

IN THE CIRCUIT COURT OF THE 20TH JUDICIAL CIRCUIT
IN AND FOR COLLIER COUNTY

CASE NO.:

MASON CLASSICAL ACADEMY, INC.,
A Florida not for profit corporation

Plaintiff,

v.

THE SCHOOL BOARD OF COLLIER COUNTY,
FLORIDA,

Defendant.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff, MASON CLASSICAL ACADEMY, INC., A Florida not for profit corporation ("Plaintiff" or "MCA"), by and through undersigned counsel, hereby files this Complaint for declaratory relief against Defendants, THE SCHOOL BOARD OF COLLIER COUNTY, FLORIDA ("Defendant" or the "School Board"), and would state as follows:

JURISDICTION AND VENUE

1. This is an action for Declaratory Relief under Chapter 86, Florida Statutes and Injunctive Relief.
2. Defendant is a local government entity organized under the laws of the State of Florida and located in Collier County, Florida.
3. This Court has jurisdiction over the subject matter of this action pursuant to Section 26.012, Florida Statutes as this is a case in equity.
4. Moreover, jurisdiction is proper in this Court as the relief sought is a declaratory judgment and an injunction.

5. Venue in this action is proper in Collier County, Florida pursuant to Section 47.011, Florida Statutes because the causes of action accrued in Collier County, Florida and because the Defendant is a political subdivision incorporated in Collier County, Florida.

PARTIES

6. Plaintiff, MCA is sui juris and incorporated in Collier County, Florida.

7. Defendant, the School Board is sui juris and is a political subdivision of the State of Florida incorporated in Collier County, Florida.

GENERAL ALLEGATIONS

8. By way of background, charter schools are part of Florida's program of public education. Section 1002.33, Florida Statutes, sets out the comprehensive and overarching statutory framework for charter public schools in Florida. Charter schools are public schools that are operated or organized by a nonprofit organization. *See Fla. Stat. §§ 1002.33(1), (12)(i).*

9. Charter public schools are formally "sponsored" by the district school board in the county in which the district school board has jurisdiction. *See Fla. Stat. § 1002.33(5)(a).* Here, as noted above, the School Board is the "sponsor" of the MCA charter public school in Collier County.

10. Sponsors are vested with certain oversight responsibilities for charter schools including, but not limited to, the review and approval of new charter school applications, the renewal of charter contracts, and the monitoring and reviewing of certain charter school progress and operations. *See Fla. Stat. § 1002.33(5)(b).*

11. On June 13, 2017, the School Board and MCA executed the Charter Agreement for a term of five (5) years ending on June 30, 2022. A copy of the Charter Agreement is attached hereto as **Exhibit A**.

12. That same year on October 13, 2017, The Florida Department of Education ("FDOE") notified MCA that it had met the criteria for high performing charter status pursuant to Section 1002.331, Florida Statutes. MCA and the School Board then executed the First Amendment to the Charter Agreement which (1) recognized MCA as a high-performing charter public school and (2) MCA was then authorized to modify the term of the Charter Agreement for up to fifteen (15) years ending November 30, 2032. A copy of the First Amendment and the notification from the FDOE to MCA is attached hereto as **Exhibit B**.

13. On May 30, 2019 School Board general counsel Jon Fishbane produced and submitted an Investigative Report For Mason Classical Academy to the School Board (the "Investigative Report"). Then at a regular School Board meeting on June 3, 2019, during his Attorney Report, Jon Fishbane recommended, among other serious allegations, that the MCA board resign, and that then principal David Hull undergo additional training or resign. Jon Fishbane was asked if the School Board had the authority to remove charter school board members and Jon Fishbane admitted it did not have such authority. A copy of the Investigative Report is attached hereto as **Exhibit C**.

14. Further, upon information and belief obtained through subpoenaed documents from Hillsdale College, MCA's contractual partner as of June of 2019, Jon Fishbane revealed to Hillsdale College representatives, which had no contractual relationship to the School Board, that he was already directing and planning with the School Board on June 26, 2019 to call a meeting to terminate MCA based on MCA's perceived reaction to Investigative Report. A copy of that correspondence is attached hereto as **Exhibit D**.

15. Following the publication of Investigative Report, MCA's governing board and senior administration held several meetings to discuss the contents of the Investigative Report, as

did the Board of Directors. On July 3, 2019, MCA submitted a twenty-one (21) page document (the "Cure Document") detailing actions it would take, in the abundance of caution, to cure alleged defaults and violations. A copy of the Cure Document is attached hereto as **Exhibit E**.

16. On July 3, 2019, Mason Classical Academy, in hopes of prospectively curing various items noted by the School Board, requested the Florida Department of Education ("FDOE") provide mediation services pursuant to section 1002.33(7)(b), Florida Statutes. The proposed mediation would work to resolve several disputes between School Board and MCA. A letter from FDOE requesting and offering mediation was sent to Jon Fishbane from Adam Emerson, Charter Schools Director of the FDOE after a request from MCA. A copy of that mediation request is attached hereto as **Exhibit F**.

17. However, on the evening of Sunday, July 7, 2019, the School Board posted a Public Notice declaring, "The District School Board of Collier County, Florida, will hold a Special School Board Meeting on Thursday, July 11, 2019, at 8:30 a.m. at the Dr. Martin Luther King Jr. Administrative Center, 5775 Osceola Trail, Naples, Florida, 34109. The purpose of the Special Board Meeting will be to review the matter of whether to issue a notice of termination of the charter with Mason Classical Academy." A copy of the Public Notice is attached hereto as **Exhibit G**.

18. On July 8, 2019, MCA's former counsel, Shawn Arnold, sent an email correspondence to Jon Fishbane stating, "Please send me the District's offer for settlement ASAP." This correspondence was only necessary after the drastic and improper step taken by the School Board. A copy of that July 8, 2019 Correspondence is attached hereto as **Exhibit H**.

19. On July 9, 2019, Jon Fishbane sends a response correspondence to MCA counsel Shawn Arnold titled, "Proposal to Resolve the Controversy with Mason Classical Academy."

The School Board and Jon Fishbane proposed: two (2) of the three (3) MCA Board Members to resign, then MCA will add four (4) new Board Members, preselected by Hillsdale College, a contractual partner of MCA and not the School Board. The July 9, 2019 offer states, “the proposal has been discussed with the appropriate persons at Hillsdale College who are in support of it”. A copy of the July 9, 2019 correspondence is attached hereto as **Exhibit I**.

20. The School Board held its meeting on July 11, 2019 “to review the matter of whether to issue a notice of termination.” The School Board took public comment from dozens of supportive MCA parents during the School Board meeting. Then, Mr. Fishbane recommends School Board vote to accept MCA and FDOE’s offer of Mediation sent to Jon Fishbane on July 3, 2019 as **Exhibit F**.

21. In response to the Investigative Report, the FDOE mediated the disputes between the School Board and MCA. The mediation resulted in MCA and the School Board entering into a certain Mediation Settlement Agreement (the “Agreement”) on August 1, 2019. A copy of the Agreement is attached hereto as **Exhibit J**.

22. This Agreement sought to ameliorate the disputes between MCA and the School Board relating to items such as governance positions and training, parent complaints, and the hiring of specific administrative personnel. These actions were collectively designated as a “Corrective Action Plan” as described in the Agreement. The Agreement acknowledged that the School Board would “no longer pursu[e] termination of the Charter for Mason.” Further, the Agreement stated that “Both parties will work in concert for a smooth opening of the school on August 13, 2019.” *See Exhibit J*.

23. During the mediation, it was found that counsel for the School Board was communicating with Hillsdale College representatives, an entity the School Board was not in

contractual privity with, and overtly violating the confidentiality requirements of mediation as agreed to and signed by Jon Fishbane. This fact was noted in electronic correspondence between representatives of Hillsdale College acknowledging information obtained from School Board attorneys with timestamps during the mediation. A copy of the mediation confidentiality agreement, as well as the electronic correspondence, is attached hereto as **Exhibit K** (and specifically noted as exhibit B within exhibit K).

24. MCA retained the law firm of Coleman, Hazard, Taylor, Klaus, Doupe & Diaz, P.A., in June of 2019 to independently audit and analyze the allegations presented in the Investigative Report. On October 30, 2019, the law firm of Coleman, Hazard, Taylor, Klaus, Doupe & Diaz, P.A. produced the "INVESTIGATIVE REPORT OF ALLEGATIONS MADE AGAINST MASON CLASSICAL ACADEMY" (the "Coleman Report") which independently rebutted and refuted all of the allegations contained within the Investigative Report. A copy of the Coleman Report is attached hereto as **Exhibit L**.

25. Following the submission of the Coleman Report to the School Board, general counsel Jon Fishbane then on April 14, 2020, without notice or announcement to MCA, produced the "REPLY OF THE DISTRICT GENERAL COUNSEL TO THE COLEMAN LAW FIRM'S INVESTIGATIVE REPORT OF ALLEGATIONS MADE AGAINST MASON ACADEMY" (the "Reply Investigative Report"). A copy of the Reply Investigative Report is attached hereto as **Exhibit M**.

26. The Reply Investigative Report merely re-alleged the same allegations contained within the Investigative Report with few additional "supplemental evidence and findings that did not originally appear in the [Investigative Report] including evidence received and reviewed after June 3, 2019." This Reply Investigative Report appeared to be prepared as personal

vindication of Jon Fishbane's Investigative Report and sought to make slanderous and personal attacks against MCA board members and employees. This Reply Investigative Report was also prepared after the School Board agreed it would "no longer pursu[e] termination of the Charter for Mason."

27. Since the Agreement was signed, the parties have engaged in extensive letter writing campaigns with each side alleging the other has violated and breached the Agreement in a variety of ways. Jon Fishbane, general counsel to the School Board, failed to share at least three (3) and potentially four (4) letters sent by MCA to the School Board by his own admission. When asked at a public School Board meeting whether MCA has responded to various letters sent by the School Board, Jon Fishbane responded, "I had sent to you, I believe one or two of them, I believe there were two responses, and they did not address the issues." This is patently false.

28. The following is a brief timeline of the formal correspondence sent to the Defendant relating to the alleged breach of the Agreement which Jon Fishbane mentioned there was only "one or two":

- i. Letter sent from Coleman, Hazard, Taylor, Klaus, Doupe & Diaz, P.A. on August 16, 2019.
- ii. Letter sent from Coleman, Hazard, Taylor, Klaus, Doupe & Diaz, P.A. on September 24, 2019.
- iii. Letter sent from Coleman, Hazard, Taylor, Klaus, Doupe & Diaz, P.A. on October 10, 2019.
- iv. Letter sent from Raul Valles on February 4, 2020.
- v. Letter sent from Jeffrey S. Wood, Esq. on June 5, 2020.

- vi. Letter sent from Jeffrey S. Wood, Esq. on June 25.
- vii. Letter sent from Jeffrey S. Wood, Esq. on July 24, 2020.
- viii. Letter Sent from Jeffrey S. Wood, Esq. on September 9, 2020.

29. The School Board, at a Regular School Board meeting on June 9, 2020 first addressed this issue under the guise of an "Informational Item" whereby the School Board did not take public comment and addressed topics such as "[m]ediation Settlement Agreement violations, multiple letters concerning same and other matters sent by outside counsel to MCA's counsel, General Counsel's Reply to the Coleman Report, and MCA Board and employment events since March 20, 2020, and related matters." A copy of the School Board agenda for June 9, 2020 is attached hereto as **Exhibit N**. The School Board ultimately deferred any action on this item to the next School Board meeting.

30. The School Board then placed an agenda item under "Unfinished Business" on the July 28, 2020 School Board meeting for the "Approval of Placing Mason Classical Academy on Probationary Warning Status Subsequent to Board Review and Discussion." The School Board then unanimously voted in favor and approved of the placement of MCA on "Probationary Warning Status" at the same meeting. A copy of the School Board agenda for July 28, 2020 is attached hereto as **Exhibit O**. The School Board voted to require MCA to respond to all alleged violations and show compliance by November 6, 2020 to the School Board's arbitrary findings.

31. At the July 28, 2020 School Board meeting, various members specifically referenced termination of the Charter Agreement with MCA if MCA failed to comply with this "Probationary Warning Status" based upon breach of the Agreement.

32. Specifically two School Board Members, Mitchell and Westberry, requested that a judge decide the fate of MCA. Furthermore, Jon Fishbane, general counsel to the School

Board, requested and stated that the School Board could keep MCA on "Probationary Warning Status" for "each violation" on a rolling basis.

33. Jon Fishbane then sent a letter to MCA dated August 6, 2020 which, among other items, placed MCA on "Probationary Warning Status" through March 1, 2021 and specifically requesting twenty (20) action items and documents, some of which are not contemplated within the Agreement, the Charter Agreement, and Florida Statutes. A copy of this letter is attached hereto as **Exhibit P**.

34. There are no statutory provisions found in Section 1002.33, Florida Statutes, Florida Administrative Code, the Charter Contract, Agreement nor is there a provision in School Board Policy 9800 (relating to charter public schools) which allows the School Board to place a charter public school on "Probationary Warning Status." In fact, there previously was a reference and inclusion to a "probationary" status which sponsors, such as the School Board, could place charter public schools. This reference was found within the 2011 Florida Statutes, specifically Section 1002.33(9)(o), Florida Statutes. However, this provision has been removed and no such status exists under current charter law. See Fla. Stat. §1002.33(9)(o) (2011) <https://www.flsenate.gov/laws/statutes/2011/1002.33>.

35. MCA, in its numerous letters sent to the School Board, has alleged that it has not violated the Agreement and also contents that the School Board has violated the Agreement as it has continued to field parent complaints which it specifically was obligated to stop accepting pursuant to Section 10 of the Agreement.

CLAIM FOR RELIEF
COUNT I
Declaratory Relief Pursuant to Section 86.011, Florida Statutes

36. Plaintiff re-alleges and incorporates herein by reference Paragraphs 1 through 35 as if fully set forth herein.

37. This is an action for declaratory relief within the Court's jurisdiction under Section 86.011, Florida Statutes.

38. As a result of the foregoing actions by Defendant and its counsel, Plaintiff seeks a declaration from this Court as to its rights and legal status under the Agreement, including rights pursuant to the Agreement that was executed and agreed upon by the parties but is now alleged to have been violated by both parties.

39. Based upon **Exhibit P** and oral pronouncements made at various School Board meetings, MCA is in doubt as to its rights and requires a declaration from this Court as to its current status as it relates to the "Probationary Warning Status" which Defendant has placed upon MCA.

40. There is a bona fide, actual, present and practical need for a resolution of interests of the parties, and a declaration of respective rights of the parties; such declaration deals with a present, ascertained or ascertainable state of facts and/or present controversy as to a state of facts; the rights of the parties are dependent upon the facts or the law applicable to the facts; and the antagonistic and adverse interest are all before the Court by proper process.

41. Plaintiff has to date paid substantial fees and expenses rebutting the School Board's continued claims that MCA has violated the Agreement as well as the individual provisions set forth within the Agreement in both attorneys' fees as well as the loss of students

due to the School Board's continued public shaming and denouncing of MCA based on the rebutted alleged violations of the Agreement.

42. The Plaintiff and Defendant has, or recently has, an actual, present, adverse and antagonistic interest in the subject matter described in this complaint.

43. All parties containing an antagonistic and/or adverse interest are before the court, and there are no third parties known to Plaintiff who claim an interest in the subject matter of this lawsuit.

44. The relief sought is not merely giving of legal advice or the answer to questions propounded for curiosity.

45. The School Board contends that MCA has violated the Agreement. On the other hand, Plaintiffs believe that the School Board has violated the Agreement, including the confidentiality provisions agreed upon prior to signing the Agreement as noted in **Exhibit K**. In this case, the interests of both parties would best be served if the Agreement was of no force and effect.

46. Plaintiffs rely on this Court to interpret provisions of Florida law that are not clear and unambiguous and that conflict with one another.

47. A declaration of the parties' rights and obligations in this instance will serve the public and guide the parties conduct in the future.

WHEREFORE, for the foregoing reasons, Plaintiffs respectfully request that this Court enter a judgment in their favor, as follows:

- a. Determine that the School Board has breached of the Agreement by continuing to field parent complaints for students at MCA in violation of Section 10 of the Agreement.

- b. Determine that the School Board has breached of the Confidentiality provisions prior to execution of the Agreement as noted in **Exhibit K**.
- c. Determine that the Agreement is of no force and effect as both parties have alleged the other is in violation of the Agreement.
- d. Determine that the School Board cannot rely upon the Agreement in taking any action adverse to the interests of MCA; including placing MCA on "Probationary Warning Status" or any subsequent termination proceeding pursuant to Section 1002.33(8), Florida Statutes.
- e. Determine that MCA is entitled to an award of reasonable attorney's fees from the School Board in this Action pursuant to Section 14 of the Agreement.
- f. Award costs to MCA pursuant to Section 86.081, Florida Statutes
- g. Award such further and other relief as this Court deems just and proper.

COUNT II – INJUNCTIVE RELIEF

48. Plaintiffs adopt and re-allege paragraphs 1 through 35 above as if fully set forth herein.

49. Plaintiffs bring forth this cause of action for injunctive relief and as an alternative to Count I. This is an action for injunctive relief to prohibit the School Board from taking any action adverse to MCA based on a purported or alleged violation of the Agreement.

50. To obtain temporary injunctive relief, the movant must satisfy each of the following elements: "(1) the movant has a clear legal right to the requested relief or, in other words, it has a substantial likelihood of success on the merits; (2) the movant will suffer irreparable harm if the trial court refuses to grant the injunction; (3) the movant does not have available another adequate remedy at law; and (4) a public interest will be served by the

imposition of the injunction." *Charlotte County v. Grant Med. Transp., Inc.*, 68 So. 3d 920, 922 (Fla. 2d DCA 2011).

51. The test to determine whether injunctive relief should be granted to relieve a party from administrative action is the same as that which courts have otherwise used in determining whether to grant injunctive relief. *Criterion Ins. Co. v. State, Dept. of Ins.*, 458 So. 2d 22 (Fla. 1st DCA 1984). "The party applying for same must make a showing of the likelihood of irreparable harm; such a showing depends upon the unavailability of an adequate remedy at law, or . . . the absence of an adequate administrative remedy to cure allegedly egregious agency error." *Id.* (citing *Department of Business Regulation, Division of Alcoholic Beverages and Tobacco v. Provende, Inc.*, 399 So. 2d 1038 (Fla. 3d DCA 1981) and *State ex rel. Department of General Services v. Willis*, 344 So.2d 580, 590 (Fla. 1st DCA 1977)) (holding that "some agency errors may be so egregious or devastating that the promised administrative remedy is too little or too late.")

52. In *Communities Financial Corporation v. Florida Department of Environmental Regulation*, 416 So. 2d 813, 816 (Fla. 1st DCA 1982), the First District Court of Appeal set forth the following criteria for determining the jurisdiction of the circuit court to act:

(1) [T]he complaint must demonstrate some compelling reason *why the APA ... does not avail the complainants in their grievance* against the agency; or (2) the complaint must allege a lack of general authority in the agency and, if it is shown, *that the APA has no remedy for it*; or (3) illegal conduct by the agency must be shown and, if that is the case, *that the APA cannot remedy that illegality*; or (4) agency ignorance of the law, the facts, or public good must be shown and, if any of that is the case, *that the Act provides no remedy*; or (5) a claim must be made that the agency *ignores or refuses to recognize* related or substantial interests and *refuses to afford a hearing* or otherwise *refuses to recognize* that the complainants' grievance is cognizable administratively.

416 So. 2d 813, 816 (Fla. 1st DCA 1982).

53. This action is ripe for adjudication by this honorable court for the reasons mentioned herein. The School Board is clearly acting outside of the delegated legislative authority as "Probationary Warning Status" has ceased to exist in Florida Statutes relating to oversight of charter schools. Yet the School Board continues to act with its own carelessness for the law.

54. Jeffrey S. Wood, Esq. sent a letter to counsel for the School Board on September 9, 2020 advising of the grounds for a proceeding pursuant to Chapter 120, Florida Statutes based upon the illegal and invalid action of placing MCA on "Probationary Warning Status" based upon a breach of the Agreement. The letter is attached hereto as **Exhibit Q**.

55. In response to the letter noted as **Exhibit Q**, James Fox, counsel for the School Board replied in a letter dated September 28, 2020 stating, among other items, "[t]he position you are asserting cannot be supported in law, as contractual matters and communications related thereto are not "rules" as that term has been defined in the law." The letter is attached hereto as **Exhibit R**. Clearly, the School Board is refusing to recognize the substantial interests of MCA in that MCA's grievance is cognizable administratively. This is in addition to the School Board refusing to meet and address these issues as requested by MCA in prior correspondence. It is certain that the School Board, as indicated at public meetings, will attempt to use this invalid agency action as a precursor to terminating the Charter Agreement with MCA. Therefore, an injunction is necessary to protect against past and future illegal agency action taken by this rogue School Board and its reckless attorneys.

56. Further, Jon Fishbane, general counsel to the School Board, has continued to serve his personal and vindictive needs by misrepresenting the material facts to the School Board by purposely withholding material facts, correspondence from MCA and its counsel, as well as

acting outside of his authority to facilitate the ultimate termination of MCA he so desperately seeks.

57. School Board Chair Stephanie Lucarelli asked Jon Fishbane at the July 28, 2020 School Board meeting if “we have received any responses to any of those variety of letters that were sent out?” Jon Fishbane responded: “I had sent to you, I believe one or two of them, I believe there were two responses, and they did not address the issues.” As indicated above, counsel for MCA have sent at least seven (7) detailed and meticulous letters from August 2019 through September of 2020 addressing these issues to either Jon Fishbane or James Fox. Clearly, Jon Fishbane has misrepresented material facts to the School Board in hopes of perpetuating the termination of MCA’s Charter Agreement, as previously attempted by the School Board in 2019.

58. As the Florida Supreme Court has stated, a party seeking to establish fraudulent misrepresentation is required to prove the following elements: “(1) a false statement concerning a material fact; (2) the representor’s knowledge that the representation is false; (3) an intention that the representation induce another to act on it; and (4) consequent injury by the party acting in reliance on the representation.” *Arlington Pebble Creek, LLC v. Campus Edge Condo. Ass’n, Inc.*, 232 So. 3d 502, 505–06 (Fla. 1st DCA 2017) (citing *Butler v. Yusem*, 44 So. 3d 102, 105 (Fla. 2010)) (quoting *Johnson v. Davis*, 480 So. 2d 625, 627 (Fla. 1985)).

59. Pursuant to the American Bar Association Model Rules of Professional Conduct, Rule 4.1 states that “[a] misrepresentation can occur if the lawyer incorporates or affirms a statement of another person that the lawyer knows is false. Misrepresentations can also occur by partially true but misleading statements or omissions that are the equivalent of affirmative false statements.”

60. Furthermore, upon information and belief, Jon Fishbane spoke privately with contractual partners of MCA dating back to June of 2019 indicating that the School Board was intent on pursuing termination of MCA's Charter Agreement pursuant to Section 1002.33(8)(b), Florida Statutes and that a subsequent public discussion would occur. *See Exhibit D*. This was in light of those contractual partners awarding contracts to newly formed rival classical academies in Collier County, Florida. Those contractual partners had no relationship to the School Board. Even further, **Exhibit K** alleges that attorneys for the School Board breached the confidentiality provisions by speaking directly with Hillsdale College Representatives during the mediation, going so far as to provide MCA's arguments made during mediation.

61. Rule 4-3.4 of the Rules Regulating the Florida Bar provides "[a] lawyer must not . . . knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists....FL ST BAR Rule 4-3.4. The failure to abide by and knowing disregard for the confidentiality agreement, attached as **Exhibit K** (specifically exhibit A within exhibit K) and signed by Jon Fishbane, provides further need for injunctive relief for MCA as Jon Fishbane (or other counsel for School Board) "knowingly disobey[ed] an obligation under the rules of a tribunal" by contacting Hillsdale College representatives during mediation in direct violation of the confidentiality agreement. This utter disrespect for the rules of a tribunal, let alone the Agreement, is evidenced by Mr. Fishbane's reckless candor towards his obligations.

62. Pursuant to the American Bar Association Model Rules of Professional Conduct, Rule 8.4 provides "[i]t is professional misconduct for a lawyer to: (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation; and (e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate

the Rules of Professional Conduct or other law. *See, e.g., Florida Bar v. Kravitz*, 694 So. 2d 725 (Fla.1997)(imposing thirty-day suspension where attorney presented false evidence and made misrepresentations to client, opposing counsel, and court); *Florida Bar v. Schramm*, 668 So. 2d 585 (Fla. 1996) (imposing ninety-one-day suspension where attorney made false representations to judge, failed to properly represent client, failed to return fee paid by client, and failed to communicate with client). Further, The Rules Regulating the Florida Bar provide:

A lawyer shall not:

(a) violate or attempt to violate the Rules of Professional Conduct, **knowingly assist or induce another to do so, or do so through the acts of another;**

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;

(c) **engage in conduct involving dishonesty, fraud, deceit, or misrepresentation,** except that it shall not be professional misconduct for a lawyer for a criminal law enforcement agency or regulatory agency to advise others about or to supervise another in an undercover investigation, unless prohibited by law or rule, and it shall not be professional misconduct for a lawyer employed in a capacity other than as a lawyer by a criminal law enforcement agency or regulatory agency to participate in an undercover investigation, unless prohibited by law or rule;

(e) **state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law;**

(f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law...

See. FL ST BAR Rule 4-8.4.

63. Upon information and belief, Jon Fishbane has also continued to field and entertain parent complaints in direct violation of Section 10 of the Agreement and Rule 4-3.4 of the Rules Regulating the Florida Bar as noted herein. Further, Jon Fishbane has clearly communicated with a third party not privy to the contract with MCA and the School Board alleging that he has the ability to influence the School Board and continue forward with terminating MCA's Charter Agreement.

64. As a result, MCA requests that this Court enter an injunction requiring the School Board to cease any reliance on the Agreement as it relates to forming the basis of a termination proceeding pursuant to Section 1002.33(8)(b),(c), Florida Statutes as both sides have alleged the other of violating the provisions in the Agreement.

65. MCA requests that this Court enter an injunction requiring the School Board to cease any reliance on the "Probationary Warning Status" levied against MCA as such status and agency action is not supported in law.

66. MCA also requests that this Court enter an injunction enjoining general counsel Jon Fishbane from continuing to engage in the malicious investigations and inquiries of allegations against MCA at public School Board meetings and require Jon Fishbane to recuse himself from further discussions at public School Board meetings regarding MCA.

67. The School Board's aforementioned violation of the Agreement, the School Board's allegation that MCA has violated the Agreement, and the School Board's placement of "Probationary Warning Status" on MCA poses a real, present, and continuing threat of irreparable harm to Plaintiffs as MCA is losing students, continuously being disparaged in the public eye, and the School Board will undoubtedly use an alleged violation of the Agreement as a basis to terminate the Charter Agreement with MCA at the earliest possible date.

68. Plaintiffs have no adequate remedy at law for the School Board's ongoing violation of Florida law and the Agreement as no amount of monetary damages can adequately compensate Plaintiffs for their continued loss of students based upon the continued degradation of MCA by School Board at public meetings based on this Agreement.

69. Unless and until injunctive relief is granted by this Court directing the School Board to cease reliance upon the Agreement as a basis for any action taken against MCA, greater

injury will be inflicted on the Plaintiffs than could possibly result to the School Board by granting of said relief.

70. Consequently, the actual and threatened harm to the Plaintiffs outweighs any purported harm to the School Board.

71. An injunction in this case would serve the public interest as it protects the goodwill of MCA, the students and parents who chose to attend MCA, as well as the employees who work and provide the premier education to Collier County students.

72. MCA is cognizant and appreciates the oversight responsibilities delegated to the School Board from the legislature, however, MCA cannot stand idly by while the School Board actively seeks to terminate MCA and determine the substantial interests of MCA using illegal and *ultra vires* methods.

WHEREFORE, for the foregoing reasons, Plaintiff respectfully request that this Honorable Court:

- a. Set a preliminary evidentiary hearing at the earliest possible opportunity so that MCA may place of record such evidence as is necessary to substantiate the merits of this Complaint before this Court pursuant to Fla. R. Civ. P. 1.610.
- b. Alternatively, determine without evidentiary hearing that MCA is entitled to a temporary injunction against the School Board and Jon Fishbane whereby the School Board is prohibited from relying upon any alleged violation of the Agreement as a basis for adverse action against MCA pursuant to Fla. R. Civ. P. 1.610

- c. Enter a temporary injunction, requiring Defendant, the School Board, to cease reliance on the Agreement and enjoin any action taken in reliance by the School Board on the Agreement against MCA as the Agreement is not binding and of no force and effect, including any action based on the illegal premise of "Probationary Warning Status"
- d. Enjoin the Defendant School Board and Jon Fishbane from making further public comments alleging MCA has violated the Agreement;
- e. In the event that the preliminary and temporary injunction becomes a permanent injunction, award attorneys' fees and costs to MCA; and
- f. Further and other relief as the Court deems just and proper.

DATED this 26th day of October, 2020.

TRIPP SCOTT, P.A.
Attorneys for Plaintiff
110 SE 6 St., 15th Floor
Fort Lauderdale, FL 33301
Tel. 954-525-7500
Fax. 954-761-8475

/s/ Jeffrey S. Wood

By _____
Jeffrey S. Wood, Esq.
Florida Bar Number: 0869619
JSW@trippscott.com
egc@trippscott.com
Eservice@trippscott.com

Thomas B. Sternberg, Esq.
Florida Bar Number: 1018969
tbs@trippscott.com
cab@trippscott.com
Eservice@trippscott.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by electronic mail to: (fishbj@collierschools.com), The School Board of Collier County, 5775 Osceola Trail Naples, FL 34109 on October 26, 2020.

/s/ Jeffrey S. Wood
By _____
Jeffrey S. Wood, Esq.
Florida Bar Number: 0869619

THE SCHOOL BOARD OF COLLIER COUNTY, FLORIDA

THIS CHARTER entered into as of the 13th day of June, 2017, by and between
THE SCHOOL BOARD OF COLLIER COUNTY, FLORIDA, a body corporate operating
and existing under the Laws of the State of Florida

and

MASON CLASSICAL ACADEMY, A PUBLIC CHARTER SCHOOL
a non-profit organization

Definitions

Definitions: The following terms shall have the following meanings herein unless the context clearly requires otherwise:

Application shall mean the School's application for a Charter (including amendments) as submitted to and approved by the School Board, as updated by the renewal application and any subsequent amendments.

Governing Board shall mean the governing board or body of the School.

Charter shall mean this charter entered into between the School and the Sponsor.

County shall mean Collier County, Florida.

District shall mean the school district for the County as referenced in Art. IX, Section 4, Florida Constitution.

FDOE shall mean the Florida Department of Education.

High-Stakes Review shall mean an in-depth sponsor review of important charter school performance data utilizing the agreed upon goals and objectives referenced in this Charter. This review differs from routine annual reports in terms of depth and comprehensiveness of the data reviewed.

School shall mean Mason Classical Academy (contracting party/legal entity and dba).

Sponsor shall mean the school board of the District as referenced in Art. IX, Section 4, Florida Constitution.

State shall mean the State of Florida.

Superintendent shall mean the superintendent of schools for the District as referenced in Art. IX, Section 4, Florida Constitution.

Section 1

- A. Application is Approved. The Application is approved by the Sponsor. A copy of the Application is attached hereto as Appendix 1 and constitutes a part of this Charter. In the event of any conflict between the Application and any other provision of this Charter, the Charter provision shall control.
- B. Term of Charter.
1. Effective Date. This Charter shall become effective on the date it is approved by the both parties.
 2. Term. The term of this Charter shall be five (5) years commencing on July 1, 2017, and ending on June 30, 2022, unless terminated sooner as provided herein. The term shall be automatically extended on a month-to-month basis until the Charter has been renewed, non-renewed, or terminated by the Sponsor. If the parties cannot reach agreement on the terms of a new contract, either party may request mediation from the FDOE, pursuant to section 1002.33(6)(h), Florida Statutes. In the event of any dispute in need of resolution, the parties hereto agree to follow the provisions set forth in FS §1002.33(6)(b).
 3. Charter Modification. This Charter may be modified during its initial term or any renewal term only upon approval of both parties. No such modification shall be enforceable unless it is in writing and approved by both the Governing Board and the Sponsor. If the modification involves changes to the grade levels, except as provided by law for high-performing charter schools, the School must provide information acceptable to the Sponsor relating to curriculum, budget, facilities, and staff.
 4. Charter Renewal. This Charter may be renewed as provided for in section 1002.33, or 1002.331, Florida Statutes. A Sponsor may not require a charter school to waive the provisions of s. 1002.331, Florida Statutes, or require a student enrollment cap that prohibits a high-performing charter school from increasing enrollment in accordance with s. 1002.331(2), Florida Statutes, as a condition of approval or renewal of a charter.
 5. Periodic Review and Evaluation. The Sponsor shall annually evaluate the School on its performance and progress toward meeting the standards and targets included in this contract, including academic achievement goals. Should the term of this contract exceed five years, the Sponsor shall conduct a High-Stakes

Review at least every five years and shall present the findings of the review to the governing board of the School.

C. Education Program and Curriculum

1. Any material change to the education program and/or curriculum as described in the approved Application or Charter requires Sponsor approval.
2. The School agrees to implement its educational and related programs as specified in the Application unless otherwise modified by this Charter.
3. The School shall make reading a primary focus of the curriculum and provide sufficient resources to identify and provide specialized instruction for students who are reading below grade level. The reading curriculum and instructional strategies shall be consistent with Florida Standards and grounded in scientifically-based reading research.
4. The School shall adopt the District's plan for English Language Learners, including the exemptions listed in the application, or implement an alternate District approved plan. If applicable, the School's plan for English Language Learners is attached hereto as Appendix 3. The plan must include sufficient information and detail to allow the Sponsor to determine legal sufficiency.
5. The School will establish the current incoming baseline standard of student academic achievement, the outcomes to be achieved, and the method of measurement that will be used, as described in the approved Application or otherwise described in this Charter.
6. The School shall implement all State of Florida requirements with respect to end of course ("EOC") examinations for all course areas identified by the State and other State assessment requirements.

D. Renewal/Non-Renewal/ Termination

1. Non-Renewal/Termination of this Charter. The Sponsor shall make student academic achievement for all students the most important factor when determining whether to renew or terminate this Charter. The Sponsor may choose not to renew or terminate this Charter for any of the following reasons as set forth in section 1002.33(8), Florida Statutes.
 - i. Failure to participate in Florida's education accountability system created in s. 1008.31, as required in this section, or failure to meet the requirements for student performance stated in the charter.

- ii. Failure to meet generally accepted standards of fiscal management.
- iii. Violation of law.
- iv. Other good cause shown, which may include, but is not limited to, any of the following:
 - a. Failure to cure a material breach of any term or condition of this charter after written notice of noncompliance;
 - b. Failure to implement a reading curriculum that is consistent with effective reading strategies grounded in scientifically based reading research if not timely cured after written notice;
 - c. Filing for voluntary bankruptcy, adjudication of bankruptcy or of insolvency, or other state of financial impairment by the School such that the School can no longer operate or is no longer financially viable;
 - d. Failure by the School to provide the District with access to records within twenty (20) business days upon written request;
 - e. Failure of the School to maintain minimum insurance coverage as described in this Charter if not timely cured after written notice;
 - f. Violation by the School of any court order pertaining to the operation of the School;
 - g. A criminal conviction upon matters involving the School against either the Governing Board, its members (collectively or individually), or the management company where the Board knew or should have known of the conduct underlying the conviction and failed to take corrective action;
 - h. Failure by the School to timely submit to the District a financial corrective action plan or financial recovery plan and required supporting documents within thirty (30) days following a notification from the

District, Auditor General, or FDOE, that such a plan is required in accordance with F.S. §218.503;

i. Failure by the School to implement any financial corrective action plan or financial recovery plan approved by the Florida Commissioner of Education pursuant to section 218.503, Florida Statutes;

j. Failure to provide periodic progress reports as required by the financial recovery plan if not timely cured after written notice;

k. Perpetration of a material fraud upon the District or material intentional misrepresentation in the Application;

l. Failure to comply with background screening and other requirements set forth in section 1002.33, Florida Statutes;

m. Failure by the School to comply with all applicable laws, ordinances and codes of federal, state and local governance including, without limitation, the Individuals with Disabilities Education Act (IDEA) and applicable laws relating to English Language Learners (ELI).

n. Failure to make sufficient progress in attaining the student achievement objectives of the Contract and a showing that it is not likely that such objectives can be achieved before the end of the Contract term;

o. Willfully or recklessly failing to manage public funds in accordance with the law;

p. Any action by the School that is detrimental to the health, safety, or welfare of its students that is not timely cured after written notice;

q. Failure to maintain the minimum number of governing board members for more than 30 days;

- r. Failure to obtain and maintain all necessary licenses, permits, zoning, use approval, facility certifications, and any other approval required by the local government or any other governmental authorities having jurisdiction at any time during the term of this Charter.
- 2. The Sponsor shall notify the Governing Board in writing at least ninety (90) days prior to renewing, non-renewing, or terminating this Charter.
 - i. If the Sponsor issues a notice of non-renewal or termination, the notice shall state in reasonable detail the grounds for the proposed action and stipulate that the Governing Board may, within 14 calendar days of receipt of the notice, request a hearing. The hearing shall be conducted within sixty (60) calendar days after receiving a written request to conduct such a hearing.
 - ii. A request for a hearing must be authorized by a vote of the Governing Board and be submitted pursuant to the Notice provisions of this Contract.
- 3. The Sponsor may immediately terminate this charter pursuant to section 1002.33(8)(d), Florida Statutes.
 - i. Upon receipt of notice of immediate termination from the Sponsor, the School shall immediately provide the Sponsor access to the School's facilities along with security system access codes and access codes for all School owned/leased computers, software, networking, switching and all other technical systems in the School's facilities or remotely located areas serving the School, and shall immediately make accessible all educational and administrative records of the School. Moreover, within two (2) business days, the School shall turn over to the Sponsor copies of all records and information regarding the accounts of all of the public funds held by the School. The Sponsor shall assume operation of the school throughout the pendency of the hearing as provided for in s. 1002.33(8)(d), Florida Statutes, unless the continued operation of the School would materially threaten the health, safety or welfare of the students. Failure by the Sponsor to assume and continue operation of the School shall result in the awarding of reasonable costs and attorney's fees to the School if the School prevails on appeal. If the School prevails in an appeal through a final adjudication and mandate by the appellate court, or by the final order of the School Board (if no appeal is filed), the Sponsor shall, immediately, return to School all keys, security codes, all educational and administrative records of the School, and the School's facility. In that case, the School's Governing Board shall resume

operation and oversight of the School.

ii. The School's instructional and operational employees may continue working in the School during the time that the Sponsor operates the School, at the Sponsor's option, but will not be considered employees of the Sponsor. Any existing employment contracts that any School personnel may have with the School may not be assumed or transferred to the Sponsor or any entity created by the Sponsor during the assumption of operations of the School unless the Sponsor or its entity, and the School, agree otherwise. The Sponsor reserves the right to take any appropriate personnel action regarding the School's employees.

4. If the School elects to terminate or non-renew the Charter, it shall provide reasonable prior notice of the election to the Sponsor indicating the final date of operation as voted by the Governing Board at a publicly noticed meeting. A board resolution signed by the School's Governing Board chair and secretary, indicating support of this action, shall accompany the written notification provided to the Sponsor. The School agrees that such notification shall be considered a voluntary termination by the governing board and a waiver of its right to a hearing or appeal.

5. Upon notice of termination or non-renewal the School shall not remove any public property from the premises.

E. Post Termination Provisions

1. If this Charter is not renewed or is terminated, the School shall be responsible for all the debts of the School. The District shall not assume the debt from any contract for services including lease or rental agreements, made between the School and a third party, except for a debt previously detailed and agreed upon, in writing, by both the Sponsor and the Governing Board and that may not reasonably be assumed to have been satisfied by the Sponsor.

2. In the event of termination or non-renewal of this charter, any and all leases existing between the District and the School shall be automatically cancelled, unless the lease provides otherwise. In no event shall the District be responsible under any assignment of a lease for any debts or obligations of the School incurred prior to such assignment.

3. In the event of termination or non-renewal any students enrolled at the School may be enrolled at their home District school, or any another school, consistent with the District's student transfer procedures including transfer of all student records to the receiving school. All assets of the School purchased with public funds, including supplies, furniture and equipment, will revert to full

ownership of the Sponsor (subject to any lawful liens or encumbrances) or as otherwise provided by law. Any unencumbered public funds from the charter school, district school board property and improvements, furnishings, and equipment purchased with public funds, or financial or other records pertaining to the School, in the possession of any person, entity, or holding company, other than the charter school, shall be held in trust upon the Sponsor's request, until any appeal is resolved. If the School's accounting records fail to clearly establish whether a particular asset was purchased with public funds, then it shall be presumed public funds were utilized and ownership of the asset shall automatically revert to the Sponsor.

4. Final Audit: Pursuant to section 1002.33, Florida Statutes, upon notice of non-renewal, closure, or termination, an independent audit shall be completed within 30 days to account for all public funds and assets. During the fiscal year in which the termination or non-renewal occurs, the Sponsor may withhold from the School's FEFP funds, without penalty or interest, an amount necessary to cover the costs for a final financial audit of the School. The audit shall be conducted by an independent certified public accountant.

F. General Statutory Requirements

1. The School shall not discriminate in educational programs/activities or employment and shall provide equal opportunity for all as required by Federal, State and local law, rule, regulation and court order.

2. Additionally, the School shall comply with those statutes that specifically apply to charter schools as set forth in section 1002.33 generally, subsection 1002.33(16), and other applicable State laws. The School agrees that it will abide by all Federal and State laws, statutes, rules, and regulations applicable to charter schools and also abide by the terms and conditions of the Charter.

Section 2: Academic Accountability

Student academic achievement for all students shall be the most important factor when considering whether to renew, non-renew, or terminate this charter.

A. Annual Objectives

1. By September 15th of each year the Sponsor shall provide the School with academic student performance data on state required assessments for each student attending the School that was enrolled the prior year in another public school, pursuant to s. 1002.33(7)(a)3., Florida Statutes. The Sponsor may fulfill this requirement by providing the School access to the data.

2. By September 15th of each year the Sponsor shall provide the School the rates of academic progress for the prior year for comparable student populations in the district school system. The data shall include proficiency and growth on state assessments for English Language Arts and Mathematics by grade grouping (grades 3-5, 6-8, 9-11) for the following student groups:
 - i. Students scoring a level 1 on prior year assessment
 - ii. Students scoring a level 2 on prior year assessment
 - iii. Students scoring a level 3 or higher on prior year assessments
 - iv. Students with disabilities
 - v. English Language Learners

3. By October 15th of the each year of the School's operation, the school shall provide its proposed academic achievement goals for the remaining years of the contract, up to a maximum of four years or the end of the current contract term, whichever occurs first, using the same parameters and testing set forth in Section 2.A.3, above if the school received a grade from the Florida Department of education of D or F for the previous year. This provision will be voluntary if the school received a grade of A-C. Schools that have contracts in excess of five years shall resubmit proposed academic achievement goals in a format mutually agreed upon every four years pursuant to the process described in this paragraph.
 - i. The Sponsor shall review the proposed academic achievement goals within 30 days of receipt. If the Sponsor does not accept the academic achievement goals it shall provide the School a written explanation. If the Sponsor does not respond within 30 days of receipt the academic achievement goals are deemed accepted. If the School and Sponsor cannot agree on academic achievement goals either party may request mediation pursuant to section 1002.33(6), Florida Statutes. The goals may be adjusted at any time upon mutual written consent of both parties.

4. Annually, the School shall report its academic goals. If the School falls short of the academic achievement goals set forth under the provisions of this contract the Sponsor shall report such shortcomings to the FDOE in the event the school's last grade from FDOE was a D or F.

5. The School and Sponsor may agree to adjust the goals through a contract amendment or addendum.

6. The School agrees to maintain its educational based programs as specified in the School's approved Application. The parties agree that the Sponsor, with reasonable notice, may schedule and perform monitoring site visits at mutually agreed upon times and up to three (3) times a year. With respect to the first two (2) visits, the Sponsor will provide two (2) weeks advance notice of the intended visit which shall include an

explanation of the purpose of the visit and the anticipated agenda for the visit. With respect to the third visit, the Sponsor will provide six (6) weeks advance notice in connection therewith. If the School receives a grade of a "D" or a "F" from the Florida Department of Education, then the Sponsor shall be entitled to up to two additional visits during a school year.

7. Methods of Measurement: The methods used to identify the educational strengths and needs of students are set forth in the approved Application.
 - a. School Improvement Plans: The School shall develop and implement a School Improvement Plan as required by section 1002.33(9)(n), Florida Statutes and applicable State Board of Education Rules or applicable federal law.
 - b. The School agrees to the baseline standard of achievement, the outcomes to be achieved, and the methods of measurement that have been mutually agreed upon in the School Improvement Plan submitted to the Sponsor. The School Improvement Plan will be voluntary in the event the School receives a grade from the Florida Department of Education of an "A", "B", or "C." It will be mandatory in the event of a grade of "D" or "F". In the event of any deficiency in a voluntary or mandatory School Improvement Plan, the School will follow the criteria for the School Improvement Plan as set forth in FS §1002.33(9)(n) and this Charter.
 - c. This Charter may be terminated by the Sponsor if insufficient progress has been made towards the goals and outcomes designated in the SIP and it is not likely that such objectives can be achieved before expiration of the charter or the School receives a state designated grade of F in two (2) consecutive years and it's not granted a waiver by the State Board of Education.
 - d. In addition to evaluating the School's success in achieving the objectives stated in either the Application or the School Improvement Plan, the School will be held accountable for meeting the State's student performance requirement as delineated in State Board of Education Administrative Rule 6A-1.09981, *Implementation of Florida's System of School Improvement and Accountability*. Specific authority for this is found in FS §1001.02, 1008.33, and 1008.345.

B. Assessments

1. State required assessments: All students at the School will participate in all State assessment programs and assessments required by law. The School shall facilitate required alternate assessments and comply with state reporting procedures.

2. Additional Assessments: Students may participate in any or all District assessment programs in which the District students in comparable grades/schools participate and shall participate in any other assessments as described in the Application. The School shall be responsible for the costs of District assessments that are not required by law or this Charter, except those developed with federal funds or those developed using Florida's Item Bank and Test Platform.

3. The School shall implement the current baseline standard of achievement, the outcomes to be achieved, and the methods of measurement identified in the Application and School Improvement Plans. When determining the baseline standard of achievement for students, the School shall develop maintain, monitor, track, and include the following:

a. How the baseline student academic achievement levels and prior rates of academic progress will be established;

b. How these baseline rates will be compared to rates of academic progress achieved by these same students while attending the School;

c. To the extent possible, how these rates or progress will be evaluated and compared with rates of progress of other closely comparable student populations.

4. Sponsor is required to provide academic student performance data to the School for each of its students coming from Sponsor's system, as well as rates of academic progress of comparable student populations in Sponsor's system if feasible.

5. If an IEP, 504 Plan and/or an EP for a student indicates accommodations or an alternate assessment for participation in a State assessment, or District assessment, as applicable, the School will facilitate the accommodations or alternate assessment and comply with State reporting procedures.

6. All School personnel involved with any aspect of the testing process must abide by State policies, procedures, and standards regarding test administration, test security, test audits, and reporting of test results. The Sponsor shall invite the School staff to District offered training related to State assessment administration and, as applicable, District Assessment administration, at no cost to the School. The Sponsor shall provide to the applicable School staff all services/support activities that are routinely provided to the Sponsor's staff regarding implementation of District and State-required assessment activities. The School shall designate a testing coordinator and shall be responsible for proper test administration. The School shall permit the Sponsor to monitor and/or proctor all aspects of the School's test administration, if the Sponsor and School agree it is

necessary, and the School's consent shall not be unreasonably withheld.

7. The District shall provide the School with reports on District and State assessments in the same manner and at the same time as for all public schools in the District.

8. The School shall, at its expense, provide adequate technological infrastructure to support all required online test administration.

C. Student Promotion/Graduation

The School's student promotion policy shall be consistent with the provisions of the Application. The School may adopt the Sponsor's student progression plan.

The School's policy for determining that a student has satisfied the requirements for graduation shall be consistent with the provisions of the Application, and Florida Law.

Schools that serve students in grade 12 shall annually notify parents in writing the accreditation status of the school and the implications of non-accreditation, if applicable. The notification may be provided in the parent handbook.

D. Data Access and Use Pursuant to Statute

1) The School agrees to allow the District reasonable access to review data sources in order to assist the District in making a valid determination about the degree to which student performance requirements, as stated in this Charter, have been met.

2) The School agrees to use data provided through its participation with the Sponsor in electronic data processing systems pertaining to admissions, registration, and student records at no additional cost to the School.

3) The School agrees to allow the Sponsor reasonable access to its facilities and records to review data sources during or in preparation for Sponsor's monitoring visits, including collection and recording procedures, in order to assist the Sponsor in making a valid determination about the degree to which student performance requirements have been met as stated in the Contract, and required by FS §1002.33(23). At all other times, the Sponsor may make requests for the same above-mentioned data, and the School shall deliver it within 30 days, except in cases of health, safety, or welfare of the School's students, at which time the request will be expedited.

Section 3: Students

A. The School will serve students in grades K through 12.

The School may provide enrollment preferences as allowed for in section 1002.33(10), Florida Statutes. Further, the School may limit the enrollment process to target specific student populations as set forth in section 1002.33(10)(e), Florida Statutes as described in the approved application.

The School will accept all eligible students in accordance with federal and state anti-discrimination laws and in accordance with the Florida Educational Equity Act, section 1000.05(2) (a), Florida Statutes. The School will not discriminate on the basis of race, gender, ethnicity, religion, national or ethnic origin or disability in the admission of students. The school may not request prior to enrollment, through the application or otherwise, information regarding the student's prior academic performance.

The School shall be non-sectarian in its programs, enrollment policies, employment practices and operations. The School will meet all applicable state and local health, safety, and civil rights requirements.

- B. The School shall make reasonable efforts, in accordance with federal law, and F.S. §1002.33(10)(e)4, to achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the District and shall not discriminate against students with disabilities who are served in Exceptional Student Education programs (ESE) and students who are served as English Language Learners (ELL).

If the District is operating under a federal order or other resolution or settlement agreement, the School shall comply with those requirements applicable to charter schools that are not considered a local education agency (LEA). The charter school is not required to comply with federal requirements applicable to charter schools also considered to be an LEA.

- C. Recruitment

The School will recruit throughout all segments of the community. This may include direct mailings, public advertisement utilizing the local and community press and informational meetings at a variety of locations using both English and other languages where appropriate.

- D. Eligible Students

- 1. Each year, the School agrees to enroll an eligible student by accepting a timely application through deadlines as determined by the Governing Board and publicly advertised. If the target goal of students is not met by the deadline, and the school wishes to extend, the School will give sufficient public notice and extend the application deadline for a set time as determined and publicized by the governing board. If, at the 10 day count, the registered enrollment as reflected in

the Sponsor's data system is less than 75% of the School's total projected enrollment as described in either the approved application for the first year or as determined under the provisions of Section 3.G. of this contract, the School shall, upon request by the Sponsor, submit a revised budget within 30 days taking into account the reduced enrollment. Failure to provide the revised budget may constitute good cause for termination.

2. If the number of applications exceeds the capacity of the program, class, grade level, or building, all applicants shall have an equal chance of being admitted through a random selection process. The School may give preference in admission to students or limit the enrollment as provided for in section 1002.33(10), Florida Statutes. The School shall clearly indicate in its Policies and Procedures the lottery procedures, and any/all enrollment preferences the school will utilize.

3. Enrollment is subject to compliance with the provisions of section 1003.22, Florida Statutes, concerning school entry health examinations and immunizations.

4. If this Charter is not renewed or is terminated, a student who attended the School may be enrolled in another public school pursuant to Sponsor policies.

5. A student may withdraw from the School at any time and enroll in another public school, as determined by District policy. The School shall work in conjunction with the parent(s) and the receiving school to ensure that such transfers minimize impact on the student's grades and academic achievement.

6. Students at the School are eligible to participate in an interscholastic extracurricular activity at the public school to which the student would be otherwise assigned to attend pursuant to section 1006.15(3)(d) and 1002.20(18)(c), Florida Statutes.

E. Class Size

The School shall be in compliance with Florida Constitutional Class Size Requirements, as applicable to charter schools.

F. No later than November 30 of each year, the School shall provide to the Sponsor the School's projected enrollment for the following school year. The projected enrollment shall not constitute a cap on the School's enrollment for the following school year.

G. Annual Enrollment

1. Preliminary Projection: No later than November 30 of each year, the School shall

provide to the Sponsor the School's preliminary projected enrollment for the following school year. The projected enrollment shall not constitute a cap on the School's enrollment for the following school year.

2. Annual Enrollment Capacity: The enrollment capacity shall be annually determined by the Governing Board in conjunction with the Sponsor based on the factors set forth in section 1002.33(10), Florida Statutes. The School shall provide to the Sponsor by March 1 of each year of this contract, the proposed enrollment capacity for the subsequent school year.
3. Final Enrollment Projection: No later than June 1 of each year, the School shall provide to the Sponsor the School's final enrollment projection for the upcoming school year. For purposes of this contract, final enrollment projection is not annual capacity, but is the School's projection for how many students will be enrolled when the school year begins as will serve as the basis for initial FEFP payments.

Disagreements between the Sponsor and the School relating to enrollment capacity will be resolved using the dispute resolution provisions in this Charter and section 1002.33, Florida Statutes. The School shall not enroll students in excess of the physical capacity of the building, unless the School operates multiple sessions, in which case, the physical capacity of the School shall not be exceeded during any session.

The enrollment capacity of a School that is designated as High-Performing pursuant to section 1002.331, Florida Statutes, shall be determined by the governing board.

H. Maintenance of Student Records as Required by Statute

1. The School shall maintain confidentiality of student records as required by federal and state law.
2. The School will maintain active records for current students in accordance with applicable Florida Statutes and State Board of Education rules.
3. All permanent (Category A) records of students leaving the School, whether by graduation, transfer to another public school, or withdrawal to attend another school, will be immediately transferred to the District in accordance with Florida Statutes. Records will be transmitted to the District's records retention department.
4. Records of student progress (Category B) will be transferred to the appropriate school if a student withdraws to attend another public school or any other school. The School may retain copies of the departing student's academic records created during the student's attendance at the School.

5. Upon the withdrawal of a student from the School, the School will retain the student's original records, except that such records will be immediately transferred to another District school when requested by that school. Requests for student records from public or private schools outside of the County and private schools within the County must be made in writing. Only copies of requested records may be provided. Copies only of student records may be provided to parents, as such term is defined in F.S. §1000.21(5), upon their request unless the student is considered an eligible student under FERPA. The School will retain the student's record for three (3) years after student withdrawal or until requested by another District public school in this County, whichever comes first. At the end of the third year all inactive student records will be returned to the District's records retention department.

6. Upon termination or closure of the School, all student education records and administrative records shall be transferred immediately to the Sponsor's records retention office for processing and maintenance.

7. The School will comply with all other public record retention requirements for non-student related records in a manner consistent with applicable Florida law. The School shall comply with Fla. Stat. Chapter 119 (the Public Records Act) and all other applicable statutes pertaining to public records.

8. The Sponsor will ensure that all student records will be provided immediately to the School upon request and upon enrollment of students in the School from a District school.

9. The School must maintain a record of all the students who apply to the School, whether or not they are eventually enrolled. The information shall be made available to the Sponsor upon written request. However such requests may not be made until after the October survey period. The School shall maintain documentation of each enrollment lottery conducted. Such documentation shall provide sufficient detail to allow the Sponsor to verify that the random selection process utilized by the School was conducted in accordance with section 1002.33(10)(b), Florida Statutes. Records must be maintained in accordance with applicable record retention laws.

I. Exceptional students shall be provided with programs implemented in accordance with applicable Federal, state and local policies and procedures; and, specifically, the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, sections 1000.05 and 1001.42(4) (1) of the Florida Statutes, and Chapter 6A-6 of the Florida Administrative Code. This includes, but is not limited to:

1. A non-discriminatory policy regarding placement, assessment, identification, and selection.

2. Free appropriate public education (FAPE).
3. Individual Educational Plans (IEP's), to include an annual IEP meeting with the student's family.

Students with disabilities will be educated in the least restrictive environment, and will be segregated only if the nature and severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Those students, whose needs cannot be adequately addressed at the School, as determined by the IEP team, will be referred to an appropriate placement within the District. Parents of students with disabilities will be afforded procedural safeguards in their native language, consistent with the manner that those safeguards are provided in the District's traditional schools or using the District's materials. Unless the School is specifically for students with disabilities, the School shall not request through the School's application a student's IEP or other information regarding a student's special needs, nor shall the school access such information prior to the enrollment lottery.

Upon enrollment, or notice of acceptance sent to the student, the School may request from the District information related to the student's program and needs, including the student's most recent IEP, which shall be provided within 10 days. If the School believes, upon review of the IEP, that the student's needs cannot be met at the School an IEP meeting shall be convened within 30 days. The Sponsor shall be invited to and may attend the meeting, at which time the IEP team shall determine whether the School is an appropriate placement for the student. Prior to the IEP meeting, the Sponsor, if mutually agreed to, may serve as the LEA representative at the IEP meeting.

A representative of the Sponsor shall be invited to participate in all IEP meetings. The Sponsor retains the right to determine whether or not to send a representative to such meetings.

4. Due Process Hearing:

- i. A student, parent, or guardian who indicates at an IEP, EP, or 504 meeting that they wish to file for a due process hearing or State Complaint pursuant to State law and rules shall be given the appropriate forms by the School. These forms shall also be provided upon request at any other time.
- ii. Due process hearing requests shall be forwarded to the Sponsor's ESE Director and the District's General Counsel within one (1) school day of receipt.

iii. The Sponsor will select and assign an attorney in consultation with the School. The School may also hire an attorney at its cost to consult and cooperate with the Sponsor. Final decisions on legal strategies shall be made by the Sponsor's attorney in consultation with the School.

iv. In cooperation with the assigned attorney, the School is responsible for scheduling resolution and mediation meetings as required under State and Federal law.

v. The Sponsor shall ensure that:

(a) The due process hearing is conducted pursuant to applicable State laws and rules;

(b) A final decision is reached; and

(c) A copy of the decision is mailed to the parties.

vi. The School shall bear all the costs associated with the administrative due process hearing, legal representation, discovery, court reporter, and interpreter. In the event that the student, parents, or guardians prevail, either through a hearing or settlement, the School shall pay any and all attorneys' fees, reimbursements, compensatory education and any other costs incurred, agreed upon or awarded; however, the District shall assume and/or reimburse the costs of the defense attributable to, caused by or through the fault of the District, if any. Costs and fees incurred will be automatically reduced from the FTE funds passed through the Sponsor to the School, without any penalty of interest, although the School may request and the parties agree to a payment plan.

If the School receives a complaint filed or becomes aware of an investigation with the Office of Civil Rights or any other governmental entity and the complaint or investigation relates to the School and could involve the Sponsor, the School shall within one (1) school day notify the Sponsor and provide the Sponsor any documentation from the agency. The School shall fully cooperate with the Sponsor during the investigation and proceeding and provide the Sponsor any relevant information. The School shall bear all costs associated with the investigation. However, the Sponsor shall assume and/or reimburse the costs attributable to, caused by, or through the fault of the Sponsor, if any.

J. ESE administrative services covered by the administrative fee, pursuant to section 1002.33(20), Florida Statutes, includes professional development related to IEP development; access to any electronic IEP system or forms; initial evaluation for ESE placement; and other supports and services as agreed to by the School and the District.

K. English for Speakers of Other Languages: Students at the School who are English Language Learners will be served by English to Speakers of Other Languages (ESOL)

certified or ESOL endorsed personnel who will follow the District's Plan for English Language Learners (ELLs), or an alternate plan that has been approved by the Sponsor. The School shall be invited to attend the District's ESOL Procedures Training(s) at no cost to the School and shall comply with applicable rules and regulations.

L. Dismissal Policies and Procedures

The School shall implement the dismissal policies as described in the approved Application or subsequently submitted to and approved by the Sponsor. If the School materially revises the dismissal policies, it shall provide the Sponsor the revised policies within 30 days of adoption by the Governing Board. If the Sponsor determines that the revised dismissal policies violate applicable law it shall provide the School with written notice within 30 days. The School shall have the opportunity to resubmit.

Upon the School's decision to implement dismissal, the School shall refer the student to the District for appropriate placement with the District. Dismissal procedures shall be clearly defined in writing and included in any Parent Contract, shared with students and parents annually and provided to the District no later than two weeks prior to the opening of school each year. In each instance where dismissal is initiated, the parents will receive written notice of the dismissal including the reasons for dismissal and a summary of the actions taken to assist the student prior to dismissal. The District shall be provided a copy of the dismissal notice on the same day as the parent. The School shall work in conjunction with the parent(s) and the receiving school to assure that, to the greatest extent possible, such dismissals occur at logical transition points in the school year (e.g. grading periods or semester breaks) that minimize impact on the student grades and academic achievement.

The School may dismiss a student involuntarily for failure to maintain eligibility, such as District residency requirements, or for violation of the School's Student Conduct Code, which must also be compliant with IDEA, Section 504 of the Rehabilitation Act, and the American with Disabilities Act (ADA) for student with disabilities.

The School may not dismiss a student involuntarily for poor academic performance or for a minor infraction of the School's Code of Conduct. The school will ensure that no pressure, coercion, negotiation or other inappropriate inducement may be used to attempt to have parents/guardians withdraw students from the School.

M. Student Code of Conduct, Suspension and Expulsion

The School will maintain a safe learning environment at all times. The School shall adopt a Code of Student Conduct as described in the approved Application. The School will report each month to the District the number of violations in the forms of incidences that result in ISS and/or OSS; to be included in the District's discipline reporting, or as otherwise required by law. The School agrees that it will not engage in the corporal

punishment of students. Students recommended for expulsion or placement in an alternative school will be referred to the Sponsor for appropriate disposition. Students with disabilities shall be afforded a manifestation determination if required by the Individual with Disabilities Education Act.

N. School/Parent Contract

The School agrees to submit any proposed Parent Contracts, including amendments, to the Sponsor for review by March 1 annually. The Sponsor shall approve the proposed parent contract or reject it if it does not comply with applicable law, within 30 days of receipt. If the Sponsor rejects the proposed Parent Contract it shall provide its reasons for rejection in writing, detailing the legal insufficiency, and shall allow the School to resubmit a revised draft. If the School or Sponsor elects to resolve any dispute through the dispute resolution procedures, then the deadline for approving the parent contract will be extended through the conclusion of that dispute resolution process. The school may not accept monetary donations in lieu of volunteer hours.

Section 4: Financial Accountability

A. Revenue/State and Local

1. Basis for Funding: Student Reporting

i. School will report the daily attendance of each student to the District to meet District attendance reporting requirements, as required by law.

ii. The School agrees to report its student enrollment to the District as provided in section 1011.62, Florida Statutes, and in accordance with the definitions in section 1011.61, Florida Statutes, at the agreed upon intervals and using the method used by the District when recording and reporting cost data by program. The parties shall use the District's FOCUS Student Information System or subsequent system then in place. The Sponsor will work with any third party provider as needed for the School's system to be automatically updated with enrolled student's information. The School will receive the appropriate training from Sponsor at the Sponsor's expense. The District shall include the School's enrollment when recording and reporting cost data by program. The District shall include the School's enrollment in the District's report of student enrollment. The School shall use the Sponsor's electronic data processing software system and procedures for the processing of student enrollment, attendance, FTE collection, assessment information, IEP's, ELL plans, 504 plans, and any other required individual student plan. The Sponsor shall provide the School with equal access to the Sponsor's student information systems that are used by traditional public schools in

the District.

iii. If the School submits data relevant to FTE, Federal, or grant funding that is later determined through the audit procedure to be inaccurate, the School shall be responsible for any reimbursement to the State, the United States Department of Education or the District for any errors or omissions in data that the School submitted provided that the District has timely sent notice to the School of alleged errors discovered through such audit(s) so that the School, on its own, or through the sponsor, at the School's expense may participate in any proceedings to challenge or appeal such audit findings. The District shall deduct any such adjustments from the School's subsequent revenue disbursements evenly over the remaining months of the fiscal year or according to an agreed upon payment plan.

iv. In order to facilitate the School's reporting requirements as reflected in the law and in order to provide continuous data for students participating in the School, the parties agree that the School will use the Sponsor's electronic data processing facility and procedures for the processing of student enrollment, attendance, FTE collection, and assessment information. The Sponsor will analyze the School's facility and develop a hardware/software solution which provides the School with limited access to the Sponsor's data processing facility. The School will provide hardware and related infrastructure.

v. The District agrees to fund the School for the students enrolled as if they are in a basic program or a special program in a District school in a manner fully consistent with Florida law. The basis of the funding shall be the sum of the District's operating funds from the Florida Education Finance Program (FEFP) as provided in section 1011.62, Florida Statutes, and the General Appropriations Act, including gross state and local funds, discretionary lottery funds and funds from the District's current operating discretionary millage levy, divided by the total funded weighted full-time equivalent students (WFTE) in the District; multiplied by the weighted full-time equivalent students for the School.

vi. If the School's students or programs meet the eligibility criteria in law, the School shall be entitled to its proportionate share of categorical program funds included in the total funds available in the FEFP by the Legislature, including transportation, the research-based reading allocation and the Florida digital classrooms allocation.

vii. Total funding for the School shall be recalculated during the year to reflect the revised calculations under the Florida Education

Finance Program by the state and the actual weighted full-time equivalent students reported by the School during the full-time equivalent student survey periods designated by the Commissioner of Education.

2. Millage Levy, if applicable

The District may, at its discretion, provide additional funding to the School via any applicable capital outlay or operating millage levied by the Sponsor.

3. Fees to be Charged to the School By the District.

The Sponsor may charge the School an administrative fee in an amount not to exceed the maximum rate allowed under section 1002.33(20), Florida Statutes. Such fee shall be withheld ratably from the distributions of funds, defined in section 1002.33(17)(b), Florida Statutes, to be made to the School under this Charter. Such fee shall cover only those services provided by the Sponsor which are required to be covered under such statute. If the School requests services from the Sponsor beyond those provided for in statute, the Sponsor and the School will enter into a separate written agreement approved by both parties.

The District shall provide the distribution of funds reconciliation simultaneously with each revenue disbursement to the School including any administrative and other fees and charges withheld.

4. Distribution of Funds Schedule

- i. The Sponsor shall calculate and submit twelve (12) monthly payments to the account specified by the School. Each payment will be one-twelfth (1/12) of the funds described in Section 4.A.1., above, less the administrative fee set forth in Section 4.A.3, above. The first payment will be made by July 15. Subsequent payments will be made no later than the 15th of each month beginning with August 15. . The Sponsor may not delay payment to the School of any portion of the funds provided in Section 4.A.1 based on the timing of receipt of local tax revenue by the Sponsor, in accordance with HB 7029.
- ii. Monthly payments will be calculated as follows:
 - a. July through October payment shall be based on the School's final projected enrollment as determined under the provisions of Section 3.G. of this contract.

.b. Thereafter, the results of full-time equivalent student membership surveys shall be used in adjusting the amount of funds distributed monthly to the charter school for the remainder of the fiscal year.

c. Payments will be adjusted retroactively for prior period adjustments.

- iii. Payment shall not be made, without penalty of interest, for students in excess of the School facility's valid capacity as determined by the School's Certificate of Occupancy, Certificate of Use, or Fire Permit or in excess of the annual enrollment capacity for the school year (whichever is less). In the event that the required county and/or municipality facility permits do not indicate a facility capacity, the School must submit a letter from the architect of record certifying the capacity of the facility.
- v. The Sponsor may withhold monthly payments, without penalty of interest, if the School's Certificate of Occupancy, Certificate of Use, or Fire Permit has expired or has otherwise become invalid. The Sponsor shall release, in full, all funds withheld under this provision when the School has cured the deficiency.

Additionally, funding for the School shall be adjusted during the year as follows:

a. In the event of a state holdback or a proration, which reduces District funding, the School's funding will be reduced proportionately to the extent required by law.

b. In the event that the District exceeds the state cap for WFTF for Group 2 programs established by the Legislature resulting in unfunded WFTF for the District, then the School's funding shall be reduced to reflect its proportional share of any unfunded WFTF.

vi. The District shall make every effort to ensure that the School receives timely and efficient reimbursement of funds. Other than those payments provided for in this Contract, for which other requirements for timely payments have been made, the payment shall be issued no later than ten (10) working days after the District receives a distribution of state or federal funds. If a warrant for payment is not issued within ten (10) working days after the receipt of funding by the District, or the due date set forth in this Charter, the District shall pay to the School, in addition to the amount of the scheduled disbursement, interest at a rate of one percent (1%) per month calculated on a daily basis on the unpaid balance from the

expiration of the ten (10) day period until such time as the warrant is issued.

Payment shall be made to the account in a state approved depository specified and approved by the Governing Board at a public meeting. Nothing herein shall prevent the Governing Board from directing the deposit of payments with a trustee or other agent in connection with any financing or extension of credit.

Notwithstanding the foregoing, distribution of FTE funds may be withheld, upon written notice by the Sponsor, if any of the following required documents are more than thirty (30) day overdue:

- i. The school's monthly/quarterly financial statement as required by State Board of Education Rule 6A-1.0081, F.A.C.
- ii. The School's annual financial audit as required by section 218.39, F.S and this Contract.

The Sponsor shall release, in full, funds withheld under this provision within 10 days of receipt of the documents that resulted in the withholding of funds.

B. Federal Funding

Pursuant to section 1002.33(17), Florida Statutes, unless otherwise mutually agreed to by the School and Sponsor, and consistent with state and federal rules and regulations governing the use and disbursement of federal funds, including by way of example, but not limited to, IDEA, Title I, Title II, Federal Migrant funding the Sponsor shall reimburse the charter school on a monthly basis for all invoices submitted by the charter school for federal funds available to the Sponsor for the benefit of the charter school, the charter school's students, and the charter school's students as public students in the school district. If the School elects to receive funds in lieu of services, the following provisions apply:

1. The Sponsor shall provide to the School by August 15 of each year a projected annual allocation for all federal funds, as described above, that the School may draw as reimbursement for services provided. The projected annual allocation shall be based upon the School's final projected enrollment as provided for in 3.G. of this Contract.
2. The School shall provide to the Sponsor a plan that describes how the funds will be used in accordance with applicable federal requirements as required by law. The plan must include sufficient detail to allow review of the plan for

compliance with applicable federal regulations. The Sponsor shall have 30 days to review and approve the plan. If the Sponsor deems the plan unacceptable, the Sponsor shall provide the School with written notice detailing the deficiencies and provide an opportunity to cure.

3. The School shall submit invoices by the 15th of each month to receive reimbursement for allowable expenses incurred during the prior month. The School shall maintain documentation of all expenditures in accordance with applicable law and provide to the Sponsor upon request. Expenditures shall be included in required monthly/quarterly financial statements.

4. The Sponsor shall reimburse the school within 30 days of receipt of the invoice. If the Sponsor determines that the invoice is insufficient, it shall provide written notice to the School within ten (10) days of receipt.

5. The per pupil allocation of Title I funds will be determined annually in accordance with federal and state Title I regulations by the District for that purpose. The allocation of Title I Funds shall be made in accordance with the Public Charter Extension Act of 1998 and all corresponding guidance and regulations and applicable Florida law.

6. Any capital outlay item purchased with Title I must be identified and labeled for Title I property audits. The property must be returned to the District if the School is no longer eligible for Title I funding.

7. Should the School receive Title I funds it will employ highly qualified staff: teachers that are certified and teaching infield; Para-educators with two years of college, an AA degree, or that have passed an equivalent exam.

8. (a). Any Title I funds allocated to the School must be used to supplement students greatest instructional needs that have been identified by a comprehensive needs assessment of the entire School and shall be spent in accordance with federal regulations. The School's eligibility to receive Title I funds will be based on the percentage of students participating in the Free and/or Reduced Price Lunch Program as determined by an Economic Survey using a predetermined cut-off level established by the Sponsor which uses currently a 75% free and reduced lunch threshold percentage to qualify as a Title I school.

(b) The per pupil allocation of Title I funds will be determined annually in accordance with federal and state Title I regulations by the Sponsor for that purpose. The allocation of Title I funds shall be made in accordance with the Public Charter Extension Act of 1998 and all corresponding guidance and regulations.

(c) Any capital outlay item purchased with Title I funds remains the property of Title I. This property must be identified and labeled for Title I property audits. The property must be returned to the Sponsor if the School is no longer eligible for Title I funding.

9. If the School accepts Title I funds, the School will receive a separate parent involvement allocation that must be spent in support of parental involvement activities and the School will implement a parent involvement program subject to the provisions of Title I.

10. The District and regional Title I staff will provide technical assistance and support in order to ensure that Title I guidelines are being followed at the School and that students are meeting high content and performance standards.

11. Medicaid School Match Program Participation: Under the Medicaid Certified School Match Program, the School may be eligible to seek reimbursement for certain services provided to Medicaid-eligible students who qualify for services under the IDEA part B or C. In order to seek reimbursements, the School shall follow the procedures established by the Agency for Health Care Administration for Medicaid-reimbursable services to eligible students in the School.

C. Federal Grants

The School agrees to comply with the District's rules, policies and procedures for federal and state Grants Management for grants submitted through the District, which include, but are not limited to:

1. Working with the appropriate District staff to facilitate District's approval for all federal and state grant applications developed by the School for which the District will serve as fiscal agent.

2. Submitting a grant application executive summary and grant description for each such grant processed, and submitting an annual end-of-the-year Grant Final Report.

3. Ensuring that all grant indirect costs are appropriated, if allowed, to the district for applicable Federal Grants that are approved, monitored and/or disbursed by the Sponsor. For purposes of the Public Charter School Program Grant, authorized under Title V, Part B, of the Elementary and Secondary Education Act, no indirect costs may be appropriated to the Sponsor unless the School voluntarily agrees to such appropriation.

D. Charter School Capital Outlay Funds

1. Application

If the School meets the FDOE criteria for Charter School Capital Outlay Funds, the School must submit a Capital Outlay Plan pursuant to the process required by FDOE. If the FDOE requests that the Sponsor provide a recommendation of whether the School should receive Capital Outlay, the Sponsor shall recommend to FDOE that the School receive Capital Outlay unless an annual audit of the School contains a finding of financial emergency conditions provided in Section 218.503(1) for the most recent fiscal year for which such audit results are available.

2. Distribution

Should the School receive a Capital Outlay allocation, the District shall distribute such funds to the School within 10 days of receipt of such funds from the FDOE.

E. Restriction on Charging Tuition

The School shall not charge tuition or fees, except those fees allowable by statute that are normally charged by other public schools in the District. If the School intends to charge fees, it shall submit its proposed fee schedule to the District for review no later than March 1 prior to the School Year in which the fees are intended to be charged, or within 30 days of contract execution for the initial school year. If the District believes that the proposed fee schedule does not meet the requirements of this subsection or applicable law, it will submit comments to the School and request additional information no later than thirty (30) days following receipt of the proposed fee schedule. If the parties are unable to resolve such issues, the matter will be submitted for alternative dispute resolution as set forth herein and Florida law. Fees shall not be a barrier to enrollment.

F. Budget

1. Annual Budget

The School shall annually prepare an operating budget for the School. The budget shall be formally adopted by the Governing Board at a scheduled public meeting. The adoption of the budget shall be documented in the minutes of the meeting. The School shall provide to the Sponsor a copy of the approved budget and a copy of the minutes of the Governing Board meeting documenting adoption of the budget, no later than August 30, for the fiscal year.

2. Amended Budget

Any amendments to the adopted budget shall be approved by the Governing Board at a scheduled meeting thereof and a copy provided to the District within 10 business days of the meeting at which the budget was amended.

G. Financial Records, Reports and Monitoring

1. Maintenance of Financial Records

The School shall use the standard state format contained in the Financial and Program Cost Accounting and Reporting for Florida Schools (The Red Book) for all financial transactions and maintenance of financial records.

2. Financial and Program Cost Accounting and Reporting for Florida Schools

The School agrees to do an annual cost accounting in a form and manner consistent with generally accepted governmental accounting standards in Florida. The financial statements are to be prepared in accordance with the provisions of section 1002.33(9), Florida Statutes.

3. Financial Reports

i. Monthly Financial Reports

The School will submit a monthly financial statement pursuant to section 1002.33(9), Florida Statutes, and Rule 6A-1.0081, Florida Administrative Code, to the Sponsor no later than the last day of the month following the month being reported or in the case of a High-Performing charter school, financial reports shall be submitted quarterly as provided by Florida law. The monthly/quarterly report will be in the format prescribed by the FDOE.

The parties agree that the Sponsor may reasonably request, in accordance with section 1002.33(5)(b)1.j., Florida Statutes, documents on the School's financial operations beyond the monthly financial statement and the School shall provide in a reasonable timeframe. In accordance with this provision, the School agrees to complete the District's Charter School Monthly Financial Reporting Form no later than the last work day of the month following the month being reported.

ii. Annual Property Inventory

The School will submit annually to the Sponsor a property inventory of all capital assets or additions to capital assets purchased with public funds (including grant funds). This includes land or existing buildings, improvements to grounds, construction of buildings, additions to building, remodeling of buildings, initial equipment, new and replacement equipment, and software. This shall include furniture, fixtures, and equipment. The property inventory shall include the date of purchase, description of the item purchased, the cost of the item, and the item location. The property inventory shall be submitted to the sponsor annually at the same time School's Annual Audit is submitted.

iii. Program Cost Report

The School agrees to deliver to the Sponsor its annual cost report in a form and manner consistent with generally accepted governmental accounting standard in Florida, no later than the last business day in August.

iv. Annual Financial Audit

The School will annually obtain a financial audit, from a licensed Certified Public Accountant or Auditor, selected pursuant to section 218.391, Florida Statutes. The audit will be performed in accordance with Generally Accepted Auditing Standards; Governing Standards and the Rules of the Auditor General for the State of Florida. The School will provide a copy of its annual financial audit (including any School responses to audit findings) to the Sponsor no later than August 31. The School agrees to provide financial data, in the format required by the Florida Department of Education, for inclusion in the District's Annual Financial Report (AFR) no later than August 31.

The Sponsor reserves the right to perform additional audits and investigations at its expense as part of the Sponsor's financial monitoring responsibilities as it deems necessary to ensure fiscal accountability and sound financial management.

v. Form 990, if applicable

A Charter School shall organize as, or be operated by, a nonprofit organization. If the School has obtained federal tax exempt status as a 501(c) (3) organization, the School shall provide the Sponsor copies of any correspondence from the Internal Revenue Service (IRS) confirming the School's 501(c)(3) status and will provide to the Sponsor a copy of its

annual Form 990 within 15 business days after filing it with the IRS. Notwithstanding anything set forth in this Contract, the Sponsor does not covenant to extend or pledge its own tax-exempt status in any way for the use and benefit of the School.

vi. The School shall provide all required financial documents noted herein in a timely manner consistent with the terms of this Charter.

4. The School's Fiscal year shall be July 1 – June 30.

5. If the School's annual financial audit reveals a deficit financial position, the auditors are required to notify the School's Governing Board, the Sponsor and the FDOE in writing. The auditor shall report such findings in the form of an exit interview to the principal or the principal administrator of the School and the chair of the Governing Board within seven (7) business days after finding the deficit position.

6. A final annual financial audit report shall be provided to the entire Governing Board, the Sponsor and the FDOE within fourteen (14) business days after the exit interview.

7. If the School experiences one of the financial conditions included in section 1002.345, Florida Statutes, it shall address such findings as required by law.

8. In the event of a financial emergency, a Financial Recovery Plan and Corrective Action Plan is required by statute and by State Board of Education rule. In this regard, if the School's internal audit reveals a deficit financial position, the auditors are required to notify the School's governing board, the Sponsor, and the Department of Education. The Internal auditor shall report such findings in the form of an exit interview to the principal or the principal administrator of the Charter School and the chair of the governing board within seven (7) working days after finding the deficit position. A final report shall be provided to the entire governing board, the Sponsor and the Department of Education within fourteen (14) days after the exit interview.

H. Financial Management of School

1. The Governing Board shall be responsible for the operation and fiscal management of the School. The fiscal management of the School shall be conducted in a manner consistent with the provisions of the Application.

2. The School shall adhere to any additional applicable financial requirements mandated by the State and/or Federal laws and regulations.
3. Notwithstanding anything else herein to the contrary, the Sponsor shall not
 - i. Guarantee payment for any purchases made by the School;
 - ii. Guarantee payment for any debts incurred by the School;
 - iii. Guarantee payment for any loans taken out by the School.
 - iv. Lend its good faith and credit in order for the School to obtain a loan or other forms of credit.

The School shall not suggest or represent to third parties, including, but not limited to, lenders, vendors, creditors, other business entities or their representatives, governmental entities, or other individuals anything to the contrary of the immediately preceding sentences.

4. The School agrees to provide to the District, upon request, proof of sufficient funds or a letter of credit to assure prompt payment of operating expenses associated with the School, including but not limited to, the amount of any lease payments, teacher and other staff salaries and benefits, transportation cost, etc. The parties stipulate that provision of a financially feasible, adopted budget, shall be sufficient for meeting this requirement.

I. Description of Internal Operating Procedures

The School shall develop and implement sufficient internal operating procedures as described in the approved Application to ensure sound financial management.

Section 5: Facilities

- A. The School shall be located at 3073 S. Horseshoe Dr., Naples, FL 34104.

Any proposed change in location must be requested in writing to the Sponsor, and any new location must meet the same standards contained herein and applicable law. If the proposed location will not result in a substantial change to the student population or burden to the currently enrolled students and their families and does not alter the school's mission, approval shall not be unreasonably withheld. The School shall not change locations without prior written approval from the Sponsor, Superintendent or Superintendent's designee.

Notwithstanding the aforementioned, in unforeseen circumstances or emergencies, if the facility is damaged or unable to safely house students/staff, the School must notify the Sponsor, immediately, and secure an alternative location to ensure no interruption in instruction. The alternative location shall be subject to all facility requirements indicated in this section and applicable law. If the circumstances result in limited interruption of instruction the School shall ensure that the required number of instructional hours is provided.

- B. 1) The School shall use facilities that comply with the requirements in section 1002.33(18), Florida Statutes. The School shall provide the District with a list of the facilities to be used and their location. The School shall update the list provided in the Application if the location or facilities of the School changes. The School agrees to periodic health and safety inspections conducted by District safety staff.

2) After the first year of operation, all inspections (Health, Fire and Certificates of Occupancy) shall be delivered to the Sponsor's Office of Charter School Programs by July 15, annually.
- C. The School may adopt the Sponsor's "Emergency Management Plan," ("EMP"). Notwithstanding the above acceptance of the EMP, the School and the Sponsor may agree to any reasonable exemptions from the EMP. Any failure to agree on any such exemptions shall not be considered a dispute.
- D. In the event a charter school is dissolved or is otherwise terminated, all district school board property and improvements, furnishings, and equipment purchased with public funds shall automatically revert to full ownership by the district school board, subject to complete satisfaction of any lawful liens or encumbrances. Any unencumbered public funds from the charter school, district school board property and improvements, furnishings, and equipment purchased with public funds, or financial or other records pertaining to the charter school, in the possession of any person, entity, or holding company, other than the charter school, shall be held in trust upon the district school board's request, until any appeal status is resolved.
- E. If the School is a Conversion School pursuant to section 1002.33, Florida Statutes, the Sponsor shall maintain the facilities as required by section 1002.33(18), Florida Statutes.
- F. The School shall not display any religious or partisan political symbols, statues or artifacts, on the property and facilities where the School will operate.

Section 6: Transportation

- A. The School may elect to provide transportation to the School's students consistent with the requirements of Part I.E. of Chapter 1006, Florida Statutes, section 1012.45 and section 1002.33(20)(c), Florida Statutes. The School may provide transportation through

an agreement or contract with the Sponsor, a private provider, and/or parents.

- B. Reasonable Distance [for purposes of this contract]: The School and Sponsor shall cooperate in making arrangements that ensure that transportation is not a barrier to equal access for all students residing within a 2-4 mile walkout radius of the School and those students subject to a hazardous walking condition.
- C. The parties may agree for the District to provide transportation to and from the School. If such agreement is reached it shall be the subject of a separate contract. If agreement is reached with the Sponsor the School may utilize, at the School's expense, the District's transportation services for extracurricular events, field trips, and other activities on the same basis and terms as other District schools.
- D. The School shall comply with all applicable transportation safety requirements. Should the School choose to implement its own transportation plan rather than contract with the District for transportation services, it shall submit a transportation plan to the District for review and approval. The School shall provide the District the name of the private transportation provider and a copy of the signed contract no later than 10 business days prior to the use of the service.
- E. If the School submits data relevant to FTE funding for transportation that is later determined through the audit procedure to be inaccurate, the School shall be responsible for any reimbursement to the Sponsor and/or State arising as a result of any errors or omissions, misrepresentations or inaccurate projections for which the School is responsible. Any transportation FTE adjustment, which is attributable to error or substantial non-compliance by the School, the Sponsor shall deduct such assessed amount from the next available payment otherwise due to the School, without penalty of interest. Any deficit incurred by the School shall be the sole fiscal responsibility of the School and the Sponsor shall have no liability for the same.

Section 7: Food Services

The School shall provide food services to its students consistent with applicable Florida Statutes. If the School elects to participate in the National School Lunch Program it shall follow all applicable federal rules and regulations.

Section 8: Insurance & Indemnification

- A. The School agrees to provide the following proof of insurance:
 - 1. Errors and Omissions coverage to include prior acts, sexual harassment, civil rights and employment discrimination, breach of contract (where permissible under the given insurance contract), insured versus insured, consultants and independent contractors and with minimum policy limits of \$2,000,000.00. The

insurance shall be subject to a maximum deductible not to exceed \$25,000 per claim. If the insurance is on a claims-made basis, the School shall maintain, without interruption, the Professional Liability Insurance until three (3) years after termination of this Contract;

2. General liability coverage written on an occurrence form with minimum policy limits of \$1,000,000.00 per occurrence and an aggregate limit of \$2,000,000.00;

3. Minimum Limits: The minimum limits to be maintained by the School (inclusive of any amounts provided by an umbrella or excess policy) shall be \$1 million per occurrence/\$2 million annual aggregate, combined single limit covering bodily injury.

4. Deductible/Retention: Except with respect to coverage for Property Damage Liability, the Commercial General Liability coverage shall apply on a first dollar basis without application of any deductible or self-insured retention. The coverage for Property damage Liability may be subject to a maximum deductible of \$10,000 per occurrence.

5. (a) Business automobile coverage with the same limits as general liability.

(b) Liabilities covered: The School's insurance shall cover the School for those sources of liability which would be covered by Section II of the latest occurrence edition of the standard Business Auto Policy (ISO Form CA 00 01), as filed for use in the State of Florida by the Insurance Services Office. Coverage shall be included on all owned, non-owned, and hired autos used in connection with this Contract.

(c) Minimum limits: The minimum limits to be maintained by the School (inclusive of any amounts provided by an umbrella or excess policy) shall be \$1 million per occurrence. Combined single limit and comprehension and collision with a deductible of not more than \$1000.

B. Property insurance shall be secured for buildings and contents. Property Insurance coverage for the "Building" includes the structure, including permanently installed fixtures, machinery and equipment, outdoor fixtures, and personal property to service the premises. If the Building is under construction, the School shall provide evidence of property insurance for the additions under construction and alterations, repairs, including materials, equipment, supplies, and temporary structures within 100 feet of the premises.

If the School leases the site location, then the School shall provide on a form acceptable to the Sponsor evidence of business personal property insurance, to include furniture, fixtures, equipment and machinery used in the School.

- C. The School further agrees to secure and maintain property insurance for the School's personal property, and to insure all of the District's owned property, if any, to be used by the School to its full fair market value with the Sponsor named as loss payee. The insurance must be sufficient to provide for replacement of property.
- D. (1) The School agrees to provide adequate Workers' Compensation insurance coverage as required by Chapter 440, Florida Statutes.
- (2) Coverages: The School's insurance shall cover the School (and to the extent its subcontractors and its sub-contractors are not otherwise insured), for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Federal Employers' Liability Act and any other applicable federal or state law.
- (3) Minimum Limits: Subject to the restrictions found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy. The minimum amount of coverage for those coverage's customarily insured under Part Two of the standard Workers' Compensation Policy shall be: FL Each Accident: \$500,000; EL Disease-Policy Limit: \$500,000; EL Disease-Each Employee: \$500,000.
- E. Fidelity Bond/Crime Coverage: The school shall purchase Employees Dishonesty/Crime Insurance for all Governing Board members and employees, including Faithful Performance of duty coverage for the School's administrators/principal and Governing Board with an insurance carrier authorized to do business in the State of Florida and coverage shall be in the amount of no less than one million (\$1,000,000) dollars per loss /two million (\$2,000,000) dollars annual aggregate. In lieu of Employee Dishonesty/Crime Insurance, Sponsor is willing to accept Fidelity Bond coverage of equal coverage amount.
- F. No later than 30 days prior to the opening of school, the School shall furnish the District with fully completed certificates of all insurance policies, signed by an authorized representative of the insurer(s) confirming the coverage begins by July 1. The certificates shall be issued to the Sponsor and name the Sponsor as an additional insured. Until such time as the insurance is no longer required to be maintained by the School, the School shall provide the School Board evidence of the renewal or replacement of the insurance no less than thirty (30) days before expiration or termination of the required insurance for which evidence was provided. Should any of the above described policies (A-E) be cancelled before the expiration date, written notice to the Sponsor shall be delivered in accordance with the policy provisions or within 10 days of cancellation, whichever is

sooner.

- G. Failure to secure and continuously maintain all insurance listed in items A-E without cure after written notice above may constitute grounds for termination of this charter.
- H. The School agrees to indemnify and hold harmless the Sponsor, its members, officers, employees and agents, harmless from any and all claims, actions, costs, expenses, damages, and liabilities, including reasonable attorney's fees, arising out of, connected with or resulting from: (a) the negligence, intentional wrongful act, misconduct or culpability of the School's members, officers, or employees or other agents in connection with and arising out of any services within the scope of this Charter; (b) the School's material breach of this Charter or law; (c) any failure by the School to pay its suppliers or any subcontractors. In addition, the School shall indemnify, protect and hold the District harmless against all claims and actions brought against the District by reason of any actual or alleged infringement of patent or other proprietary rights in any material, process, machine or appliance used by the School, except when Sponsor supplied, or required School to use that material, process, machine, or appliance, and any claims or actions related to violation of any state or Federal statutes or regulations including those referenced in this Charter. The School shall not indemnify Sponsor for intentional or negligent conduct of Sponsor or any other cause of action caused by or through the fault of the Sponsor.
- I. Applicable to All Coverages the School Procures
 - 1. Other Coverages: The insurance provided by the School shall apply on a primary basis and any other insurance or self-insurance maintained by the Sponsor or its members, officers, employees, or agents, shall be in excess of the insurance provided by or on behalf of the School.
 - 2. Deductibles/Retention: Except as otherwise specified, the insurance maintained by the School shall apply on a first-dollar basis without application of deductible or self-insurance retention.
 - 3. Liability and Remedies: Compliance with the insurance requirements of this Contract shall not limit the liability of the School, its subcontractors, its sub-subcontractors, its employees or its agents to the Sponsor or others. Any remedy provided to the Sponsor or its members, officers, employees, or agents by the insurance shall be in addition to and not in lieu of any other remedy available under the Contract or otherwise.
 - 4. Subcontractors: The School shall require its subcontractors and its sub-subcontractors to maintain any and all insurance required by law.
 - 5. Waiver of Subrogation: All policies will be endorsed for waiver of subrogation in favor of the Sponsor.
 - 6. Defense outside the limits: Whenever possible, coverage for School Leader's Errors and Omission and Sexual Abuse Liability policies should be written with "Defense

Costs outside the limits". This term ensures that limits are available to pay claims rather than having attorney's fees erode the available claim dollars.

- J. The District agrees to indemnify and hold harmless the School, its members, officers, employees and agents, harmless from any and all claims, actions, costs, expenses, damages, and liabilities, including reasonable attorney's fees, arising out of, connected with or resulting from: (a) the negligence, intentional wrongful act, misconduct or culpability of the District's members, officers, employees or other agents in connection with and arising out of any services within the scope of this Charter; or (b) the District's material breach of this Charter or law. In addition, the Sponsor shall indemnify, protect and hold the School harmless against all claims and actions brought against the School by reason of any actual or alleged infringement of patent or other proprietary rights in any material, process, machine or appliance used by the District or required by the District to be used by the School, and any claims or actions related to violation of any state or Federal statutes or regulations including those referenced in this Charter.
- K. Notwithstanding anything to the contrary contained herein, through such indemnification set forth in Sections 8(H) or 8(I) above, the District and School do not waive sovereign immunity to the extent sovereign immunity is available. In the event of any claims described in Section 8(H) or 8(J) above, the School and Sponsor shall notify one another of any such claim promptly upon receipt of same. The School and Sponsor shall each have the option to defend such claims with their own counsel at the expense of the other party. If the Sponsor or School choose to not hire their own counsel to defend, the other party shall assume the defense of any such claim and have authority in the defense thereof. The parties' obligation to indemnify one another shall survive the termination of this Charter.
- L. Notification of Third-Party Claim, Demand, or Other Action: The School and Sponsor shall notify each other of the existence of any third-party claim, demand or other action giving rise to a claim for indemnification under this provision (a "third-party claim") and shall give each other a reasonable opportunity to defend the same at its own expense and with its own counsel, provided that the Sponsor shall at all times have the right to participate in such defense at its own expense. If, within a reasonable amount of time after receipt of notice of a third-party claim, the School or Sponsor fails to undertake to defend, the other party shall have the right, but not the obligation, to defend and to compromise or settle (exercising reasonable business judgment) the third-party claim for the account. The School or the Sponsor shall make available to each other, at their expense, such information and assistance as each shall request in connection with the defense of a third-party claim.
- M. Notice of Claims
 - 1. Time to Submit

The School shall provide the Sponsor with proof of insurance pursuant to Section 8(F) of this Contract.

2. Notice of Cancellation

The evidence of insurance shall provide that the District be given no less than sixty (60) days written notice prior to cancellation.

3. Renewal/Replacement

Until such time as the insurance is no longer required to be maintained by the School, the School shall provide the District with evidence of the renewal or replacement of the insurance no less than thirty (30) days before the expiration or termination of the required insurance for which evidence was provided.

Section 9: Governance

- A. Governance of the School will be in accordance with the Bylaws or other organizational documents of the School and as described in the Application. The general direction and management of the affairs of the School shall be vested in the Governing Board with a minimum of 3 members. A majority of the voting members of the Governing Board shall constitute a quorum. A majority of those members of the Governing Board present shall be necessary to act. The Governing Board's primary role will be to set policy, provide financial oversight, annually adopt and maintain an operating budget, exercise continuing oversight over the School's operations, and communicate the vision of the School to community members. It shall be the duty of the Governing Board to keep a complete record of all its actions and corporate affairs and supervise all officers and agents of the School and to see that their duties are properly performed.

The governing board must appoint a representative to facilitate parental involvement, provide access to information, assist parents and others with questions and concerns, and resolve disputes. The representative must reside in the school district in which the charter school is located and may be a governing board member, charter school employee, or individual contracted to represent the governing board. If the governing board oversees multiple charter schools in the same school district, the governing board must appoint a separate individual representative for each charter school in the district. The representative's contact information must be provided annually, in writing, to parents and posted prominently on the charter school's website.

The governing board will ensure that the School has retained the services of a certified public accountant or auditor for the annual financial audit, pursuant to FS §1002.33(9)(j)(1), who shall submit the report to the governing board. It will also be responsible for reviewing and approving the audit report, including audit findings and recommendations.

All meetings and communications involving members of the Governing Board shall be held in compliance with Florida's Sunshine Law.

The Board shall have at least two public meetings per school year within the District. The meetings must be noticed, open, and accessible to the public, and attendees must be provided an opportunity to receive information and provide input regarding the charter school's operations. The appointed representative and charter school principal or director, or his or her equivalent, must be physically present at each meeting.

All members of the Governing Board will be required to attend Governance training and refresher courses as required by section 1002.33, Florida Statute, and Rule 6A-6.0784, Florida Administrative Code.

The Governing Board will serve as the sole responsible fiscal agent for setting the policies guiding finance and operation. School policies are decided by the Governing Board, and the Principal ensures that those policies are implemented.

The School will be a private employer and will not participate in the Florida Retirement System.

- B. The School shall be organized as a Florida nonprofit organization.
- C. The Bylaws or other organizational documents of the School shall establish the procedures by which members of the Governing Board are appointed and removed and the election of officers. The Governing Board will develop and implement policies regarding educational philosophy, program, and financial procedures. The Governing Board will oversee assessment and accountability procedures to assure that the School's student performance standards are met or exceeded.
 - 1. The Governing Board shall exercise continuing oversight over charter school operations and will be held accountable to its students, parents/guardians, and the community at large, through a continuous cycle of planning, evaluation, and reporting as set forth in section 1002.33, Florida Statutes.
 - 2. The Governing Board will be responsible for the over-all policy decision making of the School, including the annual approval of the budget.
 - 3. Upon nomination and prior to appointment to the Governing Board, a member shall be fingerprinted pursuant to section 1002.33(12)(g), Florida Statutes. The cost of the fingerprinting is the responsibility of the School or governing board member. Prospective governing board members whose fingerprint check results warrant disqualification under the Statute shall not be appointed to the board.

4. The Governing Board shall ensure that the school has retained the services of a certified public accountant or auditor for the annual financial audit, pursuant to section 1002.345(2), Florida Statutes, who shall submit the report to the Governing Board.

5. The Governing Board shall review and approve the audit report, including any audit findings and recommendations for the financial recovery plan.

6. The Governing Board shall perform the duties set forth in section 1002.345, Florida Statutes, including monitoring any financial corrective action plan or financial recovery plan.

7. No member of the Governing Board or their immediate family will receive compensation, directly or indirectly from the School or the School's operations. No School or management company employee, or his/her spouse, shall be a member of the Governing Board. Violation of this provision or any violation of sections 112.313(2), (3), (7) and (12) and section 112.3143, Florida Statutes, by a member of the Board, shall constitute a material breach of this Charter.

8. Any change in governing board membership must be reported to Sponsor in writing within 5 business days of the change.

- D. The School shall allow reasonable access to its facilities and records to duly authorized representatives of the District. Conversely, the District shall allow reasonable access to its records to duly authorized representatives of the School to the extent allowable by law.

To the extent the School is provided access to Sponsor's data systems, all School employees and students will be bound by Sponsor's computer policies and standards regarding data privacy and system security.

- E. If an organization (management organization), including but not limited to: 1) a management company, 2) an educational service provider, or 3) a parent organization, will be managing or providing significant services to the School, the contract for services between the management organization and the Governing Board shall be provided to the Sponsor and attached as an appendix to this Charter. Any contract between the management organization and the School must ensure that:

1. Members of the Governing Board or their spouses will not be employees of the management organization, nor should they be compensated for their service on the Board or selected to serve on the Board by the management organization.

2. The School shall provide the services of a full-time administrator/principal during all hours students are on the School site, at minimum; exclusive of call-

away situations which would warrant the delegation of authority to a person to act as lead administrative principal.

3. The Governing Board retains the right to hire an independent attorney, accountant, and audit firm representing and working for, or on behalf of, the School. Notwithstanding, the Governing Board and the management organization may contract for such services as determined by the management agreement and as otherwise allowed by law. The Governing Board shall use an audit firm that is independent from the management organization for the purposes of completing the annual financial audit required under section 218.39, Florida Statutes.

4. The contract will clearly define each party's rights and responsibilities including specific services provided by the management organization and the fees for those services and specifies reasonable and feasible terms under which either party may terminate the contract.

5. All equipment and furnishings that are purchased with public funds will be the property of the School, not the management organization and any fund balance remaining at the end of each fiscal year will belong to the School, not the management organization.

6. All loans from the management organization to the School, such as facility loans or loans for cash flow, will be appropriately documented and will be repaid at a rate no higher than market rates at the time of the loan.

7. A copy of any material changes to the contract between the management organization and the Governing Board shall be submitted to the District within five (5) days of execution. The Sponsor shall have 30 days to review the material changes. If the changes violate the terms of this Contract or applicable law the Sponsor shall provide written notice to the School which shall include a description of the violations. The School may address the concerns or initiate the dispute resolution process included in this Charter.

8. The management organization will perform its duties in compliance with this Charter.

F. Any default or breach of the terms of this Charter by the management company shall constitute a default or breach under the terms of this Charter by the School unless the School cures such breach after written notice.

Section 10: Human Resources

A. The School shall select its own personnel.

- B. The School's employment practices shall be nonsectarian.
- C. The teachers employed by or under contract to the School shall be certified as required by Chapter 1012.
- D. Employees of the School may participate in professional development activities offered by the District. Any costs associated with professional development for which there is an additional fee, and for which no Federal funding has been provided for such purposes to the Sponsor, will be the responsibility of the School or individual School employee.
- E. (1) The teachers employed by, or under contract with the School shall be certified as highly qualified as required by FS Chapter 1012, and applicable federal statutes, and FLDOE certification procedures. The School shall determine whether or not an applicant is eligible for certification based on documentation submitted by the applicant, including whether or not an applicant qualifies as a non-certified expert-in-the-field. Teachers assigned out-of-field must complete the required credit hours toward certification each year. The School may employ or contract with skilled, selected non-certified personnel to assist instructional staff members as teacher aides in the manner as defined in FS Chapter 1012, and as provided by State Board of Education rule for charter school governing boards.
- (2) All para-educators hired must show that they have a minimum of two years of college, an AA degree, or having passed an equivalent exam.
- (3) The School agrees not to knowingly employ an individual who has resigned in lieu of disciplinary action with respect to child welfare or safety or who has been dismissed for just cause by any school district with respect to child welfare or safety.
- (4) The School shall not employ an individual to provide instructional services or to serve as a teacher's aide if the individual's certification or licensure as an educator is suspended or revoked by this or any other state.
- (5) Students enrolled at the School who have limited proficiency in English shall be served by qualified ELL personnel, in accordance with the policies and procedures of the State of Florida and will follow the Sponsor's District Plan for Limited English Proficient Students. The School will meet the requirements of the Consent Decree entered in Lulac, et al v. State Board of Education.
- (6) Sponsor and School agree that should any changes or modifications to these provisions arise as consequence of the implementation of the Federal Every Student Succeeds Act ("ESSA") or the passage of new State law, they will follow such law and notify one another, in good faith, accordingly.

- F. The School shall immediately provide, to the Sponsor, full disclosure of the identity of all relatives employed by the School who are related to the School owner, president, chairperson of the governing board of directors, superintendent, governing board member, principal, assistant principal, or any other person employed by the School who has equivalent decision-making authority per Fla. Stat. § 1002.33(7) (a) (18).

If the relative is employed after execution of this Contract, the School shall disclose to the District, within 10 business days, the employment of any person who is a relative as defined in section 1002.33(7)(a)18, Florida Statutes.

The School shall comply with the restriction on employment of relatives provisions included in section 1002.33(24), Florida Statutes.

- G. The School may not knowingly employ an individual who has resigned from a school or school district in lieu of disciplinary action with respect to child welfare or safety or who has been dismissed for just cause by any school or school district with respect to child welfare or safety or who is under current suspension from any school or school district.
- H. The School shall disclose to the parents the qualifications of its teachers in the manner required by law. The School shall provide to the District, prior to the opening of school, the qualifications and assignments of all staff members using the Sponsor's designated database. Teaching assignments must match the State's course code directory numbers. Changes will be provided to the District within 3 work days of hiring, (which shall be understood to include clearance by the Sponsor), granting leaves of absence, and/or terminating teachers. Upon receipt of this information, the District shall make every reasonable effort within seven (7) to ten (10) business days to provide the Collier County Public School user name and identification number.
- I. The School shall implement policies and procedures for background screening of all prospective employees, volunteers and mentors.
- J. The School shall require all employees and the members of the Governing Board to complete the same background check as those of the Sponsor including compliance with the Jessica Lunsford Act as well as being fingerprinted by an authorized law enforcement agency or Sponsor personnel who are trained to take fingerprints, pursuant to section 1002.33(12), Florida Statutes. The cost of fingerprinting shall be borne by the School or the individual being fingerprinted. The results of all such background investigations and fingerprinting will be reported in writing to the Superintendent of Schools or his/her designee. No School employee or member of the Governing Board may be on campus with students until his/her fingerprints are processed and cleared. The School shall ensure that it complies with all fingerprinting and background check requirements, including those relating to vendors, pursuant to, sections 1012.32, 1012.465, 1012.467, and 1012.468, Florida Statutes, and shall follow Sponsor's policy with regard to the fingerprinting and background check requirements of volunteers. The School shall notify

the District's Human Resource Department when a staff member is no longer employed at the School. Where allowed by law, the Sponsor and the School will allow members of the Governing Board to use fingerprints gathered at other locations for any purpose within this paragraph.

The School shall require all employees and Board members to self-report within 48 hours to appropriate authorities any arrest and final disposition of such arrest other than minor traffic violations. The School shall then take appropriate action relating to the employment of that individual.

- K. The School agrees to disclose to parents and the Sponsor the qualifications of its teachers and paraprofessionals. The School shall submit to the Sponsor a list of all teachers and paraprofessionals employed at the School at the beginning of each school year. The list must include the certification information requested by the Sponsor. The School shall report to the Sponsor any and all staff changes made during the school year as they occur. At the Sponsor's request, the School shall provide documentation as to the qualifications of persons designated as experts who assume instructional responsibilities.
- L. The School shall not violate the anti-discrimination provisions of section 1000.05, Florida Statutes, and the Florida Education Equity Act.

Section 11: Required Reports/Documents

A. [School] Monthly

- 1. Financial Reports, per State Board of Education Rule (quarterly if School is designated High-Performing pursuant to section 1002.331, Florida Statute.)
- 2. Governing Board meeting agenda and minutes

B. Annual

- 1. Annual Student Achievement Report
- 2. Annual Financial Audit
- 3. Program Cost Report
- 4. Annual Inventory Report [capital purchases with public funds]
- 5. Policies and Procedures of the school [if materially revised]
- 6. School based Student Code of Conduct [if materially revised]

7. Dismissal Policies and Procedures [if materially revised]
8. Crisis Response Plan [if materially revised]
9. Employee Handbook [if materially revised]
10. Current List of members of the Governing Board and Principal
11. School's Parental Contract [if materially revised]
12. Projected Enrollment [for subsequent school year]
13. Capacity [for subsequent school year]
14. School Calendar [for subsequent school year] if different than the District
15. Evidence of Insurance
16. Management Organization Agreement [if materially revised]
17. Student Progression Plan [if materially revised]

- C. The Sponsor may request additional reports if the request is provided in writing and provides reasonable and specific justification.
- D. In connection with its oversight responsibilities, the District may provide information, upon request, to third parties, including creditors and other parties doing business with the School, regarding (i) the School's compliance with its reporting obligations and other obligations hereunder or under applicable law, (ii) the status of the School's charter, and (iii) any disciplinary action that has been taken, including the existence of any Corrective Action Plan and the School's compliance with the requirements thereof.

Section 12: Miscellaneous Provisions

- A. Impossibility

Neither party shall be in default of this Charter, if the performance of any or all of this Charter is prevented, delayed, hindered or otherwise made impracticable or impossible by reason of any strike, flood, hurricane, riot, fire, explosion, war, act of God, sabotage or any other casualty or cause beyond either party's control, and which cannot be overcome by reasonable diligence and without unusual expense.

- B. Drug and Alcohol Free Workplace: The School shall be a workplace free of drugs and alcohol.

C. Entire Agreement

This Charter shall constitute the full, entire, and complete agreement between the parties hereto. All prior representations, understandings and agreements whether written or oral are superseded and replaced by this Charter. This Charter may be altered, changed, added to, deleted from or modified only through the voluntary, mutual written consent of the parties. Any amendment to this Charter shall require approval of the School Board and the Governing Board.

D. No Assignment without Consent

This Charter shall not be assigned by either party without mutual written consent.

E. No Waiver

No waiver of any provision of this Charter shall be deemed or shall constitute a waiver of any other provision unless expressly stated. The failure of either party to insist in any one or more instances upon the strict performance of any one or more of the provisions of this Charter shall not be construed as a waiver or relinquishment of said term or provision, and the same shall continue in full force and effect. No waiver or relinquishment to any provision of this Charter shall be deemed to have been made by either party unless in writing and signed by the parties.

F. Default Including Opportunity to Cure

In the event that the School should default under any provision hereto, absent any circumstance permitting immediate termination, the School shall have thirty (30) days from written notice of default to cure, unless otherwise agreed to by the parties in writing.

G. Survival Including Post Termination of Charter: All representations and warranties made herein shall survive termination of this Charter.
Severability

H. If any provision or any part of this Charter is determined to be unlawful, void, or invalid, that determination shall not affect any other provision or any part of any other provision of this Charter and all such provisions shall remain in full force and effect.

I. Third Party Beneficiary: This Charter is not intended to create any rights in a third party beneficiary.

J. Choice of Laws, Jurisdiction and Venue of Disputes and Waiver of Jury Trial

This Charter is made and entered into in the County and shall be interpreted according to the laws of the State. The exclusive jurisdiction and venue for any litigation between the

parties arising out of or related to this Charter, shall be the Circuit Court, the County Court in and for the County, or the appropriate appellate or federal court. The parties forever waive the right to trial by jury for any and all litigation between the parties arising out of or related to this Charter. The parties agree to have any such dispute settled by a judge alone, without a jury.

K. Notice

Official correspondence between the School and the District shall be in writing, and signed by an officer of the Governing Board or the Principal of the School. Every notice, approval, consent or other communication authorized or required by this Charter shall not be effective unless same shall be in writing and sent postage prepaid by United States mail, directed to the other party at its address hereinafter provided or such other address as either party may designate by notice from time to time in accordance herewith:

With the foregoing in mind, all legal notices and/or notifications will be sent to the School's Board Chair and the School's legal counsel c/o Shawn Arnold, Esq. and Melissa Gross-Arnold, Esq., 6279 Dupont Station Court, Jacksonville, FL 32217.

School:
Mason Classical Academy
3073 S. Horseshoe Dr.
Naples, FL 34104

With a copy to:
Mason Classical Academy
Kelly Lichter, Board President
3073 S. Horseshoe Dr.
Naples, FL 34104

Sponsor:
Collier County Public Schools
Director of Charter Schools
5775 Osceola Trail
Naples, FL 34109

Each of the persons executing this Charter represents and warrants that he/she has the full power and authority to execute the Charter on behalf of the party for whom he or she signs and that he or she enters into this Charter of his or her own free will and accord and in accordance with his or her own judgment, and after consulting with anyone of his or her own choosing, including but not limited to his or her attorney.

L. Conflict Between Charter and Florida Law

In any case where this charter conflicts with Florida law, the terms of the applicable Florida Statute, State Board Rule, or case law will control over the Charter.

M. Conflict/Dispute Resolution

Subject to the applicable provisions of section 1002.33, Florida Statutes, as amended from time to time, all disagreements and disputes relating to or arising out of this Charter which the parties are unable to resolve informally, may be resolved according to the following dispute resolution process, unless otherwise directed or provided for in the aforementioned statute. Nothing herein shall be construed to limit the Sponsor's ability to immediately terminate this Charter in accordance with section 1002.33(8)(d), Florida Statutes. It is anticipated that a continuing policy of open communication between the Sponsor and the School will prevent the need for implementing a conflict/dispute resolution procedure.

The following dispute resolution process, not otherwise pre-empted by section 1002.33, Florida Statutes, shall be equally applicable to both parties to this Charter in the event of a dispute. All disagreements and disputes relating to or arising out of this Charter which the parties are unable to resolve informally, may be resolved according to the following dispute resolution process:

Step 1 -- The persons having responsibility for implementing this Charter for the grieving party will write to the other party to identify the problem, propose action to correct the problem and explain reasons for the proposed action.

Step 2 -- The person having responsibility for implementing this Charter for the other party will respond in writing within fifteen (15) calendar days, accepting the proposed action or offering alternative solution(s) to the problem. A meeting of representatives of the parties may be held to reach agreement on the solution and subsequent action.

Step 3 -- Upon resolution of the problem, the responsible personnel from both parties will develop a joint written explanation indicating the resolution. This document will be retained with this Charter. If an amendment to the Charter is necessary, the amendment will be submitted for action by both parties.

Step 4 -- If efforts at agreement within a reasonable time are unsuccessful, the parties may have recourse to their available legal remedies, including, without limitation, mediation through the FDOE or those additional remedies set forth in section 1002.33(6)(h), Florida Statutes.

N. Citations

Whenever a Florida Statute or State Board of Education Rule is referenced in this Charter, it shall be construed to mean the statute or rule in effect on the effective date of this Charter, and as it is amended from time to time.

School Board policies will not control this Charter or be incorporated herein absent written consent of the Governing Board, as provided by Florida law, unless the School agreed to such policies in the approved Application or otherwise agreed to by the Governing Board in writing.

If the Sponsor subsequently amends any agreed-upon Sponsor policy the version of the policy in effect at the time of the execution of the charter, or any subsequent modification thereof, shall remain in effect and the Sponsor may not hold the charter school responsible for any provision of a newly revised policy unless the revised policy is mutually agreed upon.

Upon the Sponsor's revision of a mutually agreed upon Sponsor policy, the Sponsor shall provide written notification to the School and Governing Board. The written notification shall include the revised policy and shall allow the Governing Board 45 days to reject the revised policy. If the Governing Board does not provide written notice of its rejection of the policy, the revised policy is deemed accepted by the Governing Board. If the Governing Board rejects the revised policy it shall remain bound by the policy as it existed at the time the Governing Board agreed to it.

O. Interpretation

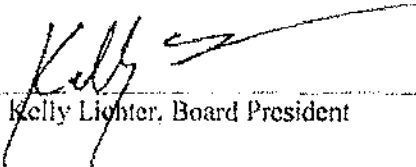
The headings in the Charter are for convenience and reference only and in no way define, limit or describe the scope of the contract and shall not be considered in the interpretation of the Charter or any provision hereof. This Charter is the product of negotiation between the parties and therefore the terms of this Charter shall not be construed against either party as the drafter.

Appendices

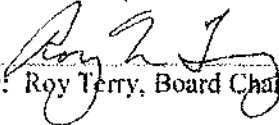
1. The Application
2. Governance Documents
3. ELL Plan, if different than Sponsors
4. Management Contract (if applicable)

IN WITNESS WHEREOF, the parties hereto have executed this Contract on May 11, 2017

Mason Classical Academy


By: Kelly Lichter, Board President

The District School Board of Collier County


By: Roy Terry, Board Chair

Approved as to form and legal Sufficiency,


Jon Fishbane
District General Counsel

**FIRST AMENDMENT TO
CHARTER SCHOOL AGREEMENT**

**BETWEEN
THE SCHOOL BOARD OF COLLIER COUNTY, FLORIDA**

and

MASON CLASSICAL ACADEMY, a Public Charter School

THIS FIRST AMENDMENT TO CHARTER SCHOOL AGREEMENT ("Amendment") is made, as of the last date written below, between The School Board of Collier County, Florida, (hereinafter referred to as the "Sponsor") and Mason Classical Academy, a Public Charter School, (hereinafter referred to as the "School").

WITNESSETH:

WHEREAS, the Sponsor and the School previously entered into a charter school agreement ("the Charter") on June 13, 2017, which is scheduled to end on June 30, 2022;

WHEREAS, on October 13, 2017, the Florida Department of Education ("FDOE") notified the School that it had met the criteria for high performing charter status pursuant to F.S. §1002.331 (a copy of FDOE's notification is appended hereto as Attachment 1);

WHEREAS, pursuant to F.S. §1002.331(2)(e), the School is authorized to receive a modification of the term of the charter for up to fifteen (15) years; and

WHEREAS, the School requests that the Charter be amended based on its attainment of high-performing charter school status in accordance with F.S. §1002.331;

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the parties hereby agree to amend the Charter as follows:

1. The first sentence of Section I, (B)(2) is hereby deleted and replaced with the following:

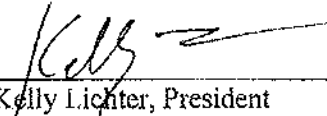
Term. The term of this Charter shall be fifteen (15) years commencing December 1, 2017, and ending November 30, 2032, unless otherwise terminated sooner as provided herein.

IN WITNESS WHEREOF, the parties have set their hands and seals.

Exhibit B

MASON CLASSICAL ACADEMY,
A Public Charter School

THE SCHOOL BOARD OF COLLIER
COUNTY, FLORIDA

By: 
Kelly Lichter, President

By: _____
Roy M. Terry, Board Chair

Date: 10/19/17

Date: _____



State Board of Education

Marva Johnson, *Chair*
Andy Tuck, *Vice Chair*
Members
Gary Chartrand
Ben Gibson
Tom Grady
Rebecca Fishman Upsey
Michael Olenick

Pam Stewart
Commissioner of Education

October 13, 2017

David Hull, Principal
Mason Classical Academy
3073 S. Horseshoe Drive, Suite 104
Naples, FL 34104-6145

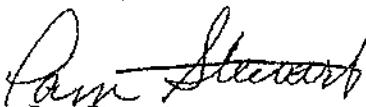
Dear Principal Hull,

This letter serves as notification that the Florida Department of Education has verified that Mason Classical Academy (11-9035) meets the criteria for high-performing charter school status pursuant to section 1002.331, Florida Statutes.

If you have questions, please contact the Office of Independent Education and Parental Choice at 850-245-0502 or via email at charterschools@fldoe.org.

Thank you for your continued participation in our mission to improve the quality of educational options for Florida's students.

Sincerely,


Pam Stewart

PS/sm

cc: Sheryl Rogers, Collier County Public Schools
Chuck Marshall, Mason Classical Academy

INVESTIGATIVE REPORT

FOR

MASON CLASSICAL ACADEMY

Submitted to:

The District School Board of Collier County, Florida

By: Jon Fishbane, District General Counsel

Exhibit C

TABLE OF CONTENTS

<u>Subject Matter</u>	<u>Page No.</u>
I. Introduction	3 - 4
II. The Evidence Received and Reviewed	4 - 5
III. Methodology	5
IV. The Financial Oversight Committee	6 - 18
V. Board Governance and Oversight	18 - 28
VI. MCA Board and Administration Oversight: Grievances, and Parental and Student Concerns	28 - 52
VII. The Issue of Potential Conflict of Interest	52 - 54
VIII. Financial Issues and Best and Brightest Program	54 - 56
IX. Faculty Concerns	56 - 57
X. Miscellaneous	57 - 58
XI. Conclusions and Recommendations	58 - 61

I. Introduction:

On or about June 7, 2018, Joseph Baird, a former Mason Classical Academy (“MCA” or the “School”) Board Member, Treasurer, and parent of students previously enrolled at the School, filed a detailed Complaint with the Florida Department of Education’s Office of the Inspector General (“OIG”). In it, he alleged multiple areas of wrongdoing involving especially MCA Board Members Lichter and Miller and the School’s Principal Mr. Hull. His allegations and concerns will be more specifically addressed beginning in Section IV of this report. On June 8, 2018, Mr. Baird supplemented his Complaint by submitting the OIG additional information, including a link to the State’s Department of Corporations Sunbiz site, concerning a corporate entity, the Classical Charter Management Group, LLC, which identified Mrs. Lichter and Mr. Hull as business partners along with an MCA employee, Mrs. Smith, who was MCA’s Curriculum Coordinator.

On June 13, 2018, Edward G. Rawls, Jr., Director of Investigation at the OIG wrote to Mr. Baird acknowledging receipt of the Complaint “regarding various concerns with the Mason Classical Academy School Board of Directors and Administration.” (See, letter from E. Rawls, Jr., to J. Baird, June 13, 2018). Mr. Rawls informed Mr. Baird that based upon his office’s review and analysis, the OIG had concluded that the concerns raised in the Complaint, “do not fall within our jurisdictional purview.” It was determined that on the basis of statutory and Florida Constitutional review, the matter more appropriately fell within the authority and jurisdiction of the local school board (in this case the District School Board of Collier County). Mr. Rawls added that to assist him in finding resolution to his concerns he was referring Mr. Baird’s Complaint to those parties that have the authority over the matters he raised. Mr. Rawls concluded his letter as follows:

By way of this letter, we are forwarding your complaint information to the Director of Independent Education and Parental Choice, to the District Superintendent in Collier County, and the School Board Chair, for their review and action deemed appropriate.

He copied Mr. Miller, Dr. Patton, Mr. Terry accordingly. Dr. Patton and Mr. Terry brought the Complaint to the attention of the undersigned and, given the scope of the issues raised, as well as the multiple parental calls, complaints, and student departures from MCA, that had come into the District over several years, which were not being addressed by MCA, to carefully review and look into the matter.

Sometime in early August 2018 inquiries were being made by concerned parents whose children had attended MCA and former faculty members, to express their interest in coming forward to discuss the matter. Mr. Hull became aware of people coming forward. It led to him to email Dr. Rogers, the District’s then Director of Charter Schools, in order to express his concerns. In his communication, he noted the following:

We take complaints seriously because that is a great way to self-reflect and become a stronger institution for students and their families. However, there has only been one official complaint in over 4 years of operation.

This could very well be a result of CCPS interference, or MCA is just that good at pleasing our parent base. There are other issues along these same lines that do not paint the CCPS governance in a good light, but I will refrain from pointing those issues out at this time. (See, September 4, 2018, email from D. Hull to S. Rogers sent at 1:59 p.m.

The tone of his email, both defense and aggressive in nature, with respect to people coming forward in the early stages of review and investigation, was of some concern.

Many people did indeed come forward. Many of these parents and faculty members expressed being fearful of retaliation (for themselves and their children) by Mr. Hull. Over the next several months, in discussions with District staff who received calls from MCA parents seeking educational advice from them, it was learned that such fearfulness had been communicated to them as well.

As a consequence of these conversations, a very considerable amount of email communications were received from multiple sources and providers (including those received from Mr. Hull in November 2018 who wanted the undersigned aware of them as part of the investigation). Many issues surfaced that needed follow up, review, and investigation. Some were linked directly or tangentially to Mr. Baird's Complaint some were not. This led to a widening of the scope of the investigation, the time needed to complete it, and bring it to closure.

II. The Evidence Received and Reviewed

The evidence received, reviewed, and considered has been extensive. In addition to the information received from MCA parents and faculty members and District staff along with extensive email communications as previously noted, MCA Board Meeting Minutes and Agendas going back to 2013 were reviewed as well as Finance Committee Meeting Minutes from 2014 – 2016, Mr. Baird's October 4, 2016, Treasurer's Report and resumes of persons seeking to be part of the proposed revised Financial Audit Committee at that time. In addition, the undersigned reviewed MCA principal reports, documentation linked to meetings, MCA Policy Binders (dated April 26, 2018, and its updated version dated January 23, 2019).

Moreover, the following other important documents were reviewed: MCA's 2013 Application and the charter documents between MCA and the District School Board of Collier County, MCA's 2018-2019 Progression Plan, Unaudited Financial Statement, McCreedy and Associates documentation, MCA Charter School financial condition reporting documents, and MCA's May 29, 2018, salary planning document.

Further, the undersigned reviewed corporate organization documents pertaining to Classical Charter Management Group, LLC ("CCMG") and charter school application documents involving the American Classical Charter Academy from multiple school districts which CCMG was apparently providing consulting services, multiple letters to MCA parents from Mr. Hull from 2015 and 2018, multiple social media postings from 2015 and 2018, District

records of transfers from MCA to the District, home education, and private schools, and 2017-2018 Best and Brightest program documentation involving MCA.

Finally, as part of the legal analysis, the undersigned reviewed Florida case law and statutes pertaining to issues under review, including FS 1002.33, Federal Statutes implementing regulations, USDOE Office of Management letter rulings, and FAQ's pertaining to FERPA, Florida Attorney General Opinions, and several cases and statutes cited therein, Sunshine Law materials, MCA policies, Roberts Rules of Order, ESE procedural safeguards, Florida Commission on Ethics Opinions, and FAC 6A-10.081 (Principals of Professional Conduct for the Education Profession in Florida).

The above pretty much covers all of the materials reviewed and considered.

III. Methodology:

As previously noted, the documentation reviewed in this investigation was extensive. In order to be able to meaningfully organize and interpret the evidence, the undersigned, in consultation with District staff, looked for commonalities in the multiple documents and interviews to determine if certain patterns of observation and experience could be ascertained. For example, where multiple reporters of information expressed observing or being the recipient of the same or similar patterns of action and behavior with respect to MCA Board Members and administrative staff, whether as to given events or over time, credence was given to such information. Thus, such same or similar patterns of action and behavior demonstrated a regularity of conduct over time that had to be taken seriously into account for the purposes of careful review and interpretation.

This principle of observation and experience was also applied if reporters of information related the same or similar statements, actions, behaviors, usage of language, including body language and gestures, as well as linguistic responses and voice tonalities. Moreover, credence was given to same or similar linguistic expressions, and expressions of emotion articulated by reporters with respect to Board Member and Administrator actions, behaviors, or experience of similar events. Such sameness and similarity evidenced a commonality and regularity of actions and behavior over time that had to be taken into account.

In this context, reporter statements and observations that wandered away from the issues under review or involved extraneous information, were given lesser weight. The same held true where statements and observations were found to be unclear and confusing. The credibility of a given reporter's statements and observations were also examined in connection with documentation received, where applicable.

The undersigned also took seriously the statements expressed by Mr. Hull, Ms. Turner, and Mr. Marshall at the meeting with them on April 29, 2019, at MCA. Finally, and perhaps most importantly, in reviewing the extensive email communications, Board Meeting Minutes, Policies, and so on, the central priority analytically was to let the documents speak for themselves.

IV. The Financial Oversight Committee:

In his Complaint, Mr. Baird has identified two core issues pertaining to the Financial Oversight Committee (a) its formation and membership; and (b) his inability to properly undertake his role as Board Treasurer and receive financial and accounting information. These will be addressed sequentially.

A. (1) Overview of the Central Allegations Pertaining to Formation and Membership on the Committee

In this Complaint, Mr. Baird has alleged that MCA Board Members Lichter and Miller, along with Mr. Hull and Mr. Marshall, knowingly created an environment where fraud could occur by preventing the formation of a Financial Oversight Committee. He contended that Mr. Hull took a leading role in halting his efforts to help form it. Mr. Baird alleged that at the September 6, 2016, Board Meeting, the Board agreed that he should (a) notify all school parents that a committee was being formed; (b) solicit resumes of persons interested in serving on a Financial Oversight Committee (“FOC” or “Committee”); and (c) individually interview interested candidates, discuss the interviews, then vote on the most suitable applicants to serve on the Committee. Mrs. Lichter advised that in anticipation of the October 4, 2016, Board Meeting, Mr. Baird should get training from Dr. Carpenter who consults with Hillsdale College and provides training for charter school board members.

Mr. Baird has also alleged that in a phone conversation with Mr. Hull prior to the October 4, 2016, Board meeting, he had informed him that Dr. Carpenter believed the Board should move forward immediately with the formation of an FOC. Mr. Baird alleged that Mr. Hull called him to request that the formation of the Committee not go forward at that time. Mr. Baird allegedly responded that Dr. Carpenter was quite clear that the Board should not delay forming an FOC and that he intended to follow Dr. Carpenter’s advice. Moreover, Mr. Baird has alleged that at the October 4, 2016, Board Meeting, Board Member Miller wanted to halt the determination and vote on who would serve as Committee members and was allegedly supported in her efforts by Board Member Lichter and Mr. Hull and the matter never proceeded to a consideration of membership and vote.

A. (2) The Factual Record Pertaining to Formation and Membership of the FOC

According to the July 11, 2016, Board Meeting Minutes, the Board approved a “Motion to dissolve the existing Finance Committee in anticipation of the formation of a newly defined Financial Oversight Committee”. It was noted that Board President Mrs. Lichter “will email her notes from Hillsdale Board Training to Jason Lane to assist him in defining the new Financial Oversight Committee.” Mr. Lane was the then Board Treasurer. The vote was 3-1. Board Member Mr. Donalds opposed dissolving the Finance Committee. There is nothing in the Minutes setting forth any discussion on the matter or the reasons why there was a need to dissolve the Finance Committee at that time.

A review of MCA's records shows that the Finance Committee met almost monthly from at least to January 26, 2015, through May 9, 2016, as a Board delegated Committee with well-developed Minutes describing the work of its membership and contributors. The Finance Committee reviewed and discussed the following: cash flow, profit and loss reports, balance sheets, reserved accounts, the proposed fiscal year budgets, including explanations of fund balance and risk management, as well as school insurance, construction loans, payroll, bank statements, CAM costs, Board policies pertaining to financial matters, donations, commercial loans, GoFundMe proceeds, loan repayments, and so on. The work of the Committee and related financial issues was regularly brought to the Board for review and discussion; often by Mr. Mathias with contribution from Ms. Turner. Hence, there was a regular and continuous flow of financial information reporting to MCA's Board.

The Minutes of the August 2, 2016, Board Meeting reflect that Board President Lichter reported that Mr. Lane had resigned from the Board and had presented his letter of resignation accordingly. It was announced thereafter that the Board hold a Special Meeting on August 8, 2016, to discuss replacing Mr. Lane as Board Treasurer.

At the August 8, 2016, Special Meeting, Mr. Baird was approved through motion and vote to serve as a Board Member and the new Board Treasurer. During Board comments at the end of the September 6, 2016, Board Meeting, the Minutes provide the following: "The Board Members discussed the role of the Financial Oversight Committee and possible members". What the work of the FOC would involve is not presented in the Minutes nor are there any documents attached to give any reviewer a reasonable sense of its function. The Board apparently agreed that a new Financial Oversight Committee should be formed and that Mr. Baird proceed to notify MCA parents to see who might be interested in serving on it. In this regard, Board Members and Mr. Hull believed it was important to follow the training recommendations of Dr. Carpenter that a school such as MCA should have a committee such as an FOC in place to protect its interests.

On September 20, 2016, Mr. Baird sent an information notice to the MCA Committee from the schools email system (info@masonacademy.com, subject: Financial Oversight Committee). He noted that the MCA Board was seeking "volunteers to help run the Financial Oversight Committee." He requested that all interested persons complete the application attached prior to September 24, 2016. Mr. Baird then noted that the purpose of the FOC was to "provide financial oversight for the school by providing recommendations for improvement to the Board of Directors." He then noted that some of the duties and responsibilities of committee members would include the following: (1) review of MCA's 403B Retirement Plan; (2) assist with auditor selection; (3) review of internal controls; (4) review of financial policies; (5) review of IRS 990 form; (6) review of MCA's insurance policies; (7) ensure compliance with state and federal regulations; and (8) review of MCA's financial statements. It was anticipated that the FOC would meet on a quarterly basis. (See, the September 20, 2016, email sent from MCA to the MCA community concerning joining the FOC).

On September 23, 2016, in the early evening, after the close of business, Mr. Baird sent all Board Members and Mr. Hull an email that he had uploaded to the school's google drive for their review all the applications that he had received to date for the FOC. He noted: "Please

review and interview applicants as you see fit. Come prepared to the next meeting to discuss and vote on the candidates.” He then added the following: “Please check with David Hull for his perspectives on any candidate you may be considering.” He promised to send along any additional information he might receive. As a precautionary note to Board Members and Mr. Hull, Mr. Baird noted “Do not reply to this email.” (See, September 23, 2016, email from J. Baird to MCA Board Members and Mr. Hull sent at 6:41 p.m.). Thus, Mr. Baird had provided the applications of persons interested in serving on the FOC to Board Members and Mr. Hull for review well in advance of the October 4, 2016, Board Meeting.

In the morning of September 26, 2016, Mr. Baird sent Mr. Hull an email noting that he thought it might be helpful to obtain feedback from the teachers of students whose parents have applied for a position on the Financial Oversight Committee. He felt that since teachers interacted with parents, “some of our teachers could provide some insights regarding potential candidates.” He asked Mr. Hull if he had any suggestions as to how the Board could obtain this information recognizing that he doubted that Mr. Hull “would want all Board Members interviewing teachers.” Mr. Hull responded that “we should probably not involve the teachers if that’s okay.” He added that he would serve as the go between if necessary. He wrote: “If you feel strongly about it through, give me the name of the candidate, and I will speak with the teachers to see if he/she has any information.” Mr. Baird replied that he would trust Mr. Hull’s judgment. He asked Mr. Hull if he could speak with him by phone, “if you have some time today to voice some concerns.” He felt speaking by phone would be easier than emailing back and forth and asked if Mr. Hull had some time that day. Mr. Hull wrote back “can it be another day? I’m swamped.” (See, September 26, 2016, email chain between J. Baird and D. Hull).

On October 2, 2016, two days before the Board Meeting, Mr. Baird wrote to the Board Members and Mr. Hull. He informed them that he had uploaded two documents to the School’s google drive for them to review before the meeting: (a) Finance Committee Purpose; and (b) Finance Committee Application list. He then noted “when discussing individual candidates, please refer to them by the letter next to their name instead of by name.” He also requested that they all “come prepared to discuss and vote on proposed purpose of the Finance Committee.” He informed them as well not to reply to the email. (See, October 2, 2016, email from J. Baird to MCA Board Members and Mr. Hull).

Moreover, in the Finance Oversight Committee purpose document that he had attached, he recommended the following to assist the Board and Mr. Hull as part of the review at the Board Meeting:

The primary means by which this financial oversight will happen is through the implementation of policies and rigorous monitoring. The Committee will evaluate current management policies, internal controls, insurance policies, legal regulations, etc. in order to provide recommendations for improvement to the Board of Directors. The Committee has no decision making authority whatsoever, and the committee’s membership will be evaluated annually by the Board of Directors.

On the Agenda for the October 4, 2016, Board Meeting, four items are identified as action items under New Business. The third action item identified was "C. Finance Oversight Committee Members." The action recommended was to approve and the Agenda identifies Ms. Lichter as the Board Member who would bring the matter forward.

However the Board Meeting Minutes provide that there was a "Motion to Approve Creation of Financial Oversight Committee" which was voted on and passed unanimously. This was not listed on the Agenda as an action item; nor do the Minutes have anything concerning any discussion about the FOC, its goals, purpose, composition of membership, and so on. In fact, a review of the Minutes show no action was taken on Members serving on the Committee including no effort to move to table or defer the matter to the next meeting. The investigative record reveals that eight applications were received. All applicants were parents. The applications were not attached to the Agenda for public review. Moreover, the applications and the qualifications of the applicants were not discussed at the Meeting.

During the undersigned's meeting with Mr. Hull, Mr. Marshall, Ms. Turner, and MCA's counsel on April 29, 2019, at MCA, Mr. Hull and Mr. Marshall stated that they did not review the applications and resumes of the candidates. However, Mr. Hull noted that he remembered that the applications included those of Board Member spouses. He could not recall how he knew that. He did remember speaking with Board Member Miller that the applicant pool should include more than parents.

At the Meeting itself, Ms. Miller expressed her concern that the Board needed to see if other members of the community with expertise were willing to serve in order to broaden the pool of applicants who had already applied. Ms. Lichter concurred. Mr. Donalds did not concur nor did Mr. Baird who expressed concern that the recommendation of Dr. Carpenter was not being followed. Mr. Donalds recalled that not to follow Dr. Carpenter, who all Members respected, was a matter of concern for him. No applicants were either identified or discussed as capable and competent to serve on the Committee. While an FOC was formed, it was an empty shell. No one ever reached out to the community again to reopen the application process. The existing applicant pool was shelved, and the FOC died on the vine.

In the Minutes of the December 14, 2016, Board Meeting there is noted a "Motion to Establish Audit Committee Consisting of Chuck Marshall, Josh Longenecker, and Laura Miller." Mr. Marshall was the Compliance Officer of MCA at the time. Mr. Longenecker, who had been approved to serve was the Board's Treasurer. Ms. Miller made the Motion, Mr. Longenecker seconded it, and the Motion passed unanimously.

Missing from all this was a discussion or documentation as to (a) why such a Committee was called for then; (b) what was its purpose; (c) what was the nature of its oversight; (d) why it included only three Board Members and a Compliance Officer; (e) why there were no efforts to seek applicants from the MCA (and general community) to be part of it; (f) when the Committee would meet; (g) how an essentially Board Member Committee would report to itself, and so on. In this context, MCA Meetings records show that this Committee never met nor ever presented any report. Like the FOC, the Audit Committee died on the vine. No other FOC, Audit Committee, or their equivalent has been constituted by the Board.

B. (1) Overview of Central Allegations Pertaining to Mr. Baird's Claims that He Was Blocked in his Ability to Carry Out his Role as Board Treasurer

Mr. Baird has alleged that not only did Board Members Lichter and Miller, along with Mr. Hull and Mr. Marshall, seek to halt the setting up a functioning Financial Oversight Committee, they also worked to prevent him from carrying out his duties and responsibilities as Board Treasurer.

In this regard, based on his understanding of Dr. Carpenter's work, Mr. Baird has alleged that it was appropriate for him to be able to ask for and look into financial records, funding from the District, including whether or not too much had been received, monthly lists, MCA student enrollments and withdrawals from the school, employee expense reports, and so on. He expressed his concern that unless he could carry out appropriate due diligence, as Treasurer, into MCA's finances, both he and MCA could be at risk. In his view, based on his reading of Dr. Carpenter's work, he contended that not to be able to undertake such a review, he would be negligent in his undertakings, risked breaching his fiduciary responsibilities as Treasurer which could expose him to personal liability. Accordingly, Mr. Baird has alleged that when he expressed these concerns, he was treated in a condescending fashion by Mr. Hull and Mr. Marshall and essentially informed by Board Members Lichter and Miller that he should back off and not try to scrutinize or manage Mr. Hull's and Ms. Turner's work. (See, Baird Complaint, at pp. 4-6).

B. (2) The Factual Record Pertaining to Whether Mr. Baird was Blocked in his Ability to Carry Out his Duties as Board Treasurer

Sometime in late August or early September 2016, Mr. Baird met with Susan Turner, MCA's Business Manager, to go over his role as Treasurer. She spent several hours with him going through the school's finances and reports; providing him with documents and showing him how to access the school's google drive. Mr. Baird found her assistance helpful.

To help him with the preparation of his first Treasurer's Report (the August 27, 2016, Minutes shows that he had not yet submitted any report) on Thursday morning, September 29, 2016, Mr. Baird emailed Ms. Turner concerning questions he had in follow up to his review of MCA's August financials. He noted, in connection with the fourteen questions he provided to her for review, that it would be helpful if she could respond by Monday evening, October 3, 2016, if possible. He added: "If this puts an undue reporting burden on you, please let me know."

Mr. Baird asked Ms. Turner, for example, "what is the employee reimbursement policy? Who approves? Can I see expense report for July and August?" He wanted an explanation of Amazon gift card purchases and how to understand certain purchases. He asked, "on 8/31, we transferred \$20k from FEFP into the Donations account. Why?" He also asked for explanations on several transactions such as "who is Curran Taylor and what is check #2345 in the amount of \$11,685 for?" And "what is the \$469k deposit from Doug Schuman on 8/5 for?" (See, the September 29, 2016, email communications between J. Baird and S. Turner).

Ms. Turner expressed her concern with the scope of Mr. Baird's request to Mr. Hull. Shortly after 10:00 a.m. that morning she emailed Mr. Hull whether it was acceptable to provide Mr. Baird the Amazon gift card documentation so that he would see that "we're tracking it and not open to theft?" Mr. Hull promptly replied "of course." (See, the September 29, 2016 email between S. Turner and D. Hull).

Shortly thereafter, Mr. Hull contacted Board Member Lichter that Mr. Baird's requests were extensive and impacting his staff's time. Subsequent to their conversation, Mrs. Lichter emailed Mr. Baird at 10:58 a.m. with the subject line reading "Treasurer's Role." In her email, she essentially informed Mr. Baird that he needed to back off and inferred that as a new treasurer his actions were probably a function of not really understanding what his role was. She wrote: "I spoke with Mr. Hull this morning about some questions you had for Ms. Turner. I understand that you are still in the on-boarding process and learning, but I think those questions should be asked during an oversight committee meeting."

According to Ms. Lichter, Dr. Carpenter had advised that the board should "keep any eye on things and looking for anything irregular, not questioning every single expense." She then informed her fellow Board Member as follows: "Ms. Turner has a big job and I do not want to add anymore to her plate." In essence, she would make herself available at finance oversight meetings "to answer any questions or concerns...If you have any questions, please let me know." (See, September 29, 2016, email from K. Lichter to J. Baird sent at 10:58 a.m.). At 12:55 p.m., a surprised Mr. Baird responded to Ms. Lichter as follows:

I didn't think any of the questions I had were inappropriate, and I certainly wasn't questioning every single expense. I'm not sure that a committee meeting is the right forum to ask some of those questions in any case. Regardless, I have a treasurer's report to prepare for Tuesday, and that report needs to include a statement that says "I found no irregularities". There may be some disagreement about what questions are appropriate and which are not, but at the end of the day I feel that I need answers to a lot (not all) of those questions before I can legitimately say "I have examined the bank statements and the financial reports and found no irregularities."

(See, September 29, 2016, email from J. Baird to K. Lichter, sent at 12:55 p.m.).

Mr. Baird added that he thought he had acted appropriately and had received Mr. Hull's permission to engage Ms. Turner and was mindful of her time commitments. He felt giving her a list of questions at one time rather than calling her when questions arose was the most efficient way to minimize the time to complete the work involved. It should be noted that about an hour prior to writing Ms. Lichter, Ms. Turner sent Mr. Baird the supporting documents concerning the Amazon gift cards with accompanying explanatory information.

Mr. Baird received no further documents from Ms. Turner and Mr. Hull until after the October 4, 2016, Board Meeting. As a consequence, on October 3, 2016, Mr. Baird uploaded to

the google drive his Treasurer's Report for October 4, 2016, that he considered incomplete and informed the Board accordingly. His Report listed those account balances as of August 31, 2016, that he received and verified. He then noted:

I have been prevented from completing my examination of the financial and bank statements for August 2016 due to management's failure to provide pertinent information I have requested. I will complete my investigation upon receipt of this information.

(See, October 4, 2016, Treasurer's Report to the MCA Board signed by Mr. Baird).

At the October 4, 2016, Board Meeting, Mr. Baird expressed his concern with not being provided the necessary documentation to complete his work. Mr. Hull countered that Mr. Baird was adding undue burden to his staff. Ms. Miller supported Mr. Hull's concerns. Mr. Donald's questioned why Mr. Baird was not being appropriately assisted. He noted that such requests were not unfounded and that the time needed to help him with his work would not affect instructional time. Ms. Lichter also supported Mr. Hull's concerns about adding to Ms. Turner's workload. She did not publicly disclose her September 29, 2016, email to Mr. Baird acknowledging that she had spoken with Mr. Hull and had informed Mr. Baird to back away and to bring his concerns to the Financial Oversight Committee when Ms. Turner could be available to respond to questions. No one at the meeting discussed when the Committee would commence its meetings. And no one at the meeting discussed what the role of the Treasurer would be and what would constitute reasonable requests for information. Instead, Ms. Lichter asked Mr. Baird and Mr. Hull to meet together to resolve the issues in moving forward. In the Minutes of the October 4, 2016, Board Meeting, under the report of the Treasurer, it was noted that "issues with regard to contacting staff were discussed and resolved." This representation was not accurate.

After the Board Meeting, Mr. Baird emailed Mr. Hull at 9:17 p.m. (October 4, 2016). He informed him that "the last thing I want to do is increase Ms. Turner's workload. I know you both work very hard and put in many more hours than most of us realize." He added that as requested, he will schedule a meeting with Ms. Turner to go over the questions. Mr. Baird concluded with the following request of his own:

Before I do so, I wonder if you would mind sending me the information she already has on hand. You mentioned in tonight's meeting that she has already put three hours into answering my questions. I would like you to explain to me why all of the work she has completed so far was not sent to me. In the spirit of not taking up any more of her time than is absolutely necessary, it would be beneficial to have that at the very least. In this way, our meeting at the school should be short and sweet.

(See, September 29, 2016, email from J. Baird to D. Hull).

On October 5, 2016, at 7:07 a.m., Mr. Hull responded to Mr. Baird's email stating: "After giving it some thought, I agree with you that this request for information should be done by email. Your idea of having it in a written record is a good one." He advised that Ms. Turner

will make the request a top priority of hers and will “email the answers by the end of the this week....” Mr. Hull then stated the following:

There is no explanation for why the work Ms. Turner completed was not sent other than it was a total communication failure on my part. I was thinking something completely different about this matter, and I blew it. I offer my apologies. It won't happen again. Please let me know what you'd like, and we will get to you. Today, the focus will be on your list of questions.

Mr. Baird replied to Mr. Hull's email at 8:32 a.m. thanking him for his assistance. He noted that he would be “happy to prioritize those questions for you in order to minimize the disruption to your daily operations... I will look for a response from Mrs. Turner later this week.” At 10:37 a.m., Mrs. Turner emailed Mr. Baird with the responses to his questions. (See, September 26, 2016, email exchange between J. Baird and D. Hull).

Shortly, after Ms. Turner sent him the responses, Mr. Baird emailed Mr. Hull at 10:42 a.m. noting the following: “I'm afraid we've gotten off on the wrong foot. I would like to meet with you in person to talk things over. Can you let me know your next availability?”

Mr. Hull replied shortly thereafter (at 10:49 a.m.). He stated that he thought that they “were going to do that this week, but last night and this morning should have resolved many of your concerns.” He informed Mr. Baird how time consuming it all has been for him adding “we have done our best to get you the information you requested.” (See, October 5, 2016, email from D. Hull to J. Baird). Mr. Hull did not provide any dates or times he was available to meet. No meeting between the two men ever took place.

At the end of the day on October 5, 2016, (at 5:41 p.m.), Mr. Baird emailed Mr. Lichter attaching pages from Dr. Carpenter's Manual and specifically identifying those pages that addressed oversight policies that he thought Mr. Lichter might be interested in reading. (See, October 5, 2016, email from J. Baird to N. Lichter). The next day, at 9:48 a.m., in a lengthy email, Mr. Baird informed Mrs. Lichter that he was resigning from the Board. Mr. Baird informed her that he was concerned that Mr. Hull was “fighting every type of oversight. He does not want to be held accountable to the Board.” In Mr. Baird's view, “Dr. Carpenter stands for everything David does not want.” (See, October 6, 2016, email from J. Baird to K. Lichter. See, too, J. Baird's October 6, 2016, resignation letter).

That afternoon (at 2:03 p.m.), an upset Mr. Lichter emailed MCA Board Members and Mr. Hull. His concerns and observations are worth quoting:

It is disappointing that Mr. Baird's questions and requests for documentation were met with resistance by the management team. His efforts were even called “co-managing” at Monday's board meeting. Since when are a sitting treasurer's questions and requests for financial documents deemed “co-managing?” How ridiculous! As a result of management's and the board's resistance to following institutional best practices and Dr. Carpenter's

recommendations, Mr. Baird was unable to confidently execute his fiduciary duty to present an accurate financial report to the board and had to resign. Who can blame him?

Why the board refused to empower Mr. Baird to faithfully carry out his duties as treasurer raises several questions. First, which party is governing the school? Is the board governing or is management governing? If the board is governing, why would it defer to management and allow it to decide which questions management would answer and which documents it would provide to the treasurer?

Mr. Lichter further contended that “increasing the management team’s authority while limiting that of the Board Treasurer would place the future of the school and its reputation at risk. “Not because of any wrong on the part of the management team but because they lack oversight.” In his view, a Treasurer must be allowed to ask questions, request documents, and obtain more training. He then observed: “Without transparent and cooperative management, it will be impossible for the treasurer to fulfill his fiduciary duties and the management team will be scrutinized for appearing to be hiding something. Why put the school through this?” Mr. Lichter concluded that Mr. Baird had been “forced off the board because the board and management refused to allow him to perform his proper role as treasurer.” (Id.).

On Friday morning, October 7, 2016, Mr. Baird sent the Lichters a long email at their respective personal email addresses. He expressed his frustration with working with Mr. Hull; including his concern with the incomplete nature of the responses he received. He wrote:

I am sure that David will say he provided me with everything I asked for and gave me his full cooperation. Please review the attached pdf files which show some of the information he sent to me. The scanning job is sloppy and much important information is obscured from view. When I saw the way this information was presented to me, I was frustrated because I realized that I would have to go yet again to Susan and ask her to re-do some of the work. This would have only re-ignited the fire and made the situation worse. I also realized that I was going to have to go through this ridiculous exercise every month. This was a major contributing factor in my resignation.

In support of his claims, he attached some seven (7) pdf receipt areas for their review. (See, October 7, 2016, email from Mr. Baird to K. and N. Lichter and attachments).

Mrs. Lichter responded to Mr. Baird in the early afternoon as follows: “I plan to meet with David and Susan to discuss since it looks like I will take over these responsibilities until we find someone. Thank you for sharing.” She sent her response from her personal gmail account.

At the November 1, 2016, Board Meeting, Ms. Lichter recommended Mr. Longenecker as a new member of the Board to replace Mr. Baird. The Motion to Approve her recommendation passed. Mr. Longenecker also became the new Board Treasurer. (See, the

Minutes of the December 14, 2016 Board Meeting). Mr. Longenecker did not present his first Treasurer's Report until March 24, 2017, reflecting a more than five month hiatus between Treasurer's Reports being submitted. However, a review of the record shows two different sets of March 24, 2017, Minutes with different information on it; although in both Mr. Longenecker's report is noted. In this context, between March 24, 2017 – January 26, 2018, the record of Board Minutes show, no Treasurer's report was submitted. The next time one was submitted was at the April 20, 2018, Board Meeting. Thus, from Mr. Baird's resignation on October 6, 2016 -- April 20, 2018, only two (2) Treasurer Reports had been submitted to the Board for review. In fact, one does not find one through the October 22, 2018 Board Meeting. Thus, only two Treasurer Reports to the Board were provided over a two year period. Treasurer Reports were submitted to the Board only for review and these were done via the google drive and not attached to either the respective meeting agendas or the respective approved Minutes during this period for public access and review in spite of references to them being attached to the Minutes. After the April 20, 2018, submission, MCA Meeting Minutes show that no further Treasurer Reports were submitted to the time of Mr. Baird's Complaint to inform the Board of financial matters.

C. Discussion and Applicable Law, Policy, and Charter Documents

On July 11, 2016, the Board approved the dissolution of the Finance Committee over the objection of Board Member Donalds. While there was apparent discussion at the September 6, 2016, Board Meeting as to who would serve on a new Financial Oversight Committee, and the need to form such a Committee, what the duties and responsibilities of the Committee would be, beyond apparent quarterly meetings, was not presented. The previous Financial Committee met almost monthly and the Business Manager Ms. Turner, regularly attended and provided financial information to support it.

At the end of the day, the FOC never had members appointed to it nor did it ever meet. Rather than discussing whether the eight applicants were qualified to serve, and vote to approve qualified candidates so that FOC could at least commence its work, Board Members Miller and Lichter decided to stymie the process by claiming they needed to broaden the applicant pool to include non-parents. While the item was noted as an action item warranting a motion and vote, Board Member Lichter decided she would not bring it forward nor did she seek a motion to defer or table it until the next meeting. No effort was ever made thereafter to seek a broader applicant pool. Board Members Lichter and Miller did nothing to support it as a functioning committee; nor did Mr. Hull, Ms. Turner, or Ms. Marshall ever advise that an FOC was important to the school.

Board Members all admired the training, advice, and support of Dr. Carpenter. Dr. Carpenter had strongly recommended the need for a finance committee or financial oversight committee. In his Complaint, Mr. Baird discussed the critical importance of following Dr. Carpenter's advice. In a recent communication, Dr. Carpenter noted that except for the fact that he did not personally provide Mr. Baird with training, "Mr. Baird's representations of my remarks are substantially accurate." Dr. Carpenter's ideas were discussed by Mr. Baird at the October 4, 2016, meeting and affirmed by Mr. Donalds, but they were neither followed nor implemented.

In Ms. Lichter's September 26, 2016, email to Mr. Baird, after speaking with Mr. Hull, she directed him not to burden Ms. Turner further and stated that the information could be provided at a Financial Oversight Committee. But despite that assertion she never allowed it to reach fruition.

Equally significant, in MCA's 2012 Application to enter into a Charter Contract with the District, it set forth a detailed Organizational Plan under which is the section on governance (Section 9). The Application is incorporated by reference into the 2013-2017 Charter Contract with the District School Board and reincorporated by reference into the renewed 2017 Charter Contract.

In the Organizational Plan of the Application (See, p. 60), there is to be constituted a Finance Committee and an Audit Committee under the authority of the Board. The duties and responsibilities of the Finance Committee are to include the following:

Finance Committee:

The Finance Committee shall assist the Governing Board in carrying out its budget and finance duties. At least one member of the Governing Board shall serve on the Finance Committee. The Business Manager shall be required to attend all Finance Committee meetings. Specifically, the Finance Committee shall:

- (1) Make recommendations to the Governing Board in the following areas:
 - (a) Financial planning, including reviews of the charter school's revenue and expenditure Projections
 - (b) Review of financial statements and periodic monitoring of revenues and expenses
 - (c) Annual budget preparation and oversight
 - (d) Procurement
- (2) Serve as an external monitoring committee on budget and other financial matters.

This work was undertaken until the Finance Committee was dissolved. As a side note, the claim by Board Member Lichter that Mr. Baird's request was burdensome to Ms. Turner, is inherently problematic. Ms. Turner had regularly assisted and met with the Finance Committee. Mr. Hull had informed Mr. Baird that Ms. Turner had put in three hours of time in gathering information prior to October 5, 2016. Nevertheless, it is reasonable to assume that she had previously provided a minimum of three hours monthly to work with the committee and sit in on the meetings. At the October 4, 2016, Board Meeting, both Mr. Baird and Mr. Donalds' questioned how the requests were unreasonable and excessively burdensome on her time.

Similarly, under the Application (and the Charter), an Audit Committee was to be formed. In Section 9 of the Application, the duties, responsibilities, and membership were to include the following:

Audit Committee:

The Audit Committee shall consist of two Governing Board members, one volunteer member who is a parent of a student attending the charter school, and one volunteer member who has

experience in accounting or financial matters. The Principal and Business Manager shall serve as *ex-officio*, non-voting members of the committee. The Audit Committee shall:

- (1) Evaluate the request for proposal for annual financial audit services
- (2) Recommend the selection of the financial auditor
- (3) Attend the entrance and exit conferences for annual and special audits
- (4) Meet with external financial auditors at least monthly after audit field work begins until the conclusion of the audit
- (5) Be accessible to the external financial auditors as requested to facilitate communication with the Governing Board and the Principal
- (6) Track and report progress on the status of the most recent audit findings and advise the governing on policy changes needed to address audit findings
- (7) Provide other advice and assistance as requested by the Governing Board; and
- (8) Be subject to the same requirements regarding the confidentiality of audit information as those imposed upon the local school board by the Audit Act and rules of the state auditor.

At the December 14, 2016, Board Meeting, the Board approved the creations of an Audit Committee. The Board did not follow the membership criteria set forth above. Mr. Marshall was not a volunteer parent of student attending MCA. He was one of the school's executive employees. There was no volunteer member, who had experience in accounting or financial matters, who was asked to serve. The Audit Committee never met. Like the FOC, it was an empty shell.

Accordingly, given the dissolution of the original Finance Committee, and the fact that the Financial Oversight and Audit Committees were shell committees that never met or oversaw anything, the Board breached the terms of its own Application and thus has been in continual breach of the Charter Contract since the dissolution of the Finance Committee in July 2016. In sum, the Board has breached its financial and auditing oversight obligations under the Contract.

Moreover, it was not appropriate for Ms. Lichter to write to Mr. Baird on September 26, 2016, subsequent to listening to Mr. Hull's complaint. In essence, she told him he needed more training, needed to back away from requesting the information he felt appropriate to submit a Treasurer's Report because she "did not want to add anymore to her plate," and his requested information could be taken up by a yet to be formed Financial Oversight Committee. She thus, undermined a fellow Board Member. Mr. Baird responded to her incredulously trying to understand what was inappropriate about what he was doing and trying to understand why she was directing him in the manner that she did.

Of equal concern was the fact that Board Member Lichter never informed the Board and the public at the October 4, 2016, Board Meeting nor any time thereafter, of the email to Mr. Baird, its contents, the response her email invited or Mr. Hull's complaining to her that led to her emailing Mr. Baird. The email exchange involved both Board and operational matters for which it was foreseeable that they would come before the Board for review, discussion, and action. She also had the opportunity to bring the exchange forward to inform the public of it and cure the problem publicly. In this context, at the May 9, 2016, Board Meeting, for example, Board Member Lane properly read an email aloud in an effort to cure a Sunshine Law violation. (Sec.

the May 9, 2016, Board Meeting Minutes). Yet, Board Member Lichter chose not to follow Mr. Lane's example and publicly disclose the communication. As a consequence, it is submitted that Ms. Lichter's actions created a meeting outside of the Sunshine in violation of the Florida's Sunshine Law, drawing Mr. Baird into the web of her actions by inviting his response. As the Florida Supreme Court noted in Woods v. Marsden, 442 So.2d 934, 938 (Fla. 1983), "the Sunshine Law was enacted in the public interest to protect the public from closed door politics..." See, too, Town of Palm Beach v. Grandison, 296 So.2d 474 (Fla. 1974), Sarasota Citizens v. Responsible Government v. City of Sarasota, 48 So.3d 755 (Fla. 2010), and Tolar v. School Board of Liberty County, 398 So.2d 427 (Fla. 1981).

With the foregoing in mind, in MCA's Policies Manual (See, the volume dated April 26, 2018, and its updated version dated January 23, 2019), there is a specific section identified as "Board Duties and Responsibilities." Item 3 provides that "an individual Board member should never...become involved in specific management issues unless directed by the board." (See, p.5 in both volumes) Item 9 provides that "a Board member who learns of a problem should bring that attention to the Board. A Board member should not attempt to deal with such a situation on an individual basis." (*Id.*, at 5) When Mr. Hull complained to Board Member Ms. Lichter about the burdensomeness of Mr. Baird's requests, she should have brought it to the Board to discuss and not have written to Mr. Baird to tell him how she felt he should handle his duties as a Board Treasurer.

When Ms. Lichter learned from Mr. Baird about his concerns with the way Mr. Hull had handled the provision of financial information, it was not appropriate for Ms. Lichter to inform him that she would meet with Mr. Hull and Ms. Turner "since it looks like I will take over these responsibilities." Whether or not Ms. Lichter ever, in fact, took over such responsibilities is not the issue. She had a duty to discuss the matter publicly with the Board and had no authority to intervene and act unilaterally on management business. (If she did take them over, she exceeded her authority). Her actions violated items 3 and 9 of the Board's policy pertaining to its duties and responsibilities. Finally, in the Governance section of the Application, it is provided that "the Governing Board will not be involved in the daily operations of the school..." (See, p. 60) Board Member Ms. Lichter apparently believed this did not apply to her when she sent her September 29 and October 7, 2016, emails to Mr. Baird.

The concerns raised by Mr. Baird in his Complaint are well-founded.

V. Board Governance and Oversight:

A)(1) Overview of Central Allegations and Concerns Pertaining to Board Governance

In his Complaint, Mr. Baird alleged that he was concerned that there may have been multiple Sunshine violations by the Board. He alleged that often Board Members Lichter and Ms. Miller came to Board meetings knowing how the other would vote. He expressed his concern that given the close personal relationship Mr. Hull had with these Board Members, in all likelihood, he had served as a liaison between them. He detailed a conversation he had with Mr. Hull in which Mr. Hull allegedly wanted to keep as much information from the public as possible so that MCA's management practices and Board activities would not be presented.

Mr. Baird contended that under Mr. Hull's influence, Board President Ms. Lichter changed the format of the meetings. Reports were not included in the Minutes. Minutes contained very little information and there were multiple inaccuracies in the Minutes themselves. In his view, such changes could be traced to the September 6, 2016, Meeting. Prior to then, reports to and by the Board, along with the content of meeting Minutes, were far more extensive and complete.

A)(2) Factual Record Concerning Board Governance and Oversight

a. Board Meetings, Minutes, and Agendas

While the Board met on a fairly regular basis, including the calling of multiple Special Meetings, on multiple occasions, meetings were held and, business transacted, without a quorum. These may be tracked as follows:

1. January 26, 2018, the only person present was Board Member Ms. Lichter. Board Members Miller and Longenecker called in and appeared by phone.

2. April 26, 2018, Board Members Lichter and Miller called in and appeared by phone. Board Member Longenecker was absent. Staff members Marshall and Turner were at the meeting.

3. June 30, 2018, Board Member Miller was present, Board Member Lichter called in and appeared by phone, and Board Member Longenecker was absent.

4. December 14, 2018, Board Member Miller was present, Board Member Lichter called in and appeared by phone, and Board Member Longenecker was absent.

In the Minutes of each of these meetings, it is noted: "A quorum being present, the meeting was called to order" and business was conducted. In this regard, during these meetings, business matters discussed and approved included the following: (a) approval of the allocation of Local Capital Improvement Revenue (LCIR); (b) approval of paying off long obligations; (c) approvals of multiple policies; (d) the Fiscal Year 2019 budget; (e) approval of a new Board Member (Mr. Bolduc); (f) approval of fence permit costs; (g) consent agenda adoptions; and (h) discussion of security issues.

Moreover, from January 2014 to July 2016, the record shows that Minutes for Board and Finance Committee Meeting contained descriptive narratives of the different portions of the meetings to enable the public to understand the proceedings, including Board discussion during the Board Comments portion of a given meeting. After August 2016, this changed dramatically. There is very limited, often with no descriptive narrative to apprise a reader of what transpired at a given meeting. In fact, unlike the pre-July 2016 time period, in the post July 2016 time period one sees, for example, under Board Comments, frequently no comments or limited ones such as "The Board members had a brief discussion regarding reports and oversight" (see, the October 4,

2016 meeting), which would not inform the public about the nature and content of the discussion. Thus, no one would know what Board Member comments were on this issue.

When the decision was made to alter the presentation of Minutes is not known. One finds no Board Meeting discussion about reducing Board Meeting Minutes descriptions concerning what had transpired at any given meeting. It appears that this decision was made internally. Moreover, one does not find access to documents in either the Agendas or the Minutes. There is no link, for example, that a member of the public could click on for review.

On October 6, 2017, a concerned member of the MCA community wrote to Board Member Miller seeking clarification of the following:

There are several minutes form meetings this year that make a note to attachments to minutes. For example, several meeting notes state that the president's report or principal's report is "attached" and I cannot find any further links or attachments for these notes/reports. Where would one find these reports? Are they not part of the public record?

Ms. Miller sent the email to Ms. Turner. Ms. Turner then forward the email to Mr. Marshall. Mr. Marshall responded that the documents used at the meetings were part of the public record. He added that "we do not upload the entire public record." Mr. Marshall then further clarified that while Agendas and Minutes are posted on the website, "we do not post attachments because the effort to process them would add too much extra work for staff taking away their time to deal with student issues." (See, the chain of email communications commencing on October 6, 2017, at 9:13 a.m. from H. Jenkins to L. Miller, to S. Turner, to C. Marshall). He noted that Minutes do not include attachments. Yet, he does not explain why in several of the Meeting Minutes one sees reference to, for example, "Report Attached" (See, for example, the Minutes to the August 2, 2016, and March 24, 2017, Board Meetings). Such references continued after Mr. Marshall's email. (See, the Minutes to the April 20, 2018, September 13, 2018, and the October 22, 2018, Board Meetings). These multiple attachments cannot be retrieved from either the Agendas or the Minutes.

Mr. Marshall concluded his email by noting that under the Sunshine Manual, an extract from which he attached, Minutes are defined as "a brief summary" and do not include attachments. In the extract he attached, the Manual provides, in pertinent part the following: "The term "Minutes" as used in s. 286.011, F.S., contemplates a brief summary or series of brief notes or memoranda reflecting the events of the meeting; accordingly a verbatim transcript is not required." (Id.) He did not address the fact that a review of the Minutes from the post July 2016 time period show that they often lacked summaries, notes, or memorandum of the multiple events that typically occur during a Board Meeting.

In his email, Mr. Marshall denotes MCA's practice of not attaching and uploading documents to the multiple Meeting Agendas and/or Minutes. Thus, for example, one sees the Consent Agenda routinely passed without one knowing what documents pertaining to MCA business are being consented to. In addition, one sees on multiple occasions that policies are

placed and approved on the Consent Agenda without them being attached or indicating that the consent involves the first or second reading of the given policy. As will later be seen, often second readings of policies are approved on the Consent Agenda, where, by definition, there is no public second reading.

In several instances, the Minutes themselves are contradictory and confusing to the reader. For example, one finds two sets of Minutes for the August 2, 2016, Board Meeting. The first set shows Board Members Lichter, Donalds, and Miller present and adopting Minutes for the July 11, 2016, Board Meeting on the consent agenda. The second set has Board Members Lichter, Longenecker, and Miller present. Mr. Longenecker was, of course, not on the Board at that time. The August 2, 2016, meeting was set for 5:30 p.m. but the call to order of second notes 9:00 a.m. The second set shows motion and approval of the November 11, 2016, and December 9, 2016, Board Meeting Minutes along with Policy 5.0. It notes that Mr. Longenecker submitted no report but met with MCA's Business Manager Ms. Turner. There were three motions identified (all moved by Board Member Longenecker and seconded by Board Member Lichter): (a) Approve IRS form 5500; (2) Approve school recognition funds; and (3) Approve the 2017-2018 performance salary schedule.

Given the approval of the December 9, 2016, Meeting Minutes, one assumes these matters were addressed in 2017. If one reviews the January 12, 2017, Minutes, there is no reference to the November and December Minutes or Policy 5.0 under the Consent Agenda. Policy 5.0 is noted under New Business as a First Read Policy Update. There is no reference to the above-noted three other motions; nor are the motion, Minutes, or Policy 5.0 found at the Special Meeting on January 25, 2017. One cannot find reference to them in the Minutes of the March 24, 2017, Meeting as well. One finds reference to forms 5500-8955SSAA voted on at the October 6, 2017, meeting. This item was moved by Ms. Miller and seconded by Mr. Longenecker.

In the Minutes, for the March 24, 2017, meeting, the March 24, 2017, Minutes are approved on the Consent Agenda (which would not be possible). Policy S.E. 4.0 (Attendance) is also voted on and approved on Consent. Yet, the Minutes also show a Board Member had brought it up under New Business without any indication that it was moved to New Business for discussion, and there is no indication that it was then voted on.

And, at the August 25, 2017, Meeting, one sees "Motion To Adopt Agenda" moved by Board Member Miller and seconded by Board Member Lichter. But if one turns the page, one sees at that meeting under Policy Updates, "Motion To Adopt Agenda", moved by Board Member Longenecker and seconded by Board Member Miller. If there were to be policy updates, and/or discussion related to them, they are not referenced nor can one find links to them either on the Agenda or the Minutes.

One more will be referenced to help one see the extent of the confusion. The Minutes attached to the April 26, 2018, Agenda are dated January 26, 2018. A comparison of the first set of Minutes for the January 26, 2018, meeting and the second set linked to the April 26, 2018, Agenda. The items listed in the first are not contained with the second including who made the respective motions. Both note the Meeting was set for 10:00 a.m., but the Call to Order for the

second set is 8:30 a.m. The Policy items on the April 26, 2018, Agenda that are to be placed on the Consent Agenda do not appear in the Minutes. While there is reference to Policy Updates on the Agenda, in the Minutes, the notation is “none”. The only possible linkage between the Agenda and the Minutes is that the Minutes reference amending the Agenda to include an action item under New Business with respect to the Collier Marshall Program. This item was taken up and approved by vote. The Minutes show a summary description of this meeting event.

School Advisory Council

In MCA’s 2012 Application, which, as previously noted, is incorporated by reference into its Charter Agreements with the District School Board of Collier County, a School Advisory Council (“the Council”) was specifically designated to be constituted “to assist the School Principal with school-based decision-making and to involve parents in their children’s education.” To this end, membership on the council was to “reflect an equitable balance between school employees and parents and community members” with the hope that one community member would come from the business community. The duties and responsibilities of the Council were to be as follows:

- (1) Work with the school Principal and give advice, consistent with state and charter school rules and policies, on policies relating to instructional issues and curricula and on the school’s budgets.
- (2) Where appropriate, coordinate with any existing work force development boards or vocational education advisory councils to connect students and school academic programs to business resources and opportunities.
- (3) Serve as the champion for students in building community support for schools and encouraging greater community participation in the public schools.
- (4) Hear grievances from parents according to the Parent Grievance Policy.
- (5) Assist the Governing Board in filling Board vacancies. (See, 2012 Application at 63).

A review of the record shows that from early 2014 – April 2016, there was a Parent/Teacher Committee association that met regularly and frequently reported to the board through its leadership its work and activities. It is referred to in the Board Meeting Minutes as the “PTCA”. Its work primarily involved fundraising for MCA. However, at the July 25, 2015, Board Meeting its role was discussed with an indication that its duties and responsibilities would approximate those of a School Advisory Council. During discussion, it was expressed the PTCA was frustrated with the Board’s lack of communication of its own goals to PTCA. Board Member Donalds expressed his view that the Board needed to better identify and define its goals to assist PTCA in its fundraising objectives. He advised that moving forward there was a need for a professional development officer who would be responsible for overseeing MCA fundraising plans. (See, Minutes to the July 27, 2015, Board Meeting).

Board Member Lichter noted that it was Hillsdale College's recommendation that all communication go through the MCA's Governing Board. To this end, she expressed her belief that "PTCA is to support Principal Hull and teachers." She added that the Board "should have fundraising committee to formulate strategic fundraising goals which will incorporate the principal. Ms. Lichter's comments were consistent with the goal of establishing standing committees as set forth in the 2012 Application. It is provided therein that "the Governing Board is also contemplating creating other standing committees...It is anticipated that committees for fundraising, policy development, principal evaluations and an outreach committee will be created in addition to other standing or ad hoc committees." (See, 2012 Application, at 63).

In this context, the Minutes note that Mr. Lichter advised that the "PTCA reports to the principal." Ms. Wilson, one of the leaders of the PTCA, had added that the PTCA had "received non-profit status to be able to help the principal for daily operational expenses." (See, Minutes to the July 27, 2015, Board Meeting).

Nevertheless, at the April 11, 2016, Board Meeting, Board Member Donalds informed the Board that he had learned that the PTCA had decided to dissolve its 501C3 status effective at the end of the school year (2015 -- 2016). At the May 9, 2016, Board Meeting, under the "Community Comments" section, the Board was also informed that "PTCA funds raised in the name of Mason Classical Academy will be donated to the school."

Subsequent to May 9, 2016, one does not hear about or hear from PTCA or any equivalent organization again. Moreover, one does not see in any of the Board Meeting Minutes subsequent to the PTCA's dissolution, whether under Reports or Officers and Standing Committees, Unfinished and New Minutes, or Board Comments any discussion or information pertaining to the creation of a School Advisory Council standing committee, membership on that committee, or the need for such a committee, (or its equivalent) to undertake the multiple duties and responsibilities as set forth in MCA's Application.

Finally, at the November 2, 2018, Board Meeting there is a unanimous vote to approve "Third Option for Contracts Review, Five Year Extension of Contract, and Third Option for Salary Review Effective November 16, 2018. (See, November 2, 2018, Board Meeting Minutes). Previously at the May 29, 2018, Board Meeting, a Salary Schedule and bonus options were unanimously approved by the Board. (See, May 29, 2018, Board Meeting Minutes). And, at what is apparently the March 31, 2017, Board Meeting (apparently because the Minutes denoting the issue are dated March 24, 2017), there is unanimous approval for the "Salary Increase and Bonus as Part of the Principal's Contract." One could provide additional examples.

What is the point of this? On April 13, 2014, the Board approved Policy B 17.0 Management Compensation Review Policy. The Policy provides that before any compensation approval, the issues must be reviewed by "the Employment Committee." Its duties and responsibilities involve obtaining research and information "to make a recommendation to the full board for the compensation (salary and benefits) of the Principal (and other highly compensated employees or consultants) based on a review of comparability data." The Policy lays out what should be included in the data and other matters. It concludes with "no member of the Employment Committee will be a staff member, the relative of a staff member, or have any

relationship with staff that could create a conflict of interest.” There is no evidence in the record that an Employment Committee was ever set up, members chosen, data gathered, and so on. The Board seems to have ignored its own policy.

B. Discussion and Applicable Law and Policies

The Florida Attorney General has defined the term “quorum” as

the number of members of a group or organization present to transact business legally, usually a majority; and the minimum number of members...who must be present for a deliberative assembly to legally transact business. Thus, a quorum requirement, in and of itself, contemplates the physical presence of the members of a board or commission at any meeting subject to the requirement.

(See, AGO 2010-340).

In AGO 2010-34, the Attorney General addressed the issue of whether a City Commission Board could adopt an ordinance that stated that the requirements of creating a quorum could be met if members appeared via electronic means. The Attorney General answered the question in the negative. He opined that Commission Board Members who appeared by electronic means could not be counted in establishing a quorum.

Similarly, Attorney General Opinion 2003-41, addressed the issue of whether only one could participate in meeting by phone. Participation was permissible under extraordinary circumstance and only “when a quorum of the board members is physically present.” The Attorney General whether a scheduling conflict rose to the level of an extraordinary circumstance was a determination left to the “good judgment of the board.” (See, too, AGO 2002-82, in which the Attorney General concluded that physically disabled members of a public board/ committee who could not attend the meeting in person could attend by electronic means “as long as a quorum of the members of the board is physically present at the meeting site”). The Attorney General reemphasized the physical presence requirement a public meeting in her Informal Legal Opinion of July 20, 2016.

If a quorum is not physically present, official business and official action (through vote, for example) cannot be undertaken. Indeed, a quorum must be physically present “to legally transact business.” (See, AGO 2009-56). This is also noted in Robert’s Rules of Order, 11th edition 2013, at §40, p. 347).

The renewed 2017 Charter between MCA and the District provides in Section 9: Governance, the following: “A majority of the voting members of the Governing Board shall constitute a quorum. A majority of those members of the Governing Board present shall be necessary to act.” In Board Policy 3.0 (“Board Meetings”), it is specifically noted that “all motions shall require for adoption a majority vote of those present and voting...” (See, subsection on “Voting” Policies Manual 26, April 2018, at 13, and the January 23, 2019 updated Manual at 13). Moreover, consistent with the above-referenced Attorney General Opinions, in

the section on Voting By Proxy, the following is provided: "Members who are participating electronically may not be considered in the count to determine whether a quorum has been met." (Emphasis added). (Id., both editions of the policies manuals, at 14).

At four separate meetings, MCA's Governing Board held and conducted business at which there was no quorum physically present at the school. Such meetings were thus held wrongfully and impermissibly in violation of law, MCA policy, and the 2017 Charter which was in effect when such actions were illegally undertaken.

Accordingly, it is submitted that all official actions and business undertaken at the January 26, 2018, April 26, 2018, June 30, 2018, and December 14, 2018, Board Meetings are null and void. The June 30, 2018, Meeting is of considerable concern. This meeting was called to approve MCA's annual budget for fiscal year 2019. The meeting was held at 5:00 p.m on a Saturday and undertaken without a quorum. (Board Member Longenecker was absent, Board Member Lichter appeared by phone, and Board Member Miller was physically present). The meeting was called to order at 5:03 p.m. and ended nine minutes later at 5:12 p.m. During the nine minutes, Ms. Turner introduced the budget and Board Members Miller and Lichter moved and voted to approve it; hardly time to review and discuss something as important as a school's annual budget. There is no discussion noted in the Meeting Minutes.

Perhaps sensing or knowing something was wrong, at the November 30, 2018, Board Meeting, the Board moved and voted to ratify the FY 2019 budget. (See, Minutes of the November 30, 2018, Board Meeting). Both Board Members Lichter and Miller were physically present at the meeting. Mr. Longenecker was again absent. Thus, at both meetings involving the budget, the Treasurer was absent. There is no discussion as to why ratification of the budget was determined to be needed. There was certainly no effort to take up and move to cure the June 30, 2018, meeting events. Accordingly, the Board in essence voted in November to ratify an illegal vote taken in June which is anything but a cure.

Equally of concern is that two weeks later at the December 14, 2018, the Board wrongfully voted to approve Mr. Bolduc as a new Board Member. It is submitted that Mr. Bolduc's appointment was null and void ab initio. He has thus wrongfully served on the Board since his first meeting on January 23, 2019. Accordingly, all his votes from that day forward, and until such time as a cure is effectuated, must also be deemed null and void.

Given the Board's wrongful action to approve of Mr. Bolduc (which approval is certainly not his fault), the Board in essence has operated, since December 2018, as a two person Board in material violation of MCA's Charter with the District which provides that the "management of the affairs of the school shall be vested in the Governing Board with a minimum of 3 members."

Board Membership

In the Board's bylaws, under the heading "Election Process", the following is provided: "The Directors of Mason Classical Academy shall be elected annually by the Board of Directors at an annual meeting of the Board". (See, both Policy Manuals, noted above, at p. 3 respectively). In Policy B 3.0, under "Annual Meetings", it is provided that "the annual meeting