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STATE OF FLORIDA  
DEPARTMENT OF EDUCATION  
CHARTER SCHOOL APPEAL COMMISSION HEARING

OUR CHILDREN'S PREP SCHOOL, INC.  
VS.  
SCHOOL BOARD OF POLK COUNTY, FLORIDA

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LOCATION: 325 W. GAINES STREET  
CONFERENCE ROOM 1703/07  
TALLAHASSEE, FLORIDA

DATE: TUESDAY, JANUARY 12, 2016  
COMMENCED: 9:55 A.M.

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TRANSCRIBED BY:  
MICHELLE SUBIA  
REGISTER PROFESSIONAL REPORTER

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TALLAHASSEE, FLORIDA 32317  
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1 MEMBERS PRESENT:

2 LOIS TEPPER, CHAIR

3 CHRISTOPHER BERNIER

4 CATHY BRUBAKER

5 SONIA ESPOSITO

6 OSVALDO GARCIA

7 TIFFANIE PAULINE

8 RICHARD MORENO

9

10 OTHER PARTICIPANTS:

11 JACQUELINE HITCHCOCK

12 DAVID L. JORDAN

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## 1 P R O C E E D I N G S

2 CHAIR TEPPER: It's a few minutes before ten  
3 but we're going to go ahead and get started. We  
4 had intended to start at nine, but that first  
5 appeal withdrew.

6 So we have two appeals for today. We have  
7 Our Children's Prep versus the School Board of  
8 Polk County, which will be first, and then Madison  
9 Creative Arts Academy versus Madison County, and  
10 that will be the second appeal.

11 Just for housekeeping purposes, Dave Jordan  
12 is here as counsel for the Commission. Adam  
13 Miller is in the room, Executive Director for the  
14 Choice Office, and Adam Emerson for Charter  
15 Schools is also in the room. Our General Counsel,  
16 Matt Mears, may or may not drop by during the day.  
17 I don't know that anybody's met Matt. He's --  
18 well, I started to say new, but next week he'll be  
19 here a whole year.

20 We have six members serving today. As  
21 always, we have a balanced panel, three from the  
22 District, three representing Charter Schools.

23 Just to go over our procedure, I think the  
24 attorneys present this morning have been here  
25 before, but I'll give each side ten minutes to

1 tell us the story of their appeal and then I will  
2 put the first issue on the table for this first  
3 appeal. It's a due process issue. And each side  
4 will have three minutes to talk about that. The  
5 Members will ask questions if they have them.  
6 We'll vote on that and go through the motion sheet  
7 issue by issue.

8 Please be reminded that the Members have had  
9 these materials for several days. They've read  
10 everything, they have tabbed it. If they still  
11 have questions, they'll ask you those questions.  
12 They may not have questions at this point. As we  
13 go issue by issue, make sure that your comments  
14 are on that issue and not on the next issue, it  
15 will make it a lot easier.

16 The court reporter can only hear one person  
17 at a time. We have to give this transcript to the  
18 State Board and to the Appeals Court, if there is  
19 an appeal. So if you try to talk over each other,  
20 I'll stop you and ask you to just speak one at a  
21 time. If you speak, please go to the microphone.  
22 Please say your name the first time you speak. If  
23 it's difficult, please spell it for the court  
24 reporter. If you speak too fast, Jackie will tell  
25 you to slow down.

1           If you're in the audience and one of the  
2 attorneys ask you a question, please don't answer  
3 from back there, come up to the microphone so we  
4 can get everything on the record.

5           Okay. So, Jackie, will you call the roll,  
6 please.

7           MS. HITCHCOCK: Chris Bernier.

8           MR. BERNIER: Here.

9           MS. HITCHCOCK: Cathy Brubaker.

10          MS. BRUBAKER: Here.

11          MS. HITCHCOCK: Sonia Esposito.

12          MS. ESPOSITO: Here.

13          MS. HITCHCOCK: Osvaldo Garcia.

14          MR. GARCIA: Here.

15          MS. HITCHCOCK: Richard Moreno.

16          MR. MORENO: Here.

17          MS. HITCHCOCK: Tiffanie Pauline.

18          MS. PAULINE: Here.

19          MS. HITCHCOCK: Let the record show that  
20 Jenna Hodges and Rebecca Dinda are not here.

21          CHAIR TEPPER: We have minutes from our last  
22 meeting of April 27th. I'll accept a motion to  
23 approve the minutes.

24          MS. ESPOSITO: I make the motion to approve  
25 the minutes.

1 CHAIR TEPPER: Sonia.

2 Is there a second?

3 MS. BRUBAKER: I'll second.

4 CHAIR TEPPER: Cathy.

5 All in favor.

6 (Chorus of ayes.)

7 CHAIR TEPPER: Thank you.

8 So that takes us to our first appeal this  
9 morning, which is Our Children's Prep School, Inc.  
10 versus the School Board of Polk County. Each side  
11 will have ten minutes and we always start with the  
12 Charter School.

13 MS. GROSS-ARNOLD: Thank you, Madam Chair,  
14 Appeal Commissioners. My name is Melissa  
15 Gross-Arnold. I'm with the Arnold Law Firm. And  
16 I'm here this morning representing Our Children's  
17 Prep School, Inc.

18 Today I have three folks who are part of the  
19 application team. To my right is Sharon McManus  
20 Comkowycz. And, yes, the spelling of her name has  
21 been given to the court reporter.

22 She is not a stranger to the charter world.  
23 She previously ran a Charter School using a very  
24 similar model in Polk County and resigned from  
25 that position in 2013. She has her Master's in

1           Communications Disorders and she's a licensed  
2           Speech Language Pathologist. You'll notice in the  
3           appendix to the application that she left that  
4           school with an almost \$1 million fund balance.

5                     Also with us is Brian Sherwin. He's a CPA.  
6           He is on the Board of Our Children's Prep School,  
7           but he was also the CPA for that Charter School I  
8           mentioned to you that when he stopped as their CPA  
9           was in such good financial condition.

10                    And then also we have Dr. Barbara Ehren with  
11           us today. And she is going to talk to you about  
12           the Education Plan. She has over 40 years of  
13           experience in special education. She has spent  
14           about half of that in schools and half of that in  
15           the academic world. You'll see a copy of her CV  
16           also in the record. She's done extensive  
17           consulting in Polk County. She has also that  
18           school-related experience coming from working in  
19           Palm Beach County as a Program Planner for ESE  
20           Curriculum.

21                    As you saw from our appeal -- and I recognize  
22           that you read it -- this application is the third  
23           one that's been submitted in Polk. This  
24           application was also submitted in draft to Polk  
25           under a fairly new statute that allows for

1 Applicants to submit a draft to the District and  
2 get feedback on the material deficiencies in their  
3 application.

4 This is a unique design. It's a school for  
5 only ESE students who have IEPs, so their  
6 placement decision is already determined before  
7 they come to the school. The school also works  
8 with an outside contractor who provides the  
9 rehabilitation services and the other special  
10 education services the students need.

11 This is a very unique design. It's one that  
12 was used in the Charter School I mentioned to you  
13 before. But it is something new that has not been  
14 done in Charter Schools since -- some of you may  
15 be familiar with UCP of Central Florida which does  
16 that Medicaid billing out of their central office.  
17 This is another way to do it, to make the school  
18 stronger, to be able to provide those services for  
19 medical and educational in the same school.

20 The application draft was submitted in May.  
21 And Polk has a good review process for that. They  
22 have their Charter Review Committee, as you saw in  
23 the response that they provided, they have that  
24 CRC review of the draft, and then they give the  
25 Applicant a pretty detailed review. They break

1 the application down into the 19 sections and then  
2 they take it by subsection within each section of  
3 the application and they give the Applicant a  
4 sufficient or insufficient on each section.

5 If you will look at Exhibit 2 to our appeal,  
6 you will see that the draft application was found  
7 to be sufficient in nearly all of the sections and  
8 subsections of the application. And so this  
9 Applicant made changes in reliance on that review.  
10 But where there were sections that were  
11 sufficient, they didn't make any major changes.

12 There was an Applicant interview. It was not  
13 with the CRC, as some of the other Districts do,  
14 so they didn't have the questions from the CRC.  
15 So in the interview where they had some questions  
16 that they could answer, we requested a copy of the  
17 evaluation instrument. That was not provided to  
18 this Applicant at all by the District.

19 We were able to get a copy of the  
20 application, the evaluation instrument one week  
21 prior to the School Board meeting when it was  
22 posted online. At that point, the school took  
23 steps to prepare a response, to clarify, to  
24 explain, and then in this case, to make  
25 corrections, non-substantive corrections, we would

1 say, that were allowed by law.

2 Now, the School District is going to argue  
3 that what the school did was make substantive  
4 corrections, and we're going to talk about that,  
5 I'm sure, today some more, what is substantive or  
6 non-substantive under this new law. We would say  
7 that non-substantive are changes that don't make  
8 any alteration to the program that's being  
9 proposed. So if you are going to make a  
10 correction to the budget, there's going to be a  
11 change to the bottom line. It's almost by  
12 definition that that's what's going to happen.

13 So when you change something in the bottom  
14 line in a budget, that doesn't mean that it's  
15 substantial, it doesn't mean that it's  
16 substantive. That's what we would say. The  
17 statute says that Applicants are permitted to make  
18 non-substantive changes to the application, not to  
19 the non-budgetary sections of the application, the  
20 statute says application. So in order to make  
21 changes to that budget -- if you had a block and  
22 copy error in the revenue, which is what happened  
23 to this Applicant, then you're going to need to  
24 make changes, not to the program, that would be  
25 substantive, but you're going to need to make the

1 kind of cuts that you would make as you open after  
2 October FTE, those are the things you're going to  
3 have to do in order to make that non-substantive  
4 correction that you are allowed to make by law.  
5 The school did that, the District did not consider  
6 that newly corrected budget, they didn't consider  
7 the responses, and we will argue later that that  
8 was a violation of due process and the laws for  
9 Charter Schools.

10 The Education Plan, you'll notice that all of  
11 the sections in the Education Plan in the draft  
12 application were considered sufficient except for  
13 one subsection in ESE. That subsection was  
14 modified before the application was provided and  
15 the rest of the subsections were not changed.  
16 They had a draft application review that said it  
17 was sufficient.

18 You're going to hear from Dr. Ehren and from  
19 Ms. Comkowycz about the Education Plan and its  
20 unique design and how it meets the standards.  
21 You're also going to hear them talk about the  
22 complaint that the District had that the plan is  
23 not staffed for ESE students.

24 Well, the whole application is for ESE  
25 students. The staffing plan is for ESE students.

1 And you're going to hear that theme over and over  
2 again, that this is an application only for ESE  
3 students. So to the extent it says that there are  
4 deficiencies, the only thing that's talked about  
5 in the application is an ESE student.

6 The Organizational Plan. Again, two  
7 subsections within the two sections of governance  
8 and management were the only subsections  
9 considered insufficient in the draft application.  
10 Those two sections were modified extensively.

11 I consulted personally with Ms. Comkowycz,  
12 those were changed as a result of the comments  
13 from the draft application, just what the  
14 Legislature intended to happen. That  
15 collaboration and communication among School  
16 Districts and Charter Applicants when they  
17 resubmitted those sections were changed,  
18 governance and management.

19 But then this new comment comes up at the  
20 review for the final application, a new comment  
21 about the parent contract, the draft parent  
22 contract. And we talked about it at the  
23 interview. Applicant said your interpretation,  
24 District, is not what that contract means, it's  
25 also a draft, and when we go to charter contract

1 negotiation, as you see in your state charter  
2 contract, that parent contract is subject to  
3 review. So in other words, they had the response,  
4 they had the explanation, and there was no  
5 competent substantial evidence to deny the  
6 Organizational Plan on that basis.

7 Now, Business Plan as you see in both of  
8 our -- the appeal and the response, that gets the  
9 most attention in this appeal. And in large part,  
10 it's due to the correction that had to be made.  
11 There was clearly an error. The CPA for the  
12 school, for the Applicant, said there was an  
13 error, it's a block and copy error, it's clearly  
14 clerical and so they made the changes that needed  
15 to be made, not to the program but to make the  
16 balanced budget.

17 But there are some things that were said in  
18 the answer by the District that were outside of  
19 the record, outside of the denial notice and,  
20 frankly, we're not allowed to make a decision  
21 today on that basis. But they're so inflammatory  
22 I need to talk to you about them.

23 In the response to our appeal, the District  
24 makes mention of \$7.9 million that would be going  
25 to Our Children's Rehab Center. And then they

1 identify this organization, this nonprofit  
2 corporation, as being owned as Sharon Comkowycz  
3 being a CEO of it and otherwise implying that she  
4 has some ownership interest and will be getting  
5 \$7.9 million. It's absolutely false. She does  
6 not own the organization, she's not a Board  
7 Member, she's not an employee, she's not any of  
8 those things.

9 The other thing that the statement fails to  
10 mention is that the \$7.9 million which is in the  
11 budget, that's over five years, that's for  
12 services to ESE students, all the buses for all of  
13 the students in the school.

14 And they forget to mention that on the  
15 revenue line there's over \$4 million that comes  
16 from Our Children's Rehab Center to the school in  
17 Medicaid reimbursements. That is the strength of  
18 this application. It's the fact that they have  
19 found a contractor who knows the Medicaid system  
20 and makes their budget more strong, it makes them  
21 able to provide services for students at the  
22 school that those students would otherwise have to  
23 go traveling all over Polk County to get.

24 CHAIR TEPPER: Your time is up.

25 MS. GROSS-ARNOLD: Thank you.

1 CHAIR TEPPER: Mr. Bridges, ten minutes.

2 MR. BRIDGES: Thank you, ma'am.

3 Good morning, Madam Chair, Members of the  
4 Commission. I have in my entourage today some  
5 folks I would like to introduce to you. We have  
6 our Chief Education Officer, Jackie Bowen. We  
7 have Mr. John Small, who has many titles, but I  
8 will refer to them as multiple pathways; our  
9 Charter School Director, Melissa Brady; Jason  
10 Pitts, who is our Budget Director, and I think of  
11 him sort of in the same way as, you know, the  
12 science guy or the guy that has the suit with all  
13 the question marks on it, he has the answers to  
14 all questions; and a face that I think most of you  
15 know, Carolyn Bridges, who was formerly our Senior  
16 Director of Magnet, Choice & Charter Education and  
17 is now involved with Acceleration & Innovation.

18 Greetings from our Superintendent, who was  
19 unable to be with us today but wanted to make sure  
20 that we had all of the senior staff and functional  
21 area experts here that could answer any questions  
22 that you may have.

23 In Polk County, we have 25 operating Charter  
24 Schools. We have three that are in the process of  
25 starting up. This year we had seven applications,

1 three of which were approved, four of which were  
2 not. This is the only case that's coming up on  
3 appeal.

4 We have 13,000 students attending Charter  
5 Schools or about 14 percent of our total student  
6 body. We do Charter Schools. Our application  
7 process is one that has been vetted over time and  
8 has been used as a model throughout the state.

9 We are here today to stand on the record.  
10 This is an appeal, not a trial, and we're not here  
11 for the purpose of presenting additional evidence.  
12 We're here to talk about what is in the record.  
13 And I believe that you're limited in what you  
14 consider today to what is, in fact, in the record.

15 And I would like to talk about that record  
16 for a moment. I think the most important thing in  
17 that record is the application itself. And that  
18 application is the best evidence of what it  
19 contains, it is the best evidence of what it does  
20 not contain. It is the best evidence of its  
21 strengths and of its weaknesses and of those  
22 things that are omitted or have been submitted in  
23 error. And that is the main exhibit and the main  
24 thing that we're here to talk about.

25 And I'm assuming that you have read the

1 entire record. It is important in this case  
2 because we need to make some comparisons and  
3 contrasts. We need to talk a little bit about the  
4 draft application that was submitted in May.

5 And by the way, when draft applications are  
6 submitted, Districts do not and are not required  
7 to run a full-on charter review application review  
8 process like they do once the final drafts are  
9 submitted. Staff looks at it and asks several  
10 essential questions: Has the Applicant submitted  
11 all parts of an application? Is it complete?  
12 Sort of like an employment application.

13 These days they're doing it online and they  
14 will ask you the question, you know, have you  
15 submitted all of the parts that are necessary, we  
16 will not consider an incomplete application. So  
17 is there ample content to review? Are all of the  
18 pieces of the required rubric there? If the  
19 answer is that all of those pieces are there, then  
20 you're sufficient; if not, you are not.

21 The May budget was found sufficient. And in  
22 a little while, we'll talk about the differences  
23 between what was submitted in May and what was  
24 submitted in August.

25 Counsel has made mention of the review and

1 has suggested that anything that was deemed  
2 sufficient was not changed. The May budget that  
3 we reviewed was changed. And the things that --  
4 the mistakes that were contained in the August  
5 budget were not in the May budget submitted for  
6 draft review. That is very, very important to our  
7 position.

8 So let me reiterate what was submitted in May  
9 was very different from what was submitted in  
10 August. And the August submission didn't -- the  
11 mistakes that were in the August submission were  
12 not in the May draft. There was nothing that the  
13 District could have reviewed and no suggestions  
14 that the District could have made because of those  
15 distinct differences.

16 In October the school -- and Florida law  
17 allows, and Polk County District School Board  
18 Policy requires, that the District not consider  
19 any materials submitted after the deadline for  
20 applications in August. We understand that there  
21 is a proviso for technical corrections and  
22 non-substantial corrections. But anything that is  
23 not -- does not fall under that category, we do  
24 not consider.

25 The school submitted in October a revised

1 budget. And I understand the desire to have the  
2 District consider that and the desire to  
3 characterize it as technical or non-substantive  
4 changes, but let me tell you about those changes.  
5 There were 141 cells changed in that budget.  
6 You've got them in our exhibits and they're  
7 highlighted so you can see the differences.

8 When it was submitted, the school highlighted  
9 100 of those changes. We went through with a  
10 fine-toothed comb and our folks discovered an  
11 additional 41 changes that they had to excavate.  
12 And when you take those changes and you pull them  
13 out and you add them up, they total up to  
14 \$3.3 million.

15 Where we live, that's not a technical change.  
16 Where we live, that is a substantive change. I  
17 don't understand the term "block and copy" in that  
18 regard.

19 Further, when that wildly amended budget was  
20 submitted, there were no changes to the narrative.  
21 So there were no changes to the program, but now  
22 the budget has been changed radically and the  
23 narrative that fit the August budget does not fit  
24 the October budget.

25 In Polk County, we have an August 1st

1 deadline for submittal. We do an Applicant  
2 interview, which is not required by statute but  
3 goes above and beyond in terms of due process.  
4 The Committee makes recommendations to the  
5 Superintendent. The Superintendent prepares  
6 recommendations for the Board. The Applicant has  
7 many opportunities to participate in the process.  
8 We have new Applicant orientation in April. We do  
9 the preliminary draft review, as counsel  
10 mentioned.

11 There's a presentation and work session this  
12 year, it was on the 11th of August. The Applicant  
13 interview was held on the 9th of September.  
14 That's the opportunity for the Applicant to  
15 clarify their application, not to make changes.  
16 They're there to point out if there's something  
17 that we're looking for and we haven't seen and  
18 it's buried somewhere, they can point it out to us  
19 and show that to us.

20 The submission that they made in October was  
21 outside of the process. It was outside of the  
22 statutory deadline for the submission of  
23 applications and it contained things that by no  
24 means could be considered technical or  
25 non-substantive. On October 6th, the Board

1 considered the matter and voted to deny on the  
2 16th. We provided the denial letter.

3 It is our position that the application was  
4 properly denied using a process that complies with  
5 state law and School Board Policy, that the  
6 reasons articulated compromise good cause under  
7 the law and are supported by competent substantial  
8 evidence, which is in the record.

9 Once again, it's hard to prove a negative.  
10 It's hard to prove that a hole exists unless  
11 you're looking -- the hole is the absence of dirt.  
12 And in this application, there are things that  
13 we're pointing to that are deficiencies. You have  
14 to read the application to see it. There's not  
15 something that you can hold in your hand. There's  
16 not a statement of someone, an affidavit of  
17 someone like there might be in a criminal court or  
18 a civil court. You have to read the application.

19 And I think the reason that we have District  
20 representatives in charge of school operators is  
21 because you can -- you have the experience to look  
22 at that application and see what is there and what  
23 isn't and to see the problems.

24 The proposed budget from August does not  
25 allow the school to be a financially viable

1 organization. There are projected losses of over  
2 \$250,000 for each of the five years submitted, not  
3 considering grants, gifts and requests. If you  
4 consider all of the budgeted gifts, grants and  
5 requests that they included in their budget, and  
6 they get 100 percent of them, the projected loss  
7 will still be \$140,000 per year and the total  
8 negative balance will be \$882,450.

9 The application fails to budget costs  
10 associated with food service. It fails to align  
11 the startup narrative with the startup  
12 expenditures and revenues, sources of funding. It  
13 does not address the shortage in revenues in each  
14 of the five years in the proposed budget.

15 The May budget -- with respect to the May  
16 budget, I know there's the assertion that we  
17 waived compliance because of whatever the comments  
18 were. Once again, I can't emphasize enough that  
19 what was submitted in May and what was submitted  
20 in August are wildly different.

21 CHAIR TEPPER: Your time is up.

22 MR. BRIDGES: Thank you.

23 CHAIR TEPPER: Okay. For this appeal, our  
24 first issue before we get to the substantive  
25 issues is a matter of due process which the

1 Charter School has raised. So at this point, I'll  
2 let each side give us five minutes on the due  
3 process issue, what the allegations are, and then  
4 Members will ask questions.

5 Ms. Arnold.

6 MS. GROSS-ARNOLD: Thank you, Madam Chair.  
7 It's a violation of due process not to allow an  
8 Applicant to address the issues before them, to  
9 address the evidence used against it. This  
10 Appeals Commission determined that and confirmed  
11 that ruling in 2010. This Commission ruled that a  
12 District violated the due process rights of an  
13 Applicant when evidence was presented against an  
14 application and the Applicant was prevented from  
15 responding to that evidence. The issue was  
16 remanded to the School District, and in that  
17 instance, the matter was settled.

18 The District violated the due process of this  
19 Applicant in three ways. In the first way, they  
20 violated the due process of this Applicant by  
21 telling them that their draft application was  
22 sufficient in many aspects. And then when the  
23 Applicant submitted their final application, they  
24 came up with new areas and told the Applicant you  
25 can't fix that. That's a violation of due

1 process. The Applicant had no way to respond to  
2 the evidence against it.

3 Second, they violated the Applicant's due  
4 process by failing to consider the Applicant's  
5 response. It's the very essence of a due process  
6 violation. They have an interview process. They  
7 didn't ask the questions that they had from the  
8 evaluation instrument in the interview process and  
9 then they failed to listen to the response, even  
10 what they would consider non-substantive  
11 explanations in the response. That's a violation  
12 of due process. The response was provided as soon  
13 as it could be provided, even though the Applicant  
14 requested the evaluation instrument by a public  
15 records request in the interview.

16 If there was not enough time for the School  
17 Board to consider the response, they could have  
18 deferred the application. It's not a reason to  
19 ignore it. It's a violation of due process.

20 There's also a violation of due process even  
21 though, as counsel says, the budget was changed.  
22 Because when you look at some of the things that  
23 weren't changed from the budget that they complain  
24 about, capital outlay, the food service, the meals  
25 and the fundraising, those were all in the draft

1 budget and it was still considered sufficient.  
2 The change that occurred was a change in the FTE  
3 for the school, and that's when the revenue error  
4 occurred.

5 Due process was also violated even if you  
6 consider that budget to be substantive. And the  
7 reason why is because there's still a case out  
8 there that says when a Charter Applicant  
9 recognizes an error and makes the correction, the  
10 School District has to consider it. That's a  
11 Fifth District Court of Appeal case. It's  
12 Academy's case.

13 The District says it's been overruled by the  
14 Legislature. But there's nothing in the  
15 legislative history that says that the Legislature  
16 intended to get rid of that case when it said now  
17 Charter Schools can make technical and  
18 non-substantive changes.

19 We say that the change to the budget, the  
20 correction to the budget was non-substantive. But  
21 even if you say that it's substantive, there's  
22 good case law out there that says this Applicant  
23 could do what they did, that they didn't have to  
24 wait another 365 days to correct this mistake.

25 The application process is supposed to be

1 collaborative and that draft application is  
2 supposed to do that. And the District violated  
3 the law by telling them sufficient and then  
4 saying, no, it wasn't. That was a violation of  
5 their due process rights.

6 We respectfully request that in light of  
7 these due process violations, this application  
8 should be by recommended order remanded to the  
9 School District where the School District should  
10 consider the response, consider the draft and  
11 corrected application with the budget and it  
12 shouldn't deny on the areas that it deemed  
13 sufficient when it reviewed the draft.

14 One other last statement. The statute that  
15 counsel refers to that allows Charter Schools to  
16 make non-substantive corrections passed, the  
17 statute that allows Charter Schools to submit  
18 draft applications, it says that the School Board  
19 can approve that draft application. That doesn't  
20 sound like a cursory review to me. That's a  
21 substantive review of the application. That draft  
22 review of the application is something the  
23 Applicant relies on as part of a collaborative  
24 process. And when a Charter School hears that  
25 their application is sufficient, it's a violation

1 of their due process to then tell them it's not.

2 CHAIR TEPPER: Thank you.

3 Mr. Bridges, five minutes.

4 MR. BRIDGES: Thank you, ma'am.

5 Due process means a lot of things. We're  
6 having due process here today. If the District or  
7 the school disagrees with something the State  
8 Board of Education does, due process will be had  
9 in the Appellate Courts.

10 In the charter application process, I guess  
11 due process starts at the very beginning. And  
12 counsel is absolutely correct, the statute allows  
13 for a draft review, and it does provide the  
14 District can approve a draft application. I'm not  
15 aware if that's ever been done and I'm not aware  
16 if anyone has ever submitted what they would  
17 consider to be a final application in final form  
18 for draft review. But the purpose of that draft  
19 review is not the same as the function carried out  
20 by the Charter Review Committee when a final  
21 application is submitted.

22 And in this case, once again, I think the  
23 number and magnitude of the changes are such that  
24 they simply cannot be considered to be  
25 non-substantial or technical. And once again,

1 when the draft was submitted, the District did a  
2 review as to form to determine whether all of the  
3 aspects that are required in law for the  
4 application have been addressed.

5 We made some comments and there were changes  
6 as a result of those comments. But the critical  
7 thing that I want to get to today in that budget  
8 is that the comments that we made about the May  
9 budget submittal, the May budget submittal did not  
10 resemble the August budget submittal and the  
11 changes made in that August submittal with the  
12 final application contained errors that were not  
13 in the draft. That is critical. The things that  
14 we are here today to talk about, about the errors  
15 in the budget in August were not in the May budget  
16 submittal, those concrete, substantive, massive  
17 errors were not there.

18 Once again, the draft review is not a  
19 technical review, it's not the same as the review  
20 that the District conducts when the final  
21 application is submitted.

22 And with regard to failure to consider a  
23 response, I would once again point out that in  
24 Polk County, we follow the state law, and our  
25 policy says we will not consider changes that are

1 submitted after the deadline other than technical  
2 and non-substantive changes.

3 And I guess the bottom line is on the issue  
4 of the budget, if you believe that changing 141  
5 cells with a net of \$3.3 million is technical and  
6 non-substantive, then it's possible that we're all  
7 well. I just can't figure out in what universe  
8 that would be the case, \$3.3 million. And once  
9 again, there were no changes to the narrative that  
10 would line it up with that renewed budget. We  
11 were not required to consider that.

12 And it did not go to the School Board. What  
13 went to the School Board was the first application  
14 submitted by the deadline. And they were advised  
15 of the additional materials that had been received  
16 but that we believed those changes were  
17 substantive.

18 I'm older than most of you, but I remember  
19 Bullwinkle the moose who once famously said words  
20 to the effect that those are -- that's  
21 antihistamine money, not to be sneezed at. And I  
22 would once again point out that when those changes  
23 were submitted, the Applicant foot-stomped,  
24 highlighted 100 of them and said here are our  
25 changes. And when we went digging, we discovered

1 41 additional changes. And we just counted the  
2 cells and added them up and came up with  
3 \$3.3 million.

4 I brought Jason with me and he'll be happy to  
5 talk about the budget. But I think in terms of  
6 due process, they had a full review, they had an  
7 opportunity to be heard and at no time has due  
8 process been violated.

9 CHAIR TEPPER: Thank you. So that brings us  
10 to questions of Commission Members. Do any  
11 Members have questions for either the school or  
12 the District on the issue of due process?

13 (No response.)

14 CHAIR TEPPER: Then would someone like -- go  
15 ahead, Cathy.

16 MS. BRUBAKER: I do have a question. Do you  
17 typically give detailed -- you said you don't  
18 typically give detailed information -- this is to  
19 the District -- on a draft of a Charter  
20 application. When I was reading it, I noticed the  
21 insufficient areas were, I believe, the  
22 Exceptional Student Education Values and Budget,  
23 those were the insufficient areas you identified.

24 MR. BRIDGES: Yes, ma'am, we identified those  
25 and provided comments.

1 MS. BRUBAKER: But not in great detail?

2 MR. BRIDGES: Not like we would if the  
3 Charter Review Committee was doing the analysis on  
4 the final application. It is a review to  
5 determine that what they are submitting is  
6 substantially complete and in correct form, has  
7 all of the essential components that we would do  
8 the final review on. But we do not give any  
9 indication at that time of whether we are  
10 prognosticating an approval or denial. We simply  
11 tell them that you'll need to work on this  
12 section, this section you've got all of the points  
13 covered. But we don't -- at that point, we're not  
14 going through and doing the numbers to see if the  
15 budget lines up with the narrative. We're looking  
16 at it and we're saying you have a budget that is  
17 proposed for each year of the proposed contract,  
18 you have submitted that. But we don't go back and  
19 do the -- the technical review is to determine  
20 whether the programs are supported by that budget.

21 Does that make sense?

22 MS. BRUBAKER: Yes.

23 Do you have another point in time where you  
24 meet with the Charter again and discuss any  
25 discrepancies in the draft?

1 MR. BERNIER: We have an Applicant interview  
2 where we invite the Applicant to come and sit down  
3 with our senior Charter staff. And typically it  
4 could be Ms. Brady or Mr. Small. And that is the  
5 opportunity for them to talk to the Applicant and  
6 get explanations about anything, if we're missing  
7 something, show us where you address this required  
8 aspect. It is not the opportunity to change the  
9 application. The application is finite at that  
10 point, the deadline has passed. But if there's  
11 something we're missing, it's the Applicant's  
12 opportunity to point it out to us. Yes, ma'am, we  
13 did that.

14 MS. BRUBAKER: But that's after the  
15 August 1st deadline, correct?

16 MR. BRIDGES: Yes, ma'am.

17 CHAIR TEPPER: Chris.

18 MR. BERNIER: Tiffanie was actually first.

19 CHAIR TEPPER: Tiffanie.

20 MS. PAULINE: If I could hear from both  
21 sides. I did hear a lot of conversation about the  
22 budget being different on the draft, between the  
23 draft and the final submission. What other  
24 aspects of the application were significantly  
25 different?

1 MS. GROSS-ARNOLD: The only other changes  
2 that were made were in the areas that were noted  
3 as insufficient in the draft. And the changes to  
4 the budget, we can have -- it sounds like both  
5 sides are prepared to talk about the differences  
6 between the draft and the draft budget and the  
7 budget submitted with the application in August.  
8 But Brian Sherwin can also go through and show the  
9 items that are the same from the draft budget that  
10 are then deemed to not meet the standard in the  
11 final, sufficient in the draft and then does not  
12 meet the standard in the final, and then the  
13 change to the FTE and the revenue error that they  
14 were seeking to correct.

15 MS. PAULINE: Can I ask just a follow-up?

16 CHAIR TEPPER: Yes.

17 MS. PAULINE: So your focus was on only  
18 whatever was deemed to be insufficient?

19 MS. GROSS-ARNOLD: Yes, ma'am. And when you  
20 look at the statute, you can see -- and there may  
21 be a disconnect between the School District and  
22 what Charter Applicants expect, but it's based on  
23 what the statute says. And the statute, it  
24 specifically says, in order to facilitate greater  
25 collaboration in the application process, an

1 Applicant may submit a draft Charter School  
2 Application on or before May 1 with an application  
3 fee of \$500. If a draft application is timely  
4 submitted, the sponsor shall review and provide  
5 feedback as to material deficiencies in the  
6 application by July 1. And then this is the key,  
7 it says, the Applicant shall then have until  
8 August 1 to resubmit a revised and final  
9 application. The sponsor may approve the draft  
10 application.

11 So in other words, the process contemplates  
12 that the Charter Applicants use the draft  
13 application submittal as their review, as  
14 Ms. Brubaker was alluding to. That's their  
15 collaboration with the District to find out what  
16 things the District finds insufficient so they can  
17 correct them and not have this long train of 365  
18 days later to resubmit.

19 MS. PAULINE: I guess the focus of my  
20 question was if -- well, let me just reask it a  
21 different way. Between the period of May to  
22 August, you know, there's normally many changes in  
23 the law and policies, legislation, what have you.  
24 Was there any insight or process to ensure that in  
25 the final review that those things were examined,

1           because they would not have come up in a draft  
2           review if there were changes in law of such?

3           MS. GROSS-ARNOLD: Absolutely. And that was  
4           part of the review. I came on as legal counsel  
5           then, that's how I know there were changes made to  
6           the management in the Organizational Plan, because  
7           that management and governance did get comments of  
8           insufficient so that's how I know those changes  
9           were made. The rest of the application was  
10          reviewed.

11          But we're not talking about editorial  
12          changes. I'm talking about things that were  
13          actually changed, those were the changes that were  
14          changed in response to the draft. Then, yes,  
15          there were changes to the budget when you see  
16          that. That's why we say it's pretty clear that it  
17          was a clerical error, because the FTE was  
18          increased so, yes, there would be cells, multiple  
19          cells changed as a result of that. But the other  
20          changes, there weren't large changes.

21          And I'm looking at Ms. Comkowycz to make sure  
22          that that is the case. The whole application was  
23          reviewed but not any large changes for fear that  
24          then you're changing something that now the  
25          District will deem insufficient.

1 MS. PAULINE: Okay. Can I ask the same  
2 question to the District?

3 CHAIR TEPPER: Absolutely.

4 Mr. Bridges, would you like to respond?

5 MR. BRIDGES: Once again, I think it goes  
6 back to a question of what is contemplated by the  
7 statute when we do a draft application review.  
8 And once again, I don't believe there's any  
9 District in the state that does a full-on review,  
10 a technical analysis, budget analysis of the  
11 applications when they come in for draft reviews.  
12 And I would respectfully suggest that the  
13 suggested fee or the required fee for this would  
14 reflect that.

15 It is an overview to look and see if the  
16 application is complete, if it has all of the  
17 components, but it does not go into the detail of  
18 lining up the budget against the programs. It  
19 does not go into the technical level of detail  
20 with respect to the curriculum, especially in a  
21 case like this where you've got a school that is  
22 primarily focused on providing students --  
23 education to students with disabilities. That's  
24 going to be a very technical review and it's not  
25 contemplated by the statute in the draft

1 provision.

2 And once again, the fact that statute allows  
3 the District to approve a draft, the District is  
4 not required to do so and I'm not aware of any  
5 District that performs the full-on technical  
6 Charter review process in response to a draft  
7 application.

8 CHAIR TEPPER: Chris.

9 MR. BERNIER: I just have a quick statement  
10 of fact for the Applicant because I think the  
11 District in their remarks said that the Applicant  
12 has applied three times prior to this; is that  
13 correct?

14 MS. MCMANUS COMKIWYCZ: Two times.

15 MR. BERNIER: Two times.

16 MS. MCMANUS COMKIWYCZ: This is the third.

17 MR. BERNIER: So this is the third time?

18 MS. MCMANUS COMKIWYCZ: Yes.

19 MR. BERNIER: Okay. Thank you.

20 MS. MCMANUS COMKIWYCZ: And the other two  
21 were approved.

22 MR. BERNIER: The other question is for the  
23 District. When the review is complete and the  
24 sufficient versus insufficient information was  
25 communicated to the Applicant, while you did not

1 interview them until after the formal submittal,  
2 is there part of your processes that if an  
3 Applicant calls that you would meet with them and  
4 review the insufficiencies?

5 MS. BRADY: Absolutely. We actually  
6 encourage that. And we have had several  
7 conversations with Ms. Comkowycz. She's come to  
8 our office and we've had telephone conversations  
9 throughout this process. We do embrace the  
10 collaborative effort here. And I would assume  
11 that she would agree with that, that we've tried  
12 to be as helpful as possible.

13 At one point, there was a meeting that was  
14 requested, I wasn't available, but John Small was  
15 able to meet with Sharon at his office and there  
16 was some discussion as the process proceeded.

17 Last year there was a -- they submitted an  
18 application as well but withdrew, and the  
19 recommendation was if they come forward for the  
20 following year, which is this year, to talk to us  
21 and go through the process with us again in a much  
22 more collaborative way, and I think that we did  
23 that through the beginning stages of it, so yes.

24 MR. BERNIER: Okay. I just need a very  
25 specific answer. In this particular case, did the

1 Charter Applicant, once they received their  
2 feedback from you regarding sufficient or  
3 insufficiency in this particular application, did  
4 they contact or call your office for feedback as  
5 to what you meant?

6 MS. BRUBAKER: No, I don't believe so.

7 MR. BERNIER: Okay. To the Applicant.

8 CHAIR TEPPER: Before you leave the  
9 microphone, your name?

10 MS. BRUBAKER: My name is Melissa Brady,  
11 Director of Charter Schools.

12 MR. BERNIER: And we're discussing the draft.

13 CHAIR TEPPER: After they reviewed the draft,  
14 did you call or anybody associated with the school  
15 call the District to discuss it?

16 MS. MCMANUS COMKIWYCZ: Hi, I'm Sharon  
17 McManus Comkiwycz and I'm with Our Children's Prep  
18 School.

19 When we received the feedback from the draft,  
20 the draft showed sufficient. I mean, things were  
21 very positive, there were a few things that we  
22 needed to correct and we did that. The  
23 collaboration was, in our opinion, submitting the  
24 draft and getting that feedback, that was  
25 collaborative. And then we operated from the

1 information we received.

2 After we submitted the application based upon  
3 the feedback from the draft, we had an interview,  
4 it was with Melissa, John and the secretary. We  
5 did not have the evaluation instrument, we did  
6 not, so we could only respond to the questions  
7 that they asked. And they were talking mostly  
8 about converting a private school to a public  
9 school. That was the questions that they were  
10 interested in. And we satisfied any of their  
11 issues with that.

12 But our attorney requested a copy of the  
13 evaluation instrument and were told that the  
14 Superintendent hadn't received it yet, we would  
15 get a copy afterward. We never did. We requested  
16 again for that, we did not get it. We finally  
17 found it online the week before the School Board  
18 went to rule.

19 CHAIR TEPPER: But when you're talking about  
20 that meeting, that's after you submitted on  
21 August 3rd?

22 MS. McMANUS COMKOWYCZ: Yes.

23 CHAIR TEPPER: Okay. And just for clarity,  
24 when you said you met with Melissa and John,  
25 you're talking about Melissa Brady, not Melissa

1 Gross-Arnold?

2 MS. MCMANUS COMKIWYCZ: Correct, Melissa  
3 Brady and John Small.

4 CHAIR TEPPER: Okay. Just so it's clear in  
5 the transcript.

6 MS. MCMANUS COMKIWYCZ: Correct. And when we  
7 met, the items that we saw on the evaluation tool  
8 after were not things that were discussed.

9 CHAIR TEPPER: Okay.

10 MS. MCMANUS COMKIWYCZ: Thank you very much.

11 MR. BERNIER: I was just interested in the  
12 draft and their response to the draft.

13 CHAIR TEPPER: Did you get your answer?

14 MR. BERNIER: Yes. Thank you.

15 MS. ESPOSITO: I have one.

16 CHAIR TEPPER: Sonia.

17 MS. MCMANUS COMKIWYCZ: Are you clear?

18 MR. BERNIER: I am, thank you.

19 MS. ESPOSITO: I have a question. During the  
20 interview, was it mentioned to you the  
21 discrepancies between the draft and this final  
22 application?

23 MS. MCMANUS COMKIWYCZ: No.

24 MS. ESPOSITO: To the District, is this  
25 normal procedure not to provide the Applicant the

1 evaluation instrument prior to the interview  
2 process?

3 MS. BRADY: The evaluation, if the Charter  
4 Review Committee finds that the application is  
5 sort of riddled with some non-substantive and  
6 technical errors that perhaps we want the  
7 Applicant to make changes to before the interview  
8 process, then in that case, yes, they receive  
9 those beforehand.

10 CHAIR TEPPER: But that didn't happen in this  
11 case?

12 MS. BRADY: No.

13 CHAIR TEPPER: Was there a reason?

14 MS. BRUBAKER: We didn't find any of the  
15 information that was put in the application as  
16 non-substantive.

17 CHAIR TEPPER: Okay.

18 Further?

19 MS. PAULINE: Yes.

20 CHAIR TEPPER: Tiffanie.

21 MS. PAULINE: To the District, I think I  
22 heard Wes indicate that prior to submission  
23 there's some kind of Applicant orientation or some  
24 kind of meeting. Can you talk to us a little bit  
25 about what was relayed in that meeting in terms of

1           what were the expectations that were set forth for  
2           the Applicant?

3           MS. BRADY: Absolutely. The orientation is  
4           held in April and it is a soup to nuts type of  
5           orientation. We go through Charter Law. We go  
6           through School Board Policy. We give a timeline.  
7           We give samples of the application, the Florida  
8           Department of Education Model Application,  
9           including the evaluation tools that go along with  
10          that.

11          I usually have members of the Charter Review  
12          Committee speak to each part of the application.  
13          They give the Applicant an overview of what is  
14          required in the application. It's usually pretty  
15          significant. We spend most of the day in an  
16          orientation, so we try to cover all bases and  
17          leave the end of the orientation day for questions  
18          from the Applicants.

19          MS. PAULINE: And to the School, did they  
20          attend the orientation, just for the record?

21          MS. MCMANUS COMKIWYCZ: Sharon again. Like  
22          what was said, we've submitted two applications  
23          and were approved for Charter so I have been to  
24          this presentation in Polk and in other Districts  
25          and at the state level when the State, Adam

1 Miller, had them.

2 CHAIR TEPPER: Did you attend?

3 MS. MCMANUS COMKIWYCZ: This one I had not  
4 because I had the information.

5 CHAIR TEPPER: Okay. Would someone like to  
6 make the motion regarding whether the due process  
7 rights of the Charter School were violated and  
8 choose did or did not?

9 Chris.

10 MR. BERNIER: I'll make the motion. I move  
11 the Commission find that the School Board did not  
12 violate the Charter School's due process rights.

13 CHAIR TEPPER: You've heard the motion, that  
14 the Commission find that the School Board did not  
15 violate the Charter School's due process rights.

16 Is there a second?

17 MS. PAULINE: I'll second it.

18 CHAIR TEPPER: Tiffanie.

19 Jackie.

20 MS. HITCHCOCK: Chris Bernier.

21 MR. BERNIER: Can I get a clarification?

22 CHAIR TEPPER: Yes. The motion is that the  
23 School Board did not violate the Charter School's  
24 due process rights. If you vote yes, you are  
25 voting for the School District. If you vote no,

1           you are voting for the Charter School.

2           MR. BERNIER: Thank you, Madam Chair. My  
3           vote is yes.

4           MS. HITCHCOCK: Cathy Brubaker.

5           MS. BRUBAKER: No.

6           MS. HITCHCOCK: Sonia Esposito.

7           MS. ESPOSITO: Yes.

8           MS. HITCHCOCK: Osvaldo Garcia.

9           MR. GARCIA: No.

10          MS. HITCHCOCK: Richard Moreno.

11          MR. MORENO: No.

12          MS. HITCHCOCK: And Tiffanie Pauline.

13          MS. PAULINE: Yes.

14          CHAIR TEPPER: So I will break the tie and I  
15          vote, yes, that the School Board did not violate  
16          the Charter School's due process rights. So we  
17          will not do the second section there. And that  
18          will take us to Issue 1.

19          Before I put Issue 1 on the record, because  
20          she has a new last name, I did not recognize  
21          Sharon as Sharon McManus, who Wes will remember I  
22          worked with on a Charter School 15 years ago as  
23          her counsel, and I just need to disclose that.  
24          There's not a conflict, I didn't even know it was  
25          her. But everybody should know that we both

1 recognized each other, okay.

2 So the first issue is whether the Applicant's  
3 Educational Plan failed to meet any of the  
4 following standards: Target Population and  
5 Student Body; Educational Program Design;  
6 Curriculum Plan; Student Performance, Assessment  
7 and Evaluation; and Exceptional Students.

8 So three minutes for the Charter School on  
9 the Education Plan.

10 DR. EHREN: Good morning, Madam Chair,  
11 colleagues. I would like to -- and I am  
12 Dr. Barbara Ehren. I am a professor at the  
13 University of Central Florida and I'm a specialist  
14 in Exceptional Student Education for more years  
15 than I would like to admit.

16 I would like to speak not only to the  
17 sufficiency of the Educational Plan but rather its  
18 remarkable uniqueness and service to what is  
19 typically a very underserved population of  
20 students, and that is students with special needs.

21 I think one of the major issues is that you  
22 have to take the application in its entirety  
23 because, for example, under the section of  
24 Educational Program Design, there is a mention of  
25 curriculum, but there is a whole separate

1 Curriculum Plan section. So you would have to  
2 look at those two sections together, along with  
3 some of the other sections under the Educational  
4 Plan heading in order to get the full picture of  
5 what's going on. And that's what I certainly  
6 think we need to do.

7 I think an important point is that this is a  
8 school for students with special needs so that a  
9 separate section of students, Exceptional Student  
10 Education would be irrelevant. The whole  
11 application deals with students with special  
12 needs.

13 The other issue is that you cannot look for a  
14 one-size-fits-all curriculum. And what this  
15 application talks to is alternative curriculum,  
16 which in general education parlance might be  
17 called supplementary curriculum. But by federal  
18 law, exceptional students have to be educated with  
19 specialized curriculum which often falls outside  
20 of the purview of what is done in general  
21 education. And I think the application does a  
22 very thorough job of explaining not only what  
23 curriculum is going to be used but what the  
24 research base is for that curriculum.

25 The other issue I think which is important is

1 that we teach to standards and that all curricula  
2 is in service to the meaning of standards. So the  
3 issue is does the application speak to meeting the  
4 Next Generation Sunshine State Standards and the  
5 new LAFS, the Language Arts Florida Standards, and  
6 certainly it does that. I think relative to how  
7 it does that with students with special needs,  
8 that's an important thing to note, and that is  
9 each student must be looked at individually.  
10 There are no general goals for special needs  
11 students, they have to be dictated by the IEP, and  
12 that is what is done in this application.

13 CHAIR TEPPER: Your time is up. Thank you.

14 And for the District, three minutes on the  
15 Educational Plan.

16 MR. BRIDGES: Thank you, ma'am. We recognize  
17 that historically the Commission and the State  
18 Board have granted some flexibility and some  
19 leniency on Educational Plan issues, which is why  
20 we spent a great deal of our time on the budget,  
21 because we think that is critical. But it is  
22 worth preserving for the record that we believe  
23 the application was inadequate in this regard. It  
24 does not differentiate in sufficient detail  
25 between various pre-K age groups of 12 months or

1 two years, 11 months and three to five-year-olds.  
2 While there's a course code now that serves all of  
3 these students, it's necessary to differentiate  
4 the program and curriculum and other services,  
5 particularly given the adult-to-student  
6 supervision ratios that are required by law with  
7 this particular targeted focus group of students.

8 As pointed out earlier, the best evidence of  
9 that lack of specificity is the application  
10 itself, and I rely on your review of it to  
11 determine whether or not you agree. But we would  
12 assert that that specificity and detail is not  
13 there.

14 A great deal of information is provided in  
15 the application. Our folks looked at it and  
16 believed that there was not adequate framework to  
17 allow us to determine how services would be  
18 provided and to allow students to attain state  
19 standards. There's a lot of material, but to us  
20 it was not cohesive and put together in relevant  
21 format. Once again, the best evidence of that is  
22 the application itself, and I'll rely on your  
23 experience and judgment in reviewing that and  
24 making a determination.

25 Further, the Florida Department of Education

1 Evaluation Template requires a response that meets  
2 the standards to present a clear description of  
3 the levels of service the school will provide, how  
4 it will ensure students with disabilities have  
5 equal opportunity for enrollment, understanding a  
6 commitment to collaborating with the sponsor to  
7 ensure placement decisions made on the student's  
8 unique needs, an appropriate plan for evaluating  
9 the school's effectiveness, and a realistic  
10 enrollment projection and staffing plan. And they  
11 argue that this is spread throughout the  
12 application. But the FDOE evaluation rubric  
13 requires that it be comprehensively addressed in  
14 the section.

15 CHAIR TEPPER: Okay. So questions from  
16 Commission Members on the Educational Plan? And  
17 let me know if it's for the school or for the  
18 District.

19 (No response.)

20 CHAIR TEPPER: Okay. Then would someone like  
21 to make the motion and choose did or did not for  
22 the Educational Plan?

23 Chris.

24 MR. BERNIER: I move the Commission find the  
25 School Board did not have competent substantial

1 evidence to support its denial of the application  
2 based on the Applicant's failure to meet the  
3 standards for the Educational Plan.

4 CHAIR TEPPER: You've heard the motion, that  
5 the Commission find that the School Board did not  
6 have competent substantial evidence to deny on  
7 this section.

8 Is there a second?

9 MR. GARCIA: I'll second it.

10 CHAIR TEPPER: Osvaldo.

11 So the motion is that the Commission find the  
12 School Board did not have competent substantial  
13 evidence to support its denial based on the  
14 failure to meet the standards of the Educational  
15 Plan. If you vote yes, you are voting for the  
16 Charter School. If you vote no, you are voting  
17 for the School District.

18 Jackie.

19 MS. HITCHCOCK: Chris Bernier.

20 MR. BERNIER: Yes.

21 MS. HITCHCOCK: Cathy Brubaker.

22 MS. BRUBAKER: Yes.

23 MS. HITCHCOCK: Sonia Esposito.

24 MS. ESPOSITO: Yes.

25 MS. HITCHCOCK: Osvaldo Garcia.

1 MR. GARCIA: Yes.

2 MS. HITCHCOCK: Richard Moreno.

3 MR. MORENO: Yes.

4 MS. HITCHCOCK: Tiffanie Pauline.

5 MS. PAULINE: Yes.

6 CHAIR TEPPER: So the school prevails on  
7 Issue 1. And that will take us to Issue 2,  
8 whether the Organizational Plan failed to meet any  
9 of the following standards. And the only one is  
10 Student Recruitment and Enrollment.

11 So, Ms. Arnold, three minutes on the school's  
12 Organizational Plan.

13 MS. GROSS-ARNOLD: Thank you, Madam Chair.  
14 As I discussed in the opening statement, the issue  
15 raised by the District in this section has to do  
16 with a parent contract that they allege is  
17 discriminatory. During the interview, this was  
18 one of the issues that we specifically brought up.  
19 And the Applicant did say, first of all, that is a  
20 draft contract. And second of all, that was not  
21 the -- the District's interpretation of the  
22 contract was not the intent.

23 And we had a conversation, and you could see  
24 in the transcript of the interview the  
25 conversation going back and forth about, District,

1 are you giving us advice and saying that it would  
2 be a best practice to add additional language  
3 about due process if a student is an ESE student  
4 and those types of details. And we had that  
5 conversation with Assistant Superintendent Small.  
6 During the interview, the Applicant said, yes, we  
7 will make those changes.

8 The other issue to remember is that under the  
9 State Contract, that parent contract is one of the  
10 things the District reviews. So, again, it's  
11 something that is put together in draft form. The  
12 Applicant was obviously receptive to feedback from  
13 the District as to best practices or additional  
14 language. And so we would say there's not  
15 competent substantial evidence in the record that  
16 there was discriminatory intent or that it would  
17 actually result in discrimination in its final  
18 form. Thank you.

19 CHAIR TEPPER: Mr. Bridges.

20 MR. BRIDGES: Thank you, ma'am. The  
21 application provides a parent contract which  
22 includes provisions for dismissing a student in  
23 violation of Section 1000.05, Florida Statutes.

24 MS. HITCHCOCK: Can you slow down, please.

25 MR. BERNIER: Yes, ma'am.

1           I want you to hear the language. If I fail  
2 to support the mission philosophy and/or policies  
3 of the school to the degree that I, family members  
4 or my child's behavior becomes disruptive,  
5 violent, cursing and/or abusive and no improvement  
6 occurs during the probationary trials, I agree to  
7 withdraw my child or expect that my child will be  
8 involuntarily removed. Removed means your child  
9 will no longer be enrolled in OCPS.

10           Ladies and gentlemen, there is no provision  
11 in law or policy that allows for a student to be  
12 dismissed or expelled without due process of law.  
13 That is a direct violation in direct opposition to  
14 the law of the land that's handed down by the  
15 Supreme Court of the United States in the seminal  
16 case of Goss v. Lopez. Further, there is no  
17 provision in law or policy that allows for a  
18 student to be dismissed or expelled on the basis  
19 of conduct by anyone other than the student.

20           And the appellant argues that the parent  
21 contract was merely a draft. However, we've had  
22 this conversation. The application is finite as  
23 of the deadline for submittal of the applications,  
24 that's the language.

25           I would submit to you that something as

1 fundamental as the due process rights of students  
2 when it comes to expulsion and dismissal are such  
3 that failure to grasp that is evidence of a lack  
4 of a fundamental understanding of student  
5 discipline, especially as it applies to ESE  
6 students.

7 CHAIR TEPPER: So questions by Commission  
8 Members?

9 Tiffanie.

10 MS. PAULINE: To the District, Melissa  
11 specifically. Through your contracting process,  
12 is the Parent Contractor Handbook negotiated where  
13 it's a part of approval or acceptance of the  
14 contract or is there some time thereafter?

15 MS. BRADY: Can I defer since this is my  
16 first round of contract?

17 MS. PAULINE: Yes.

18 MS. BRADY: Carolyn, can you answer that? I  
19 apologize.

20 MS. BRIDGES: Tiffanie, would you mind  
21 repeating that question?

22 MS. PAULINE: Sure. So my question is not  
23 necessarily with this but in the normal case of  
24 work and business, is the Parent Contractor  
25 Handbook usually negotiated or approved? Is there

1 another process outside of the application review  
2 where you have the opportunity to work with the  
3 Applicant to tweak the parent contract, either  
4 prior to contract or subsequent to it?

5 MS. BRIDGES: Yes, there is a process during  
6 the contract where we can address that. Generally  
7 what happens is we accept those pieces unless  
8 there is an identified problem like this, and then  
9 we negotiate that back and forth, if it can be  
10 agreed upon.

11 Now, the flip side of that is the application  
12 becomes an attachment to the contract, as you're  
13 aware. So if that becomes a point of negotiation,  
14 that is sometimes a tricky piece, that you  
15 accepted it in the application but then want to  
16 change it at the contractor phase.

17 And it depends. If it's just language that  
18 needs to be tweaked versus language that is  
19 contrary to the law, so we look at those two  
20 pieces. If it's contrary to the law, we tend to  
21 deal with it as an application piece. If it's  
22 just tweaking the language, then we tend to look  
23 at it as a contract piece.

24 MS. PAULINE: Thank you.

25 CHAIR TEPPER: The school.

1 MS. GROSS-ARNOLD: There's an allegation here  
2 that the contract specifically violates law. And  
3 we did have this conversation in the interview, we  
4 specifically talked about adding language dealing  
5 with whether or not the behavior was a  
6 manifestation of a disability so that that would  
7 put everyone on notice in the contract that the  
8 due process for a manifestation, when the behavior  
9 was related to a disability, that that due process  
10 would be provided. So that was the conversation  
11 that happened at the interview stage, this very  
12 thing that the District is talking about, and  
13 would also happen at the Charter contract stage,  
14 the District saying, Charter School, we know you  
15 can dismiss for these other reasons but you can't  
16 dismiss for this, it appears you might be meaning  
17 to do that but you told us you weren't so let's  
18 have a contract that specifically lays out what  
19 the procedures would be.

20 So that's our main point is the collaboration  
21 happened, the discussion happened at the  
22 interview, the Applicant provided the  
23 clarification, that's not what we meant and we'll  
24 change it. So when we get to the contract stage,  
25 there wouldn't be an issue about the District

1 approving something and then asking for it to be  
2 changed. It had been discussed in the interview.

3 I'm sorry, Dr. Bernier, you had a question?

4 MR. BERNIER: I'm waiting for my Chairman.

5 CHAIR TEPPER: Go ahead.

6 MR. BERNIER: It is to the school.

7 CHAIR TEPPER: Then stay right where you are.

8 MR. BERNIER: In the previous submissions,  
9 was the contract provided in that application  
10 similar to the one that's provided this time  
11 around?

12 MS. GROSS-ARNOLD: Yes, sir.

13 MR. BERNIER: To your manifestation question,  
14 if it was found to be a manifestation of a  
15 disability, what would be the result?

16 MS. GROSS-ARNOLD: Then you would have to  
17 follow the due process procedures. And that's  
18 exactly what we said in the interview.

19 MR. BERNIER: If you had a manifestation  
20 meeting and the behavior was not a manifestation,  
21 what would be the result?

22 MS. GROSS-ARNOLD: The result is that there's  
23 a parent contract. And we have the attorney --  
24 the FDOE attorney opinion that says that Charter  
25 Schools can dismiss for reasons other than their

1 own activity.

2 MR. BERNIER: So in simple words for me.

3 MS. GROSS-ARNOLD: It could happen, yes.

4 MR. BERNIER: That child could be removed by  
5 the school?

6 MS. GROSS-ARNOLD: Yes. And that's allowed  
7 under the FDOE opinions. That is an allowable  
8 dismissal. It is not grounds for expulsion. Of  
9 course, that's something only the Districts can  
10 do.

11 MR. BERNIER: Thank you.

12 CHAIR TEPPER: Other questions by Commission  
13 Members on the Organizational Plan?

14 (No response.)

15 CHAIR TEPPER: Then would someone like to  
16 make the motion and choose did or did not?

17 Sonia.

18 MS. ESPOSITO: I move that the Commission  
19 find that the School Board did have competent  
20 substantial evidence to support its denial of the  
21 application based on the Applicant's failure to  
22 meet the standards for the Organizational Plan.

23 CHAIR TEPPER: You've heard the motion, that  
24 the Commission find the School Board did have  
25 competent substantial evidence for the denial on

1           this issue.

2           Is there a second?

3           MR. BERNIER: I'll second.

4           CHAIR TEPPER: Chris.

5           Okay. So the motion is the Commission find  
6           the School Board did have competent substantial  
7           evidence to support its denial of the application  
8           based on the Applicant's failure to meet the  
9           standards for the Organizational Plan. If you  
10          vote yes, you are voting for the School District.  
11          If you vote no, you are voting for the Charter  
12          School.

13          Jackie.

14          MS. HITCHCOCK: Chris Bernier.

15          MR. BERNIER: Yes.

16          MS. HITCHCOCK: Cathy Brubaker.

17          MS. BRUBAKER: No.

18          MS. HITCHCOCK: Sonia Esposito.

19          MS. ESPOSITO: Yes.

20          MS. HITCHCOCK: Osvaldo Garcia.

21          MR. GARCIA: No.

22          MS. HITCHCOCK: Richard Moreno.

23          MR. MORENO: No.

24          MS. HITCHCOCK: Tiffanie Pauline.

25          MS. PAULINE: No.

1 CHAIR TEPPER: So you have found that the  
2 School Board did not have competent substantial  
3 evidence on this issue. And we do not need to do  
4 the second vote.

5 That takes us to Issue 3. Issue 3 is whether  
6 the Applicant's Business Plan failed to meet any  
7 of the following standards: Facilities, Food  
8 Service and the Budget.

9 For the Charter School.

10 MR. SHERWIN: Good morning, Ladies and  
11 Gentlemen. I'm Brian Sherwin, I'm a Board Member  
12 of the Applicant and a CPA by profession. I have  
13 seen and prepared many budgets, and I just wanted  
14 to give you a few comments.

15 We call it a budget, it's really a financial  
16 projection, right. We've all seen these. I would  
17 say that some aspects of it are more important,  
18 more influential in the decision than others. I  
19 would say that as you go further out in time, you  
20 should have less confidence in the results. Had  
21 there been no issues at all regarding mistakes and  
22 the only questions were, well, what's going on  
23 here in years four and five, we probably wouldn't  
24 even be here.

25 So personally and professionally I look at

1 really year one. A lot of numbers have been  
2 thrown out trying to quantify errors. Well, what  
3 really happened was there's going to be -- we were  
4 notified we have a revenue shortfall of \$430,000  
5 in year one. Year one is probably eight times  
6 more important than any other year. And we  
7 responded to that within 24 hours of hearing it.  
8 We spent over eight hours going back over the  
9 budget looking for ways to balance it. We've said  
10 that we consider these changes non-substantive.

11 And I would like to take you through the  
12 changes we actually made. The budget submitted  
13 with the application had a large reserve in it.  
14 It wasn't sufficient to cover every dime of a \$430  
15 revenue shortfall. However, the budget that we  
16 submitted, we call it the corrected budget,  
17 continues to have reserves in it of \$133,000. It  
18 wasn't that difficult to find specific areas to  
19 cut. We cut dollars out of the salaries of our  
20 leadership team, the President and CEO, the HR  
21 Grants and Marketing Person, and the Director of  
22 Accountability, we took one-third of the budget  
23 shortfall against them. We did not cut one dime  
24 of staffing. Staffing directly affects our  
25 programs. We cut some dollars out of supplies,

1 overhead, these types of things. Nothing that's  
2 going to prevent us from operating the school at  
3 these FTE levels and the resulting flow of  
4 expenses.

5 This idea that there's no difference -- I'm  
6 sorry, the idea that there's a great deal of  
7 difference between the draft budget submitted in  
8 May and the budget submitted with the application,  
9 I don't know where that comes from. Some of the  
10 items that we have received bad comments on, let's  
11 call it, in the evaluation form regarding the  
12 budget, you'll probably recall these from seeing  
13 them. Nielsen Entertainment, well, Nielsen  
14 Special Events, total of \$8,000. That was in the  
15 draft budget for which we received nothing, we  
16 received no negative comments.

17 CHAIR TEPPER: Your time is up.

18 I'm going to give the District an  
19 opportunity.

20 MR. BRIDGES: Thank you, ma'am. This one is  
21 hard to address in three minutes. Once again, the  
22 projected budget does not allow the school to  
23 operate as a financially viable organization who  
24 projects losses of 250,000 for each of the five  
25 years submitted. That's the August budget

1 submitted with the application. There is -- when  
2 you review the application, you will see that it  
3 does not allow adequate funding to lease an  
4 appropriate facility based on the narrative in the  
5 budget that is submitted.

6 Food service, once again, I did want to  
7 respond. The issue of the inappropriate expense  
8 for meals and special events, that shows up in the  
9 August budget, it also shows up in the revised  
10 October budget, showed up after the fact, so that  
11 was not corrected. It remains an unallowable  
12 expense. Their response is that \$8,000 is  
13 immaterial. It certainly would not be immaterial  
14 to the auditor reviewing the file.

15 Food service, grossly underfunded. First  
16 year expense for 305 students, 23,500. I'm  
17 relying on your judgment and experience to  
18 understand what that means. With 305 students,  
19 that equates to 43 cents per day per student. And  
20 the school's response was that that is the actual  
21 cost. As the exhibits in our brief demonstrate, a  
22 realistic figure in Polk County is \$3.15 per  
23 student lunch, \$1.69 per student for breakfast.

24 The balance sheet was not present. The  
25 school said it was an oversight on our part. To

1           us that's a critical budget document that was not  
2           there.

3           The Applicant did not provide the correct  
4           figures in the proposed budget. The August  
5           budget, as we mentioned, did not balance, it  
6           resulted in an application that does not  
7           demonstrate financial solvency to operate the  
8           school. The school's response, we have indeed  
9           made a mistake in the revenue section.

10          Unfortunately, the template sent to the Applicant  
11          had formulas altered for whatever reason. We  
12          agree with staff that the instructional material,  
13          lottery, transportation dollars are already  
14          included. And they acknowledge the missing page  
15          having to do with the FEFP calculation, and there  
16          were all sorts of acknowledgments of errors.

17          But the big deal for us was that when this  
18          revised budget came in, there were 141 changes to  
19          it. They were not decimal points, they were not  
20          misspellings, they were not typographical errors,  
21          they were substantive. It changed the fundamental  
22          nature of the budget, it changed the bottom line  
23          by \$3.3 million, which can in no circumstance be  
24          viewed as being a technical or non-substantive  
25          change.

1 Further, the October submission did not  
2 revise the narrative and mesh it with the -- or  
3 synchronize it with the revised budget. It  
4 doesn't work. And even the revised budget is  
5 going to end up operating at a loss.

6 CHAIR TEPPER: Thank you.

7 So questions by Commission Members on the  
8 Applicant's Business Plan?

9 MR. GARCIA: I have a question.

10 CHAIR TEPPER: Osvaldo.

11 MR. GARCIA: I know this is just an  
12 application with certain projections and within  
13 those projections you look into the neighborhood  
14 where you're going to move into. And my concern  
15 is the demographics of that neighborhood, because  
16 I know that that would have a direct impact on how  
17 much money you allocate for food. So if you're  
18 moving into a neighborhood, poverty neighborhood  
19 and so on, you pretty much estimate that, you  
20 know, a good percentage of the students are going  
21 to be either on free or reduced.

22 Is that the case for your projection?

23 MS. MCMANUS COMKIWYCZ: That's a very good  
24 observation. Yes, we have a very high percentage  
25 of Free and Reduced Lunch. So what the budget is

1 reflecting is the net cost. And we know that many  
2 of these children will be funded through USDA and  
3 those dollars will come.

4 So that was the net cost to the program to  
5 provide food service, knowing that we're going to  
6 be at probably 88 to 90 percent Free and Reduced.

7 CHAIR TEPPER: District.

8 MS. MCMANUS COMKIWYCZ: I would also like to  
9 say I've had experience with food service two  
10 different ways. One, where the District -- when  
11 we first opened the first Charter School, the  
12 District provided the lunch program. It actually  
13 cost the school nothing because everything was  
14 processed through the Polk County School System.  
15 So they took all of the applications, they  
16 received the USDA money, they allocated who was  
17 free and who was reduced and who was full pay and  
18 they managed it. So in essence, it cost us  
19 nothing. And when we submitted the application,  
20 we said that could be a possibility to negotiate  
21 in the contract.

22 The second experience I had was when the  
23 District -- there was a change in management and  
24 the District -- and a change in policy -- and the  
25 District decided they would no longer provide the

1 lunch program to Charter Schools. So we then  
2 contracted with a Charter School Program that was  
3 involved in a Federal Grant, and still is, where  
4 every child, whether they're free, reduced,  
5 whatever, ate for free through this program, every  
6 child.

7 CHAIR TEPPER: Can we just talk about this  
8 school.

9 MS. MCMANUS COMKIWYCZ: Yes.

10 CHAIR TEPPER: And what will be the case for  
11 this school?

12 MS. MCMANUS COMKIWYCZ: So in knowing that, I  
13 budgeted based on that concept. And so it had  
14 cost us about -- net cost about 23,000 because,  
15 again, all USDA applications were processed  
16 through that. And if you make some mistakes on  
17 the count, you are obligated to pay. So the  
18 23,000 was actual real dollars that it had cost us  
19 to provide a lunch program contracting with the  
20 Charter School.

21 CHAIR TEPPER: And now the District's  
22 response.

23 MR. BRIDGES: First off, I would like to  
24 mention that Polk County has a high incidence of  
25 low socioeconomic across the District and that

1 this school is a District-wide Charter School that  
2 will be serving students from all over the county.  
3 But I believe that Ms. Bowen has some comments  
4 having to do with the Free and Reduced Student  
5 Lunch Program.

6 MS. BOWEN: Good morning. Jacqueline Bowen,  
7 Chief Academic Officer, Associate Superintendent.

8 The challenge with the Free and Reduced  
9 Lunch -- and he is correct, we do have a very high  
10 population, and the targeted population of  
11 students they serve match the District's at a 60  
12 to 70 percent Free and Reduced Lunch. But as you  
13 know, that allocation is based upon the prior  
14 year, it's a lag kind of recompensation. So as a  
15 startup, you would not have that previous year  
16 percentage of students to receive an allocation or  
17 to be considered as a community feeder, so you  
18 would have to have that year established.

19 So that is a challenge when you're looking at  
20 a budget because you have to have that application  
21 process established to be able to garner the  
22 percentage you would receive from Free and Reduced  
23 Lunch.

24 CHAIR TEPPER: So are you saying that the  
25 Charter School would not have received -- will not

1 if it opens?

2 MS. BOWEN: The initial year?

3 CHAIR TEPPER: Right.

4 MS. BOWEN: That is correct, because we  
5 receive the percentages from the State, and that's  
6 how Free and Reduced Lunch is allocated, based  
7 upon the percentages of Free and Reduced Lunch  
8 that was enrolled at the school the year before.

9 CHAIR TEPPER: Charter School.

10 MS. MCMANUS COMKIWYCZ: In all the experience  
11 that I've had with the Charter Schools, that has  
12 never been the case. When the child has come to  
13 the school, there's a history of whether they were  
14 Free and Reduced Lunch so that follows the child  
15 and they are eligible for those services. That's  
16 our experience.

17 CHAIR TEPPER: Ms. Pauline.

18 MS. PAULINE: I don't want to get into who is  
19 right and who is wrong, but just for the sake of  
20 proper accounting and budgeting, maybe the  
21 District's finance person, is it proper to report  
22 a net number for food service and specifically  
23 when it was not explained in the narrative?

24 MR. PITTS: My name is Jason Pitts. No, that  
25 is not normal to show a net. And there was no

1 narrative in the food service section that would  
2 have given us an indication that it was a net. If  
3 you look at their budget, there is an expense in  
4 food service and there is a revenue in food  
5 service, so that would tell me that they are not  
6 showing a net.

7 MS. PAULINE: Okay.

8 CHAIR TEPPER: Other questions?

9 (No response.)

10 CHAIR TEPPER: Yes, ma'am.

11 MS. GROSS-ARNOLD: I just wanted to say one  
12 thing about that. This Appeal Commission heard an  
13 appeal last year with Polk School District and  
14 another Charter School, and that issue was raised  
15 with respect to food service and reporting the net  
16 and whether or not the revenue coming in and the  
17 expense should be reported, and I just wanted to  
18 remind the Appeal Commission that in that case the  
19 Appeal Commission determined that food service --  
20 the reason that the District gave was not good  
21 cause for denial of that application.

22 CHAIR TEPPER: Mr. Bridges, the last word.

23 MR. BRIDGES: The District took appeal on  
24 that case and we have subsequently dismissed the  
25 appeal because there was a successful application

1           this year. We disagreed with the characterization  
2           then, we disagree with the characterization now.  
3           And I believe you're limited in your decision  
4           making to what the record is before you. And had  
5           I known that that was going to be an issue, I  
6           would be in the Appellate Courts right now arguing  
7           the correctness of our position.

8           CHAIR TEPPER: Thank you.

9           So would someone -- Richard.

10          MR. MORENO: Yeah. To the school. If you  
11          could talk a little bit more about the facility.  
12          It just seems extremely low what you have budgeted  
13          there, so just some clarification of it. I'm a  
14          little lost there.

15          MS. MCMANUS COMKIWYCZ: Point of  
16          clarification. Are you talking about the annual  
17          fee for leasing the school?

18          MR. MORENO: Well, I saw there's a  
19          discrepancy between what's in the application and  
20          what's in the budget. It's not that material, but  
21          it's still a discrepancy.

22          MS. MCMANUS COMKIWYCZ: Okay.

23          MR. MORENO: I'm saying just the overall  
24          number is very, very low.

25          MS. MCMANUS COMKIWYCZ: Well, they're real.

1 We searched the market and that would be real.  
2 The 108,000 is 9,000 per month. The person that  
3 -- the organization that we would be renting from,  
4 that is their debt service on the property.

5 Because we don't have a charter as of yet, we  
6 haven't signed any lease or anything. But what I  
7 did when I looked at the budget, I gave it a  
8 little bit more because I thought, well, maybe the  
9 person renting to us, the company renting to us,  
10 would maybe up it a little bit because they  
11 probably had a down payment and whatever, it would  
12 be a little bit more than the debt service. I was  
13 trying to be conservative. But those are the  
14 numbers, those are real numbers that --

15 MR. MORENO: So that's just for the land  
16 itself?

17 MS. MCMANUS COMKIWYCZ: No, for the building.

18 MR. MORENO: For the building?

19 MS. MCMANUS COMKIWYCZ: Yes, a 30,000 square  
20 foot building.

21 MR. MORENO: For 120,000 a year?

22 MS. MCMANUS COMKIWYCZ: Yes. It's Polk  
23 County.

24 CHAIR TEPPER: Mr. Bridges.

25 MR. BRIDGES: Thank you. I would just like

1 to ask that you not lose site of our real issue,  
2 which is that budget submitted in August has the  
3 school operating in a big red hole and that the  
4 changes submitted in October are by no means  
5 technical or unsubstantive. There are 141 changes  
6 for a total of \$3.3 million. That's how big the  
7 gulf was between a balanced budget and what was  
8 submitted.

9 And the narrative that was submitted with the  
10 original budget was not changed to reflect those  
11 changes, which we are not required to nor would we  
12 consider. Once again, late is late, they were  
13 substantive and nontechnical. But our real issue  
14 is the budget does not support the operation of  
15 the school.

16 CHAIR TEPPER: So would someone like to make  
17 the motion?

18 MS. PAULINE: I will.

19 CHAIR TEPPER: Tiffanie.

20 MS. PAULINE: I move that the Commission find  
21 that the School Board did have competent  
22 substantial evidence to support its denial.

23 MS. ESPOSITO: I second it.

24 CHAIR TEPPER: Sonia second.

25 So the motion is the Commission find the

1 School Board did have competent substantial  
2 evidence to support its denial of the application  
3 based on the Applicant's failure to meet the  
4 standards for the Business Plan. If you vote yes,  
5 you are voting for the District. If you vote no,  
6 you are voting for the Charter School.

7 Jackie.

8 MS. HITCHCOCK: Chris Bernier.

9 MR. BERNIER: Yes.

10 MS. HITCHCOCK: Cathy Brubaker.

11 MS. BRUBAKER: Yes.

12 MS. HITCHCOCK: Sonia Esposito.

13 MS. ESPOSITO: Yes.

14 MS. HITCHCOCK: Osvaldo Garcia.

15 MR. GARCIA: Yes.

16 MS. HITCHCOCK: Richard Moreno.

17 MR. MORENO: Yes.

18 MS. HITCHCOCK: Tiffanie Pauline.

19 MS. PAULINE: Yes.

20 CHAIR TEPPER: So you have found that the  
21 School Board did have competent substantial  
22 evidence to support its finding. You must now  
23 decide whether that was good cause for denial.

24 Tiffanie, would you make the motion, please.

25 MS. PAULINE: I move that the Commission find

1 that the Applicant's failure to meet the standards  
2 for the Business Plan was statutory good cause for  
3 denial.

4 CHAIR TEPPER: You've heard the motion.

5 MS. ESPOSITO: Second.

6 CHAIR TEPPER: Sonia second.

7 MS. HITCHCOCK: Chris Bernier.

8 MR. BERNIER: Yes.

9 MS. HITCHCOCK: Cathy Brubaker.

10 MS. BRUBAKER: Yes.

11 MS. HITCHCOCK: Sonia Esposito.

12 MS. ESPOSITO: Yes.

13 MS. HITCHCOCK: Osvaldo Garcia.

14 MR. GARCIA: Yes.

15 MS. HITCHCOCK: Richard Moreno.

16 MR. MORENO: Yes.

17 MS. HITCHCOCK: And Tiffanie Pauline.

18 MS. PAULINE: Yes.

19 CHAIR TEPPER: So the District prevails on  
20 Issue Number 3. We must now make a final motion.  
21 The School Board prevailed on Issues 1 and 2.  
22 However, since the District prevailed on Issue 3,  
23 your motion must be to deny the appeal.

24 Would someone like to make the motion?

25 MS. ESPOSITO: I will.

1 CHAIR TEPPER: Sonia.

2 MS. ESPOSITO: I move the Commission  
3 recommend that the State Board of Education deny  
4 the appeal.

5 CHAIR TEPPER: Is there a second?

6 MS. BRUBAKER: I'll second.

7 CHAIR TEPPER: Cathy.

8 So you, as always, will have a unanimous  
9 vote.

10 Jackie.

11 MS. HITCHCOCK: Chris Bernier.

12 MR. BERNIER: Yes.

13 MS. HITCHCOCK: Cathy Brubaker.

14 MS. BRUBAKER: Yes.

15 MS. HITCHCOCK: Sonia Esposito.

16 MS. ESPOSITO: Yes.

17 MS. HITCHCOCK: Osvaldo Garcia.

18 MR. GARCIA: Yes.

19 MS. HITCHCOCK: Richard Moreno.

20 MR. MORENO: Yes.

21 MS. HITCHCOCK: Tiffanie Pauline.

22 MS. PAULINE: Yes.

23 CHAIR TEPPER: So the appeal of the Charter  
24 School is denied. This will be heard before the  
25 State Board of Education on February 18th. If

1           some of you were very efficient and already looked  
2           up the date, it was the 17th, it's been changed to  
3           the 18th. It's here in Tallahassee. It will  
4           either be in this building or at the Capitol in  
5           the Cabinet Meeting Room. Jackie will send  
6           everybody an email or a letter and let you know  
7           where you are on the agenda so you can make time  
8           and provide for that. Thank you.

9                     We will take a ten-minute break before we  
10           hear the next appeal. So we'll come back at  
11           11:35.

12                    (Whereupon, proceedings were concluded at  
13           11:25 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
COUNTY OF LEON )

I, MICHELLE SUBIA, Registered Professional Reporter, certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages, numbered 3 through 78, are a true and correct record of the aforesaid proceedings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 24th day of January, 2016.

*Michelle Subia*

MICHELLE SUBIA, CCR, RPR  
NOTARY PUBLIC  
COMMISSION #FF127508  
EXPIRES JUNE 7, 2018

