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CONFIDENTIAL EXECUTIVE SUMMARY OF INVESTIGATIVE REPORT

Report Regarding Concerns about the Bay Area Technology School
Oakland Unified School District
October 27, 2020

CONFIDENTIAL INVESTIGATIVE REPORT

I. INTRODUCTION, BACKGROUND, AND METHODS USED

On February 12, 2020, the Oakland Unified School District (the “OUSD” or the “District”) retained the Law Offices of Amy Oppenheimer to conduct an impartial investigation into finance oversight for the Bay Area Technology School¹ (“BayTech” or the “School”), specifically the oversight and control that BayTech’s Board of Directors has over BayTech’s finances.² David Marek was the principal investigator.

OUSD commenced this investigation in the wake of allegations that Hayri Hatipoglu, BayTech’s Executive Director until June 2018, engaged in financial fraud that was not detected by the Board of Directors.³ Accordingly, OUSD engaged the investigator to determine if the current Board of Directors has sufficient oversight and control over the School’s finances and operations. In addition, the District wanted to understand whether BayTech continued to use H1B visas to hire foreign employees, a practice that was allegedly being misused when Hatipoglu was the School’s Executive Director.⁴

This is an executive summary of the full 25-page report. The investigation included interviews with eight individuals and reviewed hundreds of pages of documents, including BayTech’s Financial Policies and publicly available financial records from the past 12 months.

II. GENERAL FINDINGS

A. What oversight and controls does BayTech have in place to prevent financial and operational mismanagement?

A preponderance of the evidence supported a finding that the Executive Director, the Board, Creative Back Office, the District’s Accounting Manager, and the School’s outside auditor, working together, oversee the School’s finances. A preponderance of the evidence also supported a finding that the Executive Director, working with Creative Back Office, monitors the School’s day-to-day finances and operations, and that they report regularly and thoroughly to the Board at monthly meetings. A preponderance of the evidence also supported a finding that the Executive Director, Creative Back Office, and the outside auditor prepare at least four financial statements per year, which are publicly available and presented to the District, which help prevent financial and operational mismanagement.

¹ The Bay Area Technology School is a public charter school authorized by the District for students from grade six through grade twelve.

² The Office of Charter Schools (the “OCS”) is a department within the District that authorizes and oversees 32 independently run charter schools in Oakland. The work of the OCS includes evaluating charter petitions for both new and renewing schools as well as monitoring the educational progress and financial standing of schools throughout the year.

³ According to publicly available records, towards the end of the 2017/18 school year, Hatipoglu, along with four members of BayTech’s senior staff and two of the five Board members, quit working at the School. Since then, Hatipoglu’s whereabouts have been unknown. The remaining members of the Board – who accused Hatipoglu of defrauding the School by giving himself and others enhanced severance packages without the approval of the Board – hired an independent party to investigate these allegations (referred to as the “Oracle Investigation”). The School would not allow the investigator to see the Oracle Investigation. Because those issues were outside the scope of this investigation, the Oracle Investigation report was not critical to this investigation.

Details about the Board’s investigation were not shared with the undersigned during this investigation.

⁴ The H1B visa permits a foreign national who works in a specialty occupation to work in the United States on a temporary basis.

CONFIDENTIAL INVESTIGATIVE REPORT

The Executive Director, the President of the Board, Creative Back Office, the District's Account Manager, and the BayTech's Fiscal Policies described the School's system of oversight and controls designed to prevent financial and operational mismanagement. Of note, the Executive Director, the Present of the Board, the third-party back office provider, and the District's Account Manager not beholden to one another (i.e., they do not report to one another or work for the same employer). These individuals' independent descriptions of the School's oversight and controls, which were consistent with one another, were credible. A witness who was an expert on charter school governance corroborated that this structure was typical and effective for management of charter schools.

B. What governance mechanisms (or policies) are in place and what expertise do the Board members have such that the Board of Directors can monitor BayTech's financial operations?

A preponderance of the evidence supported a finding that the governance mechanisms consist of the Fiscal Policies, which require that the Board approve purchases and agreements in excess of \$15,000. A preponderance of the evidence also supported a finding that the expertise consists of seven Board members with diverse professional experiences and Creative Back Office, who presents on the School's finances at each monthly Board meeting.

Multiple witnesses corroborated the Creative Back Office attends and presents on the School's finances at each monthly Board meeting. The Board Minutes (at Exhibit 5) corroborated that Creative Back Office presents at the Board meetings.

While Creative Back Office does present on the finances to the entire Board at each monthly Board meeting, which increases transparency and is highly informative, the Board does not have a finance committee or an individual tasked with overseeing financial controls. The expert on charter school governance suggested that giving one subgroup or one individual responsibility for this task might help reduce the risk that each Board member assumes someone else will detect and draw attention to any potential issues.

C. How does the current back-office provider implement financial controls over BayTech?

A preponderance of the evidence supported a finding that Creative Back Office oversees the School's finances by monitoring the School's cash balance, expenditures, and performance to budget and attending monthly Board meetings. A preponderance of the evidence also supported a finding that Creative Back Office oversees the School's finances by preparing, and working with the outside auditor to prepare, multiple financial reports during each year.

Creative Back Office described a process of financial oversight over the School. According to Creative Back Office – and corroborated by the Executive Director and another witness – Creative Back Office attends every monthly Board meeting and during these meetings and presents for 20 to 60 minutes on the School's finances, including presenting to the Board the School's bank statements and performance to budget.

D. Does BayTech currently use - or plan to use – H1B visas to hire foreign employees?

A preponderance of the evidence did not support a finding that BayTech currently uses, or plans to use, H1B visas to hire foreign employees.

CONFIDENTIAL INVESTIGATIVE REPORT

According to the Executive Director, the President of the Board, and the Creative Back Office, none of BayTech's employees are on an H1B visa. While both the Executive Director and the President of the Board said that BayTech has in the past used H1B visas and that they were legally entitled to do so, neither indicated that the School had any intention to do so.

Respectfully submitted,



David Marek



Christina Ro-Connolly