

# **OFFICE OF THE STATE AUDITOR**



**La Promesa Early Learning Center**

**Special Report**

**For the Period of June 1, 2010 through December 31, 2016**

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La Promesa Early Learning Center  
Risk Review  
June 1, 2010 through December 31, 2016

**LA PROMESA EARLY LEARNING CENTER ROSTER**  
**September 11, 2017**

**GOVERNANCE COUNCIL**

Julian Munoz	President
Judy Griego	Vice President
Regina Sanchez	Secretary
J. Cipriano Lucero	Member

**SCHOOL OFFICIALS**

Chris Jones	Head Administrator
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## **EXECUTIVE SUMMARY**

In early 2016, the Office of the State Auditor (“OSA”) issued a Risk Review concerning the alleged diversion of school resources for personal use by the former Executive Director at La Promesa Early Learning Center (“La Promesa” or “School”) as well as other shortcomings. After the OSA’s Risk Review, which the OSA forwarded to the Second Judicial District Attorney’s Office on July 19, 2016, and in light of the potential criminal violations and other financial irregularities, the Public Education Department (“PED”) took control of the School’s finances. Additionally, the former Executive Director, Principal, other La Promesa staff and the contracted Business Manager resigned or otherwise left.

In April 2017, the OSA received information indicating that the School had issued an IRS Form 1099 to a vendor that included five checks totaling \$7,128, which had been diverted and cashed at an unknown bank account. La Promesa’s new Head Administrator also notified the OSA, pursuant to Section 12-6-6 NMSA 1978, that a former employee may have perpetrated fraud, embezzlement, forgery or other violations of criminal statutes amounting to \$7,128. The Office immediately forwarded these allegations to the Second Judicial District Attorney’s Office. On May 12, 2017, the OSA designated La Promesa for a special audit to evaluate these financial irregularities. This Risk Review (“Report”)<sup>1</sup> provides the results of the designation.

For the period between June 1, 2010 and July 11, 2016, the OSA identified \$652,322.90 in School checks written to vendors or employees that were deposited in the personal bank account of the former Assistant Business Manager, who is also the daughter of the former Executive Director. These deposits, with the possible exceptions of \$172,585.71 payable to her boyfriend and \$4,582.86 payable to her mother, appear to be intentional and unauthorized diversions of public monies which were effected by “dual endorsed checks.”

Dual endorsed checks are checks made payable to one person, but endorsed over to another person who can then cash or deposit the check. For example, in the fictional illustration below, La Promesa wrote the check, payable to John Vendor. Then John Vendor endorsed the check over to Jane Doe (as an actual or forged signature). Jane Doe can now sign the back of the check and cash or deposit the check without La Promesa’s consent or awareness.

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<sup>1</sup> The OSA refers to this Risk Review as “Report” in order to distinguish it, and prevent confusion, from the earlier Risk Review dated July 19, 2016. The term “Risk Review” refers to the Risk Review dated July 19, 2016 throughout this Report.

### Fictional Illustration of a Dual Endorsed Check

#### Front of Check

<b>La Promesa Early Learning Center</b> 5201 Central Ave. NW Albuquerque, NM 87105		<b>Wells Fargo</b>	<b>00002171</b>
<b>DATE</b> 12/07/11	<b>VOUCHER</b> 12-0099	<b>AMOUNT</b> \$1,375.00*****	
<b>PAY:</b> One thousand three hundred seventy-five and 00/100 DOLLARS VOID AFTER ONE YEAR			
<b>TO THE ORDER OF:</b>	Mr. John Vendor 1234 Address St. Albuquerque, NM 87102		
<b>MEMO:</b>	<i>Authorized Signer for La Promesa</i>		

#### Back of Check

Pay to the order of Jane Doe

Mr. John Vendor

Jane Doe

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE  
RESERVED FOR FINANCIAL INSTITUTION USE

The endorsement and deposit of some or all of these checks may indicate violations of Section 30-16-6 NMSA 1978 (Fraud), Section 30-16-8 NMSA 1978 (Embezzlement), Section 30-16-1 NMSA 1978 (Larceny) or Section 30-16-10 NMSA 1978 (Forgery). In addition there may be violations of Section 30-23-2 NMSA 1978 (Paying or receiving public monies for services not rendered), Section 30-23-3 NMSA 1978 (Making or permitting false public voucher) and other violations of state or federal criminal or tax statutes. The OSA is referring this Report to federal and state authorities for full civil and criminal investigation and enforcement of these issues.

The mission of La Promesa includes ensuring that a diverse body of students thrive in a family-centered environment. After the events as described in this report occurred, La Promesa changed its administration. This new leadership has cooperated with the OSA and worked to stop proposed charter revocation proceedings in order to keep the School open. This ongoing commitment by the community to its School is best served by an in-depth understanding of the magnitude and causes of the problems in the past, which may prevent them from occurring again.

## **BACKGROUND**

La Promesa was originally authorized as a charter school by the Albuquerque Public Schools in 2005, and became a state-chartered charter school in fiscal year 2011. La Promesa has a student enrollment of about 360. The mission of La Promesa is to ensure “that culturally and linguistically diverse students thrive in an academic, family centered, developmentally seamless continuum of learning where high expectations, PRIDE, respect and empowerment meet grade level proficiency.”

On July 1, 2007, La Promesa hired an Assistant Business Manager.<sup>2</sup> Although her status as a contractor and employee was not always clear, for ease of reference, this Report refers to the former Assistant Business Manager as “Employee #1.” The Executive Director at that time was a founder of the School who had worked alongside several other of the initial founders at a local non-profit. For ease of reference, this Report refers to the former Executive Director as “Employee #2.” Employee #1 is Employee #2’s daughter. One of the other founders subsequently became the principal, a check signatory and Employee #1’s supervisor.

In early 2016, both the OSA and PED became aware of an allegation that Employee #2 submitted a falsified invoice for reimbursement by the School. The OSA completed its Risk Review on July 19, 2016, which revealed potential criminal violations related to an altered receipt that changed the service address from that of Employee #2 to the School’s. Additionally, the Risk Review identified significant weaknesses in the School’s internal financial controls, including a failure to segregate duties, inadequate oversight, and a general lack of documentation to support transactions. The OSA also required the Independent Public Accountant auditing the financial statements of La Promesa for fiscal year 2016 to conduct additional procedures, which resulted in various audit findings

The Governing Council of La Promesa placed Employee #2 on leave on July 26, 2016. Employee #1, the former principal and the former contract Business Manager also subsequently resigned or otherwise left. On August 12, 2016, PED suspended La Promesa’s Board of Finance, stating that the PED “reasonably believes there is mismanagement, improper recording or improper reporting of public school funds under [La Promesa’s] control.”

Since the OSA Risk Review in 2016, addressed to the then-President of the Governing Council, several members of the Governing Council, including two officers, have left. On November 29, 2016, the Exit Conference was held for the School’s fiscal year 2016 audit, which included a

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<sup>2</sup> La Promesa contract signed on July 2, 2007, by the Board President. The initial salary of \$35,627 increased to \$45,320 the following year in a contract signed by a former principal based upon qualifications and experience. Three subsequent contracts, were signed, on May 3, 2011, July 1, 2015 and June 15, 2016, by the former Executive Director without any countersignature by the Governing Council. The former Assistant Business Manager’s salary prior to termination was \$65,602.06.

disclaimer of opinion and multiple audit findings related to the School's operations<sup>3</sup>. In attendance for La Promesa were incoming Governing Council members, the new Head Administrator, and the new Business Manager.

The New Mexico Public Education Commission ("PEC") met on January 13, 2017, to consider PED's recommendation to close La Promesa. The PEC tabled the discussion, with nine Commissioners concurring and one abstaining, pending the review of the fiscal year 2016 audit. On February 10, 2017, the PEC, after receiving the results of the audit, voted to proceed with revocation of the School's charter. However, at their hearing in April 2017, the PEC considered a letter from the La Promesa Governing Council to PED and voted to rescind the closure and instead require both a corrective action plan and an improvement in La Promesa's grade from an F to a C.

The OSA received a confidential hotline complaint on April 13, 2017, from a vendor who had received from the School in February 2017 an IRS Form 1099 stating that the vendor had provided \$11,651.55 in services during 2016. The vendor stated that the amount was far in excess of the amount of the actual services provided; that the vendor never received five of the checks provided to them for review by the School totaling \$7,128; and that the checks "were endorsed by persons other than myself." The OSA subsequently identified a sixth check related to that specific vendor for a total of \$8,243, which was diverted into Employee #1's personal bank account. Each of these six checks was written between February 14, 2016, and June 13, 2016.

On the same date as the hotline complaint, the OSA received notification from the Head Administrator, copied to PED and the La Promesa Governing Council, that Employee #1 may have embezzled \$7,128. The OSA immediately forwarded this potential criminal violation to the Second Judicial District Attorney's Office. This notification from the School was predicated upon an email dated April 9, 2017, to the School from the same vendor who contacted the OSA. The Deputy Secretary of PED, on April 14, 2017, notified the OSA of potential embezzlement at La Promesa totaling \$6,750.<sup>4</sup>

The OSA commenced fact finding procedures and designated this matter for special audit, pursuant to Section 12-6-3(C) NMSA 1978 and 2.2.2.15 NMAC. PED and La Promesa began reviewing other vendors and notified the OSA in May 2017, of 54 checks totaling \$68,738.79

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<sup>3</sup> Finding 2016-001 "Internal Control Structure (Material Weakness)" of the fiscal year 2016 financial statements states "School personnel did not follow established internal control policies and procedures of the School." This finding caused the auditor to disclaim their opinion. The auditors also state, in Finding 2015-001 "Internal Control over Cash Disbursements," a repeat finding from fiscal year 2015, that "School personnel did not follow established procurement policies of the School." Finally Finding 2014-001 "Purchase Orders Subsequent to Invoice," repeated from fiscal year 2014, states "Not being in compliance with state purchasing requirements places the School at risk for fraud or misuse of public funds." These three findings establish that there was an opportunity for fraud or embezzlement through a lack of compliance with established policies and procedures.

<sup>4</sup> The OSA does not know why this amount differs from the \$7,128 previously reported by La Promesa.

containing suspicious dual endorsements. PED and La Promesa filed a report with the Albuquerque Police Department.

The OSA reviewed checks between June 1, 2010, and December 31, 2016, paid through La Promesa's Wells Fargo bank account, identifying and tracing checks with suspicious dual endorsements into Employee #1's bank account obtained via sealed subpoena. During this period the OSA identified \$652,322.90 of public money in the form of checks<sup>5</sup> written to vendors or employees that had been endorsed to Employee #1. It appears that some of the purported signatures of employees and vendors endorsing the checks over to Employee #1 may have been forged. The OSA traced each of the dual endorsed checks totaling \$652,322.90, either uniquely or as part of a larger deposit, into Employee #1's personal bank account. There were no other co-owners or signatories on Employee #1's account.

### **SCOPE AND METHODOLOGY**

The scope of this Report is limited to those transactions containing dual endorsements, meaning checks in the name of one person, but cashed or deposited into the account of another. The OSA reviewed documentation, including relevant policies and procedures, related to transactions containing dual endorsements between June 1, 2010, and December 31, 2016, and traced each check with a dual endorsement into Employee #1's personal bank account.

The School obtained, and provided the OSA with, Wells Fargo bank records for La Promesa accounts spanning the period between June 1, 2010, and December 31, 2016. The OSA subpoenaed the bank records for the account into which the dual endorsed checks were deposited and traced each suspicious dual endorsed check, either uniquely or as part of a larger deposit, into that account. Employee #1 routinely deposited dual endorsed checks through ATM machines operated by third parties whose records are maintained independently of her bank.

All other material in this Report, specifically the sections under "General Observations" titled "Vendors," "Personnel," and analyses of Employee #1's account are included for informative purposes only. The School's current management had difficulty in responding to our requests for information due to missing and disorganized documentation from the prior administration. Accordingly, the School was unable to locate all the relevant invoices, purchase orders, statements and other accounting records. The OSA did receive sufficient relevant electronic records to prepare this Report, including the main operational bank account records from Wells Fargo Bank, the purchase ledger, check register and other files from the current management and contract business manager.

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<sup>5</sup> As was the general practice of the School, official checks are signed by two people. Of the 542 questionable checks, 535 appear to have been signed by both the former Executive Director (Employee #2) and one other person, normally a principal. The remaining seven checks were signed by just one person, either Employee #2 or a principal.

The School had a Bank of America account, which La Promesa's current management was unable to locate, and a La Promesa Foundation account with Wells Fargo Bank, both of which are outside the scope of this engagement. The OSA considered whether to expand the scope to include these additional accounts and determined, through an examination of deposits into Employee #1's bank account, that deposits from unknown sources – identified under "General Observations" - would not alter the conclusions of this report regarding the known deposits of dual endorsed checks into her personal bank account.

The Office attempted, without success, to interview Employee #1, Employee #2 and Payee #1 (who had also been an employee) in order to obtain information relevant to this Report.

Dual endorsed checks totaling \$652,322.90 were deposited into the personal bank account of Employee #1. Of this amount \$172,585.71 was payable by La Promesa to her boyfriend, identified in this Report as Payee #1. In addition, \$4,582.86 was payable to her mother, identified in this Report as Employee #2. The Office expresses no conclusions as to whether these payments were appropriately made for services rendered or whether Payee #1 and Employee #2 endorsed the checks over to Employee #1 or otherwise knew that Employee #1 was depositing these checks into her personal bank account. This determination would be most appropriate to evaluate in the context of the OSA's referral to law enforcement for further investigation regarding the matters raised in this Report.

## **GENERAL OBSERVATIONS**

### **I. Internal controls**

Effective internal controls require independent and ethical oversight with integrity, accountability and ongoing risk assessment in order to provide reliable indicators of an entities performance. The U.S. Governmental Accountability Office, in section OV1.01 of the Green Book, defines internal control as "a process effected by an entity's oversight body, management, and other personnel that provides reasonable assurance that the objectives of an entity will be achieved ..." Without the appropriate design and implementation of these controls, entities are more susceptible to fraud, waste and abuse.

The OSA's Risk Review, dated July 19, 2016 and sent to the Second Judicial District Attorney's Office, revealed potential criminal violations (Falsifying Records, Making or Permitting False Public Voucher, Paying Public Money for Services Not Rendered, Ethical Principles of Public Service) and weaknesses in the internal controls over the procurement process in the business office, including a failure to segregate duties and a general lack of oversight, including by the former Business Manager.

These concerns led to PED taking steps<sup>6</sup> to exercise financial control and oversight of the School. There were changes in administration including the removal of Employee #1. The annual audit report by the Independent Public Accountant for the year ended June 30, 2016, was disclaimed and affirmed the need for these management changes. This Report confirms that, prior to the management changes in the fall of 2016, all three broad categories of objectives and related risks, as defined in the Green Book,<sup>7</sup> at the School were under severe threat.

The mission of La Promesa includes ensuring that a diverse body of students thrive in a family centered environment. The La Promesa family of parents, students, community members and faculty have worked with those charged with governance, since the change in administration in July and August 2016, to stop the proposed charter revocation proceedings and keep La Promesa open. This ongoing commitment by the family of La Promesa is best served by an understanding of how the prior familial relationships corrupted the internal controls.

La Promesa, authorized by its Board President at the time, hired Employee #1 in July 2007. Employee #1 is the daughter of the Executive Director of the School at that time, referred to in this report as Employee #2. While the records are unclear as to the exact title of her position between July 1, 2007, and June 30, 2008, it is clear that Employee #1 was evaluated as the Assistant Business Manager and received the highest possible ratings in performance evaluations.<sup>8</sup> Employee #1's initial contract is silent as to the hours and number of days which she is required to work, though it does reference a job description and the La Promesa Faculty Handbook.

Employee #1 was rehired with the same title<sup>9</sup> each successive year for which records were available.<sup>10</sup> Her job title remained substantially the same from 2007 through 2016 while her salary increased from \$35,627 to \$65,602.06, as the number of contracted days increased from 188 to 235. Each contract that the OSA reviewed for the period between July 1, 2009, and June 30, 2015, required her to work eight hours daily.

The former Executive Director, Employee #2, was the sole signatory on at least two of Employee #1's contracts, or At-Will Employment Memorandums, for 2015/2016 and prospectively for 2016/2017. These two contracts do not specify any hours or days to be worked other than stating

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<sup>6</sup> In December 2014 the PED Charter School Division recommended that the PEC "Approve with Conditions" La Promesa's renewal for a further three years. This recommendation observed that "the financial audits showed that there were no significant or material findings and internal control weaknesses have been rectified." The OSA notes that the most recent audit available to the reviewers at that time was for fiscal year 2013.

<sup>7</sup> These objectives and related risks are the effectiveness and efficiency of operations, the reliability of reporting for internal and external use, and compliance with applicable laws and regulations.

<sup>8</sup> In each instance the evaluation is for assistant business manager services.

<sup>9</sup> The title varied from year to year, varying from "Administrative / Business Assistant" in 2008/2009, "Accountant / Business Office Assistant" between July 2009 and June 2011, and again between July 2012 and June 2013; "Administrative / Business Office Assistant" between July 1, 2014 and June 30, 2015; "Business Office Assistant" between July 2015 and June 2016 and prospectively for the 2016/2017 year.

<sup>10</sup> The contract for the year between July 1, 2013 and June 30, 2014 was missing as was the contract for services between July 1, 2011 and June 30, 2012. Employee #2 signed a conditional offer of employment for the former Assistant Business Manager as an "Instructor" on May 3, 2011.

“You agree to follow the directives of the Principal, including directives about the times and duties of your employment as designated by the Principal an authorized designee.”

On July 25, 2011, Employee #1 completed a Governmental Conduct Act disclosure form. This form discloses the relationship with her mother, Employee #2, and an outside job working as the “Assistant Business Manager” with payroll duties at another PED chartered school. Employee #1 initialed multiple statements on this form, which include requirements to advance the public interest, conduct herself with integrity, disclose real or potential conflicts of interest and avoid undue influence and abuse of her position.

In preparing the July 2016 Risk Review, the OSA conducted interviews with Employee #1, Employee #2, the former contract Business Manager, the former Principal and others. The former contract Business Manager was responsible for accounts payable, payroll and the operations of other internal controls at La Promesa since being contracted in the fall of 2014. Their lack of oversight in 2015 and 2016 was a contributing factor to the issues described in this Report.

The OSA identified several other charter schools, chartered through either the PEC or Albuquerque Public Schools (“APS”), where the former contract Business Manager reportedly has or had contracts. The PED licensure website identifies the former contract Business Manager as having a Level 2 PED School Business Official licensure commencing on July 1, 2016. The OSA learned that the former contract Business Manager was a speaker at the 2017 National Charter Schools Conference on “Finance 101 for Charter School Board Oversight.”

## II. Dual endorsed checks

### A. Overview

Employee #1 had access to both the procurement and personnel systems. She was able to print checks from both the payroll and vendor systems, obtain signatures with inadequate documentation and deposit signed checks into her own bank account. As identified in our Risk Review there was a disregard for segregation of duties and a lack of oversight by the former contract Business Manager, former Principal and Employee #2. There is little indication of effective supervision. Her last three performance evaluations were all signed by the former Principal and each indicated a satisfactory performance.

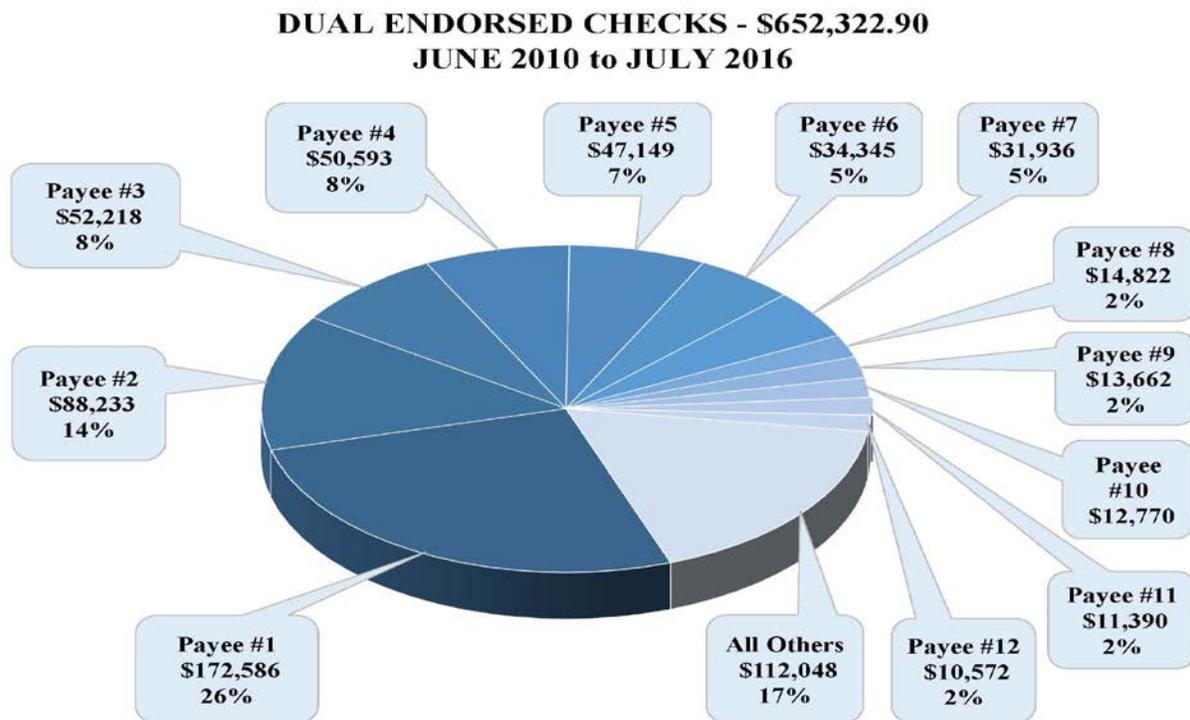
As a result of La Promesa’s disregard for segregation of duties and a lack of oversight, Employee #1 deposited 542 questionable “dual endorsed” checks, totaling \$652,322.90, into her bank account between July 1, 2010, and July 10, 2016.<sup>11</sup> Nearly all checks were signed by two persons including Employee #2, and each check contained an endorsement such as “payable to the order of [Employee #1],” a signature which may, or may not, be that of the payee and a third signature which appears to be Employee #1’s.

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<sup>11</sup> The OSA did not identify any dual endorsed checks deposited by Employee #1 after July 10, 2016. Wells Fargo Bank, due to their routine record retention policy, does not have records before July 1, 2010.

Employee #1 deposited dual endorsed checks that had been made payable to 53 different payee names between June 2010 and July 2016. The School Personnel Policy and Procedure Handbook, revised in August 2014, contains policies and procedures related to personnel (including nepotism), purchasing and procurement. Due to the disorganized state of the records, and the number of years involved, the OSA was unable to identify documentation, such as purchase orders and invoices, for most of the checks containing these dual endorsements. As far as OSA could tell from the records that were available, Employee #1 prepared checks without appropriate documentation and obtained the signatures of Employee #2 and one other executive.

The OSA gave each payee a unique identifier, from Payee #1 through Payee #53, sorted by the dollar value of dual endorsed checks payable to each vendor. The largest number of checks by dollar value, 26.5% are payable to Payee #1, who was Employee #1's boyfriend.<sup>12</sup> Payee #1 received more than 83% of the known dual endorsed checks in 2010. All checks to Payee #1, which were 31% of all questionable dual endorsed checks written, contained Employee #1's address and were signed by two signatories, one of whom was nearly always her mother, Employee #2. The following chart shows the distribution of dual endorsed checks among Payees:



<sup>12</sup> Employee #1 describes Payee #1 as her boyfriend on documentation to the NM Public Schools Insurance Authority. See the following section for more details.

Figure 1, below, represents the data used to prepare Chart 1 and summarizes the underlying individual checks and their distribution over the years:

Payee	Category	# of Checks	% of Checks	Total of Check Amounts	% of Total Amounts
Payee #1	Vendor/Employee: Maintenance (Boyfriend)	168	31.0%	\$ 172,585.71	26.5%
Payee #2	Vendor: General Supplies	64	11.8%	\$ 88,233.00	13.5%
Payee #3	Employee: Retired Nurse	37	6.8%	\$ 52,218.39	8.0%
Payee #4	Vendor: Former President & Business Owner (Educational Consulting)	30	5.5%	\$ 50,593.00	7.8%
Payee #5	Vendor: Cleaning Supplies	34	6.3%	\$ 47,148.63	7.2%
Payee #6	Employee: Business Owner (Educational Consulting)	21	3.9%	\$ 34,345.00	5.3%
Payee #7	Vendor: Unknown	23	4.2%	\$ 31,936.00	4.9%
Payee #8	Employee: Former Principal	16	3.0%	\$ 14,821.60	2.3%
Payee #9	Employee: Administrator	13	2.4%	\$ 13,662.00	2.1%
Payee #10	Vendor: IT	8	1.5%	\$ 12,770.00	2.0%
Payee #11	Unknown: Former Principal's Relative	7	1.3%	\$ 11,390.00	1.7%
Payee #12	Employee: Administrator	9	1.7%	\$ 10,571.50	1.6%
All Others	41 Other Payees	112	20.7%	\$ 112,048.07	17.2%
	<b>TOTAL:</b>	<b>542</b>	<b>100.0%</b>	<b>\$ 652,322.90</b>	<b>100.0%</b>

The number of dual endorsed checks increased from 35 (\$36,601.67) in calendar year 2010 to 106 (\$137,836.82) in calendar year 2014, and peaked with a dollar value of \$140,559.31 (97 checks) in calendar year 2015. Our analysis of dual endorsed checks reveals that over 83% of the 35 checks in 2010, measured by value, were made payable to Payee #1, Employee #1's boyfriend. This proportion steadily declined until it became slightly less than 15% of the total in 2014. There were no dual endorsed checks originally made payable to Employee #1's boyfriend, or any known immediate family member, in 2015 even though that was the year with the largest amount of dual endorsed checks deposited into her account.

Employee #1 had access to, and responsibilities for, vendor records, payroll and personnel records at La Promesa. This access, combined with the lack of oversight and an absence of segregation of duties, enabled her to print payroll checks through the payroll or vendor systems which were subsequently dual endorsed and deposited into her bank account.

B. Family of Employee #1

Family and close personal relationships at the School appear to have created an environment susceptible to the apparent misappropriation of funds by Employee #1. The Governing Council approved the initial hiring of Employee #1 in 2007 rather than insisting on competitive merit-based hiring. The lack of oversight reported in our 2016 Risk Review existed for many years and extended to the procurement process. Neither management nor the Governing Council was able to identify early indicators of problems in both the payroll and procurement systems. As a result the School was vulnerable to potential fraud or embezzlement. There is an inherent element of trust that comes with employing family members that may inappropriately reduce the perceived need for control and oversight, and thus reduce both transparency and accountability.

1. Maintenance Vendor / Employee (Employee #1's Boyfriend) - Payee #1

Employee #1 diverted both payroll and purchase ledger payments to Payee #1, who is identified on a form submitted to the NM Public Schools Insurance Authority dated July 30, 2007, as her boyfriend. The OSA was unable to determine the precise amount of work at La Promesa, if any, performed in return for these payments. These 168 diverted checks totaling \$172,585.71 payable to her boyfriend were addressed to their personal residence. Her boyfriend was not a co-owner or signatory on the personal bank account into which Employee #1 deposited these checks.

Employee #1's boyfriend was a vendor to La Promesa between April 2009 (or earlier) and January 2015. The work performed is categorized in the purchase ledger for fiscal years 2011 to 2013 as for custodial services, reimbursement for supplies, garage repairs, furniture purchases, shelving, painting, mowing, emergency cleaning and plumbing work. There was also a "Special Project" in fiscal year 2012 for \$33,000 plus gross receipts tax.

Employee #1's boyfriend was also on La Promesa's payroll between July 2013 and November 2014. Most of these payroll payments were made through the Operational fund, with an amount of \$4,005.74 in FY 2015 categorized "K-Plus." The OSA identified one payroll check which was not dual endorsed and which appears to be deposited into an account at a different bank.

On multiple occasions two checks with the same date were payable to Employee #1's boyfriend. Sometimes one check was payable to him as a vendor and another was written to him as an employee. On other occasions two manual payroll checks with the same date were prepared, dual endorsed, and deposited into Employee #1's account. The OSA has insufficient information to determine what services, if any, were performed or provided for any of the vendor or payroll payments.

In conclusion, of the 174 checks totaling \$177,381.91 written to Employee #1's boyfriend during the period under scrutiny, the OSA identified two which appear to be received by him, two for which we had insufficient information to make a determination, one which appears to be dual

endorsed based on circumstantial information and one which appears to be dual endorsed to an unknown bank account. The remaining 168 checks were dual endorsed checks that Employee #1 deposited into her bank account, totaling \$172,585.71, which is included in the total of \$652,322.80. Because the OSA was unsuccessful in interviewing Employee #1's boyfriend, Employee #1, or Employee #2 in connection with this Report, the OSA was unable to determine whether Employee #1's boyfriend consented to or was aware of Employee #1's actions.

2. Founder and Former Executive Director (Employee #2) - Payee #21

The OSA identified seven dual endorsed checks totaling \$4,582.86 (which is included in the total of \$652,322.90) that were originally made payable to Employee #2, who is the mother of Employee #1. Employee #2's signatures appeared on these checks on behalf of La Promesa and also in the endorsement of these checks over to her daughter, but it was beyond the scope of this report for the OSA to determine whether the signatures were forged. Employee #1 deposited these checks into her own bank account<sup>13</sup> and her mother was not a co-owner or signatory on this account.

Because the OSA was unsuccessful in interviewing either Employee #1 or Employee #2 in connection with this Report, the OSA was unable to determine whether Employee #2 was aware of her daughter diverting dual endorsed checks for personal use. Employee #2 also signed, on behalf of La Promesa, nearly every dual endorsed check deposited by her daughter, indicating an apparent absence of oversight and possible failure to verify that transactions presented for payment provided benefit to La Promesa.

Aside from her role as the former Executive Director, Employee #2 wrote at least twelve personal checks totaling \$7,727.20 to her daughter. A few of these checks indicate that they are for bills which helps clarify that Employee #2 was aware of her daughter's difficulty meeting personal financial obligations. Those responsible for governance appear unaware of the internal control risks associated with their former Executive Director's daughter having both financial stress and access to the payroll and purchasing systems.

Employee #2 received manual checks totaling \$77,250.13, excluding ACH payroll payments, since June 1, 2010, which may be reimbursements for School expenses paid out of her personal funds. Further investigation of any such reimbursements was outside the scope of this Report.

C. Selected Payees

A vendor reported to the OSA and to the School's new management about the dual endorsed checks. This fact alone signals the extent to which internal controls and financial oversight at La Promesa had failed on a large scale, due to interlocking familial relationships and friendships such

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<sup>13</sup> The OSA identified 13 payments totaling \$5,215.72 from Employee #1's bank account to her mother between June 1, 2010 and July 2016, and another three payments to her mother totaling \$3,844.37 prior to June 2010.

as described. Other vendors or employees have likely experienced problems with their 1099s<sup>14</sup> prior to April 13, 2017, when the hotline complaint was filed with the OSA. There have been multiple Business Managers at La Promesa since 2010, and this turnover may have contributed to problems not being addressed.

The OSA compared the School's purchase ledger and check listings to the dual endorsed checks. There are multiple vendors whose personal information Employee #1 apparently used to divert checks into her own bank account. PED and La Promesa started to compare 1099s to vendor payments, and provided this information to the OSA, but informed the OSA that this executive oversight process has been halted. The OSA highlights below a few of the key Payees.

1. Hotline Complainant - Payee #15

The dual endorsed checks were first brought to the OSA's attention by a vendor identified as Payee #15 through a hotline complaint on April 13, 2017. This vendor stated that in February 2017 they received an IRS Form 1099 from La Promesa for \$11,651.55 for services in 2016 which were far in excess of their paid services for cleaning. La Promesa's current Business Manager sent copies of the checks to the vendor who, according to the hotline complaint, "immediately recognized that 5 of them, namely checks ... totaling \$7,128.00 were written to myself, but endorsed by persons other than myself and deposited or cashed to an unknown bank account."

The OSA subsequently identified a sixth check, number 7362 dated June 13, 2016, for a total of \$8,243.00 which were diverted into Employee #1's bank account from this vendor. All of these six checks were dated between February 14, 2016 and June 13, 2016.

The current Business Manager stated that payments were processed without receiving any goods or services and that the transactions were concealed from those responsible for reviewing the transactions.

2. General Supplies Vendor - Payee #2

Payee #2 may have provided supplies until about September 2011. Since that time the OSA has no indication that Payee #2 received payment for any products or services. Fictitious services identified in La Promesa's 2015 purchase ledger for the diverted payments include "Supplies," "Tables," "Supplies for building," "Thrash [sic] bins and sanitary disposals," all of which were coded to General Supplies.

Employee #1 deposited into her personal account at least 64 dual endorsed checks addressed to Payee #2, totaling \$88,233. The OSA compared and reconciled the list of these dual endorsed checks to the list of all checks, through the purchase and check ledgers, written to Payee #2. This

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<sup>14</sup> Purchasers of goods and services issue IRS forms 1099s at the end of a calendar year to each vendor, with a copy provided to the Internal Revenue Service ("IRS"). Any inaccuracy in a 1099 may cause under- or over- reporting of income to the IRS.

process identified five checks which required additional investigation. Three of these checks for \$165, \$630 and \$345 respectively, all written prior to September 2011, appear to be properly endorsed by Payee #2 without any indication of a dual endorsement. The other two checks appear to be deposited into Employee #1's account, as addressed later in this Report, but there were no images provided by La Promesa's bank.

In summary, after September 2011 every check written to Payee #2 was diverted into Employee #1's personal account for her benefit. The signatures on the diverted checks appear different from signatures on checks with single endorsements.

### 3. Cleaning Supplies Vendor - Payee #5

Payee #5 appears to have received a \$360 check dated January 27, 2011 for providing three cases of all-purpose cleaner and degreaser. This first check to Payee #5 had a single endorsement. In contrast, the subsequent 34 checks totaling \$47,148.63 were dual endorsed and diverted to Employee #1. The descriptions of purchases associated with the diverted checks include degreaser, cleaning supplies, disinfectant, dispensers, materials for shelves or just "supplies."

Employee #1 apparently used the personal information of, and created fictitious procurements through, Payee #5 using a P.O. Box in Bogard, Missouri in order to divert and convert checks for her own benefit. Each check signed by Employee #2 and a second School executive contained this out-of-state P.O. Box number. This suggests an absence of the simplest of internal controls.

### D. Other Employees and their families

Employee #1 appears to have selected, out of all the potential vendor names she could have used, a small group of employees and vendors who were also founders. The transactions involved with these payees illustrate some of the patterns in Employee #1's actions. Unless otherwise stated, all of the checks discussed below are included in the total of \$652,322.90 of dual endorsed checks.

#### 1. Employee: Former Principal and Relative - Payees # 8 and 11

One of La Promesa's founders, who subsequently became the School's Principal and a check signatory between September 2012 and July 2016, was also Payee #8. A vendor with the same surname and address is Payee #11. The transactions involving these two payees illustrate Employee #1's pattern of diverting checks to vendors who are contemporaneously receiving other checks that the vendors themselves are depositing.

For example, since June 2010, the OSA identified 16 checks to Payee #8 totaling \$14,821.60, all of which were dual endorsed and deposited into Employee #1's personal account. During that same time, the OSA identified 38 checks totaling \$37,509.99 made payable to Payee #8 that appear to be appropriately single endorsed by the payee.

As another example, since June 2010, the OSA identified 7 checks made payable to Payee #11 totaling \$11,390.00, all of which were dual endorsed and deposited into Employee #1's personal account. During that same time, the OSA identified 36 checks totaling \$11,257.10 made payable to Payee #11 that appear to be appropriately single endorsed by the payee.

2. Employee: Business Partners and Relative - Payees # 4, 6 and 23

Payee #4 is a former Board President. Employee #1 deposited dual endorsed checks, totaling \$50,593, that were originally made payable to Payee #4 and \$3,800 in two checks that were originally made payable to their child (Payee #23).

Payee #6 discloses on NM Public Schools Insurance Authority and NM Educational Retirement Board forms that they are the former Board President's beneficiary and business partner. Both are founders of La Promesa and both are included in an application to start a new Charter School, STAT, in 2016. This application appropriately discloses that they run a business together, 100 Plus Tutoring and Consulting, which serves ten New Mexico school districts and over 2,000 students. Employee #1 deposited dual endorsed checks, totaling \$34,345 to Payee #6 out of a total identified in the purchase ledger of \$121,868.55.

The OSA identified two payments, each for \$2,000 dated August 28, 2015 to Payees #4 and #6. Both payments referenced the same Purchase Order 2016-109 signed by Employee #2 and same invoice number 16-005 for "K & 1<sup>st</sup> Grade coaching on learning centers" from vendor #4. Employee #2 signed both checks on behalf of La Promesa and both checks appear to have been cashed by Payees #4 and #6. While neither payment related to these invoices contained a dual endorsement to Employee #1, it provides an example of how a lack of oversight and an override of internal controls by Employee #2 and the business office allowed for what appears to be a double payment.

3. Employee: Retired Nurse - Payee #3

Payee #3 is a retired licensed nurse employed by La Promesa whose name was used by Employee #1 to divert 37 checks totaling \$52,218.39 between 2011 and 2016. The total of checks written to Payee #3 in the equivalent period from La Promesa was \$91,443.25 suggesting that Employee #1 diverted more than half of the checks to Payee #3. The signatures on the diverted checks appear different from signatures on checks with single endorsements, which may suggest forgery.

The OSA reviewed the list of checks from the purchase ledger and check listings and identified one check to Payee #3 dated November 22, 2016 for \$1,645, which was not cashed and did not clear Wells Fargo Bank. The significance of this transaction is that it is dated after the changes in executive management and personnel at La Promesa and suggests that La Promesa, as of November 22, was still re-establishing control over the purchasing processes.

4. Employee: Administrative assistant - Payee #9

Payee #9 commenced working for La Promesa in 2015 for the 2015/2016 school year. Within months Employee #1 appears to use Payee #9's name to divert dual endorsed checks into Employee #1's personal bank account through the purchase ledger. Every single one of the thirteen diverted dual endorsed checks was \$525 or more. The largest other check written to Payee #9 was for \$502.38. The total amount diverted by Employee #1 was \$13,662. The signatures on the diverted checks appear different from signatures on the checks with single endorsements which may indicate forgery.

III. Deposit analysis

The OSA's analysis of Employee #1's subpoenaed personal bank account reveals deposits of \$1,033,560.09 between June 1, 2010 and December 31, 2016. The largest proportion of these deposits (63%) are La Promesa's dual endorsed checks totaling \$652,322.90. In addition, over this period Employee #1's account shows deposits of her payroll checks totaling \$229,529.36.

The OSA also analyzed the remaining deposits, totaling \$151,707.83. Although Employee #1's bank does not maintain deposit documentation for deposits made through third parties, the OSA identified that some of the largest deposits included in this amount appear to be federal and state tax refunds. This may indicate violations of the tax code if Employee #1's total income was under-reported to the tax authorities. The OSA does not have jurisdiction over tax matters. Other deposits appear to be loans from lending institutions.

However, most of the deposits included in the total of \$151,707.83 were made at third party ATM machines. As described above, the OSA was unable to obtain copies of checks to verify the source of such income. Employee #1 received manual checks through both the purchase ledger and payroll systems totaling \$27,107.75. This created an opportunity to double dip. On July 31, 2015, Employee #1 received in her personal account an electronic payroll transfer of \$2,087.85, while she also deposited a manual payroll register check for \$1,816.32. On August 14, 2015, Employee #1 received in her personal account an electronic payroll transfer of \$2,087.85, and three days later, deposited a manual payroll register check for \$1,609.53.

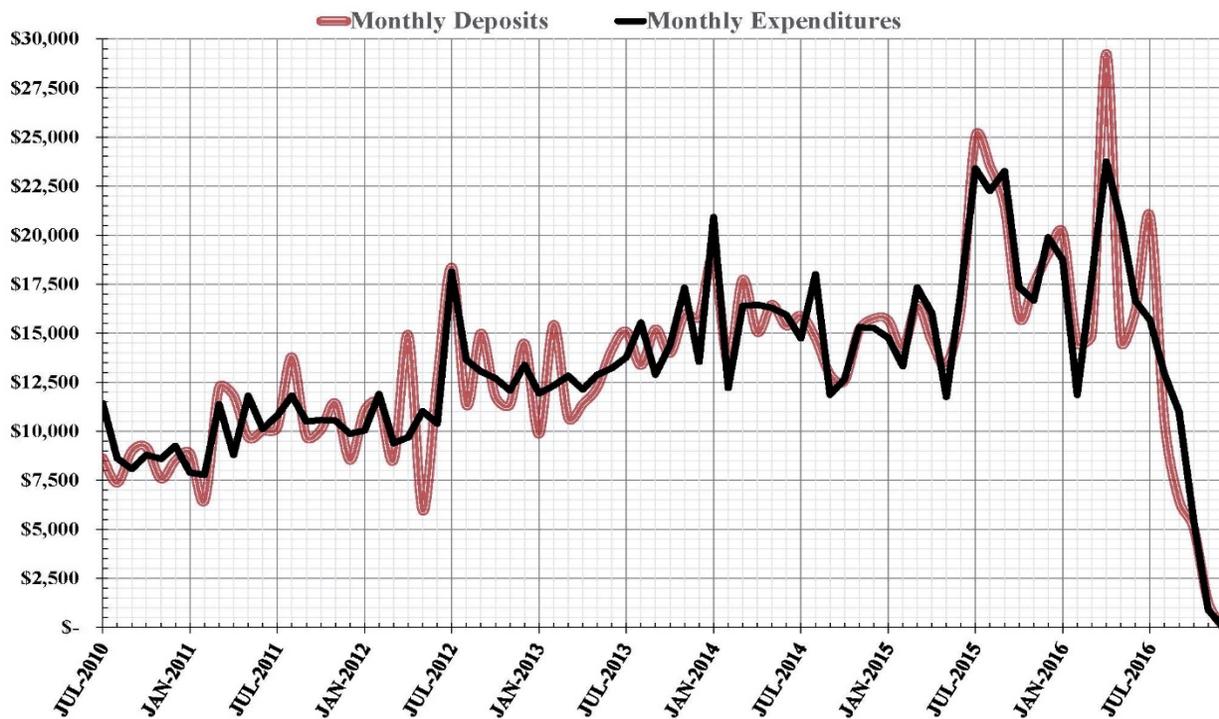
The OSA identified other La Promesa checks payable to vendors, which we believe may have been deposited into Employee #1's personal account and which may or may not have been dual endorsed. The only checks included in the list of dual endorsed checks are those for which we have copies from Wells Fargo Bank. Wells Fargo Bank did not produce copied checks for those cleared in June 2010, January 1, 2013, through January 17, 2013, or for April 27, 2015, through May 17, 2015 and other periods. In other instances we have copies of checks without any endorsements, and therefore excluded from the total of \$652,322.90, which appear to match a deposit into Employee #1's personal account. Additionally, there is a possibility of La Promesa checks written on the La Promesa Bank of America account, discussed more fully in the section Scope and Methodology. Law enforcement agencies following up on this Report that have additional investigative tools may be able to obtain more information related to these other transactions.

As previously discussed, Employee #1 disclosed responsibilities for payroll at another PED chartered school. The OSA identified one electronic deposit for \$1,409.80<sup>15</sup> into Employee #1's personal bank account on August 31, 2012, which is uniquely labeled. While this deposit was subsequently reversed the OSA considers, with the other information developed, that Employee #1 may have had a contractual relationship for similar services with this other PED chartered school for an indeterminate duration.

**IV. Disbursement analysis**

The former Assistant Business Manager's (Employee #1) expenditures constantly increased from less than \$10,000 per month in 2010 to more than \$20,000 per month in early 2016.<sup>16</sup> While the amount of dual endorsed checks deposited into her account increased to more than \$10,000 per month on average in 2013, 2014 and 2015, it appears that she was dependent upon dual endorsed checks to pay bills and day-to-day expenses, and for loan service.

**EMPLOYEE #1 SPENDS ALL DEPOSITED MONIES  
 JUNE 2010 to DECEMBER 2016**



<sup>15</sup> This amount is for the same amount as an ACH payroll transfer from La Promesa on the same day.

<sup>16</sup> In February 2016, for example, she paid \$5,000 to an auto dealership. In April 2016 there is a wire of \$9,501 which is reversed, followed by a loan payment of \$9,756 in May 2016. These transactions are included in the data and help to explain the high disbursements in 2016.

Employee #1's month-end bank statement balance<sup>17</sup> never exceeded \$8,500, even with deposits in a single month exceeding \$25,000. There were only two month ends when her bank balances were below \$1,000 and she always had a positive balance, without any bank overdraft fees, while employed at La Promesa. According to Bernalillo County and publicly available records, shortly after being removed from La Promesa Employee #1's home lender foreclosed with a judgment of \$262,243.84. Similarly, again according to county records, the Internal Revenue Service filed a tax lien on Employee #1's boyfriend (Payee #1) for \$9,401.52 on November 24, 2015, followed by a state tax lien of \$1,718.73 on December 6, 2016.

This summary of transactions through Employee #1's bank account for three months provides a snapshot of the volume and amounts flowing through her account:

**Statement Date:**      **January 15, 2016**      **February 13, 2016**      **March 15, 2016**

	<b>Items #</b>	<b>Amounts \$</b>	<b>Items #</b>	<b>Amounts \$</b>	<b>Items #</b>	<b>Amounts \$</b>
<b>Beginning:</b>						
<b>Savings</b>		7.25		7.25		7.25
<b>Checking</b>		<u>1,679.91</u>		<u>3,067.23</u>		<u>5,654.86</u>
<b>Balance</b>		<b><u>1,687.16</u></b>		<b><u>3,074.48</u></b>		<b><u>5,662.11</u></b>
<b>Deposits</b>	19	20,127.64	11	14,444.99	13	14,918.48
<b>Withdrawals</b>	199	(15,943.46)	208	(11,656.07)	194	(10,774.20)
<b>Checks</b>	10	(2,796.86)	5	(201.29)	6	(7,054.19)
<b>Dividends</b>		-		-		-
<b>Ending:</b>						
<b>Savings</b>		7.25		7.25		7.25
<b>Checking</b>		<u>3,067.23</u>		<u>5,654.86</u>		<u>2,744.95</u>
<b>Balance</b>		<b><u>\$3,074.48</u></b>		<b><u>\$5,662.11</u></b>		<b><u>\$2,752.20</u></b>

The bank statements provided detailed information about Employee #1's personal account but without a summary for many months. The volume of transactions frequently exceeded 200 withdrawals in a month and it was impracticable for the OSA to summarize and categorize all this data. However, in order to obtain an indication of her spending patterns and the pressure or incentive she may have faced to divert funds from La Promesa, the OSA selected a random sample of seven months.

The selected periods were from the months beginning in July 2010, May 2011, November 2012, October 2013, September 2014, March 2015 and July 2016. Total disbursements in these seven

<sup>17</sup> The bank statements are dated the middle of each month.

periods were \$91,001.69 through 1,423 transactions. The largest category of disbursement was for finance payments. This category includes credit card costs, car and home loan repayments and costs associated with repaying credit extended by retail stores. Employee #1 expended a small proportion of her total disbursements on utilities, purchased goods and services online (nearly 10% of total disbursements), food (17% of costs were at restaurants or for groceries), and had retail expenditures.

## V. Recommendations

### A. Accountability

#### 1. Criminal Enforcement:

The OSA previously referred issues arising from our La Promesa Risk Review, dated July 19, 2016 and regarding Employee #2, to the Second Judicial District Attorney. The OSA has identified a wide ranging variety of potential criminal violations by Employee #1 and is providing this Report to federal and state authorities for further investigation and, if appropriate, prosecution. We recommend that La Promesa provide law enforcement and prosecutors with unfettered access to its records and staff.

#### 2. Civil Enforcement

The OSA recommends that PED and those charged with governance ensure that the deliverables for contract Business Managers providing services, directly or indirectly, to charter schools are enforced and received. Furthermore, that PED ensure that the Licensure Bureau ascertain whether, or not, the information referenced in this Report is appropriate for licensure hearings related to former executive staff and contractors that provided services to La Promesa.

### B. Ethics

The OSA recommends that La Promesa establish a transparent and enforceable system of ethics which involves all stakeholders, including the Governing Council, executive staff, contractors, employees, students and parents. In order for La Promesa to be strengthened by this experience it will need to ensure that all stakeholders hold themselves to the highest level of integrity. Transparency is a necessary prerequisite for enforcement and the reestablishment of ethical standards. This public record is being provided to La Promesa as well as oversight entities such as PED and its Licensure Bureau.

### C. Internal Controls

The OSA recommends that La Promesa adopt the U.S. GAO Green Book as the basis for its internal controls, guiding the ongoing development of its policies and procedures. These policies

and procedures need to ensure that procurement and personnel processes are transparent, competitive and merit based. The OSA's July 2016 Risk Review and subsequent audit reports indicated a general lack of compliance with internal control policies and procedures.

D. Concerns at Other Schools

The OSA recommends that PED examine the financial affairs of other schools for which persons discussed in this Report may have handled financial affairs. As detailed above, Employee #1 may have received authorization, by a person or persons unknown to the OSA, to perform services at another PED chartered school in or around 2011.