

of the Board of Directors shall be held in July of each year. At the annual meeting new Board Members will be elected.” (*Id.*, at 10).

In this connection, at the Board’s October 3, 2015, Workshop, which was devoted to MCA’s Strategic Plan, the Minutes note that the current term of a Board Member is one year with no term limit. A review of the Board’s Meeting Minutes for the months of July or August, during the 2015-2018 time period disclose no annual/organizational meeting to elect Board Member and/or officers. New members were approved when there was a resignation from the Board. Thus, for example, Mr. Baird replaced Mr. Lane as Treasurer and Mr. Longenecker replaced Mr. Baird as Treasurer and later Mr. Bolduc was approved to replace Mr. Longenecker as Treasurer. However, when Mr. Donalds left after the November 1, 2016, Board Meeting, no motion was made to fill his seat with an appropriate candidate thereby reducing the number of Board Members from 4 to 3. (In fact, there is evidence that there was a period of time the Board had 5 members). Board Members Lichter and Miller have remained continually in place to the present as President and Secretary, respectively. The Board has thus disregarded its own By-laws and Policy in connection with the Board Member election/selection process.

Minutes and Agendas

In Attorney General Opinion 82-47 meeting minutes are defined to mean “a brief summary or series of brief notes or memoranda of a proceeding or transaction.” They are not expected to be a verbatim record of a board meeting. In essence, they are to serve as a record of the proceedings for the public to review and understand what has transpired. Robert’s Rules of Order, (11th edition, 2011) provide that the minutes should be a record of what was done at the meeting. The body of the Minutes should describe all main motions and the issues taken up, and the substance of committee and other significant reports. (*Roberts, supra*, at 468 – 471).

A review of the Meeting Minutes from July 2016 -- 2019 show that except for a few Meetings such as the September 13, 2018 Board Meeting, the reporting of what was done at such meeting was either minimal or often not presented. The writing and approval of such Minutes reflects an unfortunate lack of concern for transparency for the public. Moreover, a review of MCA’s policy concerning Agendas, show a concern with the Board’s access to documents “accompanied by descriptive materials from the Principal or designee...” (*See*, Policy B 3.0, under Agendas at pp. 11-12 in both manuals noted above). Such documents and descriptive materials are not made accessible to the public for review.

With the foregoing in mind, the concerns raised by Mr. Baird in his Complaint are well-founded. In this context, one item connected to his Complaint needs to be addressed. There is no evidence found to substantiate the claim or belief that Mr. Hull has ever acted as a liaison between Board Members alleged in violation of Florida’s Sunshine Law. In the meeting with him, he acknowledged that as part of his work, he meets with individual Board Members as might be necessary. However, he has never brought to the attention of, nor shared with any given board member, information he has learned from another, nor has any Board Member ever asked to do so. One has found no evidence to dispute his statement. Thus, he will indeed be taken at his word.

Governing Board Oversight of Policies

Board Policy B 2.0 provides that while “two (2) readings are not required by statute, the Board prefers two (2) readings so the adoption schedule must be planned to provide for two (2) readings. (Policy Manual, both editions, at 9). Both readings must be placed on the agenda for the appropriate Board Meeting or workshop.

Item 4 under First Reading in the Policy specifically provides the following: “All policies must be included as attachments to the Agenda item. Revised policies must be in the strike out, underlined (or bolded) version to indicate changes. Attachment will be uploaded to the MCA server for Board review”.

After the first reading, the Principal is responsible for placing the second reading policy items on the agenda for the next Board Meeting. Changes recommended by the Board during the first reading must be incorporated into the proposed policy, Item 5 of the Second Reading section, mirror images item 4 of the First Reading section.

While policy items are to be included as attachments to the agenda, they are only uploaded to the MCA server for Board review. They are not attached to the agenda for the public to review nor is there a link that would enable a person from the public to have access to the MCA server to read the proposed policy (whether at the first or second reading level).

A review of the record shows that many MCA policies never go through a second reading for the public to review or open discussion held by Board Members about such rule making for the school. Many are placed on the Consent Agenda and approved without Board review or discussion. Moreover, where there are multiple policies for second reading, they are, by definition, never individually identified when placed on Consent for vote. They are simply passed through collectively. Sometimes one simply finds as well a First Reading without any second reading identified thereafter. There are multiple examples of this practice as the following will show. For example, at the August 2, 2016, Board Meeting, Policies SE 20.1, SE 19.0, and SE 53.0 were present by Mr. Marshall for a First Reading. At the August 8, 2016, Special Meeting, all were placed on the Consent Agenda without a Second Reading with an individualized review and discussion followed by vote.

On January 12, 2017, Policy SE 19.0 which was passed on Consent at the August 8, 2016, Special Meeting, was brought forward and placed on Consent at the January 12, 2017, Meeting then moved to unfinished business so it could be modified which would have created a new First Reading. Nevertheless, the Board voted on it treating it as if it were Second Reading.

This pattern of placing First Reading policy items on the Consent Agenda can be found as well at the March 25, 2017, Board Meeting, as well as at the April 26, 2018, Board Meeting where policies are identified on the Agenda, but not in the Minutes of the Consent Agenda for that meeting which was wrongly dated January 26, 2018, as previously noted.

Further, two policies were taken up as a First Reading (AP 9.0 and SE 4.0), and a vote on Policy SE 57.0, which would indicate a Second Reading was undertaken, at the December 14,

2018, meeting when there was no quorum. Since the action are null and void, it would mean the First Readings presented later as voted on as a Second Reading would have to be withdrawn and SE 57.0 would have to be brought back again at meeting where a quorum is physically present and, therefore, like the others cannot constitute approved policy of MCA until these matters are cured.

It is clear that the Governing Board has used the Consent Agenda as a means to push policies through as a substitute for Second Readings. There is simply no way the public (including the MCA community) could comment under such circumstance. While the Board bears ultimate responsibility for such actions, one does not see Mr. Marshall or Mr. Hull as persons who are responsible for of bringing proposed MCA policies forward to the Board, properly advising the Board procedurally and substantively in this area of review. In sum, the Board and the Administration suffer from a transparency problem. And as noted above, it has faulted in its duty to set up standing several committees as required under the Application; including the setting up of an Employment Committee as required under Board Policy. It has equally faulted in its oversight obligations including appropriate and careful policy review.

VI. MCA Board and Administration Oversight: Grievances, and Parental and Student Concerns:

A. The record shows a school with a strong instructional model valued and appreciated by most parents whose children attend MCA; including those parents who have taken their children out of the school to attend other schools. Parental concerns and criticism have been a function of actions (and non-actions) taken by the Administration and the Governing Board that they believe have shown a serious insensitivity to questions and concerns they have raised. These include criticism of parents as stakeholders, criticism of their children, uneven implementation of policy, arbitrariness in decision-making, discipline, and the experience that if they question the Administration in any way, by filing grievances or express disagreement, whether verbally or in writing they are seen and treated as being against the school, fringe-types who are really outsiders who do not belong at MCA.¹

This does not overlook the reality of many other parents who have experienced the administration in positive ways and have expressed their support for it. And indeed, it does not overlook the positive efforts made by Mr. Hull and Mr. Whitehead in addressing parent questions, concerns, and conflict. As will be seen, this has created an unaddressed polarizing effect, which will be seen, has affected MCA's faculty who have been men and women of good will who have wanted to educate students to the best of their abilities in accordance with high academic standards.

¹Several parents have expressed concern with the rather draconian nature of the pink slip disciplinary policy. Parents of students who were suspended for a certain number of pink slips must spend a day at the school with student. Student may not return if the parent does not attend. Parents have expressed concern that if they cannot give up work, the child is penalized and cannot return to school. This creates an anomalous situation of students losing instructional time because their parents cannot leave work and give up a whole day. Most recently, Dr. Thornburg has written extensively to administration and the Board about this issue in light of his child's discipline. Mr. Hull advised the undersigned he was trying now to address these issues on a case by case basis. He did not address the deeper question as to why a child must pay instructionally if the parent cannot meet the terms of the policy.

B. Review of Specific Factual Issues

While there were parental concerns raised and expressed during the 2014-2015, school year, a serious set of events occurred at the beginning of the 2015-2016 school year that unfortunately continue to resonate to this day in their own way.

On September 15, 2015, Valerie Parker, an MCA parent with two children enrolled in the school, was informed that her kindergarten child was being unenrolled from school because of his alleged failure to comply with Policy SE 1.0 Personal Hygiene in which students must be "independent in toileting." This arose out of some three accidents that occurred during the course of an approximate month period (August 17 – September 15, 2015).

On or about August 17, 2015, the child had apparently wet his pants in the bathroom. Ms. Parker wrote to the teacher, Mrs. Huck on August 18, 2015, thanking her for helping her child. She noted that she had "washed and sent the spare set of shorts, and had placed them in the child's backpack." Mrs. Huck responded with "no problem." And she proceeded to inform her of the three reasons why she thought Ms. Parker's child had the accident including "there was a line waiting before him; and he couldn't manage to get his belt off." She asked that he work on practicing taking his belt on and off. During the week of August 24, 2015, the child was out for several days for medical reasons. He was out again September 8 and 9 for similar reasons and for which he was on a medication regimen. Ms. Huck was informed of this in the email. Mrs. Parker emailed Ms. Huck accordingly on September 8 and 9, 2015. On September 8, she also emailed Ms. Barreto of her son's illness and absence from school when Ms. Barreto informed her he was missing too much school and would need a doctor's note. At 3:02 p.m. on September 9, 2015, in furtherance of Ms. Barreto's request, Mrs. Parker emailed her stating "please note the dr faxed a letter for your records. This was done about an hour ago."

On Friday, September 11, 2015, an accident occurred in which he soiled himself while in class. Traumatized, he touched himself in the lower back area to feel what it was and then removing his then soiled hand from his pants. He was taken to the bathroom and left there with another person until Mrs. Parker was called to come to school to clean him up. After cleaning her child up, recognizing how difficult the experience must have been for all, a distraught Mrs. Parker apologized to the teacher, and made a \$50 donation to the school for the cost of any cleaning supplies that were used in the clean-up process. (See, September 11, 2015, email communications to Ms. Huck and to the school). Mrs. Huck responded quite critically lecturing Mrs. Parker that her son should have known how to handle his toileting needs. She added that that for it was "not one gross and something a kindergarten teacher should rarely hand, but very unsanitary for us all..."

At 10:15 a.m. on Monday, September 14, 2015, Mrs. Huck emailed Mrs. Parker seeking to meet with her and Mr. Whitehead that day or the next to discuss her son's "accidents at school." Ms. Parker wrote back asking: "Was there an issue today which required an expedited meeting?" She informed her that the most recent accident "was an unexpected onset of an intestinal bug." She advised she would be glad to meet to discuss. However, wanted her

husband to be present but he was away for the week. She offered the following Monday (September 21, 2015) to meet.

Ms. Huck then made it clear why she and Mr. Whitehead wanted to meet with her. At 3:36 p.m. she wrote: "The reasons for our scheduled meeting is to inform you of the enclosed policy and if there is another occurrence this week", her son "will be unenrolled at Mason Classical Academy...Let us know if you still want to meet on Monday." Mr. Whitehead was copied on the communication.

On September 15, 2015, another accident occurred in the bathroom just as the child was getting to the toilet itself. Mrs. Parker was called and she came to school to clean it up. She recalled Mr. Hull telling her that he expected her to clean it up; which she did. Once she had done so and was walking her child out of the bathroom to hallway, she was handed a copy of Policy SE 1.0, told her that her child was done at MCA and Mr. Whitehead escorted both of them out of the building.

On September 16, 2015, a separate event occurred apparently involving a second grade student, who also experienced an accident. Embarrassed, the child tried to flush his underwear down the toilet which got clogged in the process. The ensuing plumbing problem led the Administration to the decision to find out who the culprit was. The decision, was also made, without prior parental notification, to check the pants of multiple students to see who might not be wearing underwear. This investigation was spearheaded apparently by Mr. Whitehead. The student was identified, confronted, and apparently confessed to his actions.

On Wednesday, September 23, 2015, Mrs. Parker wrote a lengthy email to Mr. Whitehead expressing her concerns including the fact that she felt the medical issues, including the medical issues involved, were not taken seriously by the Administrative team. She then stated her concern about the other child and the fear and embarrassment that he must have felt. She concluded her remarks as follows:

While this is disturbing on so many levels, you must understand how these children have been made to feel. These are good, obedient children who just want to comply and obey the rules. You have to think on their level. When a teacher, a superior, someone of authority gives them directive, they want to comply -- even if that means putting common sense aside to do so. We've taught them to listen, be respectfully and comply with what they are told...

While I have been advised by man concerned MCA parents to report these incidents to outlets outside of MCA, I support this school and want to go through the proper channels, extending courtesy that both my child and I were never given. I am calling on you to please make these things right. I care very much about this school. I want it to flourish and succeed. I was one of those parents involved from the beginning. My heart is here, even though my child was judged unfairly, far too harshly, and his expulsion was unjust. What is happening here

is very concerning. It must be addressed and remedied for both the mental and physical health of our children and for the good standing of the school.

Mr. Whitehead wrote her back that day acknowledging that he had read all of her concerns noting: "I will forward this on to all related personnel for further review." With respect to the bathroom incident that Mrs. Parker had noted toward the end of her email, he informed her of the following: "The child who caused the clog WAS NOT disciplined in any way for the unfortunate event. Any rumors stating that the child was disciplined by MCA are completely false."

Despite Mr. Whitehead's representation that he would send her email on for further review, she never heard from anyone at MCA. Pursuant to Board Policy, she prepared a detailed grievance letter that included much of what she had expressed to Mr. Whitehead. She sent her written grievance to MCA Board Members including Mr. Donalds and Mr. Mathias. Mrs. Parker never heard back from the Board and no inquiry was ever undertaken to address her concerns.

On October 3, 2015, Mrs. Parker then sent her grievance to Dr. Messer, the District's then Director of Charter Schools, for review. Dr. Messer informed her the District could not undertake a review and wanted to give MCA's Board a chance to do so. She also contacted the Charter School Office of the FDOE and received no response. Ultimately, Mrs. Parker concluded that she would receive no response to help her redress her concerns. As a consequence, after speaking with several other parents who were upset by the underwear incident and lack of transparency at MCA, she agreed to speak with the media to voice her concern. The story was picked up by NBC-2 News and the Naples Daily News ("NDN").

The response to the media reports was something Mrs. Parker could not have predicted. Mr. Whitehead, the School's Assistant Principal, who had promised to forward Mrs. Parker's concerns, now directed his energies by indirectly attacking her on social media. He began his post by discussing rumor spreading and gossip as essentially criminal "spread against a person or organization." Warming to his subject, he then extrapolated as follows: "When you kill a good reputation intentionally, wrongfully, and by stealth, you have in fact killed that person." He noted that persons who spread rumors are cowards. He then explicitly added the following message: "I would have no problem with facing anyone like that and terminating their lease on life." (Emphasis added).

Board Member Laura Miller read Mr. Whitehead's remarks and supported them. "Joe, I agree with you. It's imposing for me to believe that the parent who called for an interrogation of staff by DCF is a true patriot." She later added that founders of the school "would never dream of this kind of cowardly, destructive action without having good form to discuss their grievance with the teachers, administration, and then if need be the Board." It is clear, that Board Member Miller had not looked into the facts before commenting. Mrs. Parker had written to the teacher, written to Mr. Whitehead, and written to the Board. Mr. Whitehead never responded to Mrs. Miller's posting that he had received and reviewed Mrs. Parker's concerns and had promised to send them on to the appropriate persons. Other comments mocked the child and Mrs. Parker's

parenting skills including anonymous ones written under cover of “CCEA-Collier Citizens for Educational Achievement” that were particularly destructive in nature.

Board Member Lichter also weighed in on the social media posts. She commented on a pro-MCA statement by calling out Mrs. Parker by name as follows: “Thank you for your support. Perhaps you and others should personally let Mrs. Parker know how you feel.” Yet, neither she nor anyone else on the Board or Administration made any effort to investigate the matter or sit with Mrs. Parker to address her concerns. They never reviewed what the policy provided.

For whatever reason, Mrs. Lichter decided that she wanted to attack Mrs. Parker again almost three and a half years later in a series of emails sent to District School Board Members. She noted that she “was very surprised that not one of you asked me to send the report on Valerie Parker. This just proves that you have no interest in truth or hearing our side for your convenience. I have attached the report to this email. Your minds will be blown! If anyone should be investigated, it is this School Board.”

A review of the alleged report discloses a non-report; just a cobbling together of emails, newspaper, letters, and so on. A good portion involves comments involving the underwear incident which had nothing to do with the complaints raised by Mrs. Parker. Mrs. Lichter begins her email with a statement of false reporting guidelines and the criminal penalties related to them. She then proceeds to comment on an alleged DCF report and claim that she knew of a call from Mrs. Parker to DCF (Mrs. Parker never called DCF) and then proceeds to comment on it. How she came into possession of it, or who authorized it, she does not say. Why MCA never prepared or produced a report based on the September – October 2015 events, she also does not say nor does she say why no one acted on Mr. Whitehead’s promise to pass Mrs. Parker’s concerns along or why her written grievance was never addressed. Certainly, her report is silent on them. It appears her email was an attention-seeking device to get Board Members to respond to her.

Mrs. Lichter’s April 4, 2019, email was a springboard to a further set of attacks sent via email to the School Board on April 5, 2019. In one of them, she goes after Mrs. Parker and her child directly “The report I sent you did not include details regarding the 4th and final incident. Her child not only had an accident but he put feces matter all over the floor, the walls, the stall, the toilet, and the sink.” What Mrs. Lichter left out is that she had no personal knowledge of any of this. Her comments are a variant of the comments set forth in the anonymous CCEA Facebook post noted previously from November 2015.

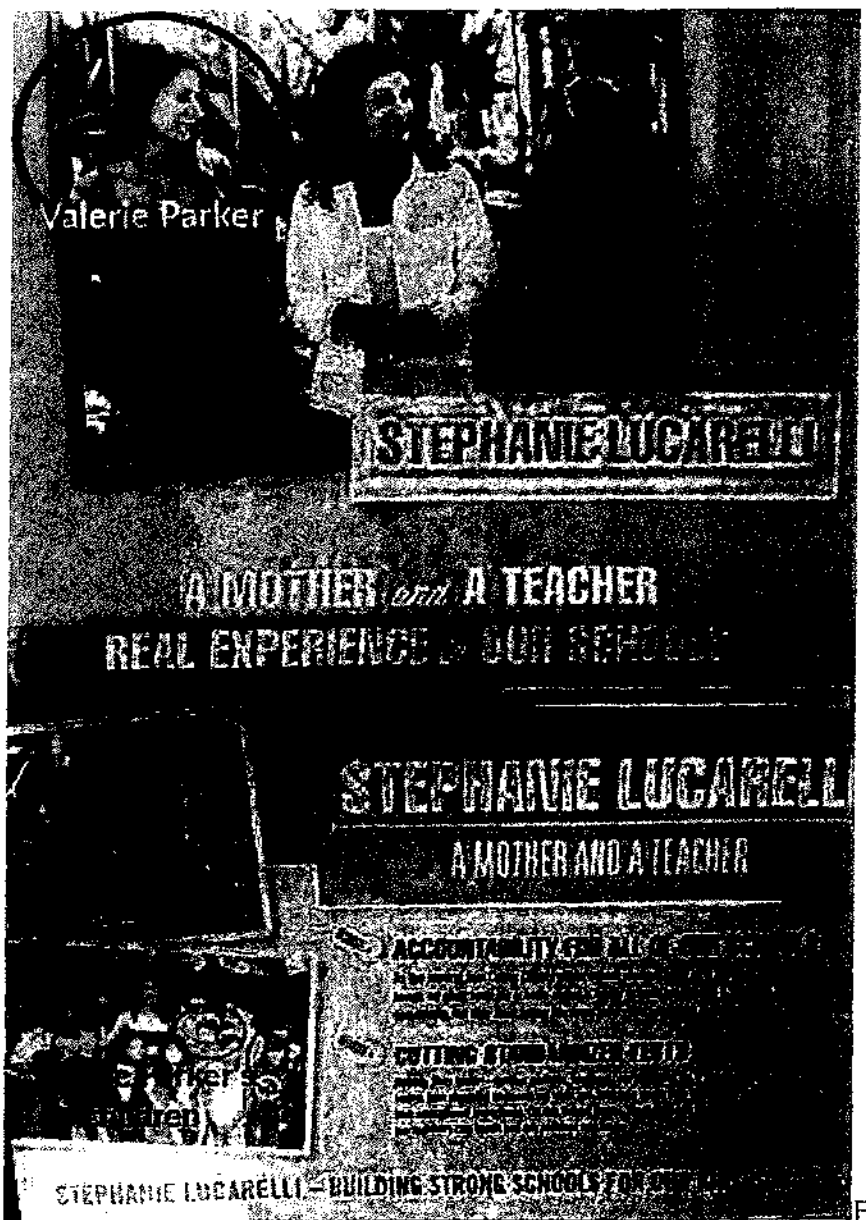
Mrs. Lichter also sent a separate email, which is actually a photo, pertaining to Ms. Lucarelli’s campaign. Mrs. Parker is apparently in the picture. Mrs. Lichter has drawn a black circle around her face identifying her as “Valerie Parker”. Below is a small photo of Mrs. Lucarelli with a group of children in a classroom. Mrs. Lichter has drawn a black circle around the faces of two children with the notation “Valerie Parker’s children.” In the subject line of the email, Mrs. Lichter has written “CRIMINAL – No need for me to comment further.” The email address shows the email was sent from Mason Academy (klichter@masonacademy.com). The email warrants disclosure in its entirety.

From: Kelly Lichter [mailto:klichter@masonacademy.com]

Sent: Friday, April 5, 2019 10:22 AM

To: Westberry, Jory <WestbeJo@collierschools.com>; Lucarelli, Stephanie <lucars@collierschools.com>; MITCHELL, JENNIFER <mitchj3@collierschools.com>; Carter, Erick <cartee1@collierschools.com>; Terry, Roy <TerryRo@collierschools.com>; Patton, Kamela <patton@collierschools.com>; Fishbane, Jon (Jonathan) <fishbj@collierschools.com>

Subject: CRIMINAL-No need for me to comment further



As if that were not enough, six day later, on April 11, 2019, Mrs. Lichter emailed Ms. Lucarelli directly and not copying anyone else on the email. She tauntingly wrote the following:

Stephanie:

I assume you are pretty shocked after reading the report, which is why you likely have not responded. Valerie was featured on your campaign materials.

It's amazing that you couldn't find anyone else to be part of your photo shoot. She convinced a lot of people that she was some victim. She does appear to be so genuine and sweet. You were fooled too. You are so blinded by your hatred and disdain for MCA that you did not care about the truth.

You aren't who you claim to be. You got away with the foreclosure situation and lied about it. How do people trust people like you and Valerie Parker???? I am in to all of you and what you are trying to do. It's criminal and despicable.

This email also was sent from Mason Academy. At the bottom of the email is the following notation: "this email is the property of Mason Classical Academy and to be used for official business only."

The Parker grievance and its multiple related issues was not the only grievance filed. Many of the parents who came forward did not file formal grievances even though they felt administrative staff did not address or answer their concerns. Others decided to file grievances with the Governing Board. The Minutes of the May 29, 2018, Board Meeting reflect the following:

Prior to the Principal Evaluation, Mrs. Zuluaga, parent of two MCA students, filed a grievance with the Board of Directors. The grievance will be investigated by the individual board members and response will be given at the next board meeting.

Mrs. Zuluaga had requested that the evaluation of Mr. Hull, scheduled for that meeting, be deferred until her grievance could be heard. Her request was denied and the Board voted unanimously in favor of Mr. Hull's evaluation.

Subsequent to the Board Meeting, Board Member Mrs. Lichter requested Mrs. Zuluaga respond to specific questions she had based on statements contained in the complaint. Mrs. Zuluaga responded to each question in considerable detail, recording them in blue, and emailing them to Mrs. Lichter on May 31, 2018.

The events at issue originated in an email her daughter, a senior at MCA, sent to Mr. Hull at 3:24 p.m. on February 27, 2018, that she wrote on behalf of the senior class and with the

senior class students' assent for her to do so. The email, cast in the form of a letter to Mr. Hull, began with an apology for "the senior skip day idea?" She noted that while it was a joke, she could appreciate how it might be seen by them as disrespectful. She noted that she deeply valued her teachers and did not intend on offending them. She then noted that what on the surface appeared to be "senioritis gone wrong, there is a much deeper reason for this feeling of apathy you have been seeing recently in my class." Ms. Zuluaga then tried to explain to him the feelings of exhaustion and concerns that she and her peers shared. She then explained her meaning in the following way:

The short explanation is simply that we're tired, and often times feel burnt out. The curriculum we're receiving at Mason is far more weighty than anything we are used to, and is often times overwhelming. Many of us are managing collegiate level classes alongside writing our thesis, which requires a lot of additional research to cover the holes we did not go over last year in our moral philosophy class. We look towards the weekend for a relief to our week filled with tests (sometimes more than one test in a single class), quizzes, homework, and our extracurriculars. We want to succeed, and we don't want to dread waking up in the morning, but sometimes the weight is too much, and we yearn for some kind of break.

She then added, on behalf of her classmates and herself, the following observations:

On top of this, oftentimes my classmates and I are overwhelmed by the immense pressure which comes with being the first graduating class. We are aware that being the school's first graduating class is exceptional and should be celebrated. We've been the "guinea pigs" for over 2 years now, and it is finally coming together towards something great. Yet we often feel as though we're being shown off, not for our own benefit, but for the schools. Applying to college is grueling. Especially since I applied regular decision to all my choices, and now, it's simply a waiting game which will ultimately determine my life for the next four years. So when I apply to a reach school, knowing very well my chances are slim but taking that leap of faith anyways, I don't always want it to be public. I understand we are your first graduating class and this information is beneficial to the school, but nor now, I want this information to be private until I am comfortable to disclose it. The pressure to bring the school acceptance letters, scholarship and grant numbers, and college application adds to the stress I already inflict on myself as I wait for acceptances. At the end of the day, it feels more like we're being set up to compete against our classmates for who can bring in the most money and acceptances, instead of being unified.

(See, the February 27, 2018, email from Ms. Zuluaga to D. Hull).

Ms. Zuluaga concluded as follows: "I do not want you to think any less of me or my classmates over this and I hope it can shed light on how we feel. We don't mean to be dramatic or stressful. We are truly working very hard, Mr. Hull, and we hope that a joke which was never intended to offend doesn't change your opinion of us." (*Id.*).

Mr. Hull's response was to call a meeting of all MCA seniors to address the letter. In her grievance, Ms. Zuluaga contended that Mr. Hull yelled at the students, read the letter out loud, mocking sections of it and demeaning students in the process, calling students out publicly, chastising her daughter, calling her out for her friendship with his son allegedly saying then if you are so tired you shouldn't be speaking to my son on the phone at midnight. Mrs. Zuluaga noted that Mr. Hull had referred to "to a time they were on the phone together very later at night at least one year before this incident." This and multiple other comments reduced her daughter to tears and asking him to stop which he would not do. Mr. Hull was also alleged to have accused the students of being selfish and ungrateful. (See, the Grievance document and Thursday, May 31, 2018, email from L. Zuluaga to K. Lichter).

When the undersigned asked Mr. Hull about the meeting with the senior class and his review of the letter, he acknowledged that he met with the senior class collectively. He stated that he did not target Ms. Zuluaga. When asked whether he publicly questioned her character and her National Honor Society status, he responded that he did not remember. He acknowledged that he did go through the letter line by line and allegedly explained to them that such behavior had to stop and that they were responsible for their actions. He stated that he did not yell at the students but gave them a wake up call and told them that they needed to get their acts together. He also claimed he told them that they needed to show appreciation for all the help being given to them to enable them to receive scholarships. He stated quite emphatically that he does not abuse kids and that one of his own was in the 2018 graduating class.

After the meeting with the senior class, Mr. Hull emailed Mr. and Mrs. Zuluaga on Wednesday morning February 28, 2018. He requested that they meet ASAP to discuss the February 27, 2018, email "and a few other things" concerning their daughter. He added: "I would be willing to do any time today, even cancelling a class I teach, if you are able to come in." They agreed to do so and advised they could come in at 12:30. Mr. Hull accepted. (See, the February 28, 2018, exchanges between Mr. Hull and Mr. and Mrs. Zuluaga). They had an intense exchange concerning the email, the meeting with the senior class, and related issues involving Ms. Zuluaga.

That evening Mrs. Zuluaga emailed Mr. Hull. She noted that in light of the meeting held that day, "we believe that it is important that we meet again to find the proper way to move forward. We are available tomorrow any time after 11:00 a.m., please let us know what time is convenient for you." Mr. Hull responded at 7:16 p.m. as follows: "It will have to be next week. I am booked solid for the rest of this week. What day and time works for you." (See, the February 28, 2018, exchange between L. Zuluaga and D.Hull). Mr. Zuluaga responded the next morning, March 1, 2018, expressing his disappointment noting that "it is really important to find the truth of this situation, and considering that we are only three weeks away from graduation, we would rather have you listen to our concerns sooner rather than later." Mr. Zuluaga added "be found no reasons to conclude that his email was disrespectful." "We believe that she was speaking up, which is what we have always taught her to do." He then proceeded to express his and wife's concerns as follows:

The way in which you reprimanded my daughter ultimately embarrassing her in front of her classmates by utilizing past, personal and irrelevant incidents; yelling at her and her classmates and humiliating her by threatening to strip her away from the awards she had earned so far is definitely not acceptable and will not happen again.

We have already spoken with our daughter and given her the specific instructions to walk away if you choose to approach her in those terms and to wait until one of us is present.

You need to stop the bullying to our daughter with personal issues from her past.

(See, email from S. Zuluaga to D.Hull, March 1, 2018).

Mr. Hull did not respond nor did the parties meet again. Mrs. Zuluaga, in her response to Board Member Lichter's questions, provided her with the email communications noted above. (See, email from L. Zuluaga to K. Lichter, May 31, 2018, response to final inquiry from Mrs. Lichter).

At the July 16, 2018, Board Meeting, Board Member Lichter announced that the grievance had been denied. The Meeting Minutes provide the following information: "Taking any and all input seriously the MCA Board of Directors investigated the complaint and examined the statements of all concerned parties. After careful deliberation, the Board found no evidence that any further action was necessary." (See, the Minutes to the July 16, 2018, Board Meeting).

When asked about the Board's investigation, Mr. Hull noted that he was not involved in it. He also noted that he was unaware of the Board itself investigating complaints and did not believe it was appropriate for Board Members to do so. He did note, however, that he welcomed an investigation being undertaken. But he never saw nor received a written report in connection therewith.

But after the filing of the grievance, another thread to this issue emerged during the second week of June 2018. On June 12, 2018, from their personal email account, Mr. Hull and Mrs. Hull wrote to Zuluagas informing them as follows:

Please consider this your final notice about contact with my son [REDACTED]. As his parents and legal guardians we are forbidding Any contact whatsoever between any member of your family and Any member of my family...If you or any member of your family contacts him or accepts communication from him again, I will notify the Collier County Sheriff's Office and the State Attorney's Office immediately and without hesitation. (See, email from David Hull to the Zuluagas, June 12, 2018, at 3:54 p.m.).

Mr. Hull then decided to involve his Assistant Principal, Mr. Whitehead, a former City of Naples Police Officer, to provide him with assistance and advice concerning whether there were criminal consequences for the contact he noted above. Mr. Whitehead made inquiries on Mr. Hull's behalf. Mr. Whitehead replied "Thank you for advising me of this...I have contacted the SAO and CCSO regarding this situation as you mentioned below regarding previous info and I will advise you asap as we move forward...I will keep you posted on my interaction with relevant entities."

At 8:19 that evening, Mr. Hull (though email is signed "David and Sabine Hull") took the liberty of writing directly to the student, Ms. Zuluaga without notifying her parents. He stated:

We wanted to make sure you are aware of this serious situation and write to ensure you have a full understanding of it. Under no circumstances are you to contact [REDACTED] in any way –face-to-face, digitally, on the phone, through online media, or otherwise....

We are willing to leave things as they are now, unless you or [REDACTED] decide to violate the mandate of this message. Otherwise, as [REDACTED] parents, we will take appropriate and swift legal action. At this point, we consider this matter closed and will not communicate with you or your family anymore unless our demand is violated by any party involved.

The next evening, June 13, 2018, at 7:45 p.m., Mr. Whitehead wrote to Mr. Hull the following: "I spoke with a State Attorney today, who I have a long term professional relationship with." He noted he was advised that Mr. Hull should save all communications involving the two students and all members of her family. He adds: "I will be the collection point that compiles these documentations for evidence as we move forward." Mr. Whitehead does not say what right he has as an MCA Assistant Principal, to act as police detective, on behalf of the Principal, to move against an MCA family, (while one of the Zuluaga children had just graduated, another was still enrolled).

Fifteen minutes later, at 8:00 p.m., Mr. Hull wrote again to the Zuluagas. He informed them that he had a need to respond to them one more time. He wrote: "The reasons for this response is to address the advice offered by the State Attorney and to let you know that I have already have a substantial amount of such communications...I will continue to collect."

Mr. Zuluaga responded at 9:21 p.m. that evening to both Mr. Hull and Mr. Whitehead as follows:

Please move forward with any actions that you consider appropriate on this matter, but you need to cease and desist the harassment and intimidation you are inflicting on our family or we will pursue our own legal actions.

Thank you and have a great night.

Neither Mr. Hull nor Mr. Whitehead responded. (See, the email chain involving Mr. Hull, Mr. Whitehead, and Zulugas of June 12 – 13, 2018).

As the following will show, there are multiple examples of Mr. Hull's confusion of boundaries between the personal and the professional, and the disregard of the privacy rights, reputations and sensitivities of others. These, as will later be discussed, have serious legal and policy ramifications.

For example, on May 11, 2018, after a faculty committee of eleven teachers voted to present the Student of Virtue award to a twelfth grade student they believed to be the most deserving, Mr. Hull interjected himself in the decision-making process emailing to the faculty committee members that he believed his son was the better candidate and should have been given the award. He began by saying that he tries "hard to bite my tongue when it comes to my own children and their enrollment at this school." He then goes on to say that "being the Principal requires me to honor my duty as such" by speaking out on behalf of his son, "as I would for any student who needs a case being made on his or her behalf."

Mr. Hull proceeded to post and provide a comparative list of the awarded student's (and his son's) disciplinary record, tardies, GPA, awards, college acceptances and scholarships received in dollar value. He then informed the faculty members as follows: "I have also copies screenshots of demerit reasons for each student and attached it to this email." The screenshot includes photos of the two students. He added: "I must have missed something about how you objectively measured the 12th grade Student of Virtue." Mr. Hull concluded his message, as follows: "But in rare form I will put my dad hat on as I sit at my principal desk, and point out that I disagree with your decision. More important, I hope all the other students were given serious consideration and objectivity for this award." (See, email from David Hull to multiple faculty members dated Friday, May 11, 2018, at 4:56 p.m., subject: Student of Virtue).

There is no evidence that Mr. Hull ever notified the awarded student's parents of what he planned to do or obtained their permission to post their son's disciplinary history, tardies, GPA, and so on. Nor did they know he would be posting a comparative disciplinary screenshot, involving their son and Mr. Hull's son, denoting the names of the homeroom and issuing teacher with a narrative of the event/activity or which the student was disciplined, that would be viewed by multiple faculty members as a public record.

When asked about the matter, Mr. Hull acknowledged that he intervened and believed his decision was warranted. He felt the chosen student was not a strong candidate and that he believed he should speak out. He acknowledged preparing a comparative of demerits between the two students. When asked why, he responded because it was about virtue which reflects upon the school. When asked if he would have requested the committee to review their decision if a parent other than Mr. Hull had brought the matter forward, he responded that yes he would have.

Several months prior to the Student of Virtue email, on December 1, 2017, Mr. Hull emailed Sheryl Rogers, the District's then Director of Charter Schools discussing a parent issue he was having. In the email, after specifically naming the student, he informed her of the student's grades by letter, the student's grade level, his own argument with the parent, and the

nature of the testing the child was receiving. He told Dr. Rogers that he “just wanted to let you know about this situation since the mom was so out of control and angry and threatening to sue the school.” He asked Dr. Rogers to look into the child’s “situation at his prior school (which was a District school), including wanting to know whether the District Principal of the school the child previously attended have issues with her and so on. There is no evidence that Mr. Hull sought parental permission to share such information with an administrator from another school agency nor is there any indication why he believed he had a unilateral right to share a child’s academic (and social) background with Dr. Rogers.

In addition, on August 30, 2018, Mr. Hull took it upon himself to write to District School Board Member’s about an MCA parental matter. He named the parent, the student, and the specific academic issue involving the child. He stated he was aware that the parent had contacted District School Members. And he expressed his concern that according to the parent at least one of the Board Members had allegedly weighed in on what the outcome for the student should have been.

Mr. Hull then proceeded to lecture the School Board that “this opinionated suggestion gave her false encouragement and perpetuates her anger at the situation. This is not good for her, her child, the school, or CCPS.” He added: “It is unfortunate that any CCPS board member would advise a parent in such a way without knowing any details beyond what the parent said.” He then lectures Board Members on the proper lines of communication and procedures they need to follow. “Please refer grievances, he noted, to the appropriate people going forward and do not entertain complaints by offering your opinions.” (See, August 30, 2018, email from D. Hull to CCPS Board Members). There’s nothing in the Board’s Meeting Minutes in which he discussed this matter or sought authority from MCA’s Governing Board to write District School Board Members on his own about these issues.

While Mr. Hull gave a lot of his time and care to many parents and students, including difficult students, to help MCA grow, he often struggled in his relationships with many parents as well. For example, over several months, Mr. and Mrs. Donalds were in on-going communication with Mr. Hull and Mr. Whitehead concerning their children’s performance and behavior at school. The parents express dismay and regret for their disruptive conduct, took responsibility for it, and expressed that they were working with their children to have them also take responsibility for their actions, including being respectful at MCA.

Nevertheless, they also asked Mr. Hull, as well as Mr. Whitehead, to take a closer look at how discipline is meted out at MCA, the bases for issuing disciplinary demerits, and how discipline affects different children in different ways. On November 2, 2017, Mr. Donalds emailed Mr. Hull about such issues noting: “As I told Mr. Whitehead today, the current pink slip policy assumes that a 6 year old, a 10 year old, and a 14 year old have the same ability to course correct. I have personally coached and mentored children, from ages 5 to 18 for 15 years. That is simply not the case at all.” Mr. Donalds asked that when problematic issues arose, that teachers call him or Mrs. Donalds. His reason was that it helped them to work with their child if disruptive behavior was occurring in order to obviate the need for the issuance of pinks or ultimately suspension. The communication between the parents and administration increasingly broke down.

Mr. Hull took it upon himself to write to Dr. Rogers on January 10, 2018, to describe his view of the Donalds as parents and provided examples of the disciplinary record of the children. He tried to disguise who the parents were by not actually naming them but by describing them. Anyone could easily figure out who the parents were by reading the following: "One parenting issue I see is that of not being home very often. For example, the dad could be out of town for months at a time, only to come home on some weekends. He happens to be a Florida State legislator. The mom is also gone a lot as she is not only a member of a certain school board, but other boards and organizations." Referring to one of the children, Mr. Hull made the following judgment: "Based on my knowledge and experience with this family, his poor behavior is due to the style of parenting his parents elect to enforce." He added that the child's alleged misbehavior is "due to an absence of proper parent and training." (See, email from D. Hull to S. Rogers, Wednesday, January 10, 2018, set at 8:32 a.m.). Who authorized Mr. Hull, or gave him the right to present MCA student disciplinary issues and pass judgment on the student's parents to an outside third party, is not mentioned.

On February 7 and 8, 2018, one of the Donalds' children was alleged to have been involved in a series of incidents the school claimed warranted disciplinary suspension. Mrs. Donalds emailed Mr. Hull at 9:33 a.m. requesting to view "the videos you referred to this morning surrounding the incidents of yesterday and today from the time when students were allowed into the hallway through the incidents in question. You can show them to me when I get to the school today or provide electronically." When she arrived at MCA, Mrs. Donalds emailed Mr. Hull at 9:54 a.m. that she was at school in the front lobby and would like to view the video before the suspension carried out." Almost an hour later, she informed Mr. Hull that she was still waiting in the lobby to meet with him and see the video. Mr. Hull and Mr. Whitehead thereafter apparently met with Mrs. Donalds and her son.

At 12:26 p.m., Mr. Hull emailed Mrs. Donalds stating that he was confirming that "you do not have an expectation of our staffing processing your public records request for video footage" of the alleged bathroom incidents..." Mrs. Donalds replied: "Unfortunately, due to the severity of the consequence, we still want to review the video," with their son. Mr. Hull informed her that he would be back in touch with her as to how much it would cost to process the request. He then added that he felt a need to express his concern that she not watch the video with her son. He concluded that given the student's capacity to change his stories, it was not a good idea for him to view the videos with her. "Showing him the video would not be positive or productive in holding him accountable for his actions." (See, the February 8, 2018, email exchange between E. Donalds and D. Hull). Why that should be a concern of Mr. Hull is not clear. Nor is it clear why he has apparently taken it upon himself to parent both the child and the parent.

Late in the afternoon, Mr. Hull provided a cost breakdown and rationale for the requested video. The charge would be \$294.62. He informed Mrs. Donalds as follows: "please make payment by check to the front office, and then we will begin processing your request." (See, February 8, 2018, email from D. Hull to E. Donalds, sent at 4:18 p.m., with the accompanying invoice). In light of the fact that the request involved student discipline, Mr. Hull does not explain why he was treating it as a public records request.

On Wednesday, February 28, 2018, at 6:15 p.m., Mr. Hull decided to forward Dr. Rogers a detailed set of emails between Mr. and Mrs. Donalds, one of their son's teachers, and Mr. Hull. He claimed his goal was to apprise her of an on-going behavior issue "we have been dealing with at MCA." In the final email in the exchange, Mr. Hull took it upon himself to lecture and judge Mr. and Mrs. Donalds at length about their parenting, their child, their failure to pursue the truth, and having deep hostility toward him personally which has had negative consequences for all. Mr. Hull wrote that their son had never apologized nor admitted his actions. He then continued as follows:

That he has not speaks to your actions, or lack thereof, and to what you wrote below. He will never learn his lesson because you are so undermining towards the school. We are not asking for you to do anything harsh in terms of punishment. If you have been doing that, then it has obviously not worked. Something new should be tried. We are asking you to pursue truth, just like we ask everyone to do. Unfortunately, like [] you also continue to deny what he did in those bathrooms, admit truth, and apologize. That is where moving on begins. The ball, as I said before, is in your court.

[] is in no way "unredeemable". In fact, I cannot tell you how many times I've told someone "it's not the child's fault." But you have many, many people telling you that something is seriously wrong in the behaviors of both your children, and that something desperately needs to change. Why would I even say that? Do you even stop to think how much easier it would be on me to ignore this whole thing? That you have such animosity over me and put so much blame on my back speaks volumes about your true desire to help that needed change happen.

Around the time Mr. Hull was working on this email, Mrs. Donalds was trying to get a handle on the school's decision to recommend evaluating one of her sons and sending her a form to complete regarding a certain testing instrument. There was no team meeting to which she was invited to review and discuss the eligibility for services including testing to determine that Mrs. Donalds wrote to Ms. Van Vlyman on Monday, February 26, 2018, as follows: "perhaps you and I should meet so I can better understand this evaluation and the decision being made" for her child. "Alternatively, I could speak with the person at the District handling the evaluation. I feel a little in the dark about this whole process." (See, February 26, 2018, email chain between E. Donalds and S. Van Vlyman). Ms. Van Vlyman apparently spoke by phone during which the tracking charts, behaviors, and evaluation were discussed. On March 1, 2018, Ms. Donalds advised that she wanted to withdraw her consent for testing. Ms. Van Vlyman responded that given Mrs. Donalds' decision, "I will not be proceeding with summarizing the documents". (See, February 27, March 1, 2018 email chain between E. Donalds and Ms. Van Vlyman). There was no meeting during which Mrs. Donalds could review the testing/evaluation process with a school psychologist, testing coordinator, the child's teachers, and Ms. Van Vlyman. And there was no meeting during which she could discuss whether she understood her procedural safeguards prior to provide her with informed consent for evaluation.

On February 27, 2018, Mrs. Donalds emailed Mrs. Van Vlyman requesting the tracking documents Mrs. Van Vlyman had mentioned during their conversation. Ms. Van Vlyman sent her an invoice for the request noting that once payment was received, the copies of the documents would be provided. Mrs. Donalds responded that she had “a right to these documents and should not need to pay for them.” Ms. Van Vlyman replied that she did “not have the information as to your rights to obtain records at no cost, so I am copying Mr.Hull on the reply.” Mrs. Donalds never received a reply. Sometime thereafter, the Donalds decided to remove their children from the school.

In early October 2018, the Naples Daily News (“NDN”) ran an article on Mr. Baird’s Complaint. Mr. and Mrs. Donalds agreed to speak with the reporter about it. Supporters of MCA attacked them for it. Subsequent to the appearance of the article, Mr. Lichter posted the following statement on Facebook: “Byron Donalds, Erika Donalds, and Joe Baird just f****d with the wrong school. BRING IT ON YOU LYNG B****S!!!” In the aftermath of the article, a few days after, Mr. Lichter’s post, Board Member Miller took it upon herself to post the following about a certain child and the child’s parents:

LAURA MILLER Abusive
Disruptive
Dishonest
Threatening
Unsanitary
Vicious
Disrespectful
Angry

When these words describe a student who is robbing their schoolmates of a decent, safe school environment, and their parents cast blame on the people holding them accountable instead of the needs of the child, ugly accusations fly. There is a massive, disgraceful campaign underway by people desperate to save face instead of facing parenting challenges. I’m grateful my child and his teachers are no longer in jeopardy of being attacked, since the policies designed to protect every member of our school are working. I hope the poor children whose parents are still focusing on displacing blame in lieu of their own children will wake up to the screams (and tantrums) for attention happening inside their own homes.

On October 14, 2018, Mr. Baird emailed Ms. Miller privately to take the post down as potentially harmful to the child and harmful to MCA’s reputation. (See, October 14, 2018, email from Mr. Baird to Laura Miller, sent at 3:26 p.m.). She did not reply. He then emailed the Board Members on October 15, 2018, to request the post to be taken down. It was his concern that posting reflected “a clear act of public humiliation on the part of an MCA Board Member.” (See, October 15, 2018, email from J. Baird to MCA Board Members sent at 9:05 a.m.). Mr. Baird sent the Board a follow up email the next day. (See, October 16, 2018, email from J. Baird to MCA Board Members sent at 11:08 a.m.). There was no response nor was there discussion or

comment about the matter at the October 22, 2018 or November 2, 2018, Board Meetings. (See, the Meeting Minutes for those meetings).

C. Discussion and Applicable Law and Policy

1. The Parker Grievance and Related Matters:

Mrs. Parker complained to the administration and to the Board that she believed that the dismissal of her kindergarten child from the school was wrongful. Her concern was heightened when a second grade student had a toilet difficulty and was not disciplined. Mr. Whitehead informed her directly on that score and promised to bring her concerns to the appropriate people.

Ms. Huck notified her that she and Mr. Whitehead wanted to meet with her to inform her of Policy SE 1.0 and if there was another occurrence that week her child would be “unenrolled” certainly a code word for expelled from MCA. It is quite remarkable that a kindergarten teacher would inform a parent that her child would be administratively unenrolled from the school itself unless she had been directed to do so. Policy SE 1.0 provides, in pertinent part, the following:

All students of Mason Classical Academy must be independent in toileting. On occasion students may have “accidents”. When an accident occurs, it is the responsibility of the parent to assist the child and to provide clean clothing. If there are repeated “accidents”, a meeting with the parents, assistant principal, and school nurse will be held to evaluate the situation. Appropriate action will be taken based on what is in the best interest of all students and the school.

No meeting ever occurred. Mrs. Parker asked that the initial meeting be moved so that her husband could be present. She and her child were escorted out because of an occurrence prior to that requested meeting. The intended meeting per policy was to involve parents (so Mrs. Parker’s request to have husband present was not unreasonable). It was also to include the assistant principal and the school nurse. Mrs. Parker had conveyed to the teacher in detail that her child had serious medical issues affecting his attendance. She complied with Mrs. Barreto’s request for physician confirmation. Thus, the school’s dismissal of the child was abrupt and unilateral. Mrs. Parker could have been requested to keep her child home until the meeting occurred. Certainly, the medical issues were worthy of discussion and review before expelling her child.

Mrs. Parker articulated all this in her Wednesday, September 23, 2018, email to Mr. Whitehead. That evening, Mr. Hull sent a letter to “MCA families of a K-2 student” that he planned to hold a forum on Friday, September 25, 2018, to correct the “incredible amount of misinformation out there about a bathroom situation that happened last week.” (See, the emailed letter from Hull to K-2 parents dated September 23, 2018, and sent at 6:49 p.m.). The forum was argumentative and divisive and did little to defuse parental concerns despite Mr. Hull’s promise “to put everything to rest...”

When the NDN published its article on or about November 20, 2018, Mr. Hull wrote a letter to the MCA community describing his displeasure with the reporter and the article, and presented his response to reporter. In it, he ignored the events concerning Ms. Parker and the K-2 parents who were upset by checking the underwear of their children and the divisive forum. He changed the focus and created an alternative narrative writing:

Here is the bottom line: there is an assault on school choice across this great nation. The assault comes in many forms, and it does not only affect our school... The attack on school choice must not go unanswered, whether in this school district or in others across the nature. Education should not be political.

Yet, Mrs. Parker and other upset parents, were not attacking school choice. Their complaints had nothing to do with school choice.

Mrs. Parker was upset by the abrupt “unenrollment” of her child. She wanted him to continue at MCA. Indeed, she informed Mr. Whitehead: “I care about this school and want it to flourish and succeed...” Neither Mrs. Parker nor the other concerned parents who questioned the actions taken by the administration and the failure to notify them in connection with the steps they planned to take after the clogging of the toilet, were attacking school choice. Yet, because of the NDN article, they are cast in the role of “the enemies at the gate” of the school by the principal. Mr. Hull stated “Education should not be political.” Yet everything about his article was political and polarizing in nature.²

Mr. Whitehead’s Facebook threat to Mrs. Parker, and impliedly to other concerned parents all of whom he has deemed to be rumor mongers and cowards, stated that he “would have no problem facing anyone like that and terminating their lease on life”. His conduct is unbecoming a professional educator. He was, and is, the MCA’s Assistant Principal. He cannot claim that he took off his Assistant Principal’s hat when he wrote this. The Code of Ethics of the Education Profession in Florida (FAC 6B-1001) provides that “the education values the worth and dignity of every person, the pursuit of truth, devotion to excellence...” “and must be aware of the importance of maintaining the respect and confidence of one’s colleagues, of students, of parents, and of other members of the community, the educator strives to achieve and sustain the highest degree of ethical conduct.” His Facebook threat was also abusive and intimidating which is proscribed by the Code.

²It is of interest that on February 25, 2018, that Mr. Hull emailed Dr. Rogers concerning “a kindergarten student who is not potty trained. There has been around 7 or so ‘accidents’ this year. We continue to do our best, working with the mother...” He noted that he felt it necessary to inform the mother that her child was not ready for school. Dr. Rogers immediately replied that she was concerned that the accidents could involve medical issues he needed to be very careful. Mr. Hull also noted that “we were bitten in the past over an issue similar to this; although that was a more severe issue” and “the school was attacked relentlessly over falsehoods put forth by that student’s parents without the ability to defend itself.” Mr. Hull’s deep need to cast aspersions on a former MCA parent almost two and half years later is of serious concern. He did not tell Dr. Rogers that he was the one to dismiss the Parker child without allowing for a meeting to take place so that parent(s) could discuss the child’s medical issues. He thus knowingly disregarded MCA policy, yet continues to blame the parents for his wrongful actions.

As if this crude Facebook posting were not enough, Mr. Whitehead posted another one stating: “This is a Joe Whitehead Show urine stream media alert !!!!!!!!!!!” He then described how the local media had descended on MCA with irrelevant questions for him and Ms. Lichter. He asserted that “the intent of the whole attack” was among other things:

2. To promote the lunatic agenda of a handful of disgruntled parents who want to shut down charter schools (with the support of the CCPS admin) and do all that they can to damage MCA and all who benefit from the positive environment in which the students are thriving.
3. To further promote the agenda of the radical teachers union (CCEA) and gin up hatred for charter schools.

He concludes that on his show “Kelly Lichter and I will set the record straight... Tune in and hear our SMACK DOWN of this anti-American lunatic driven BS!”

Urine stream media alert? Lunatic agenda? Smack down? Anti-American? Promotion of a radical teachers union (“CCEA”) agenda and gin up hatred for charter schools? This is coming from the Assistant Principal of a school that emphasizes classical values and virtue. Mrs. Parker wrote to Mr. Whitehead and he promised to help her. There is nothing lunatic or un-American about that nor is there anything lunatic or un-American about parents who voice their concerns about administrators and administrative actions (which would be very much American).

Mr. Hull wrote that education should not be political. Everything about Mr. Whitehead’s post is political, designed to be political, and is hostile and profoundly divisive in nature. No one at MCA ever reprimanded him for the impropriety and uncivility of these posts. Would Mr. Hull or Mr. Whitehead tolerate a student posting messages about (a) ending the lease on another’s life; (b) calling people cowards and lunatics; (c) using terminology such as the urine stream media; or (d) labeling others as un-American? In all likelihood the student would be severely disciplined and such posts be deemed to be a violation of MCA social media policy set forth in Policy SE 25.0 (p. 58 in the April 26, 2018, Policy Volume, and p. 59 January 23, 2019 Policy volumes. Prior to the student social media guidelines of the policy, attention is called to the sections dealing with Board Members and organizational employers).

Board Member Miller’s support of Mr. Whitehead’s comments is also unbecoming a School Board Member. To agree with such threatening statements is inherently wrongful, reflects her lack of knowledge, treating a parent or parents in a demeaning way, and then accusing a parent who did follow the rules as “unpatriotic” is inappropriate to say the least. Board Member Lichter’s encouraging others to let Mrs. Parker know how they feel was a form of rabble-rousing and unbecoming a President of a School Board. In the Board Policy Manual (in both Volumes at p. 2), the following is provided:

Election to the Board of Directors carries with it a responsibility of stewardship. The directors are the custodians of the integrity of Mason Classical Academy; they hold in trust the school’s reputation as created by its founders, and as developed by those who have shaped the

school in the past.

In the Pillars of Character Development, which a Board Member is called to sign is the Pillar of Respect. Under that pillar is the following: "To treat others and myself with kindness. To be polite and considerate. To appreciate the good in others and myself and show compassion. To treat others and property of others as I wish to be treated." Board Members Miller and Lichter acted contrary to their stewardship, respect toward others, and integrity toward the reputation of MCA as enshrined in Board Policy and aspirational commitments.

Similarly, Board Policy SE 25.0 provides in the section on social media the following "Board Members are organizational employees, are personally responsible for the content they publish on-line. Your behavior should reflect the same standards of honesty, respect and consideration that you use face-to-face." Board Members Miller and Lichter did not honor this policy on their media postings nor did Mr. Whitehead whose conduct they condoned and followed. These conclusions apply as well to Board Member Miller's gratuitous demeaning of a student connected to MCA and the students' parents. (Given the timing of the post, one could easily figure out to whom it was directed).

Subsequent to the October 2018 NDN article, Mr. Hull wrote a detailed email on October 12, 2018, to MCA parents "to combat the latest newspaper hit piece." In it, he wrote: "Children should not have to worry about the details of their school behavior haunting them when they are adults." It would seem that his statement and the statements contained in Board Member Miller's posting of around the same time are very much at odds with one another. Both Board Members faltered in their duty to serve the MCA community. Rather than trying to calm a difficult situation to let everyone move on, they knowingly contributed to inflaming it. Board Member Lichter took her refusal to follow MCA policies and principles to a new level when she resumed her attack on Mrs. Parker some three and a half years later. She accused her of dishonesty, and her having association with District School Board Member Lucarelli as criminal. She circled Ms. Parker's face as a target as well as those of her children. She then followed up with an attack on Ms. Lucarelli personally as a means to intimidate her. Her email attacks were sent from her Mason Academy address.

In item 11 of the Board Duties and Responsibilities (See, both noted policy volumes, at 5), it provides: "Board Members as leaders of the School must have moral character and embrace the values of democratic society." Such values would constitutionally include freedom of speech and freedom of association. To accuse a former MCA parent that her involvement in someone's campaign, and her association with the candidate is criminal, is a fundamental attack on her First Amendment associational rights and the ability to vote for the candidate of her choice, whether Mrs. Lichter liked it or not. To draw a circle around her and her children is a form of wrongful targeting and intimidation that reflects a dark element within the moral character of the writer and damages the reputation of a school that seeks to uphold democratic values and the importance of respect and virtue.

Equally important, Board Member Lichter's emails calling another (Mrs. Parker and Ms. Lucarelli) criminal potentially subjects her personally to an action for defamation. When words on their face without the aid of extrinsic proof, are injurious, they are considered defamation per

se and no proof of damages are needed to establish liability. See, Fun Spot of Florida, Inc. v. Magical Midway of Central Florida, Ltd., 242 F. Supp 2d 1183, 1197 (M.D. Fla. 2002 (Citing Hoch v. Rissman, 742 So. 2d 451 (Fla. 5thDCA 1999)). If a false defamatory statements suggests someone has committed a dishonest or illegal act, it is considered, for example, as slander per se. See, Fun Spot of Florida, Inc., supra, at 1197 and Campbell v. Jacksonville Kennel Club, 66 So. 2d 495, 497 (Fla. 1953). Aside from the personal responsibility she bears for her statements, Ms. Lichter has put the reputation and integrity of the Board and MCA itself at risk.

The Family Educational and Privacy Rights Act (FERPA)

The provisions of the Family Educational and Privacy Rights Act (FERPA) are set forth in 20 USC 1232g and its interpretive regulations set forth in 34 CFR §99.1, et seq. The provisions of FERPA are also incorporated into Florida law in FS §1002.22 and 1002.221 and FAC 6A-1.0955. 20USC 1232(g)(b)(1) provides in pertinent part the following:

(1) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a)) of students without the written consent of their parents to any individual, agency, or organization, other than to the following:

(A) other school officials, including teachers within the educational institution or local educational agency, who have been determined by such agency or institution to have legitimate educational interests, including the educational interests of the child for whom consent would otherwise be required;

(B) officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record;

In this regard, 34 CFR §99.30(a) provides:

(a) The parent or eligible student shall provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from the student's education records, except as provided in §99.31.

(b) The written consent must:

(1) Specify the records that may be disclosed;

(2) State the purpose of the disclosure; and

(3) Identify the party or class of parties to whom the disclosure may be made.

In connection with Section 99.31(a), disclosure without consent would include the following condition:

(1)(i)(A) The disclosure is to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests.

With this in mind, Mr. Hull did not receive parental permission to disclose student educational records (1) of the student whose record he posted relative to the Student of Virtue; (2) of the student whose educational records were emailed to Dr. Rogers on December 1, 2017; (3) of the student whose record was sent to the District School Board on August 30, 2018; (4) the January 10, 2018, email obviously pertaining to the Donalds that was sent to Dr. Rogers; and (5) the sending to Dr. Rogers the February 28, 2018, email chain between Mr. Hull, the Donalds, and their child's teacher involving the child's educational situation at MCA. Mr. Hull's sending confidential student educational information, without the written parental permission to do so, to persons who were not in the zone of interests of persons who would otherwise have a legal right of access to the student's information, constituted a violation of FERPA for each improper transmission. With respect to the foregoing, that would mean that he and MCA, violated FERPA on five separate occasions.

Moreover, when Mrs. Donalds sought access to the video that would evidence her son's alleged wrongdoing, Mr. Hull responded by treating it as a public records request and informed her that she would have to first write a check for \$294.62 before the video could be processed. But Mrs. Donald's request was not a public records request, but a FERPA request for a video related to the discipline of her child. She had a right to access and view the video. In the Letter to Wachter, December 7, 2017, the USDOE Office of Management ("the Office") addressed the request for a video linked to student discipline. In it, the Office determined that providing access to the video, a District (or in this case a School) "just provide the parents of a disciplined student...with the opportunity to inspect and review the video..." (See, Letter, at p. 5). In this context, in the Family Policy Compliance Office FAQs on videos under FERPA, the following is noted: "FERPA provides parents and eligible students with the right to inspect and review the students educational records and nothing in the FERPA statute or regulations permits educational agencies and institutions to charge parent or eligible students for fees or costs associated with the exercise of that right." Mr. Hull and MCA, thus violated Mrs. Donalds rights under FERPA.

Similarly, when Mrs. Donalds questioned her being charged for the tracking documents pertaining to her child, Ms. Van Vlyman informed her she was copying Mr. Hull because she could not respond to Mrs. Donalds question. Neither Mrs. Van Vlyman nor Mr. Hull ever replied to her. Thus, she was never provided access to the educational information she had a right to review. Hence, MCA violated FERPA again. Accordingly, as a consequence of Mr. Hull's actions (and non-action in the case of the last matter), he and MCA violated FERPA on seven (7) separate occasions thereby placing MCA at risk in connection with the receipt of Federal and State funds.

Confusion of Boundaries

In item 7 of Board Duties and Responsibilities, it states "Board Members must take particular care to separate the interests of the school from those of their own children. (Both Policy Vols., at p. 5). This would certainly apply to a Principal and his/her own children. Mr.

Hull knew that when he wrote to the Student of Virtue faculty review committee and wrote to the Zuluagas, he had crossed the boundary into a need to control others and intimidation. Mr. Hull's threats toward the Zuluaga's and their daughter, with the active support of Mr. Whitehead, came two weeks after Mrs. Zuluaga filed her grievance. It is thus unsettlingly apparent that their actions were at least partially in retaliation for the grievance, especially since Mrs. Zuluaga had followed Board protocol.

Similar to the Zuluaga situation, is one involving former faculty member who left the school at the end of 2016-2017 school year. In leaving, he gave Mr. Hull's son a gift of books including those by classical authors Ayn Rand and others. Mr. Hull attacked them in February 2018 in the form of a phone call followed by an Instagram message accusing them of ruining his son's life...a remarkable statement given their well-wishes to him as a highly thought of student.

On July 4, 2018, the former faculty member wrote to Mr. Hull to cease and desist contact him and his family. He pointedly wrote that "unfortunately this message is made necessary by repeated instances of harassment against my family, which you have initiated, now over a year since we concluded our employment with Mason Classical Academy." Mr. Hull refused to back away and let it go. He decided to respond that day and did so in a sarcastic and accusatory manner. He began his email as follows:

I find it interesting that you made many false claims here and sent them to my work email address. I also find it interesting that you consider one phone call and two identical Instagram messages over a 6-month period "harassment". I never pegged you for a millennial snowflake, but I've been wrong before.

He then proceeded to attack him for "undoing a life of character development of his parents," encouraging atheism, and providing him with wrong advice. He ended the email much like he did in the Zuluaga situation demanding complete discontinuation of any communication with his son (which apparently had occurred months before). (See, July 4, 2018, email communications between Mr. G and Mr. Hull).

Mr. Hull's attacks were not only uncivil and a violation of MCA's civility policy (See, Policy SE 48.0, at pp. 78 -- 79 in the April 2018 Volume and 78 in the January 2019) and unprofessional, but they are unbecoming of an educational leader. He has certainly lost sight on multiple occasions of the boundaries that should separate his personal life and his professional life. While Mr. Hull may preach virtue, such attacks disclose something very different.

Finally, Mr. Hull's commentaries on and criticisms of parenting styles and parenting abilities are inappropriate and unprofessional and are source of division and resentment. They are also potentially defamatory.

Civility Policy

In addition to the violations of Civility Policy SE 48.0 by Mr. Whitehead, Mrs. Lichter, Ms. Miller, and Mr. Hull, attention needs to be called to the Facebook attack by Mr. Lichter that

has been previously noted. The Civility Policy applies to parents and patrons, just as it does to staff. In this context, it provides the following:

All parents and patrons of Mason Classical Academy shall behave with civility, fairness and respect in dealing with fellow parents, patrons, staff members, students, and anyone else having business with the school. Uncivil behaviors are prohibited. Uncivil behaviors shall be defined as any behavior that is physically or verbally threatening, either overtly or implicitly, as well as behaviors that are coercive, intimidating, violent or harassing. Examples of uncivil behavior including, but are not limited to: use of profanity; personally insulting remarks; attacks on a person's race, gender, nationality, religion; or sexual preference; or behavior that is out of control.

By any benchmark, Mr. Lichter's comment were uncivil. He is a parent, founder, husband of the Board President, and certainly a public person in the MCA community especially. His Facebook comments have no place in civil public discourse. They were threatening, demeaning, and crude. Moreover, as will be seen in the next section, Mr. Lichter was the General Manager of CCMG. His comments are hardly befitting of one who has held himself out to the charter school community in multiple districts as one who will provide community relations and governance training.

Some Final Observations

F.S. 1002.33(9)(p)2, provides that "each charter school's governing board must appoint a representative to facilitate parental involvement, provide access to information, assist parents and others with questions or concerns, and resolve disputes." Similarly, in the governance section of the 2017 Charter Contract (Section 9), it is provided that governing board of MCA must appoint a representative and the language then tracks verbatim the above quote from the statute.

With this in mind, at the June 13, 2016, Board Meeting under New Business, Mr. Hull recommends Ms. Turner as the liaison to parents. The Board voted to approve her as the liaison to parents...However, the parents who spoke with the undersigned and other staff members when asked responded they were unaware of the liaison position or who filled it. Ms. Turner who, as part of the position, had to attend Board Meetings per statute and charter, never reported on any liaison work undertaken.

It appears the liaison has existed in name only much like the Student Advisory Council which has never met to respond to parent issues and resolve parental disputes and grievances as set forth in the 2013 Application (See, pp. 68-69). Accordingly, the Board has let slide critical components for dispute resolution.

While Mr. Hull may want to inform people that there has been only one grievance in four years (which is not true), such a comment stresses form over substance. One grievance filed with Ms. Lichter as Board President, or with other Board Members, does not disclose the deeper reality of numerous complaints, concerns, and grievances with in verbal or email form. The

depth of this issue is seen in District documents that track students who left other schools and have enrolled in District or other schools. With respect to MCA, from August 1, 2014, to the present, 614 students have left to enroll in District schools, home education programs, or local private schools. Thus, to ignore this reality would be to ignore the reality of unresolved conflict and concerns of many parents who to this day still admire the Hillsdale instructional model and curriculum.

At the March 7, 2016, Board Meeting, during the course of a discussion pertaining to parent survey results, Board Member Donalds suggested that there needed to be a “customer service” mindset which would define parents as clients. Board Member Miller rejected the idea arguing that “it would compromise the environment for everyone involved.” (See, Board Meeting Minutes for March 7, 2016). It is unfortunate that the Board and the Administration did not listen to Mr. Donalds. Much of the future parental conflict could have been reduced or resolved.

VII. The Issue of Potential Conflict of Interest

As part of his Complaint on June 8, 2018, Mr. Baird notified the FDOE’s Office of the Inspector General that he was supplementing his Complaint concerning what appeared to potential conflicts of interest involving Ms. Lichter, Mr. Hull, and Ms. Smith in the formation of a company named the “Classical Charter Management Group, LLC.” This additional information was also received by the District’s Board Chair Mr. Terry for review. The undersigned with the assistance of members staff have looked into the issue. The following will set forth our findings.

On September 25, 2017, Articles of Organization were filed for the Classical Charter Management Group, LLC, (“the Company” or “CCMG”). Article III provides that “the Company is formed for the purpose of engaging in the business of consulting and managing charter schools.” The effective date for the Company’s commencement was September 29, 2017. Article VI noted that the persons authorized to manage CCMG were Kelly E. Lichter, David Hull, Jr., and Gena L. Smith. Ms. Lichter would serve as the Company’s Registered Agent. On October 10, 2018, Florida’s Division of Corporation records show the Company was reinstated to replace Kelly Lichter with Nicholas W. Lichter, as both a member and the new Registered Agent of the Company. Mr. Hull and Ms. Smith remained as members of the Company.

The evidence shows that CCMG sought to provide consulting and management services to several prospective charter schools seeking to replicate the MCA model in several Districts. The name of the replicating school in each District is to be the “American Classical Charter Academy (“ACCA”). Applications for ACCA have been filed in Osceola, Lake, Polk, and Hillsborough Counties.

A review of the ACCA’s Applications show CCMG as the school’s Applications Central Consultant of record. In the Applications one finds language such as “ACCA is replicating the governance model, academic structure and financial management of Mason Classical Academy, a high performing school in Naples, Florida.

In the final draft of ACCA’s Application for the Osceola School District, signed on January 17, 2017, the Charter School’s President, there is detailed CCMG’s key person and their respective roles in assisting the school. It is presented as follows:

Full Name	Current Job Title & Employer	Role with Proposed School
Mrs. Kelly Lichter	Chief Executive Officer Classical Charter Management Group	Community Relations and Governance Training
Mr. David Hull	Chief Operations Officer Classical Charter Management Group	Principal and Teacher Training and Monitoring
Mrs. Gena Smith	Chief Academic Officer Classical Charter Management Group	Curriculum, Instructional Materials and Teacher Training and Monitoring

A year later, on January 23, 2019, and January 25, 2019, respectively, one finds, for example, the company identified in the Applications for Hillsborough and Lake County School Districts and presented as follows:

Full Name	Current Job Title & Employer	Role with Proposed School
Mr. Nick Lichter	General Manager Classical Charter Management Group	Community Relations and Governance Training
Mr. David Hull	Chief Operations Officer Classical Charter Management Group	Principal and Teacher Training and Monitoring
Mrs. Gena Smith	Chief Academic Officer Classical Charter Management Group	Curriculum, Instructional Materials and Teacher Training and Monitoring

The Company has also been assisting ACCA in Polk County as well.

As a threshold matter, since its founding Ms. Lichter as MCA’s Board President, never publicly disclosed at any Board Meeting her involvement in the Company or that she had formed a partnership with two key employees of MCA, Mr. Hull and Ms. Smith, to develop charter schools in other counties based on the MCA model. There is also no reference in the applications that MCA’s instructional and governance models has been developed from Hillsdale College’s models, training, and, tutelage. This is especially important since Ms. Lichter, Mr. Hull, and Ms. Smith (and even Mr. Lichter who is involved in the selling of a distinctive instructional model as part of any Community relations and governance training) have overlooked, or knowingly disregarded, MCA Policy 2.0, Curriculum Development, to which they are bound. It provides the following: “MCA has a contract with Hillsdale College that requires the use of the curriculum they provide.” The policy the quotes directly from the contract which address two critical points for the purposes of this discussion (1) “MCA Corporation shall look to Hillsdale College as the first and primary source of models, resources,

and guidance on the development and operation of Charter School's academic program..."; and (2) "Hillsdale College shall provide MCA Corporation a general model for a curriculum of a charter school..." (Manuals, both editions, at 108). It is also of concern how Ms. Lichter can oversee Mr. Hull's work at MCA while overseeing his work as her partner at CCMG.

Further, there has been no public and transparent Board Meeting discussion of Mr. Hull and Ms. Smith going out of town and doing presentations to the different four school districts as members of a consulting firm while employed at MCA, as well as all the training and preparation time that would be involved overtime and the impact such time would have upon their work at MCA. In this context, Ms. Smith is being held out as one involved in curriculum, instructional materials, and teacher training and monitoring. Yet, what is not disclosed is that she has no academic background, credentials, or certification in curriculum and instruction or teacher training. Indeed, she has not attended college and has neither academic training in these areas nor served as a certified classroom teacher. (And one does not know where Mr. Lichter has received training or experience sufficient to teacher the multiple ACCA Boards in the area of governance).

Further, while MCA Board Member Lichter was the Chief Executive Officer of CCMG from September 29, 2017, until Mr. Lichter replaced her as the General Manager on October 10, 2018, regardless of the level of work undertaken during that time period, she voted to approve, at the May 29, 2018, MCA Board Meeting the evaluation and bonus for her CCMG business partner, Mr. Hull, as Principal of MCA without recusing herself or disclosing a possible conflict or concern for the appearance of impropriety. She also voted to approve the salary schedule the terms and conditions for which would benefit her CCMG business partner Gena Smith without concern for disclosing their business relationship and its relationship to Ms. Lichter Board Member status and Ms. Smith's beneficial employee status.

Ms. Lichter as MCA's Board President and CCMG's Chief Executive Officer has created, if not a conflict of interest in her two roles, the appearance of impropriety in voting to approve items that financially benefited her partners Mr. Hull and Ms. Smith. And in the case of Mr. Hull her voting to approve his 2018 evaluation would serve as an importance precondition for his receiving a bonus as any MCA employee. Mr. Hull and Ms. Smith also have a responsibility in all this by also chose to remain silent while governing benefits.

Mr. Baird's concerns are well-founded.

VIII. Financial Issues and Best and Brightest Program

A. Financial Issues

In light of Mr. Baird's Complaint, MCA through staff and legal counsel provided the undersigned with a copy of the 2017-2018 Audit Findings for Agreed Upon Procedures for the Governing Board as well as unaudited statements. The auditor reviews the policies and procedures in place relative to governance and the FTE process. The Auditor reviewed general sunshine law issues but did not address the Board's Meeting Minutes over time and related

findings or the non-implementation of standing committees. MCA also provided unaudited financials for review.

The undersigned discussed MCA's unaudited financials with District staff in the Finance Department. They advised that they did not have a problem with them nor McCreedy & Associates financial statements provided by MCA through Ms. Turner. Given staff observations, the undersigned will not question the acceptability of the submitted financials.

B. Best and Brightest

In February 2019, the State of Florida Auditor General issued several findings directed to the District relative to appropriate teacher scholarship oversight. This included auditing District Charter Schools. One of the findings was for the District to determine the propriety of some 113 scholarships totaling \$236,800 awarded to charter school teachers, and for any scholarships awarded to ineligible recipients to take the appropriate action to recover and refund the amounts to the FDOE.

In particular, the District was to review the documentation for the Best and Brightest program for FY 2017-2018. The District's Human Resource department in collaboration with the District's Administrative Director reviewed the matter and found MCA had failed to meet the statutory requirements for appropriate documentation. For example, the following was found:

1. All documents submitted with the GROWTH/VAN SCORE AND FINAL EVALUATION SCORE are post-dated in March 2019. Therefore, for the purposes of the SY 17-18 audit, they were not in compliance at the time of the award request.
2. No valid documentation to support final evaluation/overall rating placed on the roster for submission to the state for the scholarship money.
3. Roster appears to be reflective of ONLY the Instructional/Professional Practice rating (2/3rds of the Annual Performance Rating) which does not Comply with the award requirements; rating reflected on the roster is a Partial rating and should not be awarded.
4. Post-dated GROWTH/VAM SCORE AND FINAL EVALUATION SCORE documents demonstrate that several teachers have been downgraded By your own calculations, in their FINAL EVALUATION/OVERALL RATING once the GROWTH/VAM score was calculated. Therefore, The employee was OVERPAID on the original roster.

In its initial conclusions, MCA advised that is owed FDOE \$20,800.00. Based on careful roster review and other documentation, the District found that the original roster for SY 2017-2018 Best and Brightest Teacher and Principal Scholarship Program for payment was submitted inaccurately for 37 out of 42 employees. There was NO SY 17-18 SUPPORT

DOCUMENTATION demonstrating the overall FINAL EVALUATION SCORE/OVERALL RATING listed on the roster at the time of submission to FLDOE.

As a consequence, the District found that MCA's initial findings were inaccurate. It was found that MCA owes the State \$137,600.00 which must be promptly remitted. The lack of documentation and appropriate oversight taken to manage the program has placed a serious financial obligation on MCA and places MCA at risk of further investigation by the State. The District's findings were emailed to Mr. Hull on May 23, 2019. (See, the May 23, 2019, Memo from Ms. Wenrich and Mr. Hull with accompanying documents).

IX. Faculty Concerns

In speaking with multiple faculty members, a series of repeating themes emerged that must be taken into account as part of this investigative review. The discussions with such faculty members occurred over different dates and times and included only the individual who had agreed to come forward. There is no evidence of such persons speaking with other faculty members in advance of the meeting. At no time did we disclose to any such faculty member the names of those with whom we had spoken or with whom we anticipated speaking.

The themes are those that directly involve Mr. Hull and are based on the direct observations and experiences of the given reporter. They may be set forth as follows:

(1) Mr. Hull was observed to yell at or berate teachers in front of the students and other faculty and staff;

(2) Mr. Hull talked condescendingly, often in a demeaning way, to faculty at multiple faculty meets;

(3) Mr. Hull was observed to berate and shame students in front of other students, teachers, and staff;

(4) The faculty reporters observed and experienced that if one disagreed with Mr. Hull, he would become defensive, hold it against the person, and target the person with sarcastic statements and comments;

(5) The faculty reporters noted that they were often observed by Ms. Smith, the School's Curriculum Coordinator. Reporting faculty conveyed that they were uncomfortable with it since Ms. Smith had no education background, no teaching degree, or classroom teaching degree, and did not attend college. The faculty were often not observed by Mr. Hull who, they felt, wrote up evaluations based on Ms. Smith's observations; and

(6) The faculty reporters observed, felt, and experience that it was often unsafe to speak out which affected trust and created a polarized faculty.

These observations are given credence in light of the Zuluaga matter, the Student of Virtue matter, Mr. Hull's lecturing of District School Board Members, negative comments about

parents to third parties, and so on; all previously discussed. In addition, in the meeting with Mr. Hull, he acknowledged that Ms. Smith undertook multiple observations of teachers and reported them to him and that he relied upon them in addition to his own observations.

X. Miscellaneous Matters

A. The Alleged Investigation of the Baird Complaint By MCA

In the NDN article, it was reported that according to MCA's counsel, MCA had conducted an internal investigation in Mr. Baird's allegations and found them to be without merit. Similarly, at the request of his client, counsel for MCA wrote to Mr. Baird the following:

Several correspondences you have sent to various parties have been forwarded to my office for review. Mason reports that it has conducted a thorough review of this matter. Witnesses were interviewed and correspondence, including contemporaneously written emails written by you, were reviewed.

At the meeting with the undersigned, Ms. Turner noted that she dissected the Complaint and sent it to McCreedy & Associates. Mr. Marshall stated he had looked at some financial documents. All three persons acknowledged that they did not interview anyone, conduct an internal investigation of Mr. Baird's Complaint or prepared any report in connection therewith.

B. Grievance Issue

In follow up to the grievance issues previously discussed, it should be noted that MCA parent Dr. Thornburg engaged in an approximate email correspondence from 2017-2019 with Mr. Hull, Mr. Whitehead, and Board Member Lichter concerning discipline involving his children and other matters that he needed to address. His correspondence shows multiple efforts to set up in-person meetings. Over turn disciplinary decisions made, recognitions in some instances (such as expressed by Mr. Whitehead) that the facts surrounded one of his children needed amendment. (See, the email history chain from Dr. Thornburg).

In March 2019, Dr. Thornburg sought to bring a disciplinary issue before the Board and wrote Mr. Hull for direction, who then sent Dr. Thornburg's request on to Board Member Lichter. Her responses speaks volumes about the process and should be cited in its totality:

From: Kelly Lichter [<mailto:klichter@masonacademy.com>]
Sent: Monday, March 4, 2019 8:46 AM
To: brianthornburg@yahoo.com
Cc: David Hull <dhull@masonacademy.com>; Joe Whitehead <jwhitehead@masonacademy.com>; Fishbane, Jon (Jonathan) <fishbj@collierschools.com>; charterschool@hillsdale.edu
Subject: Parent Grievance

Dr. Thornburg,

Good morning! Principal Hull forwarded me an email from you this morning. You said, "How can the Board be reached? I cannot find their email addresses or telephone numbers on the MCA website. I cannot reach them if they are not reachable."

You did not seem to have any trouble finding Jon Fishbane's email address or the email address for the Barney Charter School Initiative. The Board is listed here: <https://masonacademy.com/apps/staff/>. You are able to email the board members directly.

Also, the parent grievance procedure is located right under the parent tab on the website: https://masonacademy.com/apps/pages/index.jsp?uREC_ID=224620&type=d&termREC_ID=&pREC_ID=490980. If you take a look at the policy, you will notice that it does not say to contact the Collier School District, Hillsdale College or the Naples Daily News before you address your concerns with the Board of Directors.

In the last 4+ years, the MCA Board has only had one official parent grievance. Fortunately most issues are resolved before it needs to come before the Board. I think this is a testament to the incredible and compassionate faculty and staff we are blessed to have at MCA. Unfortunately we still have parents who choose to undermine our school by slandering MCA to the Collier County School District, Hillsdale College and The Naples Daily News.

If you feel your concerns have not been resolved, please follow Policy SE 53.0 (https://masonacademy.com/apps/pages/index.jsp?uREC_ID=224620&type=d&termREC_ID=&pREC_ID=490980.)

The MCA Board of Directors takes all concerns very seriously. Please let me know if you have any questions.

It is hard to imagine that one would feel that he/she would receive a fair hearing after receiving a communication such as this.

XI. Conclusions and Recommendations

A. Preliminary Comments

The instructional model and curriculum provided by Hillsdale College is a very sound one that has enabled the School to academically thrive at a high level. The instructional model and curriculum should not be tampered with and be allowed to continue. Indeed, Hillsdale College should continue and even enhance its professional development and training programs. The undersigned investigator has no interest in, or recommending the closure of MCA. Far from it. While recommendations of a different sort will be made, the academic program, the continued presence of a concerned and excellent faculty, and the development of an eager student learning community should continue on.

B. Board Members Lichter and Miller

The record shows that Ms. Lichter and Ms. Miller violated the law, MCA policy, engaged in improper social media and email communications, violated MCA Board norms and values they are called upon to follow and model, disregarded the terms of the 2012 Application and breached the terms of the Charter Agreement by their actions. They faulted in their oversight of the Administration in disregarding the multiple committee that were required. They faulted in their oversight of policy implementation, Board Meeting Minutes, and attacks on parents and community members they chose to target. Their actions and behaviors are unbecoming of a Board Member of a School (whether public or private).

Accordingly, it is recommended that they resign immediately. The Board should be reconstituted with a minimum of five (5) Board Members. A reconstituted Board should immediately invite Dr. Carpenter for training as well as invite Hillsdale educators to meet with them for the benefit and growth of the School.

In this regard, a reconstitute Board should immediately proceed with setting up vital standing committees pursuant to 2012 Application, policy, and recommendations of Dr. Carpenter for the future well-being of MCA. These committees should at a minimum including the following ones: (1) Finance Committee; (2) School Advisory Council; (3) Audit Committee; and (4) Employment Committee. These committees should be responsible to, and held accountable by the Board and in consultation with administrative, parents, and business community leadership. The attention to accountability at all levels is important.

In this context, at the July 1, 2016, Board Meeting, Mr. Donalds objected to the approving of Mr. Hull's contract. The Minutes show that the Board had removed key language recommended by counsel. He insisted that the Minutes record his objection. It reads as follows:

“I voted against Principal Hull's contract because I thought the language provided by the Board attorney under section 9 subsection 5 should have remained in the contract. The language states “any other action on the part of the Principal which is detrimental or has a material adverse effect upon the business or reputation of the School.”

It is unfortunate that the Board did not listen to him.

A reconstituted Board should also review its grievance procedures, put into place effective conflict resolution matters, work to treat parents as clients, and so on.

Finally, based on review of the enormous number of departing students from MCA, it is clear from District records and parental concerns that MCA has to revisit its ESE delivery system in terms of evaluations, IEP preparation implementation and oversight, 504 plans, and careful gifted tested. For example, District records show some 45 students with 504 plans left MCA. While these are operational, it is important that a reconstituted Board should be aware of this.

C. Mr. Hull and Mr. Whitehead

(1) Mr. Hull

The records shows that Mr. Hull has violated Federal and State law, MCA policy, the Code of Professional Conduct, and mismanaged the Best and Brightest Program. He has thus placed MCA at serious financial and reputational risk.

Moreover, he has engaged in a pattern of divisive, destructive, and intimidating behaviors toward parents, faculty, and students that is of considerable concern especially given that some of them have been based on personal need and interest. His decision to serve as an education consultant on management company for charter schools in other Districts has taken him away from MCA and created a divided attention. In the process of advancing his consultancy to have charter schools replicate the MCA program, he and the company have not disclosed that it is predicated on the Hillsdale Model which is a violation of MCA policy. He is thus a risk of creating dual loyalties in the process.

It is recognized that Mr. Hull has done and contributed good things for MCA and the MCA community. Nevertheless, the above referenced actions and behaviors cast a long and dark shadow over the good work thereby affecting the School and its well-being.

Accordingly, it is recommended that he resign his position. It is recognized that he has 4 years left on his contract. If he chooses not to, a reconstituted Board should place him immediately on probation with careful monitoring and oversight. Mr. Donalds' concerns about removing contractual accountability provisions are as serious now as it was when he first express them to the Board.

In addition, if Mr. Hull continues his work, given the foregoing, it is recommended that he receive professional development work and training in the following areas: (1) social and emotional learning; (2) boundary training; (3) conflict resolution and effective interpersonal relations training; (4) supervisory and management techniques; and (5) an intensive seminar at Hillsdale on classical ethics and virtues that is both intellectually based but also involve experiential learning so the virtues are deeply integrated and internalized.

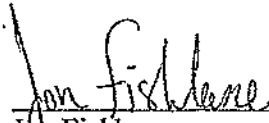
(2) Mr. Whitehead

Mr. Whitehead's social media campaigns, involvement and his usage of his police background to intimidate others is of serious concern. His actions are against Board policy, the Code of Ethics, aspirational norms and so on. He also needs to cease and desist using his radio show to use MCA as an opportunity to advance his political and social views.

The record shows that he has helped many people. Many parents who left MCA felt there were times he was someone they could turn to. Mr. Whitehead should be placed on probation and be provided with intensive training of the sort recommended for Mr. Hull as well trainings unique for the work an Assistant Principal does including training in the areas of curriculum and instruction and attendance and discipline.

Finally, it is recommended that there be training for all: Board Members, administration, faculty and parents on the content of MCA policies.

Dated this 30th day of May, 2019.



Jon Fishbane
District General Counsel of Collier County
5775 Osceola Trail
Naples, FL 34109
(239) 377-0498

From: [Phillip Kilgore](#)
To: [Mike Harner](#); [Chris VanOrman](#); [Kathleen O'Toole](#); [Robert Norton](#)
Subject: Re: Response to Kelly Mason Lichter
Date: Wednesday, June 26, 2019 11:08:13 PM

Also, a minor additional thing he mentioned: Kelly submitted a public records request for a list of visitors to CCPS offices during the month of November 2018, which was the time Mike and I visited there. We went to meet Jon Fishbane because of the article that ran in the Naples Daily News about an investigation that was referred from the DOE to CCPS based upon the Baird complaint. This was when we made our initial inquiry to see if there really was an investigation and how it would proceed.

P. Kilgore
Director, Barney Charter School Initiative
Hillsdale College

----- Original message -----

From: Phillip Kilgore <pkilgore@hillsdale.edu>
Date: 6/26/19 22:43 (GMT-05:00)
To: Mike Harner <mharner@hillsdale.edu>, Chris VanOrman <cvanorman@hillsdale.edu>, Kathleen O'Toole <kotoole@hillsdale.edu>, Robert Norton <rnorton@hillsdale.edu>
Subject: Fwd: Response to Kelly Mason Lichter

Today, Jon Fishbane told me confidentially that the CCPS board will meet on 11 July to discuss the commencement of a 90-day timetable to revoke the charter. The thinking is that the MCA board has been so belligerent and vitriolic since the release of the investigative report that it is forcing the hand of the CCPS board to bring the problem to a close. There will likely be an appeal process afterward which will drag on for a few months, so in the meantime the CCPS board will take over the school as of 11 October and govern it until the adjudication is complete. That could easily continue into the spring, perhaps March or April, and it is therefore likely that CCPS would operate the school through the end of the school year.

Phil

P. Kilgore
Director, Barney Charter School Initiative
Hillsdale College

----- Original message -----

From: Erika Donalds <erikadonalds@gmail.com>
Date: 6/26/19 21:43 (GMT-05:00)
To: Phillip Kilgore <pkilgore@hillsdale.edu>, Eric Coykendall <ecoykendall@hillsdale.edu>
Subject: Fwd: Response to Kelly Mason Lichter

Exhibit D

----- Forwarded message -----

From: C [REDACTED] D [REDACTED] <[REDACTED]>
Date: Wed, Jun 26, 2019 at 9:28 PM
Subject: RE: Response to Kelly Mason Lichter
To:

Fellow Parents of MCA Students,

I apologize for having to send this email to you, as your email should be private and not accessible by any other parent at MCA. However, your email was obtained from an email sent by MCA earlier this year, in which they forgot to cover all of the email addresses.

Typically, I would not engage in a back and forth with a person such as Kelly Lichter, as there is no benefit to such engagement. But, since she has grabbed everyone's attention and has "spun" the narrative once again to attack a new set of "enemies", I thought it would be the perfect time to engage the parents that have only heard Kelly's side of the story.

- Fact, the Mason Classical Academy has a policy for volunteers that requires that they go through a Level II background screening prior to conducting any volunteer activities.

- Fact, a public information request of the Level II background screening for Mr. Nicholas Lichter came back stating the school didn't have a Level II screening for Mr. Lichter.

- Fact, a criminal records search of Mr. Nicholas Lichter revealed that Mr. Lichter has had arrests for Domestic Violence, with Mrs. Lichter stating to the arresting officer that there were multiple unreported abuses. An arrest for possession of Cocaine (2013) and other drug paraphernalia. There is a record of a felony robbery conviction for Mr. Nicholas Lichter with the exact same birthdate and Marco Island address, at the time. The Florida Department of Corrections confirmed the information as correct, but given the number of years that have passed since this felony, the Department of Corrections records retention policy doesn't allow for saving the details indefinitely. When I asked Mr. Lichter if he was a convicted felon, he declined to answer.

- Fact, Mr. Lichter asked me to call him when I became vocal about the Board resigning and I asked them to consider the impact on our children. His statement to me was that it was all a conspiracy and that they would allow the school to close rather than resign from the Board.

Is this someone that should have access to our children or our children's personal information??? Why would Kelly Mason Lichter hide this information from the community and allow this person access to school assets and school children? Doesn't she have a duty to disclose this information to the Board and allow them to debate whether Mr. Lichter is suitable to be around our children? Would any other parent that completed a Level II background screening with this type of record be allowed to volunteer at the school?

- Fact, I did write the email to the Board Members this afternoon that Kelly Mason Lichter attached to her email rant. I have written many emails over the last three weeks. The initial emails were very gracious and very courteous. Do you know how many of those emails the Board responded to? None. So why did I send this incisive email today? This is the only type of email to which they will respond and it elicited the exact response that I expected. Hate. This is what the parents and legislators need to see to understand the true nature of Kelly Mason Lichter and the current MCA Leadership.

- Fact, Kelly Lichter started a business with Mr. Nicholas Lichter, Mr. David Hull and Ms. Gena Davis providing charter school consulting to other potential charter schools. Contrary to statements by both Mr. & Mrs. Lichter, they will be paid for the services that they are rendering to the one school we know they have contracted with, to the tune of ~\$400,000 this year and these fees will only increase over the additional five years of the contract with the school.

Why should I care? I should care because we are hearing from parents that David Hull complained often about not having enough time to do the work he was paid to do as the principal of our school. I should also care because it is a serious conflict of interest to have Mr. Hull's boss, Kelly Lichter, decide on his performance, pay, and grievances filed against him, when they are partners in a business venture. It's also a conflict for Hull for the same reason, as he is Gena Smith's boss. I should also care, because the Board is required to sign an annual conflict of interest statement to disclose any potential conflicts to the full Board for evaluation. This information was never disclosed.

- Fact, Kelly Mason Lichter has not denied any of the accusations leveled against her in the Fishbane investigation. I

know that this is not a formal charge in a criminal court, but if you are not guilty of what you are accused, why don't you rant about being innocent instead of deflecting the spotlight against her perceived enemies.

- Fact, Laura Miller Mlinarich has not denied any of the accusations leveled against her in the Fishbane investigation.

- Fact, David Hull has not denied any of the accusations leveled at him in the Fishbane investigation.

- Fact, today we received a copy of a letter from Hillsdale College dated December 6, 2018, in which several serious operational issues with MCA were detailed and the Board was offered advice on how to remedy those issues. The 7 items listed as corrective items are telling in and of themselves, but what else is interesting, is Kelly's statement earlier this month that the MCA Board was "blind-sided" by Hillsdale issuing an ultimatum to the Board, when in fact all of the items in Mr. Fishbane's report were pointing to the exact issues detailed in the Hillsdale letter 7 months ago.

The list of corrective items from Hillsdale College:

1. Expand the MCA board from 3 to no fewer than five members.
2. Conduct conflict of interest reviews of all board members as they pertain to the board's oversight of MCA employees.
3. Conduct Board training on Florida Sunshine Statutes.
4. Retain a consultant to conduct a financial processes risk assessment.
5. Review, update, and amend, as necessary, board policies concerning the handling of inquiries concerns and complaints.
6. Adopt a comprehensive social media policy.
7. Adopt a board Code of Conduct.

- Fact, Mrs. Lichter's response to an email from Phillip Kilgore at Hillsdale College when he wanted to set up a meeting between himself, Kelly, and Mike Harner, the Chief of Staff at Hillsdale College, who provided the recommendations,

"If he would like to join the conversation, please ask him to be respectful and to drop his preconceived notions about me and MCA. It is not productive otherwise. Thank you."

Once again, a venomous and nasty response directed towards people that are volunteering to help MCA.

- Fact, David Hull should not have been allowed to be principal at Mason Classical Academy as long as he was. He had obvious issues in interacting with both students and parents. That is well documented, contrary to the Board's statements otherwise. I've personally heard from many parents these past two weeks that have thanked this group of parents for taking a stand. Many gave up, many moved away, and many were shamed by this unethical and heartless person that was allowed to lead our school. If you have any doubt that David Hull was a hypocrite that did not live by the Pillars of Virtue that he preached, here's a snippet from an email where he is ranting about having to allow high school students that might have had a poor education prior to attending MCA. Hull did not welcome these students as they would take more resources and affect the schools "A" rating:

"...beefing up the high school students comes with unintended costs. Adding high school students often means adding students who had a poor education for at least 9 years. Think about that in terms of test scores and teacher workload. It also means many of them think the school is a reform school. Often, such reform type students have younger siblings who also struggle. In order to accept the high school student, we must allow the younger siblings into the school as well. And that often means adding struggling students to the elementary school."

It sounds like Hull was creating a culture where struggling students would be discouraged from attending MCA. Coincidentally, that is what many parents that have left MCA are saying. It was suggested that their children would do better elsewhere.

- Fact, I started making a list earlier today of everyone who's fault it was for the problems that exist at MCA, according to Kelly Mason Lichter and/or Laura Miller Mlinarich:

John Fishbane
CCPS Board
Erika Donalds
Joe Baird
Matthew Mathias

Naples Daily News
Hillsdale College
Byron Donalds
Valerie Parker
Stephanie Lucarelli
S. Zuluaga
Brian Thornburg
S. Van Vlyman
Kamela Patton

This list is by no means a complete list of "enemies", as I only started this afternoon and never had the opportunity to continue searching for the multitude of people ostracized by the current board. But, this is a list of people that have put countless hours of work into this school to help it succeed. There are probably dozens more to add to this list. These people loved this school and still do, but they rubbed Kelly or Hull the wrong way at some point and she did what she does to anyone that doesn't comply, she forced them out and then blamed them for the school's issues.

Today she has added more people to her list, including the parents that signed the letter to the governor asking for him to step in and remove the current Board. I might have known 4-5 of these parents before this journey began. But of the 150 that joined the effort to change our school for the better, none of them had any political motivations to unseat Kelly, Laura or Hull, they just wanted to make sure our school was safe for our children. We've discussed and offered compromises, but the Board was never interested in compromise.

- Fact, the paragraph in Kelly's email where she references the parent contract with MCA is a direct threat that she will do everything in her power to have the children of parents that have stood up against her removed from the school.

When does everyone start to realize that these people are demonizing everyone on the list above in order to distract you from their actions. When does it become apparent that hundreds of people are not the problem and that the problem rests with the 2-3 that are unwilling to give up power, for an unpaid volunteer position. Why?

- Fact, there is a strong chance that this will turn into a stand-off where CCPS will be forced to demand the Board step down or they will close the school.

- Fact, given the choice between stepping down and letting Mason Classical Academy go on with new leadership or allowing CCPS to close the school, the MCA Board will let them close the school.

Thank you for caring about Mason Classical Academy and if you want to see more of the facts, go to the Citizens Concerned for MCA Facebook page for more information.

Sincerely,

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ALLEGED DEFAULTS AND CURES

#1. Finance Committee and an Audit Committee

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.

CURE: The Board will reinstitute the Committee immediately. The Committee will be chaired by Mr. Bolduc, whom will select its members. The Committee will meet at least three times a year: once after each FTE survey period and in May for the creation of the next school year's budget. Additional meetings could be called if desired.

#2. Audit Committee

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:

- (2) Evaluate the request for proposal for annual financial audit services

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- (3) Recommend the selection of the financial auditor
- (4) Attend the entrance and exit conferences for annual and special audits
- (5) Meet with external financial auditors at least monthly after audit field work begins until the conclusion of the audit,
- (6) Be accessible to the external financial auditors as requested to facilitate communication with the Governing Board and the Principal
- (7) 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
- (8) Provide other advice and assistance as requested by the Governing Board; and
- (9) 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 a 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.

CURE: The Board will either create a separate committee or meet as a board seated as the audit committee to review the annual audit. The committee will discuss findings or recommendations by the independent auditor. The committee will make recommendations regarding the continued employment or changing of auditor.

#3. Sunshine Law

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

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was inappropriate about what he was doing and trying to understand why she was directing him in the manner that she did.

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.

CURE: The email from Lichter to Baird was the first communication and is not a Sunshine law violation. However, as a best practice, board members will not email each other anything other than ministerial items, such as times to meet, items to be placed on agenda, etc. The Board will undergo sunshine law training within the next year even if there is time left on their current training period. This refresher can be done at the same time as FERPA training to be given to staff and admin.

#4. Individual Board member should never....become involved in specific management issues unless directed by the board

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.

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CURE: Concerns of staff of the actions of GB members should be addressed at a duly called GB meeting.

#5. Meetings were held and business transacted without a quorum.

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.

CURE: The District's conclusions are wrong as a matter of law. However, to end this dispute the Board Resoluion of July 2 will be passed in order to move past this issue.

#6. Failure to attach supporting documents to agenda online.

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.

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CURE: The requirements of Chapter 286 that apply to School Districts do not apply to charter schools and cannot be the basis for a finding of a violation of the charter contract. Nevertheless, the GB should consider whether this is a best practice that it should adopt and discuss at the next GB meeting.

#7. 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.

CURE: Same answer as number 6.

#8. Minutes 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.

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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.

CURE: The School District states that meeting minutes were wrong when no meeting even occurred. Nevertheless, the answer to this section is the same as number 6 and Mason continues to affirm it will provide accurate meeting minutes.

#9. 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:

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- (10) 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.
- (11) 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.
- (12) Serve as the champion for students in building community support for schools and encouraging greater community participation in the public schools.
- (13) Hear grievances from parents according to the Parent Grievance Policy.
- (14) Assist the Governing Board in filling Board vacancies. (See, 2012 Application at 63).

CURE: Governing Board will act as the SAC and will meet annually as the SAC to fulfill the SAC duties and responsibilities.

#9. Employment Committee

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.

CURE: Board Resolution – Eliminate Board Policy B 17.0 Management Compensation Review Policy

#10. Establishing a Quorum at Board of Directors Meetings

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,

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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

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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

CURE: Counsel for the District is simply wrong on the legal issue here. There are policy concerns raised by the District that the GB should consider, which are discussed in cure number 6. In addition, the Resolution will address this.

#11. "Illegal" Vote

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.

CURE: The FY 2019 budget was ratified on November 30th because the board was informed by counsel that meetings at which board members are present by telephone, equal telephonic access to the meeting must be given to the public. At the June 30, 2018 board meeting, Ms. Miller was present by telephone. The board ratified the budget in order to cure the board's prior failure to make the June 30th meeting available to the public by telephone.

#12. Mr. Bolduc's Appointment and Subsequent Votes

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."

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CURE: See answer to #6.

#13. Annual Election of Board Members

In Policy B 3.0, under “Annual Meetings”, it is provided that “the annual meeting of the Board of Directors shall be held in July of each year. At the annual meeting new Board Members will be elected.” (id., at 10). In this connection, at the Board’s October 3, 2015, Workshop, which was devoted to MCA’s Strategic Plan, the Minutes note that the current term of a Board Member is one year with no term limit. A review of the Board’s Meeting Minutes for the months of July or August, ° during the 2015-2018 time period disclose no annual/organizational meeting to elect Board Member and/or officers. New members were approved when there was a resignation from the Board. Thus, for example, Mr. Baird replaced Mr. Lane as Treasurer and Mr. Longenecker replaced Mr. Baird as Treasurer and later Mr. Bolduc was approved to replace Mr. Longenecker as Treasurer. However, when Mr. Donalds left after the November 1, 2016, Board Meeting, no motion was made to fill his seat with an appropriate candidate thereby reducing the number of Board Members from 4 to 3. (In fact, there is evidence that there was a period of time the Board had 5 members). Board Members Lichter and Miller have remained continually in place to the present as President and Secretary, respectively. The Board has thus disregarded its own By- laws and Policy in connection with the Board Member election/selection process.

CURE: The current board will have new term limits established in three year terms. The current three board members will have staggered terms of one, two, and three years. The bylaws will be amended to reflect these changes and presented for approval at the next meeting. The board is looking at candidates with the goal of adding two additional board members.

#14. Board Policies and Changes – First and Second Readings

Board Policy B 2.0 provides that while “two (2) readings are not required by statute, the Board prefers two (2) readings so the adoption schedule must be planned to provide for two (2) readings. (Policy Manual, both editions, at 9). Both readings must be placed on the agenda for the appropriate Board Meeting or workshop.

Item 4 under First Reading in the Policy specifically provides the following: “All policies must be included as attachments to the Agenda item. Revised policies must be in the strike out,

ALLEGED DEFAULTS AND CURES

underlined (or bolded) version to indicate changes. Attachment will be uploaded to the MCA server for Board review”.

After the first reading, the Principal is responsible for placing the second reading policy items on the agenda for the next Board Meeting. Changes recommended by the Board during the first reading must be incorporated into the proposed policy, Item 5 of the Second Reading section, mirror images item 4 of the First Reading section.

While policy items are to be included as attachments to the agenda, they are only uploaded to the MCA server for Board review. They are not attached to the agenda for the public to review nor is there a link that would enable a person from the public to have access to the MCA server to read the proposed policy (whether at the first or second reading level).

A review of the record shows that many MCA policies never go through a second reading for the public to review or open discussion held by Board Members about such rule making for the school. Many are placed on the Consent Agenda and approved without Board review or discussion. Moreover, where there are multiple policies for second reading, they are, by definition, never individually identified when placed on Consent for vote. They are simply passed through collectively. Sometimes one simply finds as well a First Reading without any second reading identified thereafter. There are multiple examples of this practice as the following will show. For example, at the August 2, 2016, Board Meeting, Policies SE 20.1, SE 19.0, and SE 53.0 were present by Mr. Marshall for a First Reading. At the August 8, 2016, Special Meeting, all were placed on the Consent Agenda without a Second Reading with an individualized review and discussion followed by vote.

On January 12, 2017, Policy SE 19.0 which was passed on Consent at the August 8, 2016, Special Meeting, was brought forward and placed on Consent at the January 12, 2017, Meeting then moved to unfinished business so it could be modified which would have created a new First Reading. Nevertheless, the Board voted on it treating it as if it were Second Reading.

This pattern of placing First Reading policy items on the Consent Agenda can be found as well at the March 25, 2017, Board Meeting, as well as at the April 26, 2018, Board Meeting where policies are identified on the Agenda, but not in the Minutes of the Consent Agenda for that meeting which was wrongly dated January 26, 2018, as previously noted.

CURE: The Board is going to remove the first and second reading requirements in its policies.

#15. Valerie Parker

Despite Mr. Whitehead’s representation that he would send her email on for further review, she never heard from anyone at MCA. Pursuant to Board Policy, she [Valerie Parker] prepared a detailed grievance letter that included much of what she had expressed to Mr. Whitehead. She sent her written grievance to MCA Board Members including Mr. Donalds and Mr. Mathias.

ALLEGED DEFAULTS AND CURES

Mrs. Parker never heard back from the Board and no inquiry was ever undertaken to address her concerns.

CURE: The GB doesn't agree with the factual statements made by Mr. Fishbane. However, the GB affirms that it will follow its grievance policy. The GB will discuss potential revisions to the grievance policy in future meetings after receiving public comment on the policy.

#16. Mr. Whitehead Indirectly Attacking Mrs. Parker on social media

The School's Assistant Principal, Mr. Whitehead, who had promised to forward Mrs. Parker's concerns, now directed his energies by indirectly attacking her on social media. He began his post by discussing rumor spreading and gossip as essentially criminal "spread against a person or organization." Warming to his subject, he then extrapolated as follows: "When you kill a good reputation intentionally, wrongfully, and by stealth, you have in fact killed that person." He noted that persons who spread rumors are cowards. He then explicitly added the following message: "I would have no problem with facing anyone like that and terminating their lease on life."

CURE: Staff members are asked not to address these types of issues on social media.

#17. Mr. Hulls Emails to Ms. Zuluaga

At 8:19 that evening, Mr. Hull (though email is signed "David and Sabine Hull") took the liberty of writing directly to the student, Ms. Zuluaga without notifying her parents. He stated:

We wanted to make sure you are aware of this serious situation and write to ensure you have a full understanding of it. Under no circumstances are you to contact Dennis in any way —face-to-face, digitally, on the phone, through online media, or otherwise...

We are willing to leave things as they are now, unless you or Dennis decide to violate the mandate of this message. Otherwise, as Dennis' parents, we will take appropriate and swift legal action. At this point, we consider this matter closed and will not communicate with you or your family anymore unless our demand is violated by any party involved.

CURE: Mr. Hull has resigned.

ALLEGED DEFAULTS AND CURES

#18. Mr. Hull's Efforts to Influence the Student of Virtue Award

For example, on May 11, 2018, after a faculty committee of eleven teachers voted to present the Student of Virtue award to a twelfth grade student they believed to be the most deserving, Mr. Hull interjected himself in the decision-making process emailing to the faculty committee members that he believed his son was the better candidate and should have been given the award. He began by saying that he tries "hard to bite my tongue when it comes to my own children and their enrollment at this school." He then goes on to say that "being the Principal requires me to honor my duty as such" by speaking out on behalf of his son, "as I would for any student who needs a case being made on his or her behalf."

Mr. Hull proceeded to post and provide a comparative list of the awarded student's (and his son's) disciplinary record, tardies, GPA, awards, college acceptances and scholarships received in dollar value. He then informed the faculty members as follows: "I have also copies screenshots of demerit reasons for each student and attached it to this email." The screenshot includes photos of the two students. He added: "I must have missed something about how you objectively measured the 12th grade Student of Virtue." Mr. Hull concluded his message, as follows: "But in rare form I will put my dad hat on as I sit at my principal desk, and point out that I disagree with your decision. More important, I hope all the other students were given serious consideration and objectivity for this award." (See, email from David Hull to multiple faculty members dated Friday, May 11, 2018, at 4:56 p.m., subject: Student of Virtue).

CURE: Mr. Hull has resigned.

#19. Mr. Whitehead's Facebook threat to Mrs. Parker, and impliedly to other concerned parents

Mr. Whitehead's Facebook threat to Mrs. Parker, and impliedly to other concerned parents all of whom he has deemed to be rumor mongers and cowards, stated that he "would have no problem facing anyone like that and terminating their lease on life". His conduct is unbecoming a professional educator. He was, and is, the MCA's Assistant Principal. He cannot claim that he took off his Assistant Principal's hat when he wrote this. The Code of Ethics of the Education Profession in Florida (FAC 6B-1001) provides that "the education values the worth and dignity of every person, the pursuit of truth, devotion to excellence..." "and must be aware of the importance of maintaining the respect and confidence of one's colleagues, of students, of parents, and of other members of the community, the educator strives to achieve and sustain the highest degree of ethical conduct." His Facebook threat was also abusive and intimidating which is proscribed by the Code.

CURE: Staff members are asked not to address these types of issues on social media.

ALLEGED DEFAULTS AND CURES

#21. “Mr. Hull knowingly disregarded MCA policy, yet continues to blame the parents for his wrongful actions.”

It is of interest that on February 25, 2018, that Mr. Hull emailed Dr. Rogers concerning “a kindergarten student who is not potty trained. There has been around 7 or so ‘accidents’ this year. We continue to do our best, working with the mother...” He noted that he felt it necessary to inform the mother that her child was not ready for school. Dr. Rogers immediately replied that she was concerned that the accidents could involve medical issues he needed to be very careful. Mr. Hull also noted that “we were bitten in the past over an issue similar to this; although that was a more severe issue” and “the school was attacked relentlessly over falsehoods put forth by that student’s parents without the ability to defend itself.” Mr. Hull’s deep need to cast aspersions on a former MCA parent almost two and half years later is of serious concern. He did not tell Dr. Rogers that he was the one to dismiss the Parker child without allowing for a meeting to take place so that parent(s) could discuss the child’s medical issues. He thus knowingly disregarded MCA policy, yet continues to blame the parents for his wrongful actions.

CURE: Mr. Hull has resigned.

#22. Board Member Miller’s support of Mr. Whitehead’s comments is also unbecoming a School Board Member.

To agree with such threatening statements is inherently wrongful, reflects her lack of knowledge, treating a parent or parents in a demeaning way, and then accusing a parent who did follow the rules as “unpatriotic” is inappropriate to say the least. Board Member Lichter’s encouraging others to let Mrs. Parker know how they feel was a form of rabble-rousing and unbecoming a President of a School Board. In the Board Policy Manual (in both Volumes at p. 2), the following is provided:

Election to the Board of Directors carries with it a responsibility of stewardship. The directors are the custodians of the integrity of Mason Classical Academy; they hold in trust the school’s reputation as created by its founders, and as developed by those who have shaped the school in the past.

CURE: A full explanation by Ms. Miller was put on the record at a duly noticed meeting on July 2, 2019. GB members will refrain from public comment on social media in the future.

ALLEGED DEFAULTS AND CURES

#23. Board Members Miller and Lichter acted contrary to their stewardship, respect toward others

In the Pillars of Character Development, which a Board Member is called to sign is the Pillar of Respect. Under that pillar is the following: "To treat others and myself with kindness. To be polite and considerate. To appreciate the good in others and myself and show compassion. To treat others and property of others as I wish to be treated." Board Members Miller and Lichter acted contrary to their stewardship, respect toward others, and integrity toward the reputation of MCA as enshrined in Board Policy and aspirational commitments.

CURE: The GB affirms it will act in accordance with this "Pillar" in the future.

#24. Board Members Miller and Lichter did not honor this policy (SE 25.0) on their media postings nor did Mr. Whitehead whose conduct they condoned and followed.

Board Policy SE 25.0 provides in the section on social media the following "Board Members are organizational employees, are personally responsible for the content they publish on-line. Your behavior should reflect the same standards of honesty, respect and consideration that you use face-to-face." Board Members Miller and Lichter did not honor this policy on their media postings nor did Mr. Whitehead whose conduct they condoned and followed. These conclusions apply as well to Board Member Miller's gratuitous demeaning of a student connected to MCA and the students' parents. (Given the timing of the post, one could easily figure out to whom it was directed).

CURE: The GB affirms it will act in accordance with this Policy in the future.

#25. Board Members (Lichter and Miller) faltered in their duty to serve the MCA community. Rather than trying to calm a difficult situation to let everyone move on, they knowingly contributed to inflaming it.

Subsequent to the October 2018 NDN article, Mr. Hull wrote a detailed email on October 12, 2018, to MCA parents "to combat the latest newspaper hit piece." In it, he wrote: "Children should not have to worry about the details of their school behavior haunting them when they are adults." It would seem that his statement and the statements contained in Board Member Miller's posting of around the same time are very much at odds with one another. Both Board Members faltered in their duty to serve the MCA community. Rather than trying to calm a

ALLEGED DEFAULTS AND CURES

difficult situation to let everyone move on, they knowingly contributed to inflaming it. Board Member Lichter took her refusal to follow MCA policies and principles to a new level when she resumed her attack on Mrs. Parker some three and a half years later. She accused her of dishonesty, and her having association with District School Board Member Lucarelli as criminal. She circled Ms. Parker's face as a target as well as those of her children. She then followed up with an attack on Ms. Lucarelli personally as a means to intimidate her. Her email attacks were sent from her Mason Academy address.

CURE: This provision was an expression of the District counsel's opinion and doesn't warrant a response.

#26. To accuse a former MCA parent that her involvement in someone's campaign, and her association with the candidate is criminal, is a fundamental attack on her First Amendment associational rights

In item 11 of the Board Duties and Responsibilities (See, both noted policy volumes, at 5), it provides: "Board Members as leaders of the School must have moral character and embrace the values of democratic society." Such values would constitutionally include freedom of speech and freedom of association. To accuse a former MCA parent that her involvement in someone's campaign, and her association with the candidate is criminal, is a fundamental attack on her First Amendment associational rights and the ability to vote for the candidate of her choice, whether Mrs. Lichter liked it or not. To draw a circle around her and her children is a form of wrongful targeting and intimidation that reflects a dark element within the moral character of the writer and damages the reputation of a school that seeks to uphold democratic values and the importance of respect and virtue.

Equally important, Board Member Lichter's emails calling another (Mrs. Parker and Ms. Lucarelli) criminal potentially subjects her personally to an action for defamation. When words on their face without the aid of extrinsic proof, are injurious, they are considered defamation per se and no proof of damages are needed to establish liability.

CURE: The School is prohibited by FERPA from answering this charge and it is unfair for the District to bring up charges it knows the School cannot answer. This matter discusses potential civil liability of one GB member and doesn't require discussion by the GB. GB members will generally refrain from comment in public regarding these matters in the future.

#27. Mr. Hull did not receive parental permission to disclose student educational records

ALLEGED DEFAULTS AND CURES

With this in mind, Mr. Hull did not receive parental permission to disclose student educational records (1) of the student whose record he posted relative to the Student of Virtue; (2) of the student whose educational records were emailed to Dr. Rogers on December 1, 2017; (3) of the student whose record was sent to the District School Board on August 30, 2018; (4) the January 10, 2018, email obviously pertaining to the Donalds that was sent to Dr. Rogers; and (5) the sending to Dr. Rogers the February 28, 2018, email chain between Mr. Hull, the Donalds, and their child's teacher involving the child's educational situation at MCA. Mr. Hull's sending confidential student educational information, without the written parental permission to do so, to persons who were not in the zone of interests of persons who would otherwise have a legal right of access to the student's information, constituted a violation of FERPA for each improper transmission. With respect to the foregoing, that would mean that he and MCA, violated FERPA on five separate occasions

CURE: Mr. Hull has resigned. Training of staff and GB by counsel on FERPA, ethics, and Sunshine law prior to the upcoming school year will occur.

#28. Mr. Hull's attacks were not only uncivil and a violation of MCA's civility policy (See, Policy SE 48.0 and unprofessional, but they are unbecoming of an educational leader.

On July 4, 2018, the former faculty member wrote to Mr. Hull to cease and desist contact him and his family. He pointedly wrote that "unfortunately this message is made necessary by repeated instances of harassment against my family, which you have initiated, now over a year since we concluded our employment with Mason Classical Academy." Mr. Hull refused to back away and let it go. He decided to respond that day and did so in a sarcastic and accusatory manner. He began his email as follows:

- I find it interesting that you made many false claims here and sent them to my work email address. I also find it interesting that you consider one phone call and two identical Instagram messages over a 6-month period "harassment". I never pegged you for a millennial snowflake, but I've been wrong before.

He then proceeded to attack him for "undoing a life of character development of his parents," encouraging atheism, and providing him with wrong advice. He ended the email much like he did in the Zuluaga situation demanding complete discontinuation of any communication with his son (which apparently had occurred months before). (See, July 4, 2018, email communications between Mr. G and Mr. Hull).

Mr. Hull's attacks were not only uncivil and a violation of MCA's civility policy (See, Policy SE 48.0, at pp. 78 — 79 in the April 2018 Volume and 78 in the January 2019) and unprofessional, but they are unbecoming of an educational leader. He has certainly lost sight on multiple occasions of the boundaries that should separate his personal life and his professional life. While Mr. Hull may preach virtue, such attacks disclose something very different.

ALLEGED DEFAULTS AND CURES

Finally, Mr. Hull's commentaries on and criticisms of parenting styles and parenting abilities are inappropriate and unprofessional and are source of division and resentment. They are also potentially defamatory.

CURE: Mr. Hull has resigned.

#29. By any benchmark, Mr. Lichter's comments were uncivil. He is a parent, founder, husband of the Board President, and certainly a public person in the MCA community especially.

All parents and patrons of Mason Classical Academy shall behave with civility, fairness and respect in dealing with fellow parents, patrons, staff members, students, and anyone else having business with the school. Uncivil behaviors are prohibited. Uncivil behaviors shall be defined as any behavior that is physically or verbally threatening, either overtly or implicitly, as well as behaviors that are coercive, intimidating, violent or harassing. Examples of uncivil behavior including, but are not limited to: use of profanity; personally insulting remarks; attacks on a person's race, gender, nationality, religion, or sexual preference; or behavior that is out of control.

By any benchmark, Mr. Lichter's comment were uncivil. He is a parent, founder, husband of the Board President, and certainly a public person in the MCA community especially. His Facebook comments have no place in civil public discourse. They were threatening, demeaning, and crude. Moreover, as will be seen in the next section, Mr. Lichter was the General Manager of CCMG. His comments are hardly befitting of one who has held himself out to the charter school community in multiple districts as one who will provide community relations and governance training.

CURE: Mr. Lichter is not a GB member and the GB owes no response to the District.

#30. It appears the parent liaison has existed in name only

F.S. 1002.33(9)(p)2, provides that "each charter school's governing board must appoint a representative to facilitate parental involvement, provide access to information, assist parents and others with questions or concerns, and resolve disputes." Similarly, in the governance section of the 2017 Charter Contract (Section 9), it is provided that governing board of MCA must appoint a representative and the language then tracks verbatim the above quote from the statute.

ALLEGED DEFAULTS AND CURES

With this in mind, at the June 13, 2016, Board Meeting under New Business, Mr. Hull recommends Ms. Turner as the liaison to parents. The Board voted to approve her as the liaison to parents... However, the parents who spoke with the undersigned and other staff members when asked responded they were unaware of the liaison position or who filled it. Ms. Turner who, as part of the position, had to attend Board Meetings per statute and charter, never reported on any liaison work undertaken.

It appears the liaison has existed in name only much like the Student Advisory Council which has never met to respond to parent issues and resolve parental disputes and grievances as set forth in the 2013 Application (See, pp. 68-69). Accordingly, the Board has let slide critical components for dispute resolution.

CURE: As a sign of goodwill, the GB should better educate parents about who fills the role of the parent liaison. Some best practices might include says this fact at each meeting, posting it on Mason's website, with a detailed explanation of what that role entails.

#31. Ms. Lichter as MCA's Board President and CCMG's Chief Executive Officer has created, if not a conflict of interest in her two roles, the appearance of impropriety in voting to approve items that financially benefited her partners Mr. Hull and Ms. Smith.

MCA Board Member Lichter was the Chief Executive Officer of CCMG from September 29, 2017, until Mr. Lichter replaced her as the General Manager on October 10, 2018, regardless of the level of work undertaken during that time period, she voted to approve, at the May 29, 2018, MCA Board Meeting the evaluation and bonus for her CCMG business partner, Mr. Hull, as Principal of MCA without recusing herself or disclosing a possible conflict or concern for the appearance of impropriety. She also voted to approve the salary schedule the terms and conditions for which would benefit her CCMG business partner Gena Smith without concern for disclosing their business relationship and its relationship to Ms. Lichter Board Member status and Ms. Smith's beneficial employee status.

Ms. Lichter as MCA's Board President and CCMG's Chief Executive Officer has created, if not a conflict of interest in her two roles, the appearance of impropriety in voting to approve items that financially benefited her partners Mr. Hull and Ms. Smith. And in the case of Mr. Hull her voting to approve his 2018 evaluation would serve as an importance precondition for his receiving a bonus as any MCA employee. Mr. Hull and Ms. Smith also have a responsibility in all this by also chose to remain silent while governing benefits.

CURE: Ms. Lichter and Mr. Lichter no longer are associated with CCMG and Mr. Hull has resigned.

ALLEGED DEFAULTS AND CURES

#32. The themes are those that directly involve Mr. Hull and are based on the direct observations and experiences of the given reporter. They may be set forth as follows:

- (1) Mr. Hull was observed to yell at or berate teachers in front of the students and other faculty and staff;
- (2) Mr. Hull talked condescendingly, often in a demeaning way, to faculty at multiple faculty meets;
- (3) Mr. Hull was observed to berate and shame students in front of other students, teachers, and staff;
- (4) The faculty reporters observed and experienced that if one disagreed with Mr. Hull, he would become defensive, hold it against the person, and target the person with sarcastic statements and comments;
- (5) The faculty reporters noted that they were often observed by Ms. Smith, the School's Curriculum Coordinator. Reporting faculty conveyed that they were uncomfortable with it since Ms. Smith had no education background, no teaching degree, or classroom teaching degree, and did not attend college. The faculty were often not observed by Mr. Hull who, they felt, wrote up evaluations based on Ms. Smith's observations; and

The faculty reporters observed, felt, and experience that it was often unsafe to speak out which affected trust and created a polarized faculty.

Cure: This is far outside the scope of Mr. Baird's letter to the State. District Counsel's comments about internal personnel matters within Mason are unwarranted and far outside of the power of the School District to supervise Mason as the Sponsor under Florida law.

#33. Alleged Investigation of the Baird Complaint By MCA

In the NDN article, it was reported that according to MCA's counsel, MCA had conducted an internal investigation in Mr. Baird's allegations and found them to be without merit. Similarly, at the request of his client, counsel for MCA wrote to Mr. Baird the following:

Several correspondences you have sent to various parties have been forwarded to my office for review. Mason reports that it has conducted a thorough review of this matter. Witnesses were interviewed and correspondence, including contemporaneously written emails written by you, were reviewed.

At the meeting with the undersigned, Ms. Turner noted that she dissected the Complaint and sent it to McCreedy & Associates. Mr. Marshall stated he had looked at some financial documents. All three persons acknowledged that they did not interview anyone, conduct an ~ internal investigation of Mr. Baird's Complaint or prepared any report in connection therewith.

ALLEGED DEFAULTS AND CURES

CURE: Conclusions by District counsel are not supported by fact. It is a position of the GB that in order to conduct a proper investigation that persons should be interviewed. It is remarkable that Counsel for the District would say that not interviewing both sides makes for an improper investigation. Counsel for the District didn't interview persons at MCA associated with this investigation, listened to only one side, and drew conclusions without MCA being able to present its defense, going so far as to say it would not accept any further evidence. Counsel never would accept evidence and one cannot investigate a matter if it does not listen to both side of a story.



Marva Johnson, *Chair*
Andy Tuck, *Vice Chair*
Members
Ben Gibson
Tom Grady
Michael Olenick
Joe York

July 3, 2019

Jon Fishbane
School Board Attorney/District General Counsel
Collier County Public Schools
5775 Osceola Trail
Naples FL 34109

Dear Mr. Fishbane:

Our office received a letter recently from Mason Classical Academy requesting that the Florida Department of Education (the Department) provide mediation services pursuant to section 1002.33(7)(b), Florida Statutes. This mediation would work to resolve several disputes between Collier County Public Schools (the District) and Mason Classical (the School).

The relevant portion of the statute reads, “The Department of Education shall provide mediation services for any dispute regarding this section subsequent to the approval of a charter application and for any disputes relating to the approved charter, except disputes regarding charter school application denials. If the Commissioner of Education determines that the dispute cannot be settled through mediation, the dispute may be appealed to an administrative law judge appointed by the Division of Administrative Hearings. The administrative law judge may rule on ...any other matter regarding this section except a charter school application denial, a charter termination, or a charter nonrenewal, and shall award the prevailing party reasonable attorney’s fees and costs incurred to be paid by the losing party. The cost of the administrative hearing shall be paid by the party whom the administrative law judge rules against.”

Specifically, the School is seeking mediation to resolve the following disputes: 1.) those surrounding the District’s investigative report of Mason Classical Academy, released in late May, and 2.) those pertaining to the School’s administration of the Best and Brightest Scholarship Program and its eligible teachers.

If the District agrees to participate, the Department will identify a mediator agreeable to both parties. Potential dates for mediation will then be identified, a location secured, and times confirmed. Mediation may occur via a conference call.

Exhibit F

Please respond by Friday, July 12, 2019, indicating if the District will participate in the mediation process. Your response may be submitted via e-mail and/or U.S. Mail, and should be directed to my attention. My contact information is included below.

If you have any questions, please contact me at Adam.Emerson@fldoe.org. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Emerson". The signature is fluid and cursive, with the first name "Adam" being more prominent than the last name "Emerson".

Adam Emerson
Charter Schools Director
Florida Department of Education
325 West Gaines Street
Tallahassee, FL 32399
Adam.Emerson@fldoe.org

cc: Lois Tepper, Florida Department of Education
Matthew Mears, Florida Department of Education
Alex Kelly, Florida Department of Education
Judith Delgado, Collier County Public Schools
Shawn Arnold, Arnold Law Firm



CCPS

Collier County
Public Schools

July 7, 2019

PUBLIC NOTICE

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.

The agenda for the Special School Board Meeting is available on the website (www.collierschools.com) and at your local library.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SCHOOL BOARD WITH RESPECT TO ANY MATTER CONSIDERED, HE/SHE WILL NEED A RECORD OF THE PROCEEDINGS AND, THEREFORE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE. THE RECORD MUST INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

EXHIBIT G

Today's Learners • Tomorrow's Leaders

5775 Osceola Trail | Naples, Florida 34109 | p: 239.377.0001 | f: 239.377.0181

e: info@collierschools.com | www.collierschools.com



David Bolduc <dbolduc@masonacademy.com>

Offer

1 message

Shawn Arnold <sarnold@arnoldlawfirmllc.com>
To: "Jon Fishbane (fishbj@collier.k12.fl.us)" <fishbj@collier.k12.fl.us>
Cc: Katie Sevier <ksevier@arnoldlawfirmllc.com>

Mon, Jul 8, 2019 at 3:43 PM

Jon,

Please send me the District's offer for settlement ASAP.

Thank you

Shawn A. Arnold, Esq.

Florida Board Certified Education Law

& Criminal Trial Lawyer

Licensed in Florida, Georgia, and Colorado

6279 Dupont Station Court

Jacksonville, FL 32217

(904) 731-3800



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EXHIBIT H



Collier County
Public Schools

District General Counsel

July 8, 2019

Sent Via Email

Shawn Arnold, Esq.
6279 Dupont Station Ct.
Jacksonville, FL 32217

Re: Proposal to Resolve the Controversy with Mason Classical Academy

Dear Shawn:

In follow up to our conversation, the following will set forth a proposal that I believe will resolve the controversy in everyone's best interest in advance of the District School Board's July 11, 2019, Special Board Meeting. The proposal has been discussed with the appropriate persons at Hillsdale College who are in support of it.

With this in mind, the MCA Board would call a Special Board Meeting by July 25, 2019, to vote in four new Board Members from a list of candidates to be provided by Hillsdale College. Upon the voting in of the four new Board Members, Ms. Miller and Mr. Bolduc would step down and Ms. Lichter would stay on the Board. Within two weeks after the formation of the new Board, the Board will meet to select new Officers for the Board.

Moreover, Hillsdale College has advised it will use the good offices of the recruitment/selection firm it relies upon to locate a Principal for MCA to have in place by the opening of school. This search will be made a high priority by the College to help MCA.

During the July 2, 2019, MCA Meeting, Ms. Lichter stated that she wanted to repair with Hillsdale College. This provides her with an important opportunity to do so. If this proposal is accepted, Hillsdale will agree to continue its relationship with MCA and provide support to MCA's educational growth and development by working with its administrative team, faculty, and the Board in the best interests of MCA students and parents.

Please encourage your client to accept this offer. This would need to be voted on at a Special Meeting prior to July 11, 2019. I would like to be able to report to our Board on July 11, 2019, and Hillsdale College that the proposal has been accepted.

Sincerely,

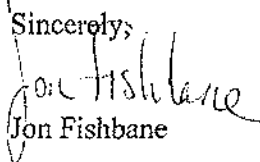

Jon Fishbane

EXHIBIT I

Today's Learners • Tomorrow's Leaders

5775 Osceola Trail | Naples, Florida 34109 | p: 239.377.0499 | f: 239.377.0501

e: FishbJ@collierschools.com | www.collierschools.com

MEDIATION SETTLEMENT AGREEMENT

THIS AGREEMENT, entered into on this 1st day of August, 2019, by and between Collier County Public Schools (“the District”) and Mason Classical Academy, Inc. (“Mason”).

WHEREAS, the District and Mason are involved in a dispute regarding an Investigative Report submitted to the School Board for the District and prepared by District General Counsel, Jon Fishbane; and,

WHEREAS, the Florida Department of Education (“DOE”), the District and Mason scheduled a mediation in an effort to fully resolve their dispute; and

WHEREAS, on June 6, 2019, Hillside College sent a letter to Mason to indicate an intent to terminate their relationship with Mason unless certain actions were taken; and,

WHEREAS, a mediation has been conducted in this dispute on August 1, 2019; and

WHEREAS, the District and Mason now desire to fully settle the issues that are the subject to the above-referenced dispute; and,

NOW THEREFORE, for good and valuable consideration set forth below, the Parties hereto agree as follows:

1. Mason will have the following committees:
 - a. School Advisory Council
 - b. Grievance Committee
 - c. Finance Committee
 - d. Audit Committee
2. Mason will attach documents in advance to be published along with agendas discussed or reviewed by the Governing Board in order for the public to access those documents in advance of the meeting.
3. Counsel for Mason will provide training for all staff on August 6, 2019 and provide training or arrange training to key administration and governing board members in the future. Topics will include Sunshine Law training, public records laws, ethics, FERPA, ESE and Chapter 39 training.
4. Through resolution, existing board members and any new Governing Board members will affirm that they will adhere to Mason’s Charter and policies.
5. Communications from the Governing Board to the parent community will be clarified as to whether it is from the Governing Board or from individual board members.
6. The committees shall be fully constituted and functioning by October 15, 2019.
7. The governing board shall be increased from three (3) members to five (5) members by October 15, 2019, with staggered, 1, 2, and 3 year terms.
8. Mason will work expeditiously to hire a new principal.

- 9. The foregoing items are hereby designated as a Corrective Action Plan. Mason's independent auditor shall conduct an audit of compliance with the Corrective Action Plan within a reasonable time after October 15, 2019. Mason shall also conduct its own assessment of its compliance with the Corrective Action Plan and shall furnish the same to the District by November 1, 2019.
- 10. The District agrees that all complaints by members of the school community shall be redirected to the Mason's Grievance Committee and that the District will not consider complaints from the school community until the complainant's have exhausted their administrative remedies at Mason. The parental liaison may be seated as an ex officio member of the Grievance Committee.
- 11. Mason will place this Mediation Settlement Agreement on the agenda for a board meeting to be held on the morning of August 6, 2019 for approval. The District will schedule its approval at its board meeting during the evening of August 6, 2019.
- 12. The District understands and acknowledges that it is no longer pursuing termination of the Charter for Mason. Both parties will work in concert for a smooth opening of the school on August 13, 2019.
- 13. Each party shall bear their own attorneys' fees and costs.
- 14. If there is litigation later to enforce this Agreement, the prevailing party shall be entitled to a recovery of their attorneys' fees.
- 15. This constitutes the entire agreement between the Parties.
- 16. This Agreement will not be binding on the parties until voted upon at a duly noticed public meeting.
- 17. The representatives of the Parties signing this Agreement do so with full authority to recommend this Agreement to their respective boards and by signing agree to make that recommendation.

IN WITNESS WHEREOF, the Parties execute this Agreement as follows:

Collier County Public Schools

Mason Classical Academy, Inc.

By: Kamela Patton

By: Kelly

Its: Superintendent

Its: Board chair

Approved by their counsel:

James O. G.
Jon Fishlase

[Signature]

**The Florida Bar
Inquiry/Complaint Form**

PART ONE (See Page 1, PART ONE – Complainant Information.):

Your Name: Kelly Lichter
Organization: Mason Classical Academy
Address: 3073 S. Horseshoe Drive
City, State, Zip Code: Naples, FL 34104
Telephone: 239-227-2838
E-mail: klichter@masonacademy.com
ACAP Reference No.: _____
Does this complaint pertain to a matter currently in litigation? Yes No

PART TWO (See Page 1, PART TWO – Attorney Information.):

Attorney's Name: James Fox Florida Bar No.: 689289
Address: 850 Park Shore Drive
City, State, Zip Code: Naples, FL 34103
Telephone: 239-649-2705

PART THREE (See Page 1, PART THREE – Facts/Allegations.): The specific thing or things I am complaining about are: (attach additional sheets as necessary)

Please see attachment including exhibits.

PART FOUR (See Page 1, PART FOUR -- Witnesses.): The witnesses in support of my allegations are: [see attached sheet].

PART FIVE (See Page 1, PART FIVE -- Signature.): Under penalties of perjury, I declare that the foregoing facts are true, correct and complete.

Print Name Kelly Lichter

Signature Kelly Lichter

Date 9/13/20

James Fox Bar Complaint

Violation of Rule 4-1.6 Confidentiality of Information

On August 1, 2019, Mason Classical Academy (MCA) and the Collier County School District (CCPS) participated in a mediation conference in an attempt to resolve the ongoing dispute between both parties. Attending the mediation on behalf of MCA were MCA Board President, Kelly Lichter and MCA's counsel Shawn Arnold from the Arnold Law Firm and Ruben Doupe from the Coleman Firm. On behalf of CCPS attending the mediation conference were District General Counsel Jon Fishbane, James Fox from Roetzel and Andress Law Firm, Superintendent Kamela Patton, charter liaison Judith Delgado and Peggy Aune, Associate Superintendent. The mediation conference was mediated by David Gunter. Also present for mediation was Jacob Oliva, Chancellor of Education at the Florida Department of Education. Please see **Exhibit A** for the signed Mediation Confidentiality Agreement.

The District's counsel (Jon Fishbane and James Fox) clearly violated the terms of the mediation confidentiality agreement. During mediation the District's counsel disclosed details of the mediation discussion to a party outside of mediation, (see **Exhibit B**). Hillsdale College was not a party in the mediation, and it is clear by the time stamp in the email (**Exhibit B**) that the District's counsel was communicating during the actual mediation conference.

August 2019

James Fox knowingly used an illegal recording of Kelly Lichter, (see **Exhibit C**). Florida has a wire-tapping two-party consent law. The file was even labeled "Aug 5 private parent mtng.m4a", which was sent from attorney James Fox to Jon Fishbane. In the attorney letter from attorney James Fox to MCA's counsel on August 14, 2019 (see **Exhibit D**), this private conversation was unlawfully referenced to damage MCA's leadership.

Note: MCA parent Jana Greer created a zoom link and personally invited a handful of parents to attend the meeting (this was not publicly advertised). This was not an MCA sanctioned event. Ms. Greer invited Kelly Lichter to attend the meeting as a fellow MCA parent. Ms. Greer did not record the meeting and no person attending the zoom call informed the participants they would be recording it. Upon further investigation by Ms. Greer into her zoom call, she discovered uninvited participants that had logged in (they were likely given the log in credentials by an invited participant). It was determined that parent Christy Lewis unlawfully recorded the meeting. This illegal recording was then transmitted to multiple people, including attorneys James Fox and Jon Fishbane whereby they used this illegal recording to accuse MCA of violating the Mediation Settlement Agreement.

GUNTER MEDIATION SERVICES
MEDIATION CONFIDENTIALITY AGREEMENT

We agree that, by participating in the Mediation Conference on the 1st day of August, 2019, with David A. Gunter as our Mediator, each of us has a privilege, except where disclosure is required or permitted by law, to refuse to disclose, and to prevent any person (including the Mediator) present at the Mediation Conference, from disclosing any and all oral, nonverbal and written communications, notes, observations, and thoughts made during the Mediation Conference, and any conferences subsequent to today, including telephone conferences, whether or not the dispute was successfully resolved, and such communications shall be confidential and inadmissible as evidence in any subsequent legal or administrative proceeding, unless all of us agree otherwise in writing beforehand. We agree that a settlement agreement signed by us may be exempt from this privilege and from confidentiality when disclosure is required or permitted by law or with our written consent.

We agree that, except where disclosure is required or permitted by law, all oral, nonverbal, and written communications, notes, observations and thoughts (including those of the Mediator), made during the Mediation Conference, and any conferences subsequent to today, including telephone conferences, other than a signed settlement agreement, shall be exempt from the requirements of Chapter 119 of the Florida Statutes (the Public Records Law).

We have read and signed this Mediation Confidentiality Agreement before we began our Mediation Conference and we understand its terms.

MASON CLASSICAL ACADEMY, INC.
By: [Signature]
Its: President

THE SCHOOL BOARD OF COLLIER COUNTY, FLORIDA
By: [Signature]
Its: Superintendent

[Signature]
Director of Charter Schools (CCRS)

[Signature]
Associate Superintendent, Curriculum and Instruction

SHAWN ARNOLD, ESQUIRE
[Signature]
Counsel for Mason Classical Academy, Inc.

JON FISHBANE, ESQUIRE
[Signature]
District General Counsel for Collier County School Board

[Signature]
Reuben Daise, Esq. Co-Counsel

[Signature]
James Fox, Counsel for Collier County School Board

FLORIDA DEPARTMENT OF EDUCATION
By: [Signature]
Its: Chancellor / FLDOE

DAVID A. GUNTER, ESQUIRE
[Signature]
Certified Circuit Civil Mediator

Exhibit B

From: [Madison Moore](#)
To: [Larry P. Ann](#)
Subject: Update re: MCA Mediation from Bob
Date: Thursday, August 1, 2019 11:18:15 AM

Sir,

Bob asked me to pass this along:

Bob has had some communication with the lawyers regarding the MCA mediation. Kelly and the board's opening position is to say that they have no use for Hillsdale, and that Hillsdale hasn't been much help.

Best,
Madi

Madison L. Moore | Executive Assistant to the President | Office of the President
Hillsdale College | 33 East College Street, Hillsdale, MI 49242

Office: 517.607.3301 | Fax: 517.439.8066 | mmoore@hillsdale.edu

Exhibit C

Zisser, Leanne

From: Fox, Jim <jfox@ralew.com>
Sent: Friday, August 9, 2019 11:01 AM
To: Fishbane, Jon (Jonathan)
Subject: FW: Fw: Mason Classical Academy
Attachments: Aug 5 private parent intro.mca

FYI

----- Forwarded message -----

From: M. M. [REDACTED]
Date: Fri, Aug 9, 2019, 9:41 AM
Subject: Fw: Mason Classical Academy
To: J. B. [REDACTED]

Just thought I'd let you know I sent this e-mail to Bob Rombel this morning. Feel free to share it with your contact. And, let me know if he is willing to chat with me over lunch.

Best

M. M. [REDACTED]
[REDACTED]

From: M. M. [REDACTED]
Sent: Friday, August 9, 2019 9:37 AM
To: J. B. [REDACTED]
Subject: Mason Classical Academy

Bob:

You and I had a brief conversation prior to the mediation between the Collier County School Board District and Mason Classical Academy. Well, the mediation is over, and I can't be more disappointed in the outcome.

It appears the side of Florida representatives in Tallahassee believe "change" can occur by simply adding a special person on the Board of Directors at MCA.

Included in this e-mail are two examples of why I was explaining to you this strategy will not work.

The first attachment is a cut from a recording of a call/video conference among a limited number of MCA parents...with Kelly Lichter presiding. Kelly explains how there is a group of parents who are "indemnifying" the school and lays blame for the school's difficulty on the feet of those parents. She does only to explain her exaggeration as to why these parents continue to have their children educated at MCA. On the heels of the mediation (August 1st and 2nd), this message of dishonesty is most disturbing. If the intention for the outcome of the mediation was for the MCA Board Leadership to behave more in line with the "3 Pillars of Virtue" it purports to live by...well, this is a most unfortunate action by Ms. Lichter. So, this is the first example of how

August 14, 2019

Via Email: sarnold@arnoldlawfirmllc.com

Shawn Arnold, Esq.
6279 Dupont Station Ct.
Jacksonville, FL 32217

Re: Settlement Agreement Violations

Dear Mr. Arnold:

We are writing you because we have serious concerns that Mason Classical Academy (MCA) is not acting in good faith with respect to the agreements it just made at mediation. This letter will allow you to address those concerns, before further actions and determination are made concerning the matters listed below.

These matters include but are not limited to the following: (1) Failure to properly post notice, agendas, and documents, (2) lack of professionalism, decorum, and good faith, (3) attempts to chill or violate the FERPA and First Amendment Rights of parents, (4) apparent attempts to stack the board before parents have even had an opportunity to apply for board position, (5) personnel deficiencies including the lack of 14 teachers, a qualified principal, and the placement of Mr. Hull back in the classroom, (6) the refusal to honor the existing contract with Hillsdale College, and (7) the lack of willingness to proactively address the audit findings, based on MCA's own documents, that MCA improperly awarded over \$137,000 in Best and Brightest scholarships. The findings were based on documents MCA provided or could not provide.

Florida courts recognize that "[e]very contract includes not only its written provisions, but also the terms and matters which, though not actually expressed, are implied by law, and these are as binding as the terms which are actually written or spoken." *McCoy v. Durden*, 155 So. 3d 399, 403 (Fla. 1st DCA 2014) quoting *First Nationwide Bank v. Florida Software Servs., Inc.*, 770 F.Supp. 1537, 1542 (M.D.Fla.1991). One of the implied contract terms recognized in Florida law is the implied covenant of good faith, fair dealing, and commercial reasonableness. *Cox v. CSX Intermodal, Inc.*, 732 So.2d 1092, 1097 (Fla. 1st DCA 1999); see also *Scheck v. Burger King Corp.*, 798 F.Supp. 692, 700 (S.D.Fla.1992); *First Nationwide Bank*, 770 F.Supp. at 1542; *Green Companies, Inc. v. Kendall Racquetball Invs., Ltd.*, 560 So.2d 1208, 1210 (Fla. 3d

DCA 1990); *Fernandez v. Vazquez*, 397 So.2d 1171, 1173-74 (Fla. 3d DCA 1981). This implied covenant arises because "[a] contract is an agreement whereby each party promises to perform their part of the bargain in good faith, and expects the other party to do the same." *First Nationwide Bank*, 770 F.Supp. at 1544. Thus, the implied covenant of good faith and fair dealing is designed to protect the contracting parties' reasonable expectations. *McCoy v. Durdan*, 155 So. 3d at 403.

Sunshine Law and Agenda Violations

We agreed at mediation that MCA would upload, along with the agenda, all documents that will be reviewed and discussed at a given meeting for public review. Speakers would be given the opportunity to speak prior to action and non-action items being presented so that the board can consider public input prior to decision-making or informational item discussions. After agreeing at mediation on August 1st to this, at the very next meeting on August 5th MCA failed to post the mediation settlement agreement before the meeting. The chairwoman's justification for this failure to post in advance was: "The mediation settlement agreement has not been voted on." The whole point of posting documents in advance is to give the public a chance to review and comment on them *before they are voted on*. Will it be the practice of MCA to continue to not post items until after they are voted upon? We consider this practice a violation of the Settlement Agreement and a violation the spirit and the letter of the Sunshine Law. Further, it has been reported to us that meeting notice for MCA's August 8 meeting was incorrectly posted but that MCA proceed to hold the meeting anyway. Finally, what few documents have been posted in advance of meetings has not been posted on the meetings webpage but on the events webpage. The public should not have to search the website for meeting documents: they should be on the meetings page. Please let us know MCA's position with respect to these concerns.

Board and Staff Professionalism and Civility: Adhering to the Pillars, Respect, and Good Faith

We agreed that Board and staff need to maintain high standards of civility and professionalism in dealing with MCA parents and the community at large, whether on social media, in newsletters, statements at meetings, and other forms of communication. Board Policy requires Board Members to commit to the Pillars of Character Development, including "Respect." Just days after the mediation and before the settlement was even inked on August 5th at a parent meeting, the chairwoman accused Mason parents of "undermining the school." On August 6, 2019, at the very MCA Board meeting to vote on the settlement agreement the chairwoman accused Dr. Patton, Jon Fishbane, and parents, of "undermining" the school. Then on August 8, the chairwoman said, "What gets me to my core is that the very people who come to this school claim to love this school are working with Fishbane and the Superintendent and continue to undermine this school." She went on to reference a discussion at the Collier School Board meeting about the value of accreditation, and said, "Why is there this effort to continue undermining the school?"

Personal attacks such as these are not appropriate generally, are certainly not appropriate with respect to parents who have children at the school, are contrary the representations in the "cure document" you sent to us, and are directly in opposition to the Pillar of Respect. They

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certainly are not paradigmatic examples of respect and tolerance for those with differing opinions on substantive issues. These comments of the chairwoman's are reminiscent of those she made on the Florida Citizens Alliance on Podcast #18, saying Hillsdale "lied" to her, and was "in bed" with "some of the most corrupt people in the State of Florida as far as school districts go." As you know, accusing persons of public corruption is slanderous. Guessing, especially wrongly, about peoples motives, and then casting aspersions about them in public is difficult to reconcile with the implied covenant of good faith in a contract. Did it ever occur to the chairwoman that perhaps parents, Collier County staff and School Board Members, might have the best interests of MCA as their goal? What is the possible justification of repudiating this part the Settlement Agreement so quickly?

Flawed Grievance Policy

The proposed MCA grievance policy appears to require parents to give up their fundamental rights under FERPA and the First Amendment's speech and petition clauses.

First, we would note that the proposed policy suffers from numerous other deficiencies. For example, there does not appear to be any role for the principal in the process, who as a matter of best practice should be the last step in the administrative process. Parents should be affirmatively informed of their ability to speak with the principal or appeal decisions by an assistant to the principal, before having to take the matter to an outside committee. This allows the principal to the opportunity to review the matter and take any appropriate action.

Second, and of greater concern is the attempt to force parents to relinquish their FERPA rights, Step III of the proposed policy expressly says, "the complainant agrees to waive all FERPA rights." This is contrary to the State Board of Education regulations. Section 6A1.0955(6)(e) (c) F.A.C, prohibits this. It says, "School districts may not require that adult students or the parent or guardian of students waive any of their rights under section 1002.22(2), F.S., and FERPA." Charter schools are public schools of the District operating under a contract with the District. We are not aware of any exemption the Charter schools enjoy to violate this provision of the Florida Administrative Code, or any justification to force parents under Federal Law to give up their rights. Indeed, as noted in AGO 2010-04, the protection of FERPA is not wholly incompatible with meetings in the Sunshine and MCA "should be sensitive to confidential student records that may be reviewed during such a meeting and protect these records to the extent that is possible to protect the privacy of the student involved in this matter." Id.

Likewise, MCA, a public school, makes it a violation of the Parent Contract, to bring a concern to the Collier County School Board. This provision appears to be a direct attempt to chill the Free Speech in advance, *Bd. of County Com'rs, Wabaunsee County, Kan. v. Umbehr*, 518 U.S. 668 (1996), and imposes a penalty on parents and students who do speak at public meetings of the Collier County School Board, which as you know has the constitutional duty to "operate, control, and supervise all free public schools within the District," Const. of Florida, Art. IX, sect. 4(b). Please clarify whether MCA intends to terminate the contract of MCA parents or otherwise penalize them for exercising their First Amendment rights to speak with the District staff and the District School Board or to seek redress of their grievances.

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Finally, MCA appears to be attempting to institute a formal grievance process, at Step IV, at the Collier County School Board. Please be advised that MCA does not have the authority to impose, create, regulate or otherwise direct the Collier County School Board to either set up any such procedure, nor to dictate how and when that procedure will be activated, nor how the District must handle complaints from MCA, beyond those in the Charter.

Attempts to Stack the Governing Board

We agreed that the board would be expanded to five (5) Board Members. It was clearly contemplated that there would be an opportunity for all parents to submit their names for fair consideration for being on the board. Rather, it has been reported that the chairwoman held a lengthy telephone conference with a select group of parents and told them how important it is to "stack the board" with parents who agree with the present board members. Further, it appears that before this process was even allowed to begin the board interviewed Mr. Conrad Willkomm, a friend of the chairwoman's, for an open seat on the board. Please describe how this process is likely to instill confidence that the board in the future will be representative of all of the parents, or how such actions are in good faith to the explicit understandings regarding future board make-up that were crucial to the final settlement.

Finally, there does not appear to have been any effort, after three meetings, to implement as agreed the staggering of terms, who those would be, and or even discussion about how the policy will be implemented.

Lack of a Principal and Teaching Staff

MCA appears to have some 14 vacant teaching positions on the first day of school and no qualified principal in place. The chairwoman of MCA informed the community at a July board meeting that the summer was not a good time to search for a principal. However, that was the very best time to get a principal. In this regard, the Mediation Agreement provides that MCA will work expeditiously to find a principal. A review of MCA website shows that under career opportunity while teaching and non-teaching openings have been posted, there has been no posting for a principal's position. Your client has chosen to ignore a key provision of the mediation agreement and appears thus to be in breach of the Agreement. Most concerning is that Hillsdale College through its extensive network and pursuant to its contract with MCA could have been working with MCA and may have found a principal. Please let us know what is being done to address these serious deficiencies.

Rejecting its Contract with Hillsdale College

There is simply no doubt that the goal of mediation was to have MCA adhere to its application and charter, under which Hillsdale College was a vital "partner." However, immediately after Hillsdale agreed to continue with MCA, MCA refused to continue under its contract with Hillsdale, contrary to MCA's charter with the District. (See August 7, 2019 letter of Michael Coleman to Hillsdale College saying Mason considered the contract "terminated.") In other words, MCA ratified the Settlement Agreement and then immediately rejected a continual

contractual arrangement with Hillsdale. This does not strike us as a sign of good faith. Both the Charter and MCA policies require an active presence of Hillsdale. Hillsdale's continued involvement is beneficial and necessary for the continued success of the school. Indeed, we had agreed that Hillsdale would use its search firm to obtain the name or names of a qualified person or persons to serve as MCA's new Principal. Hillsdale will also going to use its good offices to try to obtain additional administrators for MCA as needed and requested to fill out the school's administrative team. Further, the new Director of the Barney Charter Program will come to MCA to work with teachers and administrators on teaching strategies, including new and emerging strategies

Without the continued involvement of Hillsdale, alternative supports, accountability, and accreditation must seriously be discussed. Please let us know if it is MCA's intention to ignore its existing charter and policies that it just reiterated that it would follow. How long is this condition expected to last and what does the school intend to do to make up for no longer having a partner of the caliber of Hillsdale?

Best and Brightest

The State Auditor directed the School District to audit the best and brightest programs at the District's charter schools. The District conducted that audit and determined that \$137,000 in best and brightest funds were improperly awarded at MCA. To date MCA has not taken proactive steps to address this issue and now seeks mediation. MCA's response has been, "Well the state has not yet said we have to refund it, so we don't have to." This ignores the relationship that school districts have with the State with respect to the administration of the Best and Brightest program. What is concerning is that MCA has not sought to address the fact that if the District relied on the documents MCA provided and those they could not provide, where is there a problem with the finding?

Quite frankly that any of these issues should continue after the Settlement Agreement would raise a serious concern. Together, left unaddressed, we will be constrained to conclude -- without MCA's input -- whether MCA was bargaining in good faith, will honor the terms of the Agreement, or has any intention of the honoring the implicit and critical terms that made settlement possible.

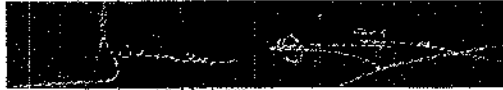
Your considered response is appreciated.

Shawn Arnold, Esq.
August 14, 2019
Page 6

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Sincerely,

ROFTZEL & ANDRESS, LPA



James D. Fox

JDF/mko
cc: Jon Fishbane, Esq. (via email)

14109913_1 017748.0543

INVESTIGATIVE REPORT OF
ALLEGATIONS MADE AGAINST MASON CLASSICAL ACADEMY

Submitted to: Mason Classical Academy

By: J. Michael Coleman, Esq., Reuben A. Doupé, Esq. and Sarah Oquendo, Esq.
COLEMAN, HAZARD, TAYLOR, KLAUS, DOUPÉ & DIAZ, P.A.

EXHIBIT L

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Introduction

Mason Classical Academy (hereinafter "MCA") is a charter school operating in Collier County, Florida since August 2014. Originally, the school focused on Kindergarten through Sixth grade; then, for the 2016-2017 school year, MCA began offering high school grades.

As will be demonstrated by the events and issues described and investigated herein, there have been a number of complaints lodged against MCA over the years, and MCA has faced a significant amount of criticism. None of these complaints or criticism amounted to a sufficient level to cause any adverse action against the school. Then, on June 7, 2018 an individual named Joseph Baird authored a Complaint and sent his complaint to Office of the Inspector General with the Florida Department of Education concerning a number of alleged episodes of wrongdoing on the part of MCA. On June 8, 2018 he supplemented his Complaint and provided additional information to the Florida Department of Education (hereinafter, collectively the "Complaint"). Mr. Baird was as a parent of a number of children attending MCA. In August 2016, Mr. Baird became a member of the MCA Board and was appointed Treasurer until his resignation from the MCA Board in October, 2016.

The Florida Department of Education responded to Mr. Baird on June 13, 2018 and advised Mr. Baird that the issues in his Complaint did not fall within the Department's "jurisdictional purview." By way of the same letter, Mr. Edward G. Rawls, Jr., forwarded the Complaint to the Collier County School District (hereinafter the "District") as the more appropriate entity to whom the Complaint should be directed.

After receipt of the June 13, 2018 letter from Mr. Rawls, the District, by and through its general counsel, Jon Fishbane, began its own investigation into Mr. Baird's Complaint and added to the subject matter of the investigation many of the "parental calls, complaints, and student departures from MCA, that had come into the District over several years, which were not being addressed by MCA."¹ Mr. Fishbane then conducted an investigation, apparently on behalf of the District, (despite the fact that there is no record of the CCPS Board instructing him to conduct an investigation) culminating with his publishing of the Investigative Report on June 3, 2019 (hereinafter the "Fishbane Report").

¹ Quote taken from page 3 of the Investigative Report of Jon Fishbane dated June 3, 2019.

The mere fact that Mr. Fishbane conducted this investigation is troubling for a number of reasons. First, consider the relationship between these two entities; MCA and the District are parties to a contract, which is the Charter School Contract ("Charter Contract"). The Charter Contract sets forth a detailed procedure for how the parties are to resolve any disputes that may arise. Despite the express language in the Charter Contract, Mr. Fishbane conducted a yearlong investigation of MCA. The District did not inform MCA that it had tasked Mr. Fishbane to conduct this investigation, rather MCA found out about the investigation from a story in the Naples Daily News. Only after MCA discovered the existence of the investigation and requested to be permitted to provide input did the District allow MCA the opportunity to provide information as part of the investigation. This opportunity to provide consisted of Mr. Fishbane conducting an interview of David Hull (then the principal of MCA) and two others for 3 hours. Mr. Fishbane's report gave little attention or merit to the information provided by MCA. After investigating for over a year, the District disclosed the report and began considering a termination of the Charter Contract within a matter of days. Conducting this investigation in this manner, followed by the resulting actions of the District after release of the investigation cause serious reflection on the intentions of the District all along with MCA, a contractual partner.

After the release of the Fishbane Report, MCA hired this law firm (hereinafter the "Firm") in part to conduct a separate investigation into the issues addressed by both the Baird Complaint and the additional issues raised by the District in the Fishbane Report. On August 1, 2019, MCA and the District participated in a mediation session, which resulted in a Mediated Settlement Agreement which created a course of action that the parties agreed for MCA to implement to address the issues raised in the Fishbane Report. Notably, MCA agreed to many terms in the Agreement, that are not required of them by law, but which they found agreeable under the guise of the District attacking their Charter status. This Firm's investigation is concluded by the publishing of this Report.

Our Methodology

This Firm's investigation is in response to the District's investigation, and as such the bulk of the information considered came from the District. The District's investigation began initially as a result of the Complaint by Mr. Baird. A review of the Complaint is made difficult as it is 9 plus pages, single spaced with very little cohesion and structure. Mr. Baird himself identified 4 separate "Complaints" as follows:

1. The leaders of MCA have created an environment where financial fraud can occur without detection. This complaint is primarily due to actions which Mr.

Baird perceived to be attempts to block the formation of the Financial Oversight Committee.

2. The leaders of MCA blocked Mr. Baird, in his role as Treasurer, from access and information necessary for him to perform his duties as Treasurer.
3. A specific complaint against Board Chair Kelly Lichter, that she knowingly aided Mr. Hull in blocking Mr. Baird's attempts to perform his duties as Treasurer and alleging Mrs. Lichter's complacency and purported backing of Mr. Hull's actions.
4. Sunshine Law violations by the MCA Board Members.

On November 8, 2018, subsequent to the initiation of the District's investigation, Mr. Baird issued a second document, titled "What's Wrong with MCA?" Mr. Baird provided this document to the District. In the Overview of this document Mr. Baird identified a list of eleven new allegations of misconduct which he titled a "list of shady and /or dubious practices I have uncovered since then." These additional issues are too numerous and insignificant to list herein. A number of them, but not all, were addressed in the Fishbane Report.

In addition to Mr. Baird as a source of issues, the Fishbane Report also addressed other issues which the District had received over the years. The investigation by this Firm has focused on the issues raised and discussed in the Fishbane Report. To the extent that the Fishbane Report ignores issues raised by Mr. Baird in his Complaints, this investigation similarly ignored such issues unless they deal directly with a primary issue.

To conduct this investigation, the Firm began with a thorough review of the Baird Complaint as well as the Fishbane Report. A public record request was made to obtain all of the documents and items which Mr. Fishbane reviewed in his investigation; and those items were reviewed. The Firm did not find it necessary to interview Mr. Baird due to the plethora of email correspondence we reviewed between him and Mr. Fishbane, as well as his comments and allegations in his various complaints.

In addition, MCA provided additional documentary records pertaining to some of the accusations. This also included a corrective memorandum created by MCA in response to the Fishbane Report, which included the responses of MCA as drafted by its attorney Shawn Arnold, Esq., and where necessary, the corrective measures that MCA felt it could implement in response to the conclusions in the Fishbane Report.

The Firm interviewed a number of the key players. Notably, interviews were conducted of various MCA employees and Board Members who had direct and first-

hand knowledge of the subjects of the investigation. Out of respect for the privacy of outside individuals, the Firm did not interview anyone who is unaffiliated with MCA.

As part of the legal analysis, the Firm reviewed the relevant Florida Statutes and case law, along with other relevant legal items as identified in the Firm's own legal research and as provided by MCA's outside counsel Shawn Arnold, Esq.

Whenever possible, the Firm sought to obtain direct comment or communication from the relevant person whose conduct is being discussed subject to the limitations set forth above. The Firm feels that it is vital for correct interpretations to come from the speaker as opposed to the Firm. Credibility is weighed, when necessary, but the Firm has chosen not to guess at credibility or a person's intentions unless absolutely necessary.

Concerns About Mr. Fishbane's Methodology

The Fishbane Report was stridently one-sided regarding the persons interviewed and documents collected. Mr. Fishbane noted that during the course of his investigation he interviewed approximately thirty people, reviewed extensive documents, including email communications, policy manuals and Board Minutes. He stated, "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." Mr. Fishbane failed to interview many key people, yet chose to make interpretations of their written statements in a manner that was prejudicial to the speaker. The Firm perceives this as a fundamental error in his methodology. If a written communication requires interpretation or can be interpreted in multiple manners, then it is prudent to speak to the author of the communication to assist in gleaning intent.

On June 13, 2018, the District received a copy of the Complaint filed by Mr. Baird. At that time, Mr. Fishbane began an investigation into the Complaint, but it remains unclear whether the decision for Mr. Fishbane to investigate was his decision, or if he did so at the direction of the School Board or another superior. On or about August 9, 2018, Dr. Sheryl Rodgers, Administrative Director for Charter Schools for the District, created a document, titled "Mason Classical Academy Concerns and Status" which includes many of the issues raised in Mr. Baird's Complaint. On December 10, 2018, Judith Delgado, Dr. Rodgers' replacement with the District, sent the document to Mr. Fishbane. The District failed to share this document or the concerns therein with MCA. The MCA Board was made vaguely aware that the District was looking into Mr. Baird's Complaint through a Naples Daily News Article published in October 2018. After repeated requests by Mrs. Lichter and Shawn Arnold, in a letter dated April 23, 2019 from Jon Fishbane to

Shawn Arnold, counsel for MCA, Mr. Fishbane, for the first time, laid out the central areas of the investigation. This correspondence was sent six days prior to the one and only interview with Principal Hull and ten months after the original Complaint was received. At no time prior to April 23, 2019, did the District or Mr. Fishbane inform MCA and its Board of Directors that the District was pursuing an official investigation or provide the scope of the investigation to the MCA Board.

Even though MCA did not receive a formal notification from the District that Mr. Fishbane was conducting a formal investigation prior to April 2019, it took steps to provide information to the District in order to defend against Mr. Baird's Complaint. It sent correspondence, copies of emails, and other records, including an audit performed by McCrady and Associates to Mr. Fishbane (sent on April 5, 2019 and requested to be included in the Report by Arnold). Some of the important documents supplied by MCA appear to have been ignored by Mr. Fishbane.

MCA was treated uniquely by the District regarding how they could submit information to Mr. Fishbane. In November 2018, Mr. Fishbane demanded that MCA cease sending him documentation directly and that any information that the school wished to provide should go through MCA's counsel's office. It is not clear why the District made such a request to MCA. Yet, the District's response to a records request shows an extensive amount of emails and documents provided by multiple individuals throughout the investigation and no such requests were made to those persons to provide information through counsel. For example, Mr. Baird sent at least 112 separate emails to Mr. Fishbane and the District after the start of the investigation. Further impeding MCA's ability to defend itself, Mr. Fishbane later told Shawn Arnold in April 2019 that the School Board would not be accepting any additional information from the school.²

Mr. Fishbane's methodology was flawed as he failed to interview any board members, current staff members or any parent of MCA students who had positive experiences with the school. The only individual from the school that Mr. Fishbane interviewed was Principal Hull. Susan Turner, MCA's Business Manager, and Chuck Marshall, MCA Compliance Officer, were present during the interview but little to no information was requested of them. That meeting took place on April 29, 2019 and lasted approximately three hours. Mr. Fishbane did not interview any current or past MCA Board members. He made a number of allegations against both Kelly Lichter and Laura Miller, but failed to interview either of them or allow them to defend the allegations made against them. Further, he did not interview the current staff mentioned in the report,

² Mr. Baird was given no such restraints. He sent approximately 29 emails to CCPS after April 2019.

including Joe Whitehead or Gena Smith. Lastly, and most importantly, his Report and records show no evidence of any interviews with parents of children at MCA who had positive feedback of the school and positive experiences with Mr. Hull and staff. Despite not hearing the perspective of the employees and Board Members accused of wrongdoing, Mr. Fishbane felt confident reaching conclusions of their intentions and the meaning of their actions.

While the conduct and events that transpired after the release of the Fishbane Report are not part of the scope of this investigation, it is important to consider such events in order to give context to the concerns about Mr. Fishbane's methodology. The Fishbane Report was dated June 3, 2019. On Sunday, July 7, 2019, a little over one month after the publication of Fishbane's Report, and one week after MCA sent a response to Fishbane's Report District titled, "Alleged Defaults and Cures" the District posted on its website an agenda item to discuss termination of MCA's contract at its July 11, 2019 Board Meeting. The District did not provide notice to MCA of its intent to terminate the Charter. Instead, MCA was made aware of the agenda item by a member of the MCA community. The entire yearlong investigation, its findings, and the District's move to discuss termination, was conducted in opposition to Florida Statute, Section 1002.33, the "Charter Statute," and MCA's own charter contract. There, one will find a detailed outline of a clear dispute resolution process. Those steps are as follows:

Step 1: The district is required to provide a written communication identifying any problems and proposing a solution.

Step 2: The School is required to have 15 days to respond and accept the proposed action or offer an alternative action.

Step 3: If efforts at agreement fail, the parties may mediate the dispute with FDOE.

These are pivotal due process steps in the process that MCA should have been afforded, but was not. In this case, the District ignored the required steps and moved straight to a discussion of termination of the top elementary, middle and high school in Collier County

Florida law prescribes a high standard for termination of a charter contract. Under subsection (8) of the Charter Statute, a school board may only terminate a charter contract if there is clear and convincing evidence of a material violation of the law or of the charter contract. Further, the Charter Statute specifically states the following: "The sponsor shall make student academic achievement for all students **the most important factor** when determining whether to renew or terminate the charter." (Emphasis added). It is

undisputed that MCA is academically, one of the most successful schools in Collier County and in the State of Florida. The District did not follow the MCA Charter contract or the Charter Statute during its yearlong investigation into MCA or when it posted the agenda item to discuss MCA's termination.

As acknowledged by the Fishbane Report, MCA has a very successful history of academic achievement of their students. Termination of this charter seems a very harsh reactive step for the District to take, given the impact such a decision could have on the MCA students. This Firm has found no evidence that there should have ever been a discussion of termination of MCA's charter.

I. Financial Oversight and Audit Committee

In his Complaint, Mr. Baird alleges that the Mason Classical Academy Board of Directors, in collusion with Principal Hull, acted to 1) prevent the formation of the Financial Oversight Committee and 2) limit Mr. Baird's ability to properly undertake his role as Board Treasurer and receive financial and accounting information. The Fishbane Report found the following: "given the dissolution of the original Finance Committee, and the fact that the new 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." There is no evidence to support such a conclusion. The MCA Board chose to serve as the Financial Oversight Committee and successfully provided the necessary financial and auditing oversight functions. While the financial and audit oversight may not have been done exactly as provided in the Charter Application, the necessary functions were performed. In fact, Mr. Fishbane acknowledged in his Report that there were no problems with MCA's unaudited financials or the McCrady & Associates independent auditor's financial statements.

A. Allegations from Complaint and History Between Baird and Hull Families

Mr. Baird made note in his Complaint that even though he had been aware of the,

Potential for mismanagement of government money since 2016, I did not speak up about this for two reasons. While I did see suspicious behavior from Mr. Hull and Mr. Marshall, I have no evidence of actual fraud being committed and because the school was providing a good education to several hundred students, I saw no reason to cause problems for the school.

I was also afraid my children who were enrolled at MCA would be punished by Mr. Hull in a spirit of revenge.

(Emphasis added). He further stated in his Complaint, that he had witnessed,

Mr. Hull being deceptive, manipulative, and mean spirited in multiple occasions. Because Mr. Hull is in charge of managing a several million-dollar budget of government money without any oversight and is not held accountable to anyone, I have become concerned about the potential for fraud or at the very least misuse of government money and feel I can no longer remain silent about the events that I have witnessed over the past few years.

Mr. Baird further explained that he had removed his children from school, so he was now able to speak freely without fear of retaliation from Mr. Hull. However, the communications between the Baird and the Hull family offer an entirely different motive for the timing of Mr. Baird's Complaint, which will be explained in detail below.

It is important to note the friendship and history between the Hull and Baird families. The families became friends through their children attending MCA together well before Mr. Baird became a member of the Board of Directors. Mr. Hull admits that he was instrumental in getting Mr. Baird elected to the Board as he believed Mr. Baird would be an asset to the Board as Mr. Baird represented to have a classical education which fit with the MCA vision. Mr. Hull denies that he wanted Mr. Baird on the Board in order to stack the Board in his favor.³ Their families often participated in events together and socialized outside of school, including attending parties together and Christmas caroling together in December 2017.

The picture that Mr. Baird paints in the Complaint of Mr. Hull and the concerns for his children being mistreated by Mr. Hull are in stark contrast to the communications sent between the Baird family and Mr. Hull in the months leading up to the Baird children being removed from school and Mr. Baird filing the Complaint. The email correspondence shows that the Baird family was very happy with Mr. Hull's leadership at MCA and reiterated time and again that they trusted Mr. Hull with the care of their children. In an email from Mr. Baird to Mrs. Lichter dated October 6, 2016, the day that Mr. Baird resigned from the Board of Directors, he wrote about Mr. Hull, "I am still a firm supporter of David Hull as principal. I think my children are getting a fantastic education at MCA, and this is a direct result of David's efforts as principal. I will continue to keep my children enrolled at MCA because I see the value in what is happening there. I have

³ Mr. Baird's feeling that this was Mr. Hull's intention is not actual evidence of any such intent by Mr. Hull.

nothing but praise to offer David when it comes to the education and discipline that MCA offers. I am one of David's biggest supporters even though he may not realize it. I will continue to support him and the school in any way that I can in the future, and I would be happy to enroll my children in any school run by David." The Bairds' compliments about Mr. Hull continue throughout the tenure of the Bairds' children's attendance at MCA.

In an email from Mrs. Baird to Mr. Hull dated November 3, 2017, she thanked Mr. Hull for the "GREAT transcript and information sheet about MCA" that her child was able to use to apply to and get into three colleges and she thanked him for "the excellent education that MCA provides." In an email from Mr. Baird to Mr. Hull dated February 1, 2018, she stated, "I am very grateful for you and for all you have done for the school and our family... the only reason we are comfortable enrolling our children in MCA is because you were there to guide it, and that is still the case. There are very few people we would entrust our children to, and you have always been one of them. MCA is the success that is because of you." In emails between Mr. Baird and Mr. Hull dated February 16, 2018, two years after Mr. Baird's time on the Board, Mr. Baird reiterated his wife's statements and stated that Mr. Hull is, "one of the few people that we are willing to entrust our children's formation to. That is the highest compliment I can pay anyone." Further, in that same email, Mr. Baird apologized about his own behavior to Mr. Hull and stated, "I have a terrible tendency to become combative when faced with differing views and opinions." This statement is very telling as to the events that unfolded after the Baird children were removed from school. The goodwill is further evidenced by an email Mr. Hull sent to the Bairds on April 28, 2018 congratulating one of the Baird children's accomplishments and his continual offering of support from the school.

Just a few days later, in an email dated April 30, 2018 from Mrs. Baird to the school, Mrs. Baird stated that they had decided to remove all of their children from MCA and homeschool them the following year. She further asked that her children be allowed to continue to participate in the sports and extracurricular activities offered by MCA. The evidence shows that this series of events appears to be the catalyst for the change in the relationship between the Bairds and Mr. Hull.

In a series of emails between the Bairds and the school between April 30, 2018 and May 24, 2018, the Bairds insisted that their children should be allowed to participate in sports at MCA even though they were no longer enrolled in the school. Both Chuck Marshall, the schools Compliance Officer, and Mr. Hull explained to Mrs. Baird that homeschool children could participate in sports at their zoned schools but there was no provision that allowed the children to continue with sports at their previous charter

school. Further, through advice of counsel, MCA had determined that no homeschool children were eligible to participate in MCA sports unless there was an open seat at the school. At the time that the Bairds requested their children be allowed to participate in the school sports, MCA was at capacity and it would have been illegal for the school to allow an ineligible player to compete on any sport team. The requisite law is found in Section 1006.15(3)(c), Florida Statutes, which states in part, home education students must be registered with the Home Education Office of the school district in which they reside and those students are eligible to participate at the public school the student would be assigned according to school board attendance or a public school operated by the school district, the student could chose to attend and *provided a seat is available*.

Mr. Baird filed the Complaint with the Department of Education just two weeks after the Bairds received the final decision that their children would not be eligible to participate in school sports at MCA. In Mr. Baird's own words, "I have a terrible tendency to become combative when faced with differing views and opinions." This is evidenced by his ongoing criticism on MCA, which has continued long after he authored the Complaint. Even after the Baird family has left the area and moved to another state, Mr. Baird continues to send correspondence to the District alleging violations by the MCA Board. Mr. Baird's communications have continued even past the finalization of the Fishbane Report. A recent records request shows at least 17 emails from Mr. Baird to Mr. Fishbane between June 3, 2019 and August 8, 2019.

B. Financial Oversight and Audit Committees

The Fishbane Report alleges the following: "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." (Fishbane 17). As previously discussed, the functions were successfully performed by the MCA Board.

Pursuant to MCA's Charter Application, the Organizational Plan states that a Finance Committee and an Audit Committee will be constituted under the authority of the Board. The duties of the Finance Committee include the following:

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's 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 external monitoring committee on budget and other financial matters.

The Audit Committee is described as follows:

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 conference 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 Principal
- (6) Track and report progress of 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 state auditor.

C. Findings

While MCA did not operate the Financial Oversight and Audit Committees exactly as provided in the Charter Application, the functions were successfully provided by the Board. Prior to June 2016, MCA had a functioning and separate Finance Committee. In the early years of the school's formation, the Finance Committee was very active and was involved in the day to day business operations of construction and budgeting. Once the school was established, the Finance Committee was not as necessary to the daily operations of the school. In the summer of 2016, the Board Members attended a training session with Dr. Carpenter, an affiliate with Hillsdale College, where the role of a Finance Committee versus a Financial Oversight Committee was extensively discussed. Dr. Carpenter explained that a Finance Committee handled more of the day to day operations of the school and that a Financial Oversight Committee's role was to oversee financial operations, which was more in line with what charter school boards should have. A decision was made at that time that the Finance Committee would be dissolved, and a new Financial Oversight Committee would be formed. Following through with this decision, the Board approved the dissolution of the Finance Committee on July 11, 2016.

Upon his appointment to the Board in August 2016, Mr. Baird was tasked with formation of the Financial Oversight Committee. On September 20, 2016, Mr. Baird sent an email to the MCA community seeking volunteers to serve on the Financial Oversight Committee. Mr. Baird received eight applications in response to his request. All of the responses were from parents of children enrolled at MCA and two applicants were board member's spouses. Mrs. Lichter and Ms. Miller expressed concern that the applicants were all parents or spouses of Board members and felt that more outreach to the community was needed in order to have committee members with financial experience on the committee. At a Board Meeting on October 4, 2016, the Board voted on and approved the formation of the Financial Oversight Committee. The Board did not approve or appoint any committee members to the Financial Oversight Committee.

Mrs. Lichter admits that the formation of the Financial Oversight Committee stalled upon Mr. Baird's resignation from the Board (to be discussed in more detail below). Mrs. Lichter believed that the school's finances were strong, and the Board relied on the annual third-party auditors reports as well as the Treasurer's reports to review

MCA's finances. The annual audits were sent yearly to the District and the District has never questioned the auditor's findings. David Bolduc, current Board Member and Treasurer, was also interviewed. He stated he has made verbal Treasurer's Reports at several Board meetings he has attended. As part of his duties as Treasurer, he has unfettered access to all of MCA's financials, located on the MCA Google Drive, just as Mr. Baird did. He has not found any irregularities on his time on the Board.

After Mr. Baird resigned, the Board was focused on other issues and the Financial Oversight Committee was not filled. However, the Board, in whole, continued to function as a de facto "Financial Oversight Committee." The Board continued to oversee the annual budget preparation, participated in financial planning, and the new Treasurer, David Bolduc, reviewed financial statements and monitored revenues and expenses. The lack of a Financial Oversight Committee appears to be technical in nature, due to the Board performing the necessary functions of the Financial Oversight Committee.

Similarly, under the Charter Application an Audit Committee was to be formed. While the Board did not have a separately titled Audit Committee, as with the Financial Oversight Committee, the Board performed all of the functions of the Audit Committee as referenced in the Charter Application. In light of the fact that the Board was performing the functions of the Audit Committee, a separate committee was not needed. The Board retained McCrady and Associates to perform an annual audit and each year the independent audit found no financial mismanagement issues and each year the Audit was provided to the District. As with the Finance Committee, the lack of a separate Audit Committee appears to be a technical violation of the Charter Application, but one that did not cause any harm to the school as the necessary duties continued to be performed by the Board.

The Fishbane Report did not reveal any proof or bona fide allegations of any financial mismanagement. The Report stated that Mr. Fishbane discussed MCA's unaudited financials with District Staff in the Finance Department. "They advised that they did not have a problem with them nor McCreedy & Associates financial statements provided by MCA through Ms. Turner. Given staff observations, the undersigned will not question the acceptability of the submitted financials."

Pursuant to the Mediation Settlement Agreement entered on August 1, 2019 between District and MCA, MCA agreed to reinstate the Finance Committee and Audit Committee by October 15, 2019. Based on the agreement to reinstate the committees and the finding that the Board carried out the functions of the Finance and Audit Committee, this issue has been resolved.

D. Allegations That Baird Was Prevented from Performing Duties

This Firm has not found any evidence that Mr. Baird was prevented from performing his duties. Mr. Baird alleged that Board Members Mrs. Lichter and Ms. Miller, along with Mr. Hull and Mr. Marshall, worked to prevent him from carrying out his duties and responsibilities as Board Treasurer. He stated, "that he was essentially told by Mrs. Lichter and Ms. Miller that he should back off and not scrutinize or manage Mr. Hull and Mrs. Turner's work. "

We have found no evidence that Mr. Baird was unable to perform his duties as Treasurer, instead it appears that Mr. Baird was confused about his role and the duties he was required to perform. Furthermore, Mr. Baird eventually received all of the very detailed information he requested and neglected to amend his Treasurer's Report prior to his resignation. Mrs. Lichter, Ms. Miller and Mr. Hull have all denied that Mr. Baird was blocked in his ability to carry out his role as Board Treasurer. It is important to note, even though The Fishbane Report did not, that Mr. Baird had complete, unfettered access to all MCA financial accounts, statements, Amazon Prime purchase card documentation, and other financial related documents. Mr. Baird was provided access to the Google Drive account where all pertinent information regarding the school's finances were kept. At the onset of his tenure as Treasurer, he had at least one meeting with Mrs. Turner that lasted approximately three hours. In an email from Mrs. Turner to Mr. Hull on October 5, 2016, Mrs. Turner confirmed the access that Mr. Baird had to MCA's financials as follows:

Mr. Baird has been provided with access to MCA's google drive since the beginning of his term as Treasurer. I have personally walked him through the folders on the drive that contain financial statements, bank statements, and reconciliations. I have created additional folders within the drive for him in order to simplify his work. He has access to the audit folders, which contain financial documents, including the general ledger and revenue details, that span twelve months of activity. He also has access to the workers compensation audits that I complete with an outside auditor - separate from the school's annual audit- which detail employee wages, tax payments, and loan interest payments.

Even with access to this volume of information, Mr. Baird has questioned numerous expenses, names, vendors, and deposits.

In addition to the above, Mr. Baird also had access to Mr. Carpenter's training materials and had a number of conversations with Mr. Carpenter regarding his duties.

Mr. Baird was not stopped by Mr. Hull from receiving additional training from Dr. Carpenter. Instead, Mr. Carpenter informed Mrs. Lichter that in order to continue to provide individualized assistance to Mr. Baird, the Board would need to pay Dr. Carpenter \$10,000 as a consultation fee. It was decided that the Board should not incur that expense as Mr. Baird would be able to attend Dr. Carpenter's annual governance training the following summer.

Mrs. Turner declined to be interviewed by the Firm in this investigation. We did review the correspondence between Mrs. Turner, Mr. Hull and Mr. Baird from the relevant time period. In addition, Mr. Hull, Mrs. Lichter, and Ms. Miller were interviewed regarding Mr. Baird's allegations.

Even though he was not a Board Member at the time Mr. Baird served on the Board, we believe it is important to note Mr. Bolduc's experience on the Board in the same role as Mr. Baird served. Mr. Bolduc stated that he has never been blocked by anyone at MCA from getting any information he has requested. He has unfettered access to all of MCA financials via the school's Google Drive. There, he can locate the following documents: every bank statement going back to the foundation of the school, financial audits, amazon purchases, and financial reports prepared by staff. He is able to timely complete his reports with all of the information located on the Google Drive and does not believe any other documentation is needed in order to fulfill his duties as Treasurer.

Mr. Hull was interviewed regarding Mr. Baird's allegations that Mr. Hull blocked him from carrying out his duties. Mr. Hull stated that he felt that Mr. Baird was taking too much time away from Mrs. Turner's daily workload. During the time that Mr. Baird requested information from Mrs. Turner, she was busy preparing payroll for the school. Mr. Hull felt that Mr. Baird had the same access to the records as Mrs. Turner did and should be able to locate the information he needed on his own, or with little direction from Mrs. Turner.

The email correspondence between Mr. Baird, Mr. Hull and Mrs. Turner do not show evidence of Mr. Baird being prevented from preparing his treasurer report. Instead, it shows staff attempting to respond to his inquiries. For example, in an email dated September 29, 2019, Mrs. Turner asked Mr. Hull if she could provide Mr. Baird the "supporting documentation for the amazon gift card so he knows that we are tracking it and not open to theft." Mr. Hull responded one minute later, "Of course." Mrs. Turner then provided the information to Mr. Baird and provided a detailed description of the procedure.

On September 29, 2016, Mr. Baird sent a list of 26 questions to Mrs. Turner in preparation for his Treasurer's Report for the October 4, 2016 Board. Mr. Hull believed that Mr. Baird could have located the answers for himself instead of taking up valuable staff time in engaging Mrs. Turner. Nonetheless, on October 5, 2016, Mrs. Turner provided a detailed response to Mr. Baird's inquiry.

According to an email from Mr. Hull to Mr. Baird dated October 5, 2016, at 7:07 a.m., he apologized that Mrs. Turner's work was not previously provided and admits that "it was a total communication failure on my part." The Board meeting occurred on October 4, 2016, the information from Mrs. Turner, if completed before the Board meeting, should have been provided to Mr. Baird prior to the Board meeting.

After Mr. Baird received the information, Mr. Baird did not contact either Mrs. Turner or Mr. Hull with additional questions or concerns regarding the responses. Instead, in an email to Kelly and Nick Lichter (to their private email addresses) on October 7, 2016, the day after he resigned, he complained to them about the way in which he received the documents. Mrs. Lichter responded, "I plan to meet with David and Susan to discuss since it looks like I will take over these responsibilities until we find someone." In Mr. Baird's Treasurer Report he stated that he would "complete my investigation upon receipt of this information." Mr. Baird failed to amend his Treasurer's Report after he received the information from Mrs. Turner. Mr. Baird, upon receiving the information on October 5, 2019, should have amended his Treasurer's Report, which did not occur prior to his resignation.

On October 5, 2016, Mr. Baird sent an email to Mr. Hull requesting a meeting to "talk things over." Mr. Hull responded that he would need some time and he had hoped that Mr. Baird's concerns had been resolved. Mr. Hull's communication was cordial, and he asked that Mr. Baird let him know if there was anything further that he could help him with. The meeting between Mr. Hull and Mr. Baird did not occur as Mr. Baird resigned from the Board one day later, on October 6, 2016.

Mrs. Lichter believes that Mr. Baird did not understand his role as Treasurer. In her opinion, based on her prior governance training, a Treasurer's main role is oversight, not day-to-day minutia of the school finances. She stated that when a new board member is elected, there is always a learning curve and she has always assisted the new member in becoming acclimated to the Board and their responsibilities, which is what she was attempting to do in assisting Mr. Baird. She was concerned about the amount of time that Mr. Baird's inquiries were taking from the school staff. Mr. Hull informed her that Mr. Baird was affecting Mrs. Turner's daily work and he was interfering with Mrs. Turner's ability to perform her duties. When Mrs. Lichter was contacted by Mr. Hull with his

concerns, she believed that Mr. Baird's inquiries needed to be addressed. She did not want to embarrass Mr. Baird by addressing the issues at a Board Meeting and thought it would be better to address through an email to him. Mrs. Lichter's email to Mr. Baird dated September 29, 2016, should be read in the entirety and not piecemeal. Her comments are as follows:

Good morning Joe! I spoke with Mr. Hull this morning about some questions you had for Mrs. Turner. I understand that you are still in the onboarding process and learning, but I think those questions should be asked during an oversight committee meeting. The school makes many purchases and Dr. Carpenter wants the board to be keeping an eye on things and looking for anything irregular, not questioning every single expense. Turner has a big job, and I do not want to add anymore to her plate. During these finance oversight meetings, she will be there to answer any questions or concerns. Perhaps we can schedule the first meeting ASAP to alleviate any concerns. If you have any questions, please let me know. I will be handling some real estate today, so I won't be available until later. Have a great day!

Taken in its entirety, this email is not the equivalent of "essentially inform[ing] Mr. Baird that he needed to back off"⁴ (Fishbane 11) and the email, when read as a whole does not draw that same conclusion. Instead, Mrs. Lichter gave information to Mr. Baird about the appropriate forum to ask his questions and urged him to schedule a "meeting ASAP" to alleviate his concerns. Mrs. Lichter's comments regarding the treasurer's role are similar to those found in Mr. Carpenter's training materials, which were referenced by Mr. Baird in an email to Mr. Lichter, Mrs. Lichter's Husband. The information is as follows:

Financial Management and oversight of financial management are two different responsibilities. Three of the board's key purposes in the its *oversight of financial management* are to ensure that the school's money and assets are being:

1. used only in pursuit of the outcomes (i.e., mission directed).
2. properly accounted for, and
3. safeguarded from unnecessary risk.

The primary way the board achieves this purpose is *not* by reviewing financial statements (although that should be occurring). The primary

⁴ Mr. Fishbane's conclusion based on this email alone, without having spoken to Mrs. Lichter is a demonstration of the fault that the Firm finds in Mr. Fishbane's methodology.