

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

lab-csd-mar23item02

# California State Board of EducationMarch 2023 AgendaItem #10

## Subject

T.I.M.E. Community: Consider Issuing a Notice of Violation Pursuant to California *Education Code* Section 47607(g).

## Type of Action

Action, Information

## Summary of the Issue

The California Department of Education (CDE) and Los Angeles County Office of Education (LACOE) believe there is substantial evidence that demonstrates that T.I.M.E. (Teamwork, Individualization, Mastery, and Extension) Community (T.I.M.E.), a California State Board of Education (SBE)-authorized charter school, has not engaged in prudent fiscal management and has failed to meet generally accepted accounting principles, resulting in projected revenues insufficient to meet its operational expenses and financial commitments, pursuant to California *Education Code* (*EC*) Section 47607(f)(3). Pursuant to *EC* Section 47607(g), the authority that granted the charter petition shall notify the charter school of any violation and provide the school a reasonable opportunity to remedy the violation.

## Recommendation

The CDE recommends that the SBE consider issuing a Notice of Violation to T.I.M.E. (Attachment 1), pursuant to *EC* Section 47607(g), as T.I.M.E. has failed to exercise prudent fiscal management and meet generally accepted accounting principles (*EC* Section 47607[f][3]).

Pursuant to *EC* Section 47607(g) and *California Code of Regulations*, Title 5 (5 *CCR*) Section 11968.5.2, T.I.M.E. shall have the opportunity to present evidence that refutes, remedies, or proposes to remedy the alleged violations at the May 17–18, 2023, SBE meeting. At that meeting, the SBE will consider issuing a Notice of Intent to Revoke with Notice of Facts, pursuant to *EC* Section 47607(h), and consider taking action to revoke the T.I.M.E. charter petition.

## Reasons for Revocation

*EC* Section 47607(f) states that a charter petition may be revoked by the chartering authority if the authority 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 law.

Substantial evidence exists to support the finding that the T.I.M.E. Board has not engaged in prudent fiscal management, and has failed to follow generally accepted accounting principles by utilizing unrealistic enrollment and average daily attendance (ADA) projections, resulting in a dire fiscal condition and inability to satisfy its immediate and future financial obligations.

## Background

On July 9, 2020, the SBE approved the charter petition to establish T.I.M.E., a new school, which anticipated serving 110 pupils in grade nine beginning in 2020–21 and growing to serve 600 pupils in grade nine through grade twelve in 2024–25. T.I.M.E. was approved by the SBE for a term of five years, effective July 1, 2020, with a delay in opening and starting instruction until the 2021–22 school year. At this same meeting, the SBE delegated oversight of T.I.M.E. to LACOE, pursuant to former *EC* Section 47605(k)(1). In a memorandum of understanding (MOU) signed on October 19, 2020, LACOE agreed to supervisorial and oversight responsibilities for T.I.M.E. on behalf of the SBE. In an MOU signed on December 17, 2020, T.I.M.E. agreed to be monitored and overseen by LACOE.

Since early 2022, CDE and SBE staff have been in communication with LACOE about LACOE’s concerns regarding the fiscal sustainability of T.I.M.E. In an effort to bring T.I.M.E. into a more stable fiscal position, LACOE sent notices of concern to the school on January 26, 2022, and June 28, 2022. As T.I.M.E.’s fiscal condition did not improve, at the July 14, 2022, SBE meeting, the CDE recommended that the SBE consider issuing a Notice of Violation to T.I.M.E., pursuant to *EC* Section 47607(g). The SBE moved to approve the CDE recommendation to issue a Notice of Violation to T.I.M.E.; however, the motion failed by a vote of five to four.

LACOE has continued to collaborate with and provide guidance to T.I.M.E. Despite LACOE’s issuance of three additional letters of concern to T.I.M.E. (October 6, 2022; October 11, 2022; and January 17, 2023), the school’s fiscal condition continues to deteriorate; the school is in an even worse fiscal position than it was in July 2022.

## Instances/Evidence of Violation

LACOE identified a number of violations that, if not resolved immediately by the T.I.M.E. Board, will directly impact the ability of T.I.M.E. to continue operations for the remainder of the 2022–23 school year as well as for future school years. Specifically, LACOE finds that the T.I.M.E. Board has failed to engage in prudent fiscal management.

T.I.M.E.’s fiscal condition has continued to deteriorate since last fiscal year due to a structural deficit. T.I.M.E.’s projected revenues are insufficient to meet its operational expenses and financial commitments. T.I.M.E. continues to base its budget and multiyear projections on unrealistic enrollment and financial projections, and has not exercised the prudent fiscal management necessary to achieve fiscal stability and viability.

Due to deficit spending and cash deficiencies, T.I.M.E. has missed debt repayment deadlines, including all six promissory notes issued during 2021–22 for a total of $280,376. According to T.I.M.E.’s 2021–22 audit report, it incurred an operating deficit of $378,107 and had a negative ending net asset of $268,436. In a letter dated January 27, 2023, T.I.M.E.’s independent auditor notified T.I.M.E.’s Board that its 2021–22 ending negative net position of $268,436 and its projected deficit in 2022–23 are key factors that raise substantial doubt about T.I.M.E.’s ability to continue, as a going concern. Its auditor also disclosed the promissory notes (personal loans) totaling $281,348 that have lapsed (defaulted) and remain unpaid, along with an outstanding $100,000 loan obtained from the Charter School Revolving Loan Fund Program administered by the California School Finance Authority.

LACOE and the CDE continue to have substantial doubt concerning T.I.M.E.’s ability to meet current year financial obligations, including payroll and related expenses, and its ongoing financial obligations. T.I.M.E. is at increased risk of cash shortfalls and further insolvency.

### Unrealistic Enrollment and Average Daily Attendance Projections

The table below summarizes T.I.M.E.’s enrollment and average daily attendance (ADA) projections compared to actual data.

| **Criteria** | **2021–22 Adopted Budget** | **2021–22 Certified Second Principal Apportionment** | **2022–23 Adopted Budget** | **2022–23 First Interim Report Projection** | **2022–23 First Principal Apportionment Attendance Report** |
| --- | --- | --- | --- | --- | --- |
| **Enrollment** | 165 students | 40 students | 110students | 64 students | 65 students |
| **ADA** | 156.75 | 34.37 | 104.50 | 60.80 | 55.55 |

T.I.M.E.’s 2022–23 First Interim Report projects enrollment of 64 students and ADA of 60.80, representing a decrease of 43.70 ADA, or 41.82 percent from its 2022–23 adopted budget of 104.50 ADA. Additionally, T.I.M.E.’s 2022–23 First Principal Apportionment (P-1) Attendance Report reflects ADA of 55.55, a decrease of 5.25 ADA or 8.63 percent from its 2022–23 First Interim Report projection. The estimated impact to T.I.M.E.’s latest budget is a reduction in the Local Control Funding Formula (LCFF) revenues of approximately $80,000 should the projected ADA fail to materialize.

### Financial Projection and Actual Results

The table below provides a summary of T.I.M.E.’s financial projections for fiscal years 2021–22 and 2022–23, and actual results through December 31, 2022.

| **Criteria** | **2021–22 Adopted Budget** | **2021–22****Audit Report (Actuals)** | **2022–23 Adopted Budget** | **2022–23 First Interim Report Projection** | **July to December 2022 Actuals** |
| --- | --- | --- | --- | --- | --- |
| **Total Revenues** | $2,386,765 | $708,430 | $2,126,369 | $1,379,715 | $316,781 |
| **Total Expenditures** | $2,010,305 | $1,086,537 | $1,617,239 | $1,448,027 | $741,050 |
| **Surplus (Deficits)** | $376,460 | ($378,107) | $509,130 | ($68,312) | ($424,269) |
| **Beginning Net Position** | $91,812\* | $109,671 | ($223,995)\* | ($268,436) | ($268,436) |
| **Ending Net Position** | $468,272 | ($268,436) | $285,135 | ($336,748) | ($692,704) |

\* Estimated amount at the time of budget development.

As illustrated in the table above, T.I.M.E.’s 2021–22 adopted budget projected an operating surplus of $376,460 and an ending net position of $468,272. Due to T.I.M.E.’s substantial enrollment shortfall, T.I.M.E. incurred a deficit of $378,107 and an ending net position of negative $268,436 in 2021–22. T.I.M.E.’s 2022–23 adopted budget projected a surplus of $509,130 and an ending net position of $285,135. However, its 2022–23 First Interim Report projection reflected a revised budget and projects an operating deficit of $68,312; an ending net position of negative $336,748; and a reserve for economic uncertainties of negative 23.3 percent.

In addition to a substantial reduction in the projected revenues due to enrollment and ADA shortfall, T.I.M.E. is incurring increased operational costs, including a long-term commitment under its five-year lease agreement. The first interim report projects facility leases and related expenses totaling $412,786, an increase of $340,941 or 475.0 percent from its 2021–22 facility leases related expenses. The budget for the facility leases and related expenses represents 42.9 percent of T.I.M.E.’s 2022–23 projected LCFF revenues of $962,625.

The table below provides a summary of changes in T.I.M.E.’s financial position from July 1, 2022, to December 31, 2022.

| **Criteria** | **July 1, 2022** | **December 31, 2022** | **Year-to-Date Change** | **Year-to-Date Percentage Change** |
| --- | --- | --- | --- | --- |
| **Total Assets** | $226,663 | ($19,432)\* | ($246,095) | (149%) |
| **Total Liabilities** | $495,099 | $673,273 | $178,174 | 36% |
| **Total Net Assets** | ($268,436) | ($692,705) | ($424,269) | 158% |

\* Negative total assets include factored (sale) receivables of negative $247,600 net of other assets, including a cash balance of $14,189.

T.I.M.E.’s financial activities from July 1, 2022, to December 31, 2022, resulted in an operating deficit of $424,269; an ending net assets of negative $692,704; and a reserve for economic uncertainties of negative 47.8 percent based on T.I.M.E.’s 2022–23 first interim projected expenses. T.I.M.E.’s reserve is far below the 3 percent minimum reserve requirement, which is outlined on page 18 in section 3.4 (Revenue and Expenditure Reporting) of its MOU with LACOE.

LACOE remains concerned that T.I.M.E. has not developed and implemented a recovery plan necessary to prevent further deteriorating of its financial condition. T.I.M.E.’s Statement of Financial Position, as of December 31, 2022, reflected total assets of negative $19,432; total liabilities of $673,273; and an ending net position of negative $692,704. Included in the total liabilities are various personal promissory notes totaling $279,444 and a Charter School Revolving Loan of $86,668. T.I.M.E.’s ability to repay outstanding liabilities will depend on future revenue growth in excess of operational costs.

T.I.M.E.’s structural deficit, rising debts, and lack of a viable plan to address its dire fiscal condition, leave in doubt T.I.M.E.’s ability to secure additional funding to satisfy its immediate and future financial obligations, inclusive of payroll obligations.

### Cash Flow Projection

As of December 31, 2022, T.I.M.E. has a low ending cash balance of $14,189, representing only 3.6 days of operating cash based on T.I.M.E.’s first interim projections. T.I.M.E.’s November 2022 cash flow projection reflects positive ending cash balances for the remainder of the fiscal year, with a projected June 2023 ending cash balance of $52,352. The projection incorporated cash proceeds from the sales of future State Aid receivables totaling $586,400. The cash projection also includes facility sub-leasing cash receipts totaling $126,667 and Senate Bill 740 grant totaling $49,699. However, T.I.M.E.’s projected cash receipts appear to be overstated based on the two executed sub-lease agreements as of December 31, 2022. These two leases can potentially generate a combined monthly income of $6,570, lower by $10,097 compared to T.I.M.E.’s projected monthly cash receipts of $16,667. T.I.M.E.’s 2022–23 adopted budget projected sub-lease revenues totaling $247,500 but has revised that amount to $126,667, which is currently overstated. In addition, the budgeted SB 740 grant of $66,266 and projected cash receipts of $49,699 are also in question since T.I.M.E. has not received an award letter for this grant. Further, T.I.M.E. may incur additional loss of revenues in the current fiscal year should the current attendance decline, which could place an additional burden on T.I.M.E.’s cash requirements.

LACOE and the CDE remain concerned that the cash projection continues to be overstated and that T.I.M.E. may not be able to meet its financial obligations for the remainder of this fiscal year.

## Additional Concern

### Personal Loan to the School Executed Prior to T.I.M.E. Board Approval

T.I.M.E.’s Board-approved fiscal policies included in the charter petition state that the governing board will approve all loans from third parties. On January 31, 2023, LACOE received a promissory note for a loan to T.I.M.E., which was executed on January 12, 2023. LACOE staff contacted T.I.M.E. to determine if T.I.M.E.’s Board had approved the promissory note on or before January 12, 2023. T.I.M.E.’s executive director stated that T.I.M.E.’s Board approved the promissory note on January 31, 2023. The T.I.M.E. Board’s approval of the promissory note after it was executed is a direct violation of T.I.M.E.’s adopted fiscal policies. The matter poses concerns regarding the internal controls and T.I.M.E.’s adherence to the checks and balances delineated in its fiscal policies. This is also a direct violation of the MOU between T.I.M.E. and LACOE, which requires notification prior to the school incurring additional debt.

As of January 31, 2023, T.I.M.E. has outstanding promissory notes due to its executive director totaling $228,548, comprised of $219,444 in principal and $9,104 in accrued interests. In addition, there are also two other outstanding promissory notes totaling $120,000 due to two other individuals ($60,000 each). T.I.M.E. has not provided a plan to repay its outstanding debts.

## Previous Board Action

On August 26, 2019, the petitioner submitted the T.I.M.E. charter petition to the Montebello Unified School District (MUSD). On October 23, 2019, MUSD voted to deny the T.I.M.E. charter petition by a vote of four to zero.

On November 12, 2019, the petitioner submitted the T.I.M.E. charter petition to LACOE. On January 14, 2020, the Los Angeles County Board of Education (LACBOE) voted to amend the motion to approve the Superintendent’s recommendation to deny the T.I.M.E. charter petition. The CDE notes that LACBOE only adopted Finding 2, Indicator 2 (Budget Plan[s] Deficiencies) of the staff report (Attachment 7 of the Agenda Item 6 on the June 9, 2020, Meeting Notice on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/documents/accs-jun20item06a7.pdf>). LACBOE denied the T.I.M.E. charter petition by a vote of five to one.

The petitioner submitted the T.I.M.E. charter petition to the SBE on March 6, 2020. The Advisory Commission on Charter Schools (ACCS) considered the T.I.M.E. charter petition at its June 9, 2020, meeting. At this meeting, the CDE proposed to recommend that the SBE deny the T.I.M.E. charter petition. The ACCS did not agree with the CDE’s recommendation and moved to recommend approval of the T.I.M.E. charter petition with a delay in opening for one year, with the understanding that T.I.M.E. would be in operation for four years. The motion passed by a vote of seven to two. The notice for the June 9, 2020, ACCS meeting is located on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.asp>.

At the July 9, 2020, SBE meeting, the CDE again recommended that the SBE deny the T.I.M.E. charter petition. However, the SBE moved to approve the T.I.M.E. charter petition with conditions. The motion passed by a vote of 10 to 0. The meeting agenda and corresponding minutes for this item (Item 19) can be found on the SBE Meeting for July 2020 web page at <https://www.cde.ca.gov/be/ag/ag/yr20/agenda202007.asp> and <https://www.cde.ca.gov/be/mt/ms/documents/finalminutes0809jul2020.docx>, respectively.

At the July 14, 2022, SBE meeting, the CDE recommended that the SBE consider issuing a Notice of Violation to T.I.M.E., pursuant to *EC* Section 47607(g). The SBE moved to approve the CDE recommendation to issue a Notice of Violation to T.I.M.E.; however, the motion failed by a vote of five to four. As six affirmative votes are required for an action to carry, no action was taken by the SBE. The meeting agenda and corresponding minutes for this item (Item 18) can be found on the SBE Meeting for July 2022 web page at <https://www.cde.ca.gov/be/ag/ag/yr22/agenda202207.asp> and <https://www.cde.ca.gov/be/mt/ms/documents/finalminutes1314jul2022.docx>, respectively.

## Attachments

* **Attachment 1:** Draft Letter to Board President Brown, Executive Director Ramirez, and T.I.M.E. Community Governing Board Dated March 9, 2023: Notice of Violation Pursuant to California *Education Code* Section 47607(g) (7 Pages) ***Revised Attachment 1 posted on March 7, 2023 reflecting correction on page 4 to Charter School Revolving Loan Amount.***
* **Attachment 2:** T.I.M.E. Community Charter Petition as Approved by the California State Board of Education on July 9, 2020 (147 Pages)
* **Attachment 3:** Memorandum of Understanding between the Los Angeles County Office of Education and T.I.M.E. Community (45 Pages)
* **Attachment 4:** October 6, 2022, Letter of Concern from the Los Angeles County Office of Education to T.I.M.E. Community Regarding the School’s Adopted Budget for Fiscal Year 2022–23 (16 Pages)
* **Attachment 5:** October 11, 2022, Letter of Concern from the Los Angeles County Office of Education to T.I.M.E. Community Regarding the School’s Unaudited Actuals for Fiscal Year 2021–22 (18 Pages)
* **Attachment 6:** October 31, 2022, T.I.M.E. Community Revised Budget for Fiscal Year 2022–23 (48 Pages)
* **Attachment 7:** January 17, 2023, Letter of Concern from the Los Angeles County Office of Education to T.I.M.E. Community Regarding the School’s First Interim Report for Fiscal Year 2022–23 (32 Pages)
* **Attachment 8:** January 27, 2023, T.I.M.E. Community Audit Letter and Audit for Year Ended June 30, 2022 (40 Pages)
* **Attachment 9:** T.I.M.E. Community Financials for October 2022 (194 Pages)
* **Attachment 10:** T.I.M.E. Community Financials for November 2022 (213 Pages)
* **Attachment 11:** T.I.M.E. Community Financials for December 2022 (230 Pages)
* **Attachment 12:** T.I.M.E. Community 2021–22 Second Principal Apportionment and 2022–23 First Principal Apportionment (18 Pages)
* **Attachment 13:** Promissory Notes (9 Pages)