

Docket: : I.18-07-009
Exhibit Number : _____
Commissioner : Rechtschaffen
Admin. Law Judge : Zhang
:
:



**CONSUMER PROTECTION AND
ENFORCEMENT DIVISION
CALIFORNIA PUBLIC UTILITIES COMMISSION**

DIRECT TESTIMONY

OF

NINA ENRIQUEZ

REDACTED

San Francisco, California
July 7, 2020

1 **I. QUALIFICATION AND SUMMARY**

2
3 **1. State your name and address.**

4 My name is Nina Enriquez. My address is 505 Van Ness Ave. San Francisco, CA 94102.

5
6 **2. What is your job title?**

7 I am a Public Utilities Regulatory Analyst with the Consumer Protection and Enforcement
8 Division (CPED).

9
10 **3. Can you explain your involvement with CPED’s investigation?**

11 Along with other UEB analysts, beginning around May 23, 2020, I helped review the
12 requirements of the California Advance Services Fund (CASF) Consortia Grant Fund. I also
13 examined relevant records and documents relating to Community Union (CU) and the Order
14 Instituting Investigation I.18-07-009.

15
16 **4. Was the CPED Staff Report and Supplemental Report dated May 1, 2018 and June 16,**
17 **2020 in this case prepared under your direction and control?**

18 No.

19
20 **5. Are you sponsoring the CPED Staff Report and Supplemental Report as your**
21 **testimony here today?**

22 No. Brian Hom and Vicky Zhong, two other CPED staff, will sponsor the Staff Report and
23 Supplemental Report.

24
25 **6. Do you have further information you would like to include as your testimony?**

26 Yes, I would like to address the following allegations made in the Order Instituting
27 Investigation (I.18-07-009).¹ My testimony includes additional factual information that will
28 reinforce and support CPED’s position on the following:

29
30 Allegation 4: The NIU Coalition failed to implement program activities consistent
31 with the terms of their CASF Grant (i.e. provide 40-hour training; deliver training
32 to 790 parents/year; conduct enough workshops at the rate provided).

33 Allegation 5: The NIU Coalition misled the Commission by failing to inform the
34 Commission of reducing parent training to at or around 20 hours but yet reporting
35 in their annual Work Plans that they had provided 40 hour training programs.

36
37 **II. ALLEGATION No.4**

38
39 **7. What is your current position regarding CPED’s allegation No.4 that the NIU Coalition**
40 **failed to implement program activities consistent with the terms of their CASF Grant**
41 **(i.e. provide 40-hour training; deliver training to 790 parents/year; conduct enough**
42 **workshops at the rate provided)?**

¹ OII, p. 5.

1 CPED has additional factual information to support and reinforce our position of allegation
2 No.4.

3
4 **8. What additional factual information will you present to support and reinforce CPED's**
5 **position?**

6 I will present additional factual information related to some of the Disputed Facts established
7 by the Administrative Law Judge on the Status Conference dated May 4, 2020. Specifically,
8 by responding to the following Disputed Facts, I will show that NIU failed to implement
9 program activities consistent with the terms of their CASF Grant:

10
11 Disputed Fact No. 7 - Did Respondent meet their performance metric of 40 hours of
12 technology training consistent with the work plan they proposed in
13 their grant application

14
15 Disputed Fact No. 8 - Did Respondent meet activities 1-7 of the workplan

16
17 Disputed Fact No. 9 - Did respondent meet their performance metric for the first two years of
18 the grant period of 790 attendees per year, in accordance with their
19 work plan

20
21 Disputed Fact No. 10 - Did respondent meet their performance metric for the first two years
22 of the grant period graduating 65% or 514 graduates to enter Post-
23 New Internet Users workshops

24
25 Disputed Fact No. 11 - Did respondent notify the Communications Division Director at least
26 30 days before reducing their technology training to less than 40
27 hours

28
29 Disputed Fact No. 14.- Did Respondent violate rule 1.1 when it reported 40 hours of
30 technology training in its work plan, but actually reduced its training
31 to less than 40 hours

32
33 **9. What additional factual information do you have regarding Disputed Fact No.7?**

34 The following are additional factual information regarding Disputed Fact No. 7 (Did
35 Respondent meet their performance metric of 40 hours of technology training consistent with
36 the work plan they proposed in their grant application):

37
38 Please refer to Devla Singh's Testimony questions 9 and 10.

39
40 Additionally, Community Union provided an incomplete schedule of NIU's training hours
41 from September to December 2014 (Year 3 Quarter 2 of the grant period)². Based on my
42 calculation of the hours of training conducted, in-class trainings were held for as little as 18

² Vicky Zhong's Testimony dated July 7, 2020, Attachment 1 One Million NIU Activities, Roles, Hours, Relationship Summary.

1 hours in some cases. Additionally, in-class trainings for this period of the grant averaged
2 27.50 hours per training.³

3
4 Further, Larry Ortega’s response to CPED’s February 2020 data request for course details⁴
5 provided some additional information regarding NIU’s training hours. CU provided 37
6 spreadsheets and each contained course details such as dates and hours on which the trainings
7 were held. Upon reviewing them all, I determined that only 13 spreadsheets included
8 complete information that would allow me to calculate the total hours of each training that
9 occurred within the grant period.⁵⁶ From the 13 spreadsheets, 2 contained 2 sessions each
10 which gave me a total of 15 trainings that occurred within the grant period. The trainings
11 span from 16 to 39.2 hours with a simple average of 26.44 hours per training.⁷

12
13 I based my calculations above on CU’s incomplete, self-reported and non-verified
14 spreadsheets.

15
16 Lastly, SCO’s work paper 4B-1⁸ states, “Based on auditors’ discussion with students and
17 NIU staff, it appears as if NIU reduced student’s class room hours from 40 hours to 20
18 hours.”

19
20 **10. What additional factual information do you have regarding Disputed Fact No.8?**

21 The following are additional factual information regarding Disputed Fact No. 8 (Did
22 Respondent meet activities 1-7 of the workplan):

23
24 Please refer to Selena Huang’s Testimony questions 12 and 13 where she describes shortfalls
25 for NIU’s Activities 5 and 7.

26
27 Additionally, based on NIU’s self-reported quarterly performance reports⁹¹⁰, NIU claims it
28 met their metrics for Activities 1,2,3, and 4 for Years 1 and 2.

29

³ Attachment 1 – CPED calculation of hours based on One Million NIU Activities, Roles, Hours, Relationship Summary.

⁴ CPED’s Data Request to CU dated February 21, 2020 Item 10 states, “Please identify a list of all courses offered in carrying out CASF grant related activities during the period of March 1, 2012 through March 1, 2015. For each course, include a description of the course, date(s), time(s) and location(s).” As a response, CU provided 37 individual spreadsheets relating to trainings held.

⁵ Attachment 2 - CU DR response #10 (13 excel workbooks).

⁶ Some spreadsheets included information for classes that occurred outside the grant period while some spreadsheets were missing key information that would allow for calculation of total hours held.

⁷ Attachment 3 - CPED calculation of hours based on CU DR response #10.

⁸ Attachment 5 – 4B-1 SCO Analysis of Services Scope Sheet.

⁹ Attachment 4 - CPED spreadsheet – completed version of CD’s summary of quarterly reports.

¹⁰ CD provided CPED with an incomplete summary of NIU’s quarterly reports. I completed and reviewed this summary for reference.

1 NIU also reports Activity 6 as having been met where for Year 1 Quarter 4 (Y1Q4) and Year
2 2 Quarter 4 (Y2Q4) NIU measured a 103% and 119% completion rate, respectively.
3 However, NIU has not met its performance metric for Activity 6. Activity 6 is measured by
4 the number of graduation ceremonies held for parents who have completed the 40-hour
5 training course. NIU generally did not conduct 40-hour Parent Engagement through
6 Technology sessions. Instead, they unilaterally reduced most training sessions to less than
7 40-hours of in-class training. As explained in CD’s letters dated April 16, 2014¹¹ and July
8 22, 2014, “we do not consider these classes as having met the standards set forth by NIU.”
9 Therefore, majority of the parents that NIU reports as having graduated for Years 1 and 2 of
10 the grant, did not actually complete 40 hours of in-class training consistent with the criteria
11 of Activity 6.

12
13 Further, NIU reported a completion rate of 190% for Activity 7 at the end of Year 2 Quarter
14 4. However, CD had expressed concerns that NIU failed to meet its metrics for Activity 7 at
15 the end of Year 1 Quarter 4, completing only 19%. Additionally, after CD agreed to reduce
16 the goal for Activity 7 from 514 for Year 1 to 250 for Year 2, at the end of Year 2 Quarter 3,
17 NIU fell “even further behind,” reporting a 36% completion rate.¹²

18
19 NIU’s performance metrics for all four quarters of Year 3 were not assessed at the time
20 because CD had determined that no further payment requests would be processed for Year 3
21 Quarters 3 and 4.

22
23
24 **11. What additional factual information do you have regarding Disputed Fact No.9?**

25 The following are additional factual information regarding Disputed Fact No. 9 (Did
26 respondent meet their performance metric for the first two years of the grant period of 790
27 attendees per year, in accordance with their work plan):

28
29 Please refer to Selena Huang’s Testimony questions 14 and 15.

30
31 **12. What additional factual information do you have regarding Disputed Fact No.10?**

32 The following are additional factual information regarding Disputed Fact No. 10 - Did
33 respondent meet their performance metric for the first two years of the grant period
34 graduating 65% or 514 graduates to enter Post-New Internet Users workshops:

35
36 Please refer to Devla Singh’s Testimony questions 11 and 12.

37

¹¹ Devla Singh’s Testimony dated July 7, 2020, Attachment 5 – Communications Division Payment Packages; specifically Payment Letter to NIU for Year 2 Quarter 4.

¹² See OII Attachment A, CPED’s Staff Report, Exhibit 10 (Letter from Ryan Dulin to Hyepin Im and Larry Ortega dated January 14, 2014).

1 **13. What additional factual information do you have regarding Disputed Fact No.11?**

2 The following are additional factual information regarding Disputed Fact No. 11 - Did
3 respondent notify the Communications Division Director at least 30 days before reducing
4 their technology training to less than 40 hours:
5

6 Please refer to Devla Singh’s Testimony questions 10 and 32. Additionally, Ryan Dulin’s
7 July 22, 2014 letter to Korean Churches for Community Development (KCCD) and
8 Community Union (CU) stated, “the majority of NIU’s sessions are for less than the 40 hours
9 stated in the Work Plan and NIU’s original application. There is no record of the CPUC
10 having ever approved a decrease in the number of session hours.”¹³
11

12 **14. What additional factual information do you have regarding Disputed Fact No.14?**

13 The following are additional factual information regarding Disputed Fact No. 14. Did
14 Respondent violate rule 1.1 when it reported 40 hours of technology training in its work plan,
15 but actually reduced its training to less than 40 hours:
16

17 Please refer to Devla Singh’s Testimony questions 23, 24, 25, 27, 28, 40 and 41.
18

19 Devla describes visiting an NIU scheduled training and graduation. She discovered upon her
20 arrival that the events did not take place.
21

22 In addition, CD’s letter dated December 17, 2014¹⁴ states:
23

24 “NIU apparently shortened the in-class sessions to 20 hours supplemented by
25 homework assignments “within the first 2 quarters of executing the contract” (i.e.,
26 within Year 1) as Ms. Im disclosed in her August 8, 2014, letter. NIU did not
27 communicate this change in class design to CD staff, and instead gave the
28 impression that the consortium has been offering the 40-hour in class training in
29 all its quarterly reports and in its requests for Year 2 and Year 3 budgets
30 submitted on October 1, 2012 and December 3, 2013, respectively. CD staff
31 became aware of the curriculum change upon further analyses of documentation
32 that NIU submitted after January 2014.”
33

34 Additionally, CU was aware that any changes to their work plan required written requests
35 and approval. This is evidenced by CU’s multiple written requests for other work plan and
36 budget revisions and CD’s written response to either approve or reject CU’s request.
37

¹³ See OII Attachment A, CPED’s Staff Report, Exhibit 12 (Letter from Ryan Dulin to Hyepin Im and Larry Ortega dated July 22, 2014).

¹⁴ See OII Attachment A, CPED’s Staff Report, Exhibit 14 (Letter from Ryan Dulin to Hyepin Im and Larry Ortega dated December 17, 2014 titled “Response to Letters from California’s 1 Million NIU’s to Request Full Restoration of Consortia Funding for Year 3.”).

1 Further, in an interview with the State Controller’s Office (SCO), Mr. Ortega stated that “the
2 plan changed from 40 hours to 20 hours, but he did a poor job of updating CPUC.”¹⁵

3
4 SCO’s work paper 4B-1¹⁶ also states, “The contract between CPUC and NIU, states any
5 changes to the work plan needed to be submitted and approved by CPUC before they could
6 be implemented. NIU did not comply with contract terms (See W/P EPS 1 @ 1D).”

7
8 **15. What is your conclusion based on the additional factual information relating to**
9 **Disputed Facts No.7 through 11 and No.14?**

10 Based on the additional factual information presented in Disputed Facts No. 7, No.8, No. 9,
11 No. 10, No. 11 and No.14, I conclude that the NIU Coalition failed to implement program
12 activities consistent with the terms of their CASF Grant.

13
14 **III. ALLEGATION No. 5**

15
16 **16. What is your current position regarding CPED’s allegation No.5 that the NIU Coalition**
17 **misled the Commission by failing to inform the Commission of reducing parent training**
18 **to at or around 20 hours but yet reporting in their annual Work Plans that they had**
19 **provided 40 hour training programs.?**

20 CPED has additional factual information to support and reinforce our position of allegation
21 No.5.

22
23 **17. What additional factual information will you present to support and reinforce your**
24 **position?**

25 I will present additional factual information related to the Disputed Facts established by the
26 ALJ on X date in the Scoping Ruling. Specifically, by responding to the following Disputed
27 Facts, I will show that NIU misled the Commission by failing to inform the Commission of
28 reducing parent training to at or around 20 hours but yet reporting in their annual Work Plans
29 that they had provided 40 hour training programs:

30
31 Disputed Fact No. 7 - Did Respondent meet their performance metric of 40 hours of
32 technology training consistent with the work plan they proposed in
33 their grant application

34
35 Disputed Fact No. 8 - Did Respondent meet activities 1-7 of the workplan

36
37 Disputed Fact No. 11 - Did respondent notify the Communications Division Director at least
38 30 days before reducing their technology training to less than 40
39 hours

40
41 Disputed Fact No. 13 – Do the time cards produced by Mr. Ortega to the State Controller’s
42 Office indicate that the described activities took place

¹⁵ Vicky Zhong’s Testimony dated July 7, 2020, Attachment 3 SCO interview notes with Larry Ortega.

¹⁶ Attachment 5 – 4B-1 SCO Analysis of Services Scope Sheet.

1 Disputed Fact No. 14 - Did Respondent violate rule 1.1 when it reported 40 hours of
2 technology training in its work plan, but actually reduced its training
3 to less than 40 hours
4

5 **18. What additional factual information do you have regarding Disputed Fact No.7?**

6 The following are additional factual information regarding Disputed Fact No. 7 - Did
7 Respondent meet their performance metric of 40 hours of technology training consistent with
8 the work plan they proposed in their grant application:
9

10 Please refer to Devla Singh's Testimony questions 9 and 10, and my response to question 9,
11 above.
12

13 **19. What additional factual information do you have regarding Disputed Fact No.8?**

14 The following are additional factual information regarding Disputed Fact No. 8 - Did
15 Respondent meet activities 1-7 of the workplan:
16

17 Please refer to Selena Huang's Testimony questions 12 and 13, and my response in question
18 10, above.
19

20 **20. What additional factual information do you have regarding Disputed Fact No.11?**

21 The following are additional factual information regarding Disputed Fact No. 11 – Did
22 respondent notify the Communications Division Director at least 30 days before reducing
23 their technology training to less than 40 hours:
24

25 Please refer to Devla Singh's Testimony questions 10 and 32, and my response to question
26 13, below.
27

28 **21. What additional factual information do you have regarding Disputed Fact No.13?**

29 The following are additional factual information regarding Disputed Fact No. 13 – Do the
30 time cards produced by Mr. Ortega to the State Controller's Office indicate that the described
31 activities took place:
32

33 Based on SCO's work papers, NIU trainings did occur. However, there are some
34 discrepancies found when matching the timecards to their corresponding invoices.¹⁷
35 Specifically, some timecards were missing, which resulted in SCO not being able to verify
36 the amounts charged on the invoices. Additionally, the hours charged on some invoices were
37 not the same hours charged on the timecards. For example, ██████████ Alvarado's time card for
38 November 4 to November 9 (no year stated) charged 6 hours but the corresponding invoice,
39 Invoice #131130, charged 9 hours.
40

41 **22. What additional factual information do you have regarding Disputed Fact No.14?**

¹⁷ Attachment 6 – SCO 4C-1-1 Analysis of Trainers Matrix and 4C-1-2 Lead Trainer Matrix.

1 The following are additional factual information regarding Disputed Fact No. 14. Did
2 Respondent violate rule 1.1 when it reported 40 hours of technology training in its work plan,
3 but actually reduced its training to less than 40 hours:
4

5 Please refer to Devla Singh’s Testimony questions 23, 24, 25, 27, 28, 40 and 41, and my
6 response to question 14, above.
7

8 **23. What is your conclusion based on the additional factual information relating to**
9 **Disputed Fact No.7, No.8, No. 11, No. 13 and No.14?**

10 Based on presented information for disputed facts 7 and 8, NIU misled the Commission by
11 failing to inform the Commission of reducing parent training to at or around 20 hours but yet
12 reporting in their annual Work Plans that they had provided 40 hour training programs.
13 Specifically, NIU reported completing “40-hour” trainings on all their quarterly reports while
14 their logs show classes were below 40 hours on average.
15

16 Based on presented information for disputed facts 11 and 14, NIU misled the Commission by
17 failing to inform the Commission of reducing parent training to at or around 20 hours but yet
18 reporting in their annual Work Plans that they had provided 40 hour training programs.
19 Specifically, NIU provided scheduled classes to CD staff when in fact those classes were not
20 scheduled or held. NIU admitted that they “did a poor job of updating CPUC” despite their
21 awareness that any changes to the work plan requires a written request and approval.
22 Additionally, CD did not have any record of having approved a decrease in NIU’s hours.
23

24 Based on presented information for disputed fact 13, NIU misled the Commission by failing
25 to inform the Commission of reducing parent training to at or around 20 hours but yet
26 reporting in their annual Work Plans that they had provided 40 hour training programs.
27 Specifically, based on SCO’s audit, trainings did take place. However, SCO found some
28 discrepancies when matching reported hours on timecards and the corresponding invoices.