



Denise Pascoe, Interim Executive Director

ACCS Staff Report Concerns	Oxford Preparatory Academy Chino Valley Responses
<p>FCMAT Audit Findings</p> <ul style="list-style-type: none"> The lack of internal controls at OPA and relationships between the founder, relatives, and close associates, and the founder's other nonprofit public and private corporations created an environment that made it possible for fraud to occur. 	<p>OPA no longer has any relationship with the founder or any companies operated by her relatives or close associates. Furthermore, OPA has taken a number of steps to ensure that these types of issues will not be repeated:</p> <ol style="list-style-type: none"> Severed ties with former charter management organization and any Roche-associated enterprises on May 26, 2016. A new conflict of interest code was adopted and both the board and senior management has been trained on the requirements of the new code. A new nepotism policy was adopted. It will be further revised to reflect concerns expressed by CDE staff. Additional legal counsel was retained. A new independent auditor was hired. A new business services provider (Charter Impact) is now providing all business services to the school. Requiring two signatures from amended authorized signature list on checks over \$10,000. Updated business expense reimbursement policy. All board members and key management personnel and fiscal staff replaced. Will contract with a third party to implement training for all employees and Board members in suspected fraud or abuse.
<ul style="list-style-type: none"> Conflict of interest at OPA including, but not limited to, charter officials participating 	<p>OPA no longer has any relationship with the founder or any companies operated by</p>

Board of Directors

Andrew Vestey - Chairman, Sandra Garner – Vice President, Neveen Adly - Treasurer, Albert Diaz - Secretary, Debbie Tarver - Member



<p>in the decision-making process and exercising considerable influence that had major financial implications without full disclosure to the governing board.</p>	<p>her relatives or close associates. A new conflict of interest code and nepotism policy was adopted to ensure that no conflicts of interest will arise in the future. Finally, OPA has retained additional legal counsel, and changed independent auditors and business service providers to ensure that OPA has clear and consistent advice on conflict of interest issues going forward.</p>
<ul style="list-style-type: none"> Transactions that involved self-dealing with the founder’s nonprofit and for-profit corporations allowing the founder, relatives, and close associates to gain financially, including funneling funding from OPA charter schools. 	<p>OPA no longer has any relationship with the founder or any companies operated by her relatives or close associates. A new conflict of interest code and nepotism policy was adopted to ensure that no conflicts of interest will arise in the future. Finally, OPA has retained additional legal counsel, and changed independent auditors and business service providers to ensure that OPA has clear and consistent advice on conflict of interest issues going forward.</p>
<ul style="list-style-type: none"> Pursuant to OPA’s amended bylaws, ELS, as both the CMO and sole statutory member of OPA, has broad legal power and ultimate control to remove any director with or without cause within the OPA organization. 	<p>Although this was true at one time, the relationship with ELS as a sole statutory member was eliminated on April 11, 2016. ELS no longer has any authority to appoint or remove any Board member.</p>
<ul style="list-style-type: none"> ELS has a material economic interest in OPA by which OPA pays substantial CMO management fees to ELS. From January 2013 through June 2016, OPA charter schools paid management fees of \$4,253,406 to ELS – of this total, OPACV paid \$2,356,079 (Attachment 9, p. 33). 	<p>Although at one time OPA paid management fees to ELS, it no longer does so. All such fees were terminated during the 15-16 fiscal year and no fees have been paid to ELS since that time.</p>
<ul style="list-style-type: none"> Related party organizations were intentionally created to divert and launder funds from OPA and conceal the use of the funds from CVUSD, OPA’s independent auditor, and others that relied on the financial statements and independent financial audits (Attachment 9, p. 18). 	<p>OPA no longer has any relationship with the founder or any companies operated by her relatives or close associates. All OPA board members and key management personnel and fiscal staff have been replaced. Furthermore, OPA has taken a number of steps to prevent this issue from occurring in the future:</p> <ol style="list-style-type: none"> 1. Severed ties with former charter management organization and any Roche-associated enterprises on May 26, 2016.

	<ol style="list-style-type: none"> 2. A new conflict of interest code was adopted and both the board and senior management has been trained on the requirements of the new code. 3. A new nepotism policy was adopted. It will be further revised to reflect concerns expressed by CDE staff. 4. Additional legal counsel was retained. 5. A new independent auditor was hired. 6. A new business services provider (Charter Impact) is now providing all business services to the school. 7. Requiring two signatures from amended authorized signature list on checks over \$10,000. 8. Updated business expense reimbursement policy. 9. Will contract with a third party to implement training for all employees and Board members in suspected fraud or abuse.
<p>The final FCMAT extraordinary audit report, November 22, 2016, concludes that OPACV may have engaged in fraud, misappropriation of assets, or other illegal activities (Attachment 9).</p>	<p>In addition to the steps outlined above, OPA is cooperating fully with law enforcement agencies pertaining to their ongoing investigation of former OPA officials.</p>
<p>As a result of the FCMAT extraordinary audit, CVUSD issued a NOV to OPACV on January 10, 2017, stating that CVUSD finds that the violations identified in the FCMAT report are of substantial concern. CVUSD provided OPACV with the opportunity to submit a plan of definitive action by January 31, 2017, that would correct violations and prevent future violations. OPACV submitted a response in writing to CVUSD on January 31, 2017 (Attachment 12).</p>	<p>OPA submitted its plans to cure the alleged violations and since that time has implemented its action plan. Further, it has sought and relied upon advice of legal counsel and its new back office service provider to ensure that it operates in compliance with law and generally accepted accounting principles. It is critical to understand that while former administrators of OPA may be accused of improprieties by the District, these former employees no longer work for the organization nor do they have any say in the ongoing operations or governance of OPA. Just as you would not shut down an entire school district due to alleged improprieties of a former Superintendent, we hope that the State Board will remain cognizant of the tremendous achievement</p>

	of the students, teachers and site-level staff of these schools.
<p>Additionally, CUSD issued a NOV to OPA-SOC on December 15, 2016, that CUSD finds that the violations identified in the FCMAT report are of substantial concern. CUSD provided OPA-SOC with the opportunity to submit a plan of definitive action by January 2, 2017, that would correct violations and prevent future violations (Attachment 13).</p>	<p>The Capistrano Unified School District (“CUSD”) also issued a NOV to OPA. OPA did submit an action plan to the CUSD. To date, OPA has not received a Notice of Intent to Revoke or attempt non-renewal of the OPA school sponsored by them.</p>
<p>The CDE finds, after review of the FCMAT findings that OPA leadership failed to meet generally accepted accounting principles and engaged in fiscal mismanagement (Attachment 9). Based on these findings, the CDE has concerns about the OPACV leadership and OPA Board of Directors’ ability to successfully implement the program given the history of fiscal mismanagement and lack of internal controls. The CDE notes that OPACV has taken steps to address the FCMAT findings as noted in OPACV’s cover letter to the CDE (Attachment 14) as well as OPACV’s response to the CVUSD’s NOV (Attachment 12). However, the CDE finds that these steps are insufficient in addressing all of FCMAT’s findings based on the following:</p>	<p>OPA appreciates that CDE has noted the substantial number of steps that OPA has taken to rectify past problems and to prevent these issues from reoccurring in the future. We respond to each of CDE staff’s remaining questions below.</p>
<ul style="list-style-type: none"> Although OPA replaced its entire Board of Directors, it is unclear how many board members are founding members of OPA. Founding members are a group of individuals in OPA who are extremely involved and invested with OPA. As founding members, it would appear these board members would have a history or relationship with its past executive directors, Sue Roche and Barbara Black. 	<p>Only one of the five board members is a Founding Member of OPA. In order to become a Founding Member, a parent simply had to meet volunteer hour requirements. Parents fulfilled these requirements through tasks such as enrollment outreach or donating time on projects that were related to their professional expertise. These Founding Members were not selected due to their relationship with Sue Roche, Barbara Black, or others in the school administration. A parent who volunteered his time in good faith to assist with the establishment of the school should not have his integrity questioned when he was in no way involved with the issues questioned by FCMAT, never had any role in the governance or operations of the school, and never worked at the school. This one Founding Member, a parent on the OPA Board, voted for the reforms outlined herein and even voted to file suit</p>

	<p>against parties that the FCMAT report suggests may have engaged in wrongdoing.</p>
<ul style="list-style-type: none"> Denise Pascoe was selected as Interim Executive Director and Andrew Crowe was selected as Interim Managing Director. Both Ms. Pascoe and Mr. Crowe served as chancellors for OPA. Mr. Crowe served as chancellor of OPACV since 2015 and according to the OPA Web site, Ms. Pascoe previously served as chancellor of OPA-SOC. Although Ms. Pascoe states that Mr. Crowe has no ties to Sue Roche or Barbara Black, OPA’s organizational chart shows that the chancellor works directly with the executive director. 	<p>Ms. Pascoe was hired at the beginning of the 2016-17 academic year. This was after the time period of all of the incidents contained in the FCMAT report. Further, she was only the chancellor of the OPA-SOC campus for a few short months before being promoted to Interim Executive Director. Her integrity was never questioned by FCMAT as she did not work at OPA or have any other affiliation with OPA or its founder during the period in question.</p> <p>Although Mr. Crowe did work at the organization as the site leader of one of OPA’s three schools during part of the time that Ms. Roche was Executive Director of OPA, he did not have any responsibility for budget management and played no role in the decisions made by senior management that have since been questioned by FCMAT.</p>
<ul style="list-style-type: none"> OPACV’s nepotism policy allows for the “organization to vary from the guidelines outlined in the nepotism policy to address unusual circumstances on a case by case basis.” This gives OPACV wide latitude to not follow the nepotism policy. 	<p>In light of CDE staff’s comment, OPA has determined that it will revise the nepotism policy further to eliminate this flexibility.</p>
<ul style="list-style-type: none"> OPACV has conducted an internal forensic review of all financials dating back to 2012, but it is unclear what OPACV plans to do with the forensic review, what was found in the review, how OPACV will utilize information from the review to remedy past fiscal mismanagement, and its plans to safeguard against future fiscal mismanagement. 	<p>This forensic review largely mirrored the findings of FCMAT. This review, along with the FCMAT report, was used to support the decision of the OPA Board to file suit against Edlighten and Sue Roche. Through this lawsuit, OPA seeks to recover funds from Edlighten Learning Solutions. It was also used by the OPA Board to support numerous reforms necessary to prevent this from happening again, including, but not limited to:</p> <ol style="list-style-type: none"> 1. Severing ties with former charter management organization and any Roche-associated enterprises on May 26, 2016. 2. A new conflict of interest code was adopted and both the board and

	<p>senior management has been trained on the requirements of the new code.</p> <ol style="list-style-type: none"> 3. A new nepotism policy was adopted. It will be further revised to reflect concerns expressed by CDE staff. 4. Additional legal counsel was retained. 5. A new independent auditor was hired. 6. A new business services provider (Charter Impact) is now providing all business services to the school. 7. Requiring two signatures from amended authorized signature list on checks over \$10,000. 8. Updated business expense reimbursement policy. 9. Will contract with a third party to implement training for all employees and Board members in suspected fraud or abuse.
<ul style="list-style-type: none"> • It is unclear what the third party training OPACV plans to contract for regarding fraud and abuse will entail. 	<p>The goal of this training is to ensure that OPA's Board and management are well-versed in both legal requirements and generally accepted accounting principles in order to ensure that the issues outlined in the FCMAT report never happen again. OPA is in the process of retaining an independent CPA firm to provide this training that is on the State Controller's approved list of auditors of school districts and charter schools.</p>
<ul style="list-style-type: none"> • Although OPACV states that Sue Roche and Barbara Black at one time leased to The Academies of Oxford Prep, and they are no longer employed by OPA, it is unclear whether there are ongoing leases. The CDE cannot determine when these leases expire or what OPA's financial obligations are for these leases. 	<p>OPA did lease Sue Roche to The Academies of Oxford Prep. That lease ended on June 20, 2015. Barbara Black was never leased to The Academies of Oxford Prep. There are currently no leases of OPA employees to The Academies of Oxford Prep or any other organization. OPA has no financial obligations regarding any leased employees.</p>
<ul style="list-style-type: none"> • OPACV states that two signatures are required for approval of any expense over \$10,000, but it is unclear whose signature is required, and whether these two signatories would provide adequate safeguards against fiscal mismanagement. 	<p>The goal of requiring multiple signatures is to reduce the opportunity for fraud or misappropriation of funds by ensuring that multiple people must approve all expenditures. In addition to these two signatures, the back office provider must</p>

	<p>process payments out of the school's bank account. If for any reason the expenditure was not otherwise in accordance with the school's fiscal policies, the back office provider would not process the payments.</p>
<p>Additionally, ELS has refused to provide financial and personnel records to FCMAT even though there is clear evidence that ELS and OPACV are affiliated and related parties. This failure to disclose information prevents FCMAT from presenting all the evidence related to OPACV's fiscal practices. Based on the information available to FCMAT, FCMAT identified that OPA paid management fees of \$4,253,406 plus \$449,405 from loans and rent, bringing the total revenues of \$4,702,811 to ELS from OPA. FCMAT estimates that ELS has \$569,773 cash on hand as of June 30, 2016, that should be returned to OPA (Attachment 9).</p> <p>Further, FCMAT stated that the audited financial statements from 2012–13 through 2014–15 were misstated due to the fact that OPACV failed to disclose the complete, transparent, and true nature of the relationship between OPACV and ELS and recommended that the audited financial statements should be reissued with proper disclosure. However, FCMAT notes that the auditor would not be able to consolidate financial statements, since ELS refused to make financial records available (Attachment 9).</p>	<p>OPA has filed suit seeking the repayment of funds (see litigation complaint, Attachment A). Although outcomes cannot be guaranteed, the new OPA Board is taking all steps necessary to protect OPA's assets.</p>
<p>OPACV has projected positive ending fund balances in its multi-year budget for FYs 2017–18 through 2019–20, however, the CDE has concerns about the fiscal operation of OPACV based on the FCMAT audit findings (Attachment 9), NOV issued by CVUSD (Attachment 12), NOV issued by CUSD (Attachment 13), and findings noted in the FY 2015–16 Independent Audit's Report (Attachment 10).</p>	<p>Despite the past issues with the fiscal performance of the school, OPA has positive and growing projected ending fund balances as CDE staff notes. OPA has made substantial changes to its governance, operations and personnel to ensure that these issues will never be repeated.</p> <p>OPA wishes to note that it sought the advice and guidance of CVUSD numerous times about what more it could do to satisfy the concerns of the CVUSD. OPA was told on the record at CVUSD Board meetings that there was nothing that OPA could do to cure the alleged violations.</p> <p>OPA's other authorizers have been more reasonable, in light of the substantial operational and leadership changes made</p>

	<p>by OPA. Capistrano Unified School District, for example, has not issued a Notice of Intent to Revoke or attempted to non-renew the OPA school sponsored by them. The Orange County Board of Education has not even issued a Notice of Violation based upon all of the steps that OPA has taken to cure the issues raised in the FCMAT report.</p> <p>OPA remains committed to taking any and all reasonable steps that are requested by its authorizers. This charter renewal appeal is before the State Board of Education only because the CVUSD believes that there are no steps OPA can take to restore their confidence in OPA's operations.</p>
<p>Pursuant to <i>EC</i> sections 47605(b)(1), 47605(b)(2), 47605(b)(5), and 5 <i>CCR</i> Section 11967.5.1, a charter petition must provide a reasonably comprehensive description of multiple required elements. The OPACV petition provides an adequate description of most of the required charter elements, while five require a technical amendment and one does not provide an adequate description. A detailed analysis of the review of the entire petition is provided in Attachment 1.</p>	<p>OPA is open to considering any conditions that the State Board of Education or CDE staff may wish to propose to ensure that OPA remains in compliance with state law and generally accepted accounting principles as a condition of the charter renewal by the State Board.</p>
<p>The CDE reviewed and considered the pupil academic achievement of OPACV as the most important factor in determining whether to recommend approval for renewal; however, this is not the only factor to consider. The CDE finds that the petitioners are demonstrably unlikely to successfully implement the program set forth in the petition based on OPACV's history related to fiscal mismanagement, potential fraud, and misuse of public funds. The substantial impact of these findings threaten the future sustainability of the charter school, eventually undermining the academic achievement of OPACV pupils.</p>	<p>OPA's charter schools have historically always been extremely high achieving schools. OPACV's list of academic accomplishments include: the top API score in CVUSD in 2011, 2012, and 2013; the top API score in San Bernardino County in 2011 and 2012; Similar Schools and Statewide rankings of 10/10 in 2011, 2012, and 2013; and the top performing K-8 public school in San Bernardino County on the 2015-16 CAASPP.</p> <p>OPA's fiscal history outlined in the FCMAT report reflects the history of a former Board of Directors and a former management team. None of these individuals are currently affiliated with OPA. OPA has a new Board of Directors, new management team, new legal counsel, new business services provider, and new independent auditor. The integrity and credibility of all</p>

of these individuals is without question.

The future fiscal sustainability of OPA is also not in question. The budget projections contained in the charter show a large and growing ending fund balance over the next five fiscal years. The new fiscal advisers to the school have a demonstrated track record of success with other charter networks. We have improved our policies and procedures to prevent a reoccurrence of the prior incidents.

We would ask that the State Board consider carefully not only the exceptional academic performance of this school, particularly in comparison to the schools that these students would otherwise attend, but also the capacity that OPA and its stakeholders have demonstrated by making such substantial changes to the governance and operations of the school over the last 5 months.