



Collier County
Public Schools

District General Counsel

August 6, 2020

Mason Classical Academy
c/o Mr. Raul Valles, Jr.
Rocke, McLean, Sbar
2309 S. Mc Dill Ave.
Tampa, Florida 33269

c/o Mr. Jeffery Wood
Tripp, Scott
110 Southeast Sixth St.
Fifteenth Floor
Fort Lauderdale, Florida 33301

Dear Counsel,

As a consequence of ongoing violations and continued disregard of a) the terms and conditions of the Mediation Settlement Agreement (“MSA”) entered into by the District School Board of Collier County (“the District” or “the Board”) and the Mason Classical Academy School Board (“MCA” or “MCA Board”), on August 1, 2019, and approved by both Boards respectively on August 6, 2019; b) MCA policies and procedures; c) the Charter Agreement between the parties, including MCA’s Application which is incorporated by reference therein; and d) Florida and Federal law, the District School Board voted 5-0 at the July 28, 2020, regular Board Meeting to place MCA on Probationary/Warning status through March 1, 2021. As part and parcel of such status, multiple areas of violation and concern will have to be addressed and corrected by the MCA Board by November 6, 2020. These will be specifically itemized below.

In this regard, the District, through its outside counsel Mr. Fox, informed and notified MCA’s counsel on multiple occasions about the above-mentioned violations and concerns that the District had relative to MCA Board and Board Member actions and behaviors that warranted attention and corrective action. Such information and notification were provided especially in Mr. Fox’s four detailed letters on August 14, 2019, September 4, 2019, December 16, 2019, and May 28, 2020, respectively. (MCA counsel was also provided with the undersigned’s 80-page response to the Coleman Report which contained new and supplemental information from the

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5775 Osceola Trail | Naples, Florida 34109 | p: 239.377.0499 | f: 239.377.0501
e: FishbJ@collierschools.com | www.collierschools.com

June 3, 2019, Investigation Report). The matters addressed and sought to be or acted upon and corrected by the MCA Board were ipso facto treated as if they did not exist.

With the foregoing in mind, the MCA Board, and the school itself which is under its legal authority, must address, respond to, and correct the following areas by November 6, 2020. These areas are itemized as follows:

- 1) All Board Meeting Minutes over the last several months that have not been prepared and approved, including, minutes for all regular, special, and emergency meetings, must be undertaken, completed, and approved by the Board;
- 2) All emergency and special meetings called and held to address routine business matters must cease. Emergency and special meetings are to be called for emergency reasons or to address special matters only that cannot be taken up at a regular MCA Board meeting;
- 3) All documents and agenda items must be timely uploaded, and linked to the given agenda item (and not directing the public to find them on MCA's calendar), and made available for public review and participation at MCA Board Meetings for discussion;
- 4) Shade Meetings must be properly held and conducted in accordance with law; specifically FS §286.011 (8);
- 5) IRS Non-Profit 990 Forms must be brought current in accordance with the Charter Agreement. Subsequent to the July 28, 2020, Board Meeting, MCA's Business Manager sent Dr. Kirton, at the District, those for 2018 which is certainly appreciated;
- 6) An independent annual financial audit for the past two years, plus an independent compliance audit of the MSA's corrective action plan, must be undertaken and completed by an independent auditing firm in accordance with the Charter Agreement, Florida statute, and the MSA;
- 7) (a) The employment contracts of MCA employees Joseph Whitehead and Gena Smith, as well as any other employee of MCA, that contain language authorizing or allowing the receipt of advanced payment for work not undertaken or completed must be removed. Counsel for MCA must certify to the District whether or not any such funds and payment were, at any time,

requested by, disbursed to, or issued in any form, whether in whole or in part, to Mr. Whitehead, Ms. Smith or any other MCA employee operating under any such contract.

(b) Copies of such revised contracts, once removing the language as noted in 7 (a) above is removed, and approved by the MCA Board, will be sent to the District by MCA counsel to Mr. Fox;

8) On April 1, 2020, MCA Board Member Mr. Bolduc prepared his resignation letter, which letter was posted for public review at the April 14, 2020, Special Board Meeting. He advised that he would be departing at the end of the school year in May 2020. His letter denotes that this was agreed to through discussion with Board Chair Ms. Lichter outside of the Sunshine. Despite this, Mr. Bolduc has remained in office and recently voted himself to continue on in office as a Board Member. MCA counsel must explain the contradiction in light of Mr. Willkomm having resigned from and having left the Board in April 2020;

9) At the apparent MCA organizational meeting, which was noted under the category of New Business at the July 8, 2020, Board Agenda as "Election of Officers", MCA Board Members voted themselves into office in disregard of the staggered term provisions set forth in paragraph 7 of the MSA. The staggered terms policy was to have been prepared and put into place by October 15, 2019. This has never been done. Of the persons on the Board at that time, exclusive of Mr. Willkomm, one Board Member should no longer be on the Board as of the date of the recent apparent organizational meeting. In light of Mr. Bolduc's resignation, this would mean either Ms. Lichter or Ms. Miller (Mlinarich) will need to depart the Board immediately;

10) (a) The District will insist on MCA Board Member and employee civility, professionalism, and responsibility in its day-to-day dealings with parents, the community, and one another. The principles of civility, professionalism, and responsibility are set forth in the MCA Board's (a) Pillars of Character Development; (b) Social Media Policy, (and Guidelines set for in SE 25.0); (c) Civility Policy (SE 48.0); (d) Conflict of Interest Policy (B 6.0); and paragraph 4 of the MSA, providing that the Board was to publicly attest, through resolution, that

it would affirm and adhere to MCA policies. These principles and policies have been continuously ignored and violated;

(b) Since the approval of the MSA, Board Members have engaged in a pattern and practice of acting in a derogatory manner by speech or action toward (1) parents who had questions or disagreed with Board Members; (2) Members of the Community; (3) District personnel and so on. In the Cure Document issued on July 2, 2019, and in the Coleman Report issued in November 2019, Ms. Lichter and Ms. Mlinarich agreed to discontinue engaging in social media comments, lack of civility and put downs of others, and so on. They and other Board Members have not honored their word;

(c) Board Member social media attacks and abusive comments directed toward MCA parents and former parents, members of the community, and others, including supporting other persons' attacks, as found in the "Hostile Takeover" (whose founder appears to be Mr. Lichter), as well as other social media outlets, must cease immediately. These are contrary to the above referenced MCA policies, norms, and the MSA;

(d) In this context, the Board collectively through resolution or motion, must publicly disavow, as a Board, such negative comments, as set forth in the Hostile Takeover and other social media outlets, including, but not limited to, Facebook, Instagram, and so on, toward MCA parents, former parents, students, employees, and members of the community. This will allow for a clean slate moving forward;

11) MCA websites, including those holding themselves out as such, must be open to MCA parents and the public. MCA is a public school and a governmental entity subject to the provisions of the First Amendment of the U.S. Constitution and Article I, Section 4 especially of the Florida Constitution. Access to such social media websites and accounts may not be regulated, prevented, or abridged on the basis of viewpoint by the Board, or anyone else acting on behalf of the Board, without a full public review, discussion, and vote at a duly held MCA Board Meeting. See, Knight First Amendment, Institute at Columbia University v. Trump, 302 F.Supp. 3d 541, 577 (S.D. N.Y. 2018), *aff'd*, 928 F.3d 226 (2d Cir.2019); Packingham v. North

Carolina, 137 S.Ct. 1730 (2017), and Davidson v. Randall, Case No.17-2002, (4th Cir., Jan 7, 2019);

12) Revised parent contracts, including the one prepared after the MSA went into effect, must be sent to Dr. Kirton for District/Board review in accordance with the terms of the Charter Agreement;

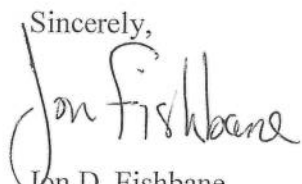
13) Mr. Hull may not serve as MCA's Executive Director and must step down from that position. The Charter Application does not provide for such a position which was arbitrarily and secretly created. The Application document clearly delineates that the principal reports directly to the MCA Board. A new MCA principal has been hired and is now in place. Mr. Hull's contract has identical language, relative to his duties and responsibilities, to that of the recently terminated Principal Ms. Vickaryous, thus demonstrating that he was to be the real principal. The creation of an Executive Director's position for Mr. Hull was in violation of the Cure Document, the MSA, and the Charter Agreement into which the Application is incorporated by reference; and

14) (a) The District is aware of toxic mold issues that are of concern for the health, safety, and well-being of MCA students and staff. These issues were openly discussed at a public meeting when the Director of Facilities for MCA, Mr. Walkiewicz, was questioned by MCA Board Members about it. Mr. Walkiewicz was later terminated from his employment at MCA, apparently for making such information public. In addition, apparently hot water lines are needed on the school building's second floor and which have not been installed;

(b) In this context, the District will need a report from an independent expert that all such items have been addressed, remediated, and corrected. The District will also need to receive an updated fire inspection report once school has commenced at MCA;

(c) With the foregoing in mind, the District is hereby requesting, as part of this letter, a copy of the full mold and water penetration report conducted by RMS Mold Testing; including the report prepared by John Causgrove, which report or reports, are, upon information and belief, within MCA's possession or control.

As noted, above items 1-14 must be completed and submitted to the District by November 6, 2020. It is requested that this letter be forwarded to all MCA Board Members and key staff for review and handling.

Sincerely,

Jon D. Fishbane
District General Counsel

Cc: District School Board Members
Dr. Patton
Mr. Fox