 |
| 7. Check #509 | 17. Check #676 |
| 8. Check #546 | 18. Check #716 |
| 9. Check #549 | 19. Check #731 |
| 10. Check #574 | 20. Check #732 |

With twenty (20) checks still missing from the check register, Beacon has not refuted or properly remedied this issue.

Check Nos. 406-437 are new additions to the Check/Payment Register Report and amount to \$23,516.93 in previously unknown transactions. Additionally, there are three checks identified as “missing” from this sequence, specifically Check Nos. 411, 415, and 432.

There are also transfers listed in the Check/Payment Register Report, which are assigned a TRXXXXXXX numbering sequence. Most of these transfers appear as payroll transactions (for autopay staff), but there are several bill-payer charges (i.e., electronic transactions). The transfer number sequence begins at TR0000001 and goes to TR0000343. In this sequence, however, there are 148 missing transactions that Beacon fails to explain in its Response. This creates serious concerns for the District regarding the lack of internal controls at Beacon.

In light of the missing checks and transfers noted above, among other items, the District sent a letter to Beacon, dated March 9, 2017, requesting copies of all check registers that Beacon provided to its independent auditors for the 2015-2016 and 2016-2017 school years. (*See Exhibit 1* to the Notice of Intent to Revoke.) On March, 13, 2017, Beacon’s auditor, Christy White Associates, responded to the District’s request for information by providing a copy of Beacon’s general ledger report for the 2014-2015 fiscal year, and the check register report for the 2015-2016 fiscal year from CSMC, Beacon’s back-office provider. A copy of the March 13, 2017 response from Christy White Associates is attached as Exhibit 6 to the Notice of Intent to Revoke. The 2015-2016 check register report was similar to the financial report that Beacon previously provided to the District. However, the auditor’s documents were not the same as those provided to the District. Specifically, some of the missing checks were included, and the report reflected missing checks which had cleared the bank. Considering the volume of missing checks (totaling \$34,558.83), it is clear there are a lack of internal controls—none of which were noted in Beacon’s audited financial reports or disclosed to Beacon’s constituency or the District.

Moreover, if Beacon claims that the Sage financial system, which CSMC has utilized, is always accurate, it is unclear why Beacon never provided its auditor with the Check/Payment Register Report that Beacon included in its Response to the District. It is also troubling that the auditor would not have a copy of the Check/Payment Register Report generated by Sage based on the

auditor's communication to the District that CSMC provided the auditor with a check register report. Furthermore, it is of great concern that Beacon provided the District and the auditor at least three different reports when requesting the same information. Beacon fails to explain these inconsistencies in its Response.

The above-noted inconsistencies and missing information illustrate Beacon's lack of internal controls, inability to prudently manage its finances, and failure to ensure full transparency related to its financial affairs.

Supplemental Information Submitted by Beacon Following Expiration of Remedy Period

On April 5, 2017, Beacon submitted a combination of copies and carbon copies of voided checks representing the 20 missing checks identified in the Notice of Intent to Revoke.

In its May 3, 2017 submission, Beacon presented supplemental information regarding its manual and payroll check sequences, along with a listing of bank entries assigned numbers beginning with "TR." Beacon also included duplicative copies of the information submitted on April 5, 2017.

District's Analysis of Supplemental Information

Based on the District's review of the copies and carbon copies of voided checks, several of these copies are unacceptable. Notably, there are copies in which the original check and the carbon copy of the same check state "void," yet the writing is distinctly different on each; there are carbon copies of checks, but no copies of the corresponding original checks; and several copies are blurry or illegible. Beacon also failed to provide evidence of voided/missing checks for Check Nos. 411, 415, and 432.

The District also notes that the manual check sequence printout included with the May 3, 2017 submission continues to reflect "missing – possibly void" checks (i.e., Check Nos. 411, 415, 432, 737, 742, 757, 803). This is a significant internal control issue.

Conclusion

For the above reasons, the District has determined that Beacon has failed to refute or remedy this violation to the satisfaction of the District.

3. *Additional Missing Checks from Check Register Detail During the 2015-2016 Fiscal Year.*

Due to the omitted checks in the check register detail provided to Beacon's Board of Trustees (report run on 10/18/16 at 4:22:47 p.m.), the District requested copies of all check register details provided to Beacon's Board of Trustees for the 2015-2016 fiscal year. Beacon submitted the requested documentation to the District on November 7, 2016 and November 8, 2016, respectively. During its review of the documentation, the District identified 80 missing checks from the check register detail.

1. Check #113
2. Check #115

- | | |
|----------------|------------------|
| 3. Check #439 | 4. Check #440 |
| 5. Check #441 | 6. Check #442 |
| 7. Check #443 | 8. Check #444 |
| 9. Check #446 | 10. Check #447 |
| 11. Check #448 | 12. Check #449 |
| 13. Check #450 | 14. Check #451 |
| 15. Check #455 | 16. Check #456 |
| 17. Check #458 | 18. Check #459 |
| 19. Check #460 | 20. Check #464 |
| 21. Check #465 | 22. Check #482 |
| 23. Check #487 | 24. Check #488 |
| 25. Check #489 | 26. Check #492 |
| 27. Check #493 | 28. Check #497 |
| 29. Check #498 | 30. Check #499 |
| 31. Check #500 | 32. Check #501 |
| 33. Check #503 | 34. Check #506 |
| 35. Check #507 | 36. Check #508 |
| 37. Check #509 | 38. Check #510 |
| 39. Check #511 | 40. Check #512 |
| 41. Check #513 | 42. Check #514 |
| 43. Check #515 | 44. Check #521 |
| 45. Check #525 | 46. Check #526 |
| 47. Check #527 | 48. Check #529 |
| 49. Check #530 | 50. Check #531 |
| 51. Check #532 | 52. Check #534 |
| 53. Check #535 | 54. Check #536 |
| 55. Check #540 | 56. Check #541 |
| 57. Check #543 | 58. Check #546 |
| 59. Check #547 | 60. Check #548 |
| 61. Check #549 | 62. Check #550 |
| 63. Check #556 | 64. Check #559 |
| 65. Check #560 | 66. Check #561 |
| 67. Check #574 | 68. Check #593 |
| 69. Check #608 | 70. Check #623 |
| 71. Check #630 | 72. Check #653 |
| 73. Check #665 | 74. Check #674 |
| 75. Check #676 | 76. Check #704 |
| 77. Check #716 | 78. Check #731 |
| 79. Check #732 | 80. Check #50002 |

(See Exhibits E & M to Notice of Violation.)

Beacon's Response/Remedy

In its Response, Beacon refers to its explanation in response to the District alleged violation in Section I.C.2. above.

District's Analysis of Beacon's Response/Remedy

The findings of fact described in Section I.C.2. (Omitted Check Details) above are hereby incorporated herein by this reference. Specifically, twenty (20) of the checks noted in the sequence above continue to be listed as "is missing" in Beacon's Check/Payment Register Report.

Supplemental Information Submitted by Beacon Following Expiration of Remedy Period

Please refer to the summary of information and Findings of Fact set forth above in Section I.C.2.

District's Analysis of Supplemental Information

Please refer to the summary of information and Findings of Fact set forth above in Section I.C.2.

Conclusion

Based on the foregoing, the District has determined that Beacon has failed to refute or remedy this violation to the satisfaction of the District.

D. Violation of Provisions of Law.

1. Violation of the Family Educational Rights and Privacy Act ("FERPA").

Beacon violated FERPA by disclosing personally identifiable information regarding its students during public Board of Trustees meetings. (34 C.F.R. Part 99, § 99.30.) The regulations implementing FERPA specially provide that, unless an exception applies, an educational agency may not disclose personally identifiable information regarding a student without first obtaining prior written consent.

Here, Beacon's Executive Director presented slides during the October 18, 2016 public board meeting and commented that students in a particular subgroup population did not meet grade-level standards on state standardized testing. This also occurred during the Beacon presentation at the District's November 9, 2016 Board meeting. Even if Beacon's Executive Director did not disclose the specific names of the students, such students could be personally identified due to the small number of students within this subgroup.

In addition, during a June 14, 2016 public board meeting and as reflected on the corresponding meeting agenda, Beacon specifically named children who were reclassified for English language proficiency. This information is readily available for the public to view in Beacon's board meeting minutes for that date. Absent obtaining written consent, disclosing the names of specific students and their personally identifiable information to members of the general public is unlawful and constitutes a direct violation of FERPA.

(See Exhibit P to Notice of Violation.)

Beacon's Response/Remedy

Beacon states in its Response that it adopted a new FERPA Policy at its February 2, 2017 Board meeting to refine the definition of "personally identifiable information" to include small groups of students sharing a common characteristic. Beacon includes a copy of the FERPA Policy as Appendix DD to the Response.

District's Analysis of Beacon's Response/Remedy

While the District appreciates Beacon's decision to adopt a new FERPA Policy to address student privacy issues and refine the definition of "personally identifiable information" to include small groups of students sharing a common characteristic, Beacon has failed to provide any other evidence of actions it took to address the FERPA violations.

As addressed in the District's Notice of Violation, Dr. Van Nice, the Executive Director of Beacon, presented slides and commented during the October 18, 2016 public board meeting that students in a particular subgroup population did not meet grade-level standards on state standardized testing. This also occurred at the District's November 9, 2016 Board meeting. Despite this violation, Beacon has not presented any information to demonstrate that it apologized to, or communicated with, the parents of those students who were identified by their subgroup classification. There is also no indication of any training or other professional development employed by Beacon, in conjunction with the adoption of its new policy, to address the importance of student privacy and measures to ensure compliance with the requirements of FERPA.

Most alarming, however, is the fact that the minutes for Beacon's June 14, 2016 public Board meeting, which are currently posted on Beacon's website, continue to reflect the names of the children who Beacon specifically announced as having been reclassified for English language proficiency. A screenshot of Beacon's website on March 31, 2017 referencing Beacon's June 14, 2016 board meeting minutes is included as Exhibit 7 to the Notice of Intent to Revoke.) This information is readily available for the public to view. Beacon presented no evidence that it obtained consent from the parents of these students before disclosing their names publicly. This is a direct violation of FERPA and further evidences Beacon's failure to institute appropriate controls and procedures to protect student privacy.

Supplemental Information Submitted by Beacon Following Expiration of Remedy Period

In its May 3, 2017 submission, Beacon included copies of letters of apology, dated April 20, 2017, that it sent to parents of the students whose names or identities were publicly disclosed.

District's Analysis of Supplemental Information

While the District appreciates Beacon's effort to apologize to the affected families, the District continues to have significant concerns regarding Beacon's understanding of its obligations under FERPA. Specifically, the District notified Beacon in its December 15, 2016 Notice of Violation of the FERPA violation, yet Beacon failed to take proactive steps to remove the students' names from the June 14, 2016 Board meeting minutes. It was not until the District raised this issue again in the Notice of Intent to Revoke that Beacon finally corrected the issue (i.e., over three

months later). Moreover, as noted above, there is no indication that Beacon has instituted any training or professional development for Beacon staff, in conjunction with the adoption of its new policy, to address compliance with FERPA requirements.

Given these concerns, the District lacks confidence that Beacon has a strong understanding of its legal obligations under FERPA to ensure the protection of student privacy rights in the future.

Conclusion

Based on the foregoing, the District has determined that Beacon has failed to refute or remedy this violation to the satisfaction of the District.

2. Apparent Conflict of Interest / Violation of Government Code Section 1090 and Political Reform Act (Government Code §§ 81000 *et seq.*).

The findings of fact described in Section I.B.3. (Apparent Conflict of Interest / Violation of Government Code Section 1090 and Political Reform Act (Government Code §§ 81000 *et seq.*)) above are hereby incorporated herein by this reference.

3. Beacon is Utilizing Non-Licensed, Non-Department of Industrial Relations-Certified Contractors to Perform Work.

The findings of fact described in Section I.B.1.a. (Beacon is Utilizing Non-Licensed, Non-Department of Industrial Relations-Certified Contractors to Perform Work) above are hereby incorporated herein by this reference.

E. Consideration of Increases in Student Academic Achievement for all Groups of Students Served by Beacon as Most Important Factor in Determining Whether to Revoke a Charter.

Pursuant to Education Code section 47607(c)(2), the District's Board must consider any increases in student academic achievement for all groups of students served by the charter school as the most important factor in determining whether to revoke a charter.

One of the overarching bases for the District's decision to initiate revocation proceedings was Beacon's failure to meet or adequately pursue the student outcomes set forth in its charter due to the lack of student proficiency in ELA and Math. As noted in the District's Notice of Violation, measurable student outcomes are designed to evaluate the effectiveness of the charter school's program and to ensure that students are making satisfactory progress.

Here, Beacon has failed to meet or adequately pursue its outcomes that (1) 85% of students will demonstrate at least one year of growth towards grade-level proficiency in English reading and language arts, and students who are below grade level will make at least .5 years of growth; and (2) 85% of students will demonstrate at least one year of growth toward grade-level proficiency in math, and students who are below grade level will make at least .5 years of growth. The corresponding violations, which address the District's significant concerns regarding Beacon's

student academic achievement, are more fully described in Findings I.A.1. and I.A.2. above, and are hereby incorporated herein by this reference.

As part of its evaluation of student academic achievement, the District has evaluated Beacon's performance on the California Assessment of Student Progress and Performance ("CAASPP") for the 2014-15 and 2015-16 school years for all numerically significant subgroup populations that Beacon serves. Even when considering available achievement data for Beacon's significant student subgroups, which include economically disadvantaged students, Hispanic or Latino students, and English Learners as measured by the CAASPP, Beacon has failed to demonstrate any notable increases in student academic achievement and performance across grade levels. A copy of the CAASPP assessment scores for Beacon's significant subgroup populations for the 2014-15 and 2015-16 school years is included as Exhibit A-8 to these Findings of Fact.

The District's Board has considered, as the most important factor for determining whether to revoke Beacon's charter, all evidence submitted in connection with the revocation proceedings (including all evidence referenced herein) concerning the academic achievement and performance for all groups of students enrolled in Beacon. Based on this evidence, and for the reasons detailed above, the District has determined that Beacon has failed to show meaningful increases in student academic achievement among the groups of students it serves.

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May 8, 2017

Agenda Item: **11. ADJOURNMENT**