



Livermore Valley Joint Unified School District

685 East Jack London Boulevard, Livermore, CA 94551

LIVERMORE
SCHOOL DISTRICT

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August 19, 2016

DRAFT 08-19-16

**BY HAND DELIVERY
AND ELECTRONIC MAIL**

Governing Board
Tri-Valley Learning Corporation
3252 Constitution Drive
Livermore, CA 94551

**BY HAND DELIVERY
AND ELECTRONIC MAIL**

Lynn Lysko, Ed.D., Interim C.E.O.
Tri-Valley Learning Corporation
3252 Constitution Drive
Livermore, CA 94551

Re: Livermore Valley Joint Unified School District
Tri-Valley Learning Corporation/Livermore Valley Charter Preparatory/Livermore
Valley Charter School -- Notice of Violation

Dear Tri-Valley Learning Corporation Governing Board and Dr. Lysko:

This document constitutes a Notice of Violation (“NOV”) issued by the Livermore Valley Joint Unified School District (“District” or “LVJUSD”) under Education Code § 47607(d). This document shall be considered a Proposed NOV until approved by the District Board at its August 23, 2016 open session meeting. If approved, this document shall be deemed to be the NOV served on the Tri-Valley Learning Corporation, Livermore Valley Charter Prep (“LVCP”) and Livermore Valley Charter School (“LVCS”) (collectively “TVLC/LVCP/LVCS” or “Charter Schools”) effective August 24, 2016. (Cal. Admin. Code tit. 5, § 11968.5.2(a).)

I. BACKGROUND

The State Board of Education (“SBE”) granted LVCP a charter for the operation of a high school, serving grades 9-12, for a term starting July 1, 2010. On November 4, 2014, the Governing Board of the District granted a petition to renew the charter for LVCP Charter School for a five-year term beginning on July 1, 2015 and ending on June 30, 2020.

Livermore Valley Charter School (LVCS) obtained its charter from the SBE and operated as an SBE-authorized charter since the 2005-2006 school year. On November 27, 2012, the Governing Board of the District granted a petition to renew the charter for LVCS for a five-year term beginning on July 1, 2013 and ending June 30, 2018.

II. PAST NOTICES ISSUED BY THE DISTRICT

This Notice of Violation was preceded by the following notices issued by the District:

- October 6, 2015 Notice of Concern (Exh. A)
 - LVCP Foreign Exchange Program
 - Debt owed to Las Positas College
- February 3, 2016 Notice of Violation (Exh. E)
 - LVCP Foreign Exchange Program
 - Debt owed to Las Positas College
 - Untimely TVLC Audit
 - LVCS Demographic profile
- March 18, 2016 Notice of Concern (Exh. F)
 - Involuntary transfer of LVCP foreign exchange students to Stockton
- March 23, 2016 letter (Exh. G)
 - Concerns about TVLC Audit
- April 19, 2016 letter (Exh. J)
 - Credentialing issues for LVCP teacher Latoya Jones
- May 27, 2016 cease and desist letter (Exh. O)
 - Use of LVCP name for schools in China
- June 30, 2016 letter (Exh. U)
 - Requesting information re Western Association of Schools and Colleges (“WASC”) withholding of LVCP accreditation
- July 13, 2016 Notice of Concern (Exh. X)
 - \$400,000 delinquency in reports and payments to California State Teachers Retirement System (CalSTRS)
- July 13, 2016 Notice of Concern (Exh. AA)
 - Uniform Complaints filed by Matthew Weingart and Kathleen Kozioziemski
- July 20, 2016 Notice of Concern (Exh. BB)
 - WASC withholding of LVCP accreditation
- July 22, 2016 Notice of Concern (Exh. DD)
 - Unpaid debts to Las Positas College (insufficient funds), 403b vendors, employee vendors, California State Controller audit rejection, and delinquent City of Livermore assessments
- July 28, 2016 Notice of Concern (Exh. EE)
 - \$400,000 delinquency in reports and payments to California State Teachers Retirement System (CalSTRS)
- July 28, 2016 Letter re Technical Review of TVLC Budget (Exh. FF)

III. VIOLATIONS OF LAW AND CHARTER

The NOV is based on the following violations¹.

¹ The District’s February 3, 2016 NOV (Exh. E) contains an allegation that LVCS’s demographic profile did not match that of the geographic jurisdiction of the District. The District has reviewed and considered LVCS’s April 28, 2016 response to the NOV (Exh. L). Provided that TVLC/LVCS is committed to following the remedies set forth in its April 28, 2016 response, the District does not include them in the current NOV.

A. Foreign Exchange Program (as to LVCP only):

1. Charging illegal tuition/over-reporting per-pupil expenses to Student and Exchange Visitor Program (SEVIS)

During the 2015-2016 school year, the District learned that TVLC/LVCP was operating a foreign exchange program that offered enrollment in LVCP to students from China. TVLC/LVCP's promotional material showed that the Charter School was charging the following to families: \$15,300/year in tuition; \$16,000/year Room and Board; and \$884/year for Health Insurance. (Exh. E, Exh. A thereto.)

TVLC cited Education Code sections 48050-48054 to justify the Charter School's tuition charge imposed upon its students. (Exh. E, Exh. B thereto.) However, the District notified TVLC that Education Code sections 48050-48054 only applied to students from foreign countries contiguous to California. (Exh. E, Exh. C thereto.) By letter dated January 11, 2016, TVLC now claimed that, as a school certified under the Student and Exchange Visitor Program, the \$31,500 annual charge to its foreign exchange students consisted of "full, unsubsidized per capita cost of providing education at such school," for the period of the student's attendance under the federal Immigration and Nationalization Act, § 214(m)(1) (8 U.S.C. Section 1184(m)(1)). (Exh. E, Exh. F thereto.) However, the District noted that, by their plain terms, neither statute calls for a school to collect reimbursement for the cost of providing lodging. (Exh. E; p. 6.)

In its April 28, 2016 response (Exh. L) to the District's February 3, 2016 NOV (Exh. E), TVLC stated that "[a]s of the date of this letter, LVCP will be fulfilling its current obligations with the last exchange students completing their LVCP exchange program at the end of the 2016-2017 school year. We have suspended the acceptance of any new exchange student applications. LVCP is not admitting, and does not intend to admit, any additional F-1 exchange students for the 2016-2017 school year." (Exh. L, p. 1.)

Violation: Although the District does not believe that TVLC lawfully and permissibly collected tuition, room and board, and other expenses from students attending its foreign exchange program, in light of TVLC's intent to discontinue its foreign exchange program, the District will not pursue the legality of those payments at this time. However, as is noted below, the District has continuing concerns regarding the operation of the foreign exchange program at LVCP.

2. Attempting to transfer exchange students against their will to a school in Stockton

On February 12, 2016, the Charter School sent approximately 17 LVCP students a letter stating that students failing a class in the fall semester had 2 options: 1) enroll in a partner school in Stockton; 2) return to China on February 20, 2016. (Exh. F, Exh. A thereto). In an e-mail dated February 16, 2016 to District Assistant Superintendent Chris Van Schaack, TVLC CEO John Zukoski stated that "up to 20 students will be

transferring to a charter school in Stockton to complete the semester. These students will have home stays with local host families.” (Exh. F, Exh. B thereto.)

On February 16, 2016, two LVCP students were picked up at their host family’s house by a person unknown to the host family and driven to Stockton. The two students wanted to remain in Livermore. The two students were later returned to Livermore after being located by the Livermore Police Department. (Exh. F, pp. 1-2.)

On February 17, 2016, Mr. Zukoski, in an e-mail to Mr. Van Schaack, stated that “there’s been a misunderstanding. We are not exiting any exchange students and there aren’t 20 more students enrolling in the program.” (Exh. F, Exh. C thereto.)

On February 18, 2016, LVCP principal Eric Dillie, in a response to an e-mail inquiry by Mr. Van Schaack, initially stated that 58 exchange students were enrolled at LVCP. Upon being asked by Mr. Van Schaack to provide a more truthful figure, Mr. Dillie then shortly thereafter stated in an e-mail that there were 91 exchange students (74 enrolled for the full year, 17 shadowing). (Exh. F, Exh. D thereto.)

On or about February 18, 2016, TVLC/LVCP notified students that they required students that they considered to be poor academic standing to pay additional tuition in excess of \$2,000 to obtain mandatory after-school tutoring. (Exh. F, p. 2.)

On or about February 18, 2016, three mandated reporters, LVCP Principal Dillie, Brock Van Wey and Nina Stoiën, bullied, intimidated, mocked, and used profanity toward, or witnessed such behavior, toward, a subgroup of the 17 students who received the original “forced choice” letter. These three TVLC/LVCP-affiliated individuals demanded that the students sign, under significant duress, a letter or written agreement, with the consequence of a refusal to sign being immediate revocation of the students’ F-1 Visa status and ability to stay in the United States. (Exh. F, p. 2.)

On February 19, 2016, TVLC/LVCP representatives advised State Superintendent of Public Instruction Tom Torlakson that TVLC never intended to remove any foreign exchange students from the LVCP Livermore Charter School. (Exh. F, p. 2.)

On March 3, 2016, Livermore Police Department (LPD) Detective Cindy Moore learned of a possible use of physical force against/assault of a minor foreign exchange student as well as possible detainment of the same student against his will in a vehicle after school hours, occurring in January 2016, allegedly by a TVLC/LVCP staff member or affiliate, Brock Van Wey. On March 9, 2016, LPD Detective Cindy Moore confirmed the allegations of use of force and false imprisonment and confirmed that additional staff members, including TVLC/LVCP administrators and senior leadership, were aware of the incident that occurred in January 2016 and failed to report the incident to authorities, although they were mandated reporters.

TVLC/LVCP March 28, 2016 response did not substantively deny or refute any of the above incidents. (Exh. H.)

TVLC/LVCP also maintained a culture of fear and retaliation against its students, maintaining an “Electronics Policy” purporting to refrain students from any use of social media (Exh. F, p. 2), as well as threatening them with failing grades if they cooperated with the investigation into the above incidents.

Violation: TVLC/LVCP endangered the health and welfare of its students, and was dishonest in representing the scope and size of its foreign exchange program to the District. In addition, it sought to obtain, through coerced written signature, an agreement from minor students to give up their legal educational rights without consulting their parents or guardians. TVLC/LVCP’s treatment of its students caused local and State agencies such as the Alameda County District Attorney, Livermore Police Department, and the State Superintendent of Public Instruction, to investigate their conduct.

In addition, TVLC/LVCP also illegally charged its students mandatory tuition for after-school tutoring in violation of Education Code section 47605(d)(1).

3. Using LVCP name for marketing purposes in China (9/15)

a) LVCP Has Advertised Teaching Positions for its School in Hengshui City

It appeared from several sources that TVLC/LVCP established a site in Hengshui City, Hebei Province, China. LVCP has placed advertisements on the website “echinacities.com” for teaching positions at its site in China. (See, Exh. O, Exh. A thereto, accessed on April 19, 2016, at <http://jobs.echinacities.com/jobchapter/1354504625>.) Under a tab accessible at the above link, the following information appears:

The screenshot shows a job advertisement for Hengshui International School. The page title is "(20000/30000Rmb) - Science / Livermore Valley International School Hengshui - Jobs in Shijiazhuang | 石家庄外籍招聘网 | 招聘外...". The employer is Hengshui International School, located in Shijiazhuang, Hebei. The job is for a Full Time position, with a salary range of 20000 To 30000 RMB. The job description is partially visible, mentioning "About us" and "Livermore Valley Charter Preparatory was established in 1976 in Livermore, located in the East San Francisco Valley. It is one of the most important high school in educational level. LVCP-Hengshui the Hengshui branch of the Californian Livermore Valley Charter Preparatory High School. One of the goals of this campus is to provide Chinese students the opportunity of learn in a completely American educational style. Therefore we are recruiting American teachers from California. If you are interested, let us know. Current Location: China Hengshui Address: Livermore Valley Charter Preparatory High School - Hengshui Campus Hengshui City, Hebei Province China". On the right side, there is a sidebar with a "Jobs" button and a list of related job postings, including "Shijiazhuang,Hebei,very close to Beijing Shijiazhuang", "Cangzhou high school in Hebei seeking for English teacher and Math teacher for late Aug. 13-16Kim Shijiazhuang", "English teacher needed in Shijiazhuang Shijiazhuang", "Full-Time ESL Teachers Needed in China Shijiazhuang", "PKU College - Preschool Lead Teacher - Shijiazhuang Shijiazhuang", "Small class teaching for Adults in Shijiazhuang,Hebei,very close to Beijing Shijiazhuang", "English Teachers Needed in Shijiazhuang,Hebei Province Shijiazhuang", and "Teach cute kids in Shijiazhuang,Hebei. 10000yuan/month Shijiazhuang". There is also a "Helpful Career Advice" section with the text "Find information about business culture and working in china." and a "Back to top" button.

(<http://jobs.echinacities.com/jobchapter/1354504625>)

b) Teachers have Held Themselves out as teachers at LVCP Schools in China

Attached as Exh. O, Exh. B thereto, is a printout from the LinkedIn profile of Karl Keely, who identifies himself as a “Teacher of English Literature and Media Studies at LVCP at Tianjin No. 14 High School.”

c) LVCP Held A Ceremony Marking the Opening of its School in China, and Has Made Other Efforts to Publicly Promote the School

LVCP held a ceremony marking the opening of the Livermore Valley Charter Preparatory School Tianjin’s Campus. Bill Batchelor and Nina Stoen of TVLC were pictured as participants in the ceremony. (Exh. O, Exh. C thereto.) LVCP has also engaged in other marketing efforts to publicize its school in China. (Exh. O, Exh. B thereto.)

TVLC responded in writing on June 6, 2016, denying that it was marketing an LVCP school in China, and stating that such efforts were unauthorized. (Exh. R.) TVLC claimed that “... neither TVLC nor LVCP has ever advertised in China, spent funds generated by, and on behalf of LCVP or LVCS students in any way other than what is authorized by their charters, nor spent funds on operations, marketing, or publicity of any kind on any Livermore Valley Charter Prep school, other than the one location in Livermore ...” (Exh. R. p. 3.)

WASC, in its June 28, 2016 letter providing TVLC notice of its intent to withhold LVCP’s WASC accreditation status (Exh. BB, Exh. C thereto), did not find TVLC’s representations to be credible, citing “a letter from April 21, 2016 that is addressed to LVCP’s ‘Foreign Exchange Student Partner Schools’ and that discusses ‘partner programs.’ (Id.)

Violation: Under Education Code section 47607(a)(4) provides that:

After receiving approval of its petition, a charter school that proposes to establish operations at one or more additional sites shall request a material revision to its charter and shall notify the authority that granted its charter of those additional locations. The authority that granted its charter shall consider whether to approve those additional locations at an open, public meeting. If the additional locations are approved, they shall be a material revision to the charter school's charter.

TVLC/LVCP has never sought or obtained approval from the District's Board to open any additional sites. (Exh. O.)

B. Fiscal Mismanagement (as to LVCS and/or LVCP, as indicated)

1. Failure to Make CALSTRS Payments (as to LVCS):

In July, 2016, the Alameda County Office of Education (ACOE) advised the District that TVLC had failed to make payments in the sum of approximately \$400,000 towards the California State Teachers' Retirement System (CalSTRS) on behalf of its participating LVCS employees. ACOE reported that the employee contributions were being deducted as part of the payroll process, but payment of neither the employee or employer contribution, both of which are statutorily required, has not been received by ACOE for at least four months. (Exh. X.)

CalSTRS sent LVCS a letter dated July 20, 2016 (Exh. EE), stating that TVLC/LVCS had not submitted reports, or made contributions, for the months of December – March, May and June, in violation of Education Code section 23005, and that such delinquency "could adversely impact CalSTRS member accounts." CalSTRS' July 20, 2016 letter directs LVCS that "[a]ll reporting and contributions for the 2015-2016 fiscal year are due to CalSTRS by August 13, 2016. If this data is not received by that date, the affected member's Annual CalSTRS Retirement Progress Reports will be incomplete for this fiscal year, as related to their service performed at LVCS." (*Id.*)

TVLC's failure to make its CalSTRS payments is damaging in a number of respects. First, it prevents ACOE from processing payments made on behalf of LVCS employees, and making the required reports to CalSTRS. It also jeopardizes the determination of the benefits to be paid to the Charter School's employees upon retirement. Furthermore, it threatens to delay the processing of the Charter School's participating employees' post-retirement benefits. This delinquency is particularly alarming not only because of the magnitude of the deficit, but because of the direct economic harm that it causes LVCS employees. Therefore, the seriousness of TVLC's failure to make the required payments to CalSTRS cannot be overstated.

Violation: Element K of the LVCS charter states that the Charter School's "teachers participate in the State Teachers Retirement System (STRS); Tri-Valley Learning Corporation makes the required employer contribution for STRS." (LVCS Charter, p. 77.) Moreover, Education Code sections §23005, 22950 et seq. and §22901 et seq. require that TVLC forward both the employee and employer contributions to CalSTRS on a regular basis. Therefore, TVLC's failure to make those payments to ACOE constitutes the illegal use and retention of public funds.

2. Failure to Remit Payment from Payroll Deductions to Vendors (as to LVCS and LVCP):

TVLC has failed to pay sums from payroll deductions to the intended vendors. Specifically, TVLC has failed to pay the vendor sums deducted from its employees' paychecks, including but not limited to AFLAC Insurance and American Funds (IRC 403b accounts). TVLC's failure to make payments on employee IRC 403b retirement accounts threatens to make the loan payments on those accounts taxable to its employees. (Exh. X; Exh. DD, Exh. B thereto [employee name redacted.]

The District also has learned that TVLC failed to timely make payroll payments to its employees on at least one occasion during the 2015-2016 school year.

3. Other Unpaid/Delinquent Financial Obligations (as to LVCS and/or LVCP, as indicated)

a) Las Positas College (LVCP)

TVLC entered into an agreement with Las Positas College (LPC) under which LPC instructors would provide educational services to TVLC charter schools, and TVLC would pay LPC the costs of providing such instructors, as well as an administrative fee. As of September, 2015, TVLC owed LPC approximately \$208,554.36. (Exh. A, E.)

TVLC and LPC subsequently reached an agreement under which TVLC would pay the amounts due. However, the District has learned that a June 21, 2016 check from LVCP to LPC was recently returned for insufficient funds. (See, Exhibit DD, Exh. A thereto.)

b) CareerStaff Unlimited dba Therapists Unlimited and Emerald Landscape Company

The District has learned that TVLC is delinquent in paying the sum \$41,072.50 to CareerStaff Unlimited dba Therapists Unlimited, one of its vendors. (See, Exh. DD, Exh. D thereto.) The District has also learned that TVLC is substantially delinquent in paying the sum of \$14,000 to Emerald Landscape Company, one of its vendors that provided direct services to TVLC operated sites in 2015/2016 (See, Exh. EE).

c) Statutory Oversight Fee to District (LVCS)

TVLC has also been delinquent in paying its statutory oversight fee to the District, which it is required to do under Education Code section 47613. (See, Exh. DD, Exh. C thereto.)

d) Unpaid Assessments to Community Facilities District No. 99-1 (LVCP)

TVLC and/or its affiliates are delinquent on assessments on 23 parcels of real property and that the cumulative principal amount, including penalties and fees, owed to Community Facilities District No. 99-1 (Tri-Valley Technology Park) is in excess of \$283,593.00. (Exh. DD, Exh. G thereto.) On July 29, 2016, TVLC advised the District in its response to the District's Notice of Concern that the delinquency in fact involved 18 parcels, totaling \$107,368.18. However, TVLC did not otherwise address adequately the delinquency in its written response. (Exh. GG.)

4. Irregularities in the Budgeting Process (as to LVCS and LVCP)

a) TVLC 2014-2015 Audit Rejection:

By letter of July 14, 2016, California State Controller (SCO) Betty T. Yee advised TVLC, through its auditors, that the SCO had rejected TVLC's 2014-2015 audit report because it "did not meet the minimum reporting standards contained in the audit guide ...". Specifically, the SCO concluded that the TVLC audit did not correctly address the expenditure of Common Core Implementation Funds. (Exh. DD, Exh. E thereto.)

b) Problems with 2015-2016 Second Interim Report and 2014-2015 Audit

A March 23, 2016 memorandum from District Chief Business Official Susan Kinder to then-Acting TVLC CEO Zukoski (Exh. G) outlined a number of irregularities with LVCS/LVCP's 2015-2016 Second Interim Report and 2014-2015 Audit, including but not limited to the following:

- 2015-2016 Second Interim Report
 - Documentation untimely submitted after the March 15 deadline and incomplete;
 - Missing documentation included organizational chart, profit and loss statement, balance sheet, and disclosure of multi-year fiscal obligations (loans, lines of credit, etc.) for the next 3 years;
 - Missing \$880,000 in expenses from debt payments for principal and interest on TVLC's bond;
 - Missing components from ending fund balance for both LVCS and LVCP;
 - Cash flow totals incompatible with actual revenues and expenditures;
 - Unjustified projected increase in attendance for LVCP
- 2014-2015 Audit
 - Large variance between unaudited and audited cash in banks;
 - Lack of clarity in how LVCP lease payments would be charged with respect to California Preparatory Academies

TVLC provided a written response on April 15, 2016. (Exh. I.) TVLC's response did not satisfactorily address many of the significant concerns raised in the District's March 23, 2016 memorandum, including:

- Budgeting of TVLC's principal and interest payments on its bond;
- TVLC's unjustified increase in attendance projected for LVCP;
- The lack of accurate cash flow accounting ("TVLC's accounting system does not provide a monthly cash flow report by school and object code.") (Exh. I, p. 3)

c) July 28, 2016 Technical Review of TVLC Budget

The District provided TVLC a technical review of the LVCS and LVCP budgets on July 28, 2016. (Exh. FF.) The technical review raised significant questions regarding inconsistencies in the budget, including the simultaneous projection of increased enrollment and decreased salaries; underbudgeting of employee health and welfare and statutory benefits; discrepancies between the debt service expense and intercept payment schedule; and failure to remedy negative cash flow. (*Id.*)

d) Delinquent Audit Report

Education Code section 47605(m) provides that:

A charter school shall transmit a copy of its annual, independent financial audit report for the preceding fiscal year, as described in subparagraph (l) of paragraph (5) of subdivision (b), to its chartering entity, the Controller, the county superintendent of schools of the county in which the charter school is sited, unless the county board of education of the county in which the charter school is sited is the chartering entity, and the department by December 15 of each year.

TVLC's audit report for fiscal year 2014-2015 was submitted to the District over a month late.

Violation: These incidents are of serious concern to the District, as the authorizer of TVLC's charters. TVLC has had a history of inability to pay its debts and obligations, including but not limited to delayed payments of sums owed to Las Positas College for offering programs to LVCP students; failure to make payroll; delay in making lease and oversight payments to the District; and failure to pay assessments to the City of Livermore. TVLC also has had problems with submitting completed audit reports for Fiscal Year 2014-2015. Many of these deficiencies have been outlined in previous Notice of Concerns/Violation.

The above instances represent a continued pattern of TVLC engaging in fiscal mismanagement (Education Code section 47607(c)(1)(C)), often to the direct detriment of its employees. Charter Schools are also obligated to follow generally accepted accounting principles (Education Code section 47607(c)(4)), as well as maintain cash flow and multi-year budget projections. (Education Code section 47605(g).) TVLC has failed to comply with all of these financial requirements.

C. Withholding of Accreditation from WASC (as to LVCP)

On April 26, 2016, the Accrediting Commission for Schools - Western Association of Schools and Colleges (WASC) issued a "Notification of Potential Withholding of Accreditation Status for Livermore Valley Charter Preparatory, for Violations Concerning Substantive Changes." WASC's letter stated that "the Commission has reason to believe LVCP has violated ACS WASC Policies under Section A7 concerning Substantive Changes." Specifically, WASC's actions were based upon LVCP's new location at 3090 Independence Drive, Livermore, CA 94551 to be shared with California Preparatory Academies, an overburdensome financial commitment to facilities which it is unlikely to be able to sustain; its partnership with Limai Chinese American International School to provide a foreign exchange program; a change in authorizer from the State Board of Education to the District; and a change in the Charter School's established mission and program through its offering of a dual degree program. (Exh. BB, Exh. A thereto.)

On June 28, 2016, WASC sent a letter to TVLC notifying the charter school that, at its June meeting, WASC "voted to withhold LVCP's accreditation" due to the Charter School's new location and apparent continued partnership with schools in China. (Exh. BB, Exh. C thereto.) WASC's June 28, 2016 letter stated that "TVLC's response fails to address concerns surrounding the impending new location of the school ..." and its failure to notify WASC of this material change. WASC's June 28, 2016 letter further noted that "it is a foregone conclusion that TVLC intends for LVCP students to occupy a new building this coming school year" and that "the new location of the school is tied to a material change in financial position."² (*Id.*)

TVLC advised WASC in writing on June 30, 2016 that the Charter School intended to appeal WASC's decision. (Exh. BB, Exh. D thereto.)

Violation:

Education Code section 47605(b)(5)(A)(iii) requires a charter petition to contain a reasonably comprehensive description of how a charter school serving high school

² The extent of TVLC's legal and financial commitment to the new site is set forth in the following document: <http://www.mcelweequinn.com/jobs/1617590134>

students will ensure the transferability of courses to other public high schools, and ensure college entrance requirements at University of California or the California State University schools:

If the proposed charter school will serve high school pupils, [the charter shall contain a reasonably comprehensive description of] the manner in which the charter school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable and courses approved by the University of California or the California State University as creditable under the "A" to "G" admissions criteria may be considered to meet college entrance requirements.

Therefore, attaining and maintaining WASC accreditation is crucial not only to the ability of LVCP students to transfer coursework to other public high schools, but to gain admission to University of California or the California State University schools. WASC's recent withholding of accreditation status not only constitutes a violation of the LVCP charter, but also has a potentially grave impact on LVCP's students, especially those applying to colleges in the upcoming school years.

D. Lack of Transparency and Integrity (as to LVCS and/or LVCP, as indicated)

TVLC's leadership has been plagued by lack of candor, honesty, and transparency.

1. The Former TVLC CEO's misrepresentations regarding City's requirements for the parking lot (as to LVCP)

According to a February 2, 2016 article in the San Jose Mercury News,³ "the CEO of the charter's parent corporation admitted last week that he misled both the school's board and parents when he claimed the city threw a last minute wrench into Livermore Valley Charter Preparatory's plans to move into a new building off North Canyons Parkway near Doolan Road." The article stated:

Zukoski e-mailed a call to action on Dec. 12 to the school's community, stating that "City Hall has unfathomably drawn out the plan approval process over the past six months by continually requesting minor changes here and there."

³ http://www.mercurynews.com/education/ci_29465048/livermore-charter-school-ceo-admits-he-mislead-parents

His main beef was his contention that the city told the school at the last minute it had to build a parking lot for 70 spaces before occupying the facility.

Zukoski included in his message the e-mail addresses of council members and city staff and encouraged parents to lobby them to give the school a temporary occupancy permit ...

A day later, Zukoski acknowledged the mayor's version of events were accurate in an apology he issued, but it did little to stem Marchand's frustration.

"He admits that he lied to the parents, the students and his fellow administrators and in doing so he was willing to put the lives of the students at risk," Marchand said. "If I was a charter school parent, that would be unforgivable."

2. Shifting explanations for foreign exchange program tuition (as to LVCP)

As noted on pp. 1-2 above, TVLC provided shifting and inaccurate information in an attempt to justify its tuition payments under the Student and Exchange Visitor Program. TVLC first attempted to justify the payments under Education Code sections 48050-48054, which turned out to be applicable only to students living in contiguous countries. TVLC then attempted to argue that its \$31,500 annual charge to its foreign exchange students consisted of "full, unsubsidized per capita cost of providing education at such school," under the federal Immigration and Nationalization Act, § 214(m)(1) (8 U.S.C. Section 1184(m)(1)). However, TVLC over-reported its per-student cost of providing education by including lodging costs.

3. Misrepresentations and attempt to cover up credentialing issues (as to LVCP)

The District sent a Notice of Concern on April 19, 2016, that LVCP English teacher Latoya Jones did not hold the proper credential required to teach English and English Language Development. (Exh. J.) By e-mail of April 6, 2016, TVLC CEO Lynn Lysko stated that Ms. Jones was "really doing more of a study skills/acclturation program with the exchange students. It should have not have been called ELD as that is a credential issue. He will be changing the name of the class." (Exh, J.) However, the District noted that not only did the LVCP website identify Ms. Jones as teaching English, TVLC also claimed that she was teaching English Language Development in its March 28, 2016 response to the District's prior Notice of Concern. (Exh. J.) LVCP student transcripts show departmentalized English courses being taught by Ms. Jones and if in fact CEO

Lysko's statements are accurate dozens of students received two study skills courses but no English course, which is a requirement for high school graduation and for F1 Visa Status.

4. TVLC's misrepresentations to State Superintendent Tom Torlakson re investigation (as to LVCP)

As was noted above on p. 4, on February 19, 2016, TVLC/LVCP representatives falsely represented to State Superintendent of Public Instruction Tom Torlakson at a meeting that TVLC never intended to remove any foreign exchange students from the LVCP Livermore Charter School. (Exh. F, p. 2.)

5. Shifting explanations re sending students to Stockton (as to LVCP)

As was noted above on p. 4, on February 12, 2016, the Charter School sent approximately 17 LVCP students a letter stating that students failing a class in the fall semester had 2 options: 1) enroll in a partner school in Stockton; 2) return to China on February 20, 2016. (Exh. F, Exh. A thereto). In an e-mail dated February 16, 2016 to Mr. Van Schaack, TVLC CEO Zukoski stated that "up to 20 students will be transferring to a charter school in Stockton to complete the semester. These students will have homes stays with local host families." (Exh. F, Exh. B thereto).

On February 17, 2016, Mr. Zukoski, in an e-mail to Mr. Van Schaack, stated that "there's been a misunderstanding. We are not exiting any exchange students and there aren't 20 more students enrolling in the program." (Exh. F, Exh. C thereto.)

6. Shifting explanations of number of foreign exchange students (as to LVCP)

As was noted above on p. 4, on February 18, 2016, LVCP principal Dillie, in a response to an e-mail inquiry by Mr. Van Schaack, initially stated that 58 exchange students were enrolled at LVCP. Upon being asked by Mr. Van Schaack to provide a more truthful figure, Mr. Dillie then shortly thereafter stated in an e-mail that there were 91 exchange students (74 enrolled for the full year, 17 shadowing). (Exh. F, Exh. D thereto.)

7. Failure to properly respond to community member uniform complaints (as to LVCS and LVCP)

On or about May 2, 2016, community member Matthew Weingart submitted a Uniform Complaint to TVLC under TVLC Policy #300-012, and using TVLC's Community Complaint Form, arising out of communications sent by then-TVLC General Counsel Derek Austin. On or about May 16, 2016, Katherine Kozioziemski submitted a Uniform Complaint to TVLC under TVLC Policy #300-012 arising out of substantially the same communications.

Ms. Koziowski's Uniform Complaint centered around an April 28, 2016 e-mail from Mr. Austin that stated, in part:

I caution Katherine Koziowski, Dick Corso, Matthew Weingart and Gary Falcon, and people of the like, to temper their public words about TVLC employees or they will find themselves paying to defend a defamation and slander lawsuit. Perhaps, Ms. Koziowski's attorney father will travel from Orangevale, California to proffer a defense. (Exh. AA.)

Mr. Weingart's Uniform Complaint also was based on the following statement made by Mr. Austin in an e-mail of April 28, 2016:

I care little about your review, or you, for that matter.

Please refrain from emailing me again or you will be met with a restraining order in addition to the law suit [sic] for defamation.

Feel free to share this email with any of your cronies. (Exh. AA.)

While Dr. Lysko reportedly issued an apology to Mr. Weingart and Ms. Koziowski by e-mail on June 9, 2016, TVLC otherwise failed to respond to the complaint or follow the grievance procedure set forth in its charter. (Exh. AA, TVLC Policy #300-012, attached as Appendix O to the LVCP charter, thereto.)

TVLC responded to the District's Notices of Concern on July 27, 2016. (Exh. II.) TVLC's responses, however, were inadequate as they merely claim that Dr. Lysko's June 9, 2016 e-mail constituted a complete resolution of each complaint. However, TVLC failed to address the specific questions raised by each complainant with respect to clarification of the rights of community members, and whether the TVLC Board adopted or repudiated Mr. Austin's statements.

D. Remedies:

Under Education Code section 47607(d), the District asks that TVLC, LVCS and LVCP remedy the violations set forth above, and provided documented proof that they have done so, no later than 30 days following issuance of this notice (no later than **September 22, 2016**)

TVLC/LVCS/LVCP's remedies must include the following:

1. Disassociation of LVCS/LVCP from TVLC, including no overlap in personnel between LVCS/LVCP and TVLC, Eric Dillie, or Bill Batchelor, or any other employee or officer of TVLC.

2. Creation of a new independent governing board for LVCS and LVCP.
3. Hire new permanent Chief Executive Officer.
4. Retain a third party (e.g., FCMAT, School Services) to conduct a forensic audit of internal fiscal practices.
5. Immediately pay off existing debt in full, and secure written verification of same.
6. Immediately cure all delinquent reports and payments to CalSTRS, and provide a program for remedying any financial harm to LVCS/LVCP employees.
7. Disassociation of LVCS and LVCP from any corporate entity, including but not limited to TVLC, California Preparatory Academies, and/or Squaw Valley Academy-Bay Area, that is not *solely* formed for the purpose of governing *only* LVCS and LVCP.
8. Discontinue foreign exchange program as of 2016-2017, except for continuing students admitted for the 2015-2016 school year.
9. Develop a transitional plan in the event that the Charter School must protect the course transferability and college admissions prospects for LVCP students.

Very Truly Yours,

Craig Bueno
Board President

Chuck Rogge,
Board Clerk

Kate Runyon,
Board Member

Chris Wenzel,
Board Member

Anne White,
Board Member

Governing Board, Livermore Valley Joint Unified School District