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STATE OF FLORIDA
DEPARTMENT OF EDUCATION
CHARTER SCHOOL APPEAL COMMISSION HEARING
RENAISSANCE CHARTER HIGH SCHOOL OF PALM BEACH
VS.
SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA

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

DATE: MONDAY, APRIL 4, 2016
COMMENCED: 10:00 A.M.

TRANSCRIBED BY:
MICHELLE SUBIA
REGISTER PROFESSIONAL REPORTER

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1 MEMBERS PRESENT:

2 LOIS TEPPER, CHAIR

3 JENNA HODGES

4 CATHY BRUBAKER

5 SONIA ESPOSITO

6 RICHARD MORENO

7

8 OTHER PARTICIPANTS:

9 DAVID L. JORDAN

10 JACQUELINE HITCHCOCK

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

2 CHAIR TEPPER: Okay. I think we're ready to
3 get started. Today is April 4th, 2016. This is
4 the Charter School Appeal Commission. My name is
5 Lois Tepper, I'm the Commissioner's designee. We
6 also have in the room Dave Jordan, who is counsel
7 for the Commission, as well as our Commission
8 Members.

9 Would those of you -- which I think
10 everybody's been here before -- we have a balanced
11 panel. We have two members representing Charter
12 Schools and two members representing Districts. I
13 only vote if there's a tie.

14 Jackie, would you call the roll.

15 MS. HITCHCOCK: Cathy Brubaker.

16 MS. BRUBAKER: Here.

17 MS. HITCHCOCK: Sonia Esposito.

18 MS. ESPOSITO: Here.

19 MS. HITCHCOCK: Jenna Hodgens.

20 MS. HODGENS: Here.

21 MS. HITCHCOCK: Richard Moreno.

22 MR. MORENO: Here.

23 CHAIR TEPPER: I'll entertain a motion to
24 approve the minutes from the last meeting.

25 MS. BRUBAKER: I make the motion.

1 CHAIR TEPPER: Cathy.

2 MR. MORENO: I second it.

3 CHAIR TEPPER: Richard.

4 All in favor.

5 (Chorus of ayes.)

6 CHAIR TEPPER: Thank you.

7 Before we hear the first case this morning,
8 which we only have one on our agenda, which is
9 Renaissance Charter High School of Palm Beach vs.
10 the School Board of Palm Beach County, let me
11 remind you of our procedure. We'll begin this
12 morning with two motions, we'll take care of
13 those, and then I'll give each side ten minutes to
14 tell us the story about their case. We'll start
15 with the Charter School, then we'll go to the
16 District.

17 Then I'll read the first issue, I'll give
18 each side three minutes on that issue. Commission
19 Members will ask questions if they have any, we'll
20 take a vote. We'll go through each of the three
21 issues that way.

22 Remember that the Commission Members have had
23 all the materials you've submitted for several
24 days. They have gone through them, they have
25 tabbed them, they're ready. If they don't have

1 questions, that just means there weren't any
2 questions left after they've reviewed all of your
3 materials.

4 When we get to the final vote, that's always
5 a unanimous vote because it is a vote of the
6 Commission to recommend to the State Board of
7 Education what we hear today. In order to
8 prevail, the school has to prevail on all three
9 issues. In order to prevail, the District only
10 has to prevail on one because then they will have
11 shown that they had competent substantial evidence
12 and good cause to denial the appeal.

13 Okay. So prior to getting to the first
14 issue, we have two things that came up from the
15 parties before the meeting, which is both parties
16 sent in suggestions and objections to the motion
17 sheet. I've reviewed everything. We're going to
18 go with the motion sheet as drafted.

19 The second was a motion for a legal ruling
20 regarding the meaning of the word "innovative."
21 I've spoken with Dave, our counsel, and it's his
22 decision that we lack the authority, number one,
23 to make such a ruling.

24 The Commission Members are aware of the
25 pieces of the Florida Statutes that apply, Charter

1 Schools need to encourage innovation, Districts
2 can ask for additional information other than
3 what's on the application if they choose. So as
4 we go through this, if Commission Members have
5 questions about what the District required or what
6 the school offered, they'll ask those questions.
7 That will be just a part of the appeal, not a
8 separate ruling by the Chair.

9 And so that brings us to the first appeal.
10 The school, you have ten minutes to tell us the
11 story about your Charter School.

12 MS. ALEXANDER: Sure. As you know, my name
13 is Stephanie Alexander, and I represent the
14 Applicants here, the Renaissance Charter High
15 School of Palm Beach and its Governing Board,
16 Renaissance Charter School.

17 Attending with me here today are Ken Haiko,
18 the Chairman of the Governing Board, Steve
19 Epstein, the Principal of Renaissance Charter
20 School at Palms West, Jenna Petersell Raskin a
21 Doctor of Psychology and Director of Special
22 Education, Alexis Lewin, Manager of Financial
23 Planning and Analysis.

24 CHAIR TEPPER: Can you slow down a little
25 bit.

1 MS. ALEXANDER: Sure. Sorry.

2 THE COURT REPORTER: Thank you.

3 MS. ALEXANDER: And Diane Bolton, Education
4 Specialist, Levi Williams, Governing Board
5 Counsel, and Derek Kelmanson, Senior Manager of
6 Business Development.

7 At this time, I would like to cede a few
8 minutes to the Governing Board Chair and let Ken
9 Haiko speak and then I'll finish up with the
10 remainder. Thank you.

11 MR. HAIKO: Good morning. As mentioned, my
12 name is Ken Haiko, and I'm Chair of Renaissance
13 Charter Schools, the Applicant for the Charter. I
14 have been Chairman for approximately 14 years and
15 most of my Board Members have been with us almost
16 as long. Cumulatively we have over 100 years of
17 Charter School operation between all of our
18 schools.

19 We are here today because -- oh, excuse me,
20 we currently operate 36 schools in eight
21 Districts. We have over 30,000 students enrolled
22 with over 12,000 on waiting lists. We are here
23 today because Palm Beach School District has
24 denied our application for a high school, mainly
25 on the basis of what they say, we're not

1 innovative enough. Yet this is basically the same
2 application that has been approved by the District
3 for the six schools we currently run in Palm Beach
4 County.

5 As innovation, at the School Board meeting, I
6 explained to the District that each one of our
7 students has a personal learning plan, that we
8 offer a longer school day that allows us to
9 develop schedules tailored to the unique needs of
10 our students, that we have a unique grading
11 philosophy that only reflects the mastery of the
12 student standards taught. These are but a very
13 few of the impactful innovations that we employ in
14 our schools not found in District Schools.

15 I also have a five-page list of additional
16 innovative practices that we use that are not
17 employed in District Schools.

18 At that School Board meeting, the room was
19 packed with parents who came to speak on behalf of
20 our high school. Many extolling innovative
21 practices employed at our current schools. Some
22 of their stories had everyone in tears telling how
23 the environment at the Renaissance Schools that
24 will feed into the high school literally saved
25 their children from certain failure and they need

1 that environment going forward.

2 But their pleas were ignored, even while some
3 School Board Members acknowledged from the data
4 that our innovative programs were something that
5 should be employed at District Schools.

6 My Board and I volunteer hundreds of hours
7 each year to bring educational choice to students
8 and parents who want us to offer an alternative,
9 students who for whatever reason may not be
10 functioning well in the neighborhood schools,
11 regardless of whether it's an A school or an F
12 school. And the parents in Palm Beach County have
13 clearly shown that they want to continue in a
14 secure environment that Renaissance Charter
15 Schools provide.

16 Quite frankly, it's a little frustrating to
17 drag all of these people here away from their jobs
18 benefiting students, paying transportation costs
19 and attorney fees to come up here to fight for our
20 students. The last time we had to fight this
21 District, it was publicly stated at their School
22 Board meeting that it was an act of civil
23 disobedience. They knew they were going to lose,
24 yet here we are again. While they don't seem to
25 care about wasting taxpayer money, ladies and

1 gentlemen, I do.

2 You overturned the last attempt by this
3 District to disregard Florida law, thwart the will
4 of parents and stand in the way of choice. I ask
5 that you stand with the students and parents again
6 today and allow us to finish what we started in
7 grades K through eight, let us build them a high
8 school. Thank you.

9 MS. ALEXANDER: Just as an aside, can I make
10 a -- it's not really an objection, but I would
11 like the motion for legal ruling carried forward
12 to the State Board. Can I put that on the record?

13 CHAIR TEPPER: It's already in the record.

14 MS. ALEXANDER: Okay. Thanks. On my
15 request?

16 CHAIR TEPPER: Yes.

17 MS. ALEXANDER: As you know from the brief
18 and previous CSAC appeals, Renaissance has a long
19 and successful tenure as an experienced Charter
20 Governing Board in Florida. Indeed, it currently
21 operates six Charter Schools in Palm Beach County
22 and had promised its parents after many requests
23 there that it would open a new Charter School so
24 that its students could continue their education
25 in the same academy model. The Palm Beach County

1 School Board has already approved Charter
2 Applications from Renaissance seven times
3 previously, and those applications were
4 substantively identical to the Charter Application
5 it denied here. Moreover, this Board, the Charter
6 School Appeal Commission itself, reversed the
7 School Board's denial of basically the same
8 Charter Application during the last cycle and it
9 did so unanimously and without a single question
10 from Members. The State Board of Education did
11 the same, it reversed the School Board's denial of
12 basically the same application unanimously and
13 without a single question. The same result is
14 demanded here today.

15 We all know what's going on here. The School
16 Board, tired from losing so many of its students,
17 and the money that went with them to Charter
18 Schools, suddenly decided that it was going to
19 deny all Charter Applications for Charter Schools
20 that were going to compete directly with it. This
21 is proven by the fact that during the last
22 application cycle, the School Board received 22
23 Charter Applications and denied every single one.
24 This application cycle, the School Board did much
25 the same, only approving a few new Charter Schools

1 that did not directly compete with its own public
2 schools.

3 A plain review of the application and its
4 attachments reveal, as the seven or eight times
5 previously, that the application contained all
6 statutorily required information and proposed a
7 compliant Charter High School that would serve the
8 needs and provide choice to the students and the
9 parents of Palm Beach County. The fact that a
10 nearly identical application to the one filed here
11 has been approved seven times by the very same
12 School Board previously, something which clearly
13 calls into question the legitimacy of the denial
14 since this application had already been approved.
15 Even in the last cycle with respect to the
16 innovation issue, it found that the other
17 categories which it partially denied here, it
18 found them to be completely compliant.

19 Again, basically the same application.
20 Hence, it must be beyond obvious that the School
21 Board's alleged denial reasons here were not
22 legally sufficient grounds to deny the
23 application. As a plain review of the application
24 evidences that the supposed areas of deficiency
25 are instead throughly detailed and addressed by

1 the application, moreover, a clear and unbiased
2 view of the application reveals that most of the
3 School Board's reasoning simply does not reflect
4 the accurate facts or a fair interpretation
5 thereof and that the School Board used an illegal
6 definition of innovation to find that the
7 application failed the mission section and that it
8 must have changed its review standards in finding
9 that the remaining issues such as ESE and ELL were
10 partially deficient since it found those same
11 sections, as I just said, to have fully met the
12 standards even though last time it denied the same
13 application on innovation grounds last year.

14 Last cycle the School Board conceded that it
15 didn't have a set standard as to when an
16 application should be denied. As their head of
17 the School District's Charter School Office said
18 schools with major deficiencies or several minor
19 deficiencies generally aren't recommended. But he
20 conceded that there really isn't a set standard.

21 We know that the School Board's own
22 definition of innovation cannot be used to validly
23 deny a Charter Application here as it does not
24 comply with the law and it imposes a standard on
25 innovation that goes well beyond the Charter

1 Statute. And it is clearly untrue that the School
2 Board here requested any further information on
3 innovation, rather it simply used its own standard
4 after the fact to deny on that basis.

5 Well, the CSAC and the State Board have
6 already approved virtually this very same
7 application on innovation grounds unanimously.
8 Even so, many parents testified at the School
9 Board hearing that the Renaissance schools offer
10 much education innovation, so much so that even
11 the School Board Members commented that they
12 should be copying elements of Renaissance's
13 innovation.

14 For example, even the Palm Beach Post noted
15 that the Board Members' discussions led to odd
16 contrasts. Moments after rejecting the proposed
17 school as failing to be innovative, two School
18 Board Members said that the School District's own
19 schools could improve by learning from Charter
20 School USA's model. More specifically, Ms. Brill
21 said, "I think that what really struck me was
22 about the personal learning plans, the daily
23 reports to parents that Renaissance does. I think
24 that the things that you're getting, yes, we do
25 need to do better in the District as well."

1 Lastly, since other than the innovation
2 issue, the School Board itself failed to find that
3 the remaining grounds for denial actually failed
4 the standards but partially met the standards,
5 they would not have constituted a legally
6 sufficient denial reason regardless. Thus, for
7 all the foregoing reasons, the Renaissance Charter
8 Schools and the Renaissance Charter High School of
9 Palm Beach respectfully request that CSAC did
10 exactly what it did the last time such an
11 application came before them and vote unanimously
12 to overturn the School Board's illegal and biased
13 denial of the Charter Application at issue in this
14 appeal. Renaissance Charter Schools wants very
15 much to be able to move ahead with its planned
16 Charter High School in Palm Beach so that its many
17 middle school students there can continue their
18 successful academic careers with the same academy
19 family and any new Charter students will have
20 increased educational choices at the high school
21 level in Palm Beach County. The parents and
22 children there really deserve to have that choice.
23 Thank you.

24 CHAIR TEPPER: Thank you.

25 And for the District, ten minutes.

1 MS. SAGERHOLM: Good morning. My name is
2 Denise Sagerholm. I'm Assistant General Counsel
3 for the School Board of Palm Beach County. And I
4 have with me Sean Fahey, an Associate Attorney
5 with the School Board, and James Pegg, which is
6 the Director of the Department of Charter Schools.

7 I'm going to defer to Mr. Fahey with
8 reference to our introduction today.

9 MR. FAHEY: Good morning. As Denise said,
10 my name is Sean Fahey. I have the pleasure of
11 representing the School Board of Palm Beach County
12 today. Palm Beach County is currently home to 50
13 Charter Schools with six more set to open in
14 August. This appeal, as Ms. Alexander detailed,
15 is about an application from a current operator in
16 Palm Beach County in several K-8 schools to open
17 its first Charter High School in Palm Beach
18 County.

19 And I'll start by saying the Applicants have
20 tried to make this appeal about a lot of other
21 things, but really this appeal is about the
22 following. The application to open Renaissance
23 Charter High School was deficient in five
24 sections. For that reason, the School Board had
25 good cause, meaning a legally sufficient reason to

1 deny the application, and the denial is supported
2 by competent substantial evidence, as articulated
3 in the letter of denial.

4 Because the Applicants have insisted on
5 primarily attacking the procedure or the supposed
6 ulterior motive of the School Board, the School
7 Board will first use this time to kind of
8 reiterate what it sees to be the general standards
9 that govern this appeal. So the first of these is
10 the standard of review. The second is the meaning
11 of partially meets the standard under the model
12 evaluation instrument. The third is the School
13 Board's reliance upon facts and data about the
14 School District of Palm Beach County when it
15 reviews the sufficiency of Charter School
16 applications. And the final point is the validity
17 of School Board Policy 2.57 and the innovative
18 criteria there.

19 So first, the Applicants have attempted to
20 sort of distract this Commission and its
21 recommendation to the State Board away from the
22 proper standard of review. The standard of review
23 is simply whether the School Board had good cause
24 to deny the application, articulated that good
25 cause in a letter of denial, and those reasons are

1 supported by competent substantial evidence.

2 The Applicants have been insistent that there
3 was some ulterior anticompetitive motive on the
4 part of the School Board. But the standard of
5 review doesn't allow for any such contemplation,
6 some sort of pretextual reason. There's no -- I
7 mean, the allegations are obviously unfounded.
8 But aside from that, there's no basis in the
9 record to determine that there's some ulterior,
10 secret reason why the School Board denied this
11 application. It's inappropriate. Instead, the
12 Commission should look to whether the reasons the
13 School Board articulated hold water, and they do.

14 Second, the Applicant's repeated assertion
15 that basically or virtually the same application
16 had been approved before is also irrelevant. The
17 question is about this application and its
18 sufficiency, but also it's just not correct. The
19 Applicants currently operate K-8 schools in our
20 District, not a high school. To say that an
21 application to open a high school is the same or
22 even materially the same or virtually the same
23 can't be correct. Common sense tells us that
24 can't be correct.

25 The second issue is what does partially meets

1 the standard mean? The evaluation instrument
2 defines it for us. It means a response that
3 addresses most and therefore not all of the
4 criteria, but for which the responses lack
5 meaningful detail and require important additional
6 information. So the Applicants contend that a
7 response of partially meets the standards cannot
8 be the basis for a denial.

9 But, again, the standard for the Commission
10 and for the State Board ultimately is whether the
11 School Board had good cause, meaning a legally
12 sufficient reason to deny the application. And a
13 response that doesn't meet all of the criteria and
14 is missing important information can provide good
15 cause to deny an application, provide a legally
16 sufficient reason.

17 And she made -- Ms. Alexander made reference
18 to Jim Pegg's comment that there isn't really a
19 set standard. Well, common sense again tells us
20 that when the information that is missing on a
21 case-by-case basis is of course going to dictate
22 whether a response missing information will rise
23 to the level of good cause. It's always going to
24 be a case-by-case basis.

25 In certain cases, yes, an application that's

1 only partially meets the standard in one section,
2 maybe you wouldn't deny that application. But
3 that's kind of a moot point here because the
4 application was deficient in five sections, so
5 plainly there was good cause to deny this
6 application.

7 The third point is the School Board's
8 reliance on data and facts about its own District
9 in the review of this application. The Applicants
10 have asserted in their written arguments that the
11 fact that the School Board might have used
12 different numbers or there might have been a
13 difference of opinion between the Applicants and
14 the School Board about which numbers should be
15 used in the application cannot be good cause to
16 deny the application. They cited The Academies of
17 Excellence case from the Fifth District Court of
18 Appeal.

19 What that case actually tells us, though, is
20 that the School Board cannot merely rely on
21 unsupported opinions or assumptions. And that's
22 not what happened here. What the School Board
23 relied upon was facts and data about the School
24 District of Palm Beach County. And that's
25 important because this information was pertinent

1 to the Applicant's ability to demonstrate that
2 they can operate a high quality Charter School in
3 Palm Beach County, particularly with respect to
4 retaining qualified instructional staff and
5 serving the needs of exceptional students, as
6 we'll discuss when we address those issues in
7 particular later.

8 The final point then is the validity of
9 School Board Policy 2.57. This is relevant to the
10 Commission's inquiry because the Commission is
11 tasked with determining whether the School Board
12 had good cause, a legally sufficient reason to
13 deny the application. The Applicants have argued
14 essentially that District School Boards have no
15 authority to adopt policies relating to the
16 authorization or creation of Charter Schools.
17 They suggest that the State Board of Education has
18 the exclusive authority in this field.

19 Now, it's true the State Board of Education
20 has the authority to adopt the model application,
21 the model evaluation instrument. It's also true
22 that the statute delegates the State Board of
23 Education the authority to promulgate rules
24 implementing certain subsections of the Charter
25 School Statute.

1 But what the Applicants ignore is that
2 Section 1002.3, Subsection (6) Subsection (a)
3 Subsection 6 plainly says that despite the
4 existence of a model application, there's still
5 room for School Boards to require additional
6 information that's relevant to the application.
7 This statutory text alone, which does not require
8 the Charter School Applicant to agree to provide
9 such information, that statutory subsection alone
10 suggests that there can obviously be other valid
11 criteria aside from those in the model evaluation
12 instrument, aside from those in the application.
13 The key instead is whether the criteria that the
14 School Board is relying upon are consistent with
15 the Charter School Statute.

16 And the Fourth District Court of Appeals
17 explicitly recognized that the School Boards as
18 having the primary decision-making authority over
19 the creation of Charter Schools have this
20 authority to promulgate these sorts of policies.

21 Imhotep Nguzo Saba Charter School vs. the
22 Department of Education was that Fourth District
23 case. And that case is still good law. The
24 Applicant's attempt to distinguish it is still
25 good law for the reasons stated in our written

1 responses, which I won't go into in depth here.
2 So the Charter School Statute plainly allows
3 School Boards to request additional information.
4 So the key is, is that what the School Board did
5 here? And the answer is clearly yes.

6 The Charter School Statute references the
7 term "innovative" in two crucial sections. The
8 first is with respect to the application. The
9 Applicants must demonstrate how the proposed
10 Charter School will encourage the use of
11 innovative learning methods.

12 But equal importance is the sponsor's duty in
13 Subsection (5) of the statute to ensure that the
14 Charter is innovative. The Applicants have argued
15 that this refers to the contract document. By the
16 plain text of the statute, that's simply not
17 correct. It means the Charter School as a whole
18 because the Charter School must also be consistent
19 with the State's educational goals. And, again,
20 to apply that requirement to the contract would be
21 illogical.

22 So the Charter School references the term
23 "innovative" in two places. What it doesn't do is
24 define the term "innovative." So that's what the
25 School Board is tasked with doing every time it

1 reviews an application. It has these obligations
2 with respect to Charter Schools being innovative.
3 But what does innovative mean?

4 So that's what the School Board does in
5 Policy 2.57, it takes the plain and ordinary
6 meaning of the term "innovative" as ascertained
7 from a dictionary and makes that the definition of
8 innovative for schools in Palm Beach County. So
9 that means introducing or using new ideas or
10 methods or having new ideas about how something
11 can be done.

12 And then it ties it into the need to, of
13 course, operate high quality schools in Palm Beach
14 County by also saying that whatever these new
15 ideas or methods are, they must actually improve
16 outcomes for students. They cannot merely be new
17 or different for the sake of being new or
18 different.

19 So Policy 2.578, its definition of
20 innovative, the application term of innovative and
21 the rubric telling Applicants what they need to
22 provide is completely valid, it's completely
23 consistent with the Charter School Statute. It
24 doesn't contradict the Charter School Statute. It
25 doesn't expand upon the requirements of the

1 Charter School Statute in any way. It simply
2 defines the term "innovative" because the statute
3 does not define it.

4 It's also very important to reiterate,
5 however, as detailed in the School Board's written
6 arguments, that we're not only relying upon Policy
7 2.57. In the alternative, if the Commission
8 concludes the policy does not apply, simply
9 looking at the statutory text that the Charter
10 School must demonstrate in its application how the
11 proposed Charter School will encourage the use of
12 innovative learning methods. On that basis alone,
13 the application still fails because, as Jim Pegg
14 will tell you in a moment, all the practices and
15 methods identified by the Applicants in this case
16 are not innovative for the School District of Palm
17 Beach County. This application did not offer
18 anything innovative despite the representations of
19 the Applicants.

20 And if I could, I'm going to turn it over to
21 Mr. Pegg to just briefly explain why that's the
22 case.

23 CHAIR TEPPER: Your time is actually up.

24 MR. FAHEY: Oh, okay. Thank you.

25 CHAIR TEPPER: Okay. That will bring us to

1 Issue One, which is whether the Applicant's
2 Educational Plan failed to meet any of the
3 following standards: Mission, Guiding Principles
4 and Purpose; Exceptional Students; English
5 Language Learners.

6 Ms. Alexander, you have three minutes on
7 Issue One.

8 MS. ALEXANDER: I also want to put a standing
9 objection in the record to any use by the CSAC on
10 School Board Policy 2.57. If in fact there was
11 some ambiguity on what innovation means, then
12 maybe they would have grounds to sort of define
13 it, but there isn't. By what they just said is
14 what's a common dictionary definition.

15 Well, putting that aside, in this last
16 Legislative Session, their very definition of
17 innovation was attempted to be inserted into the
18 Charter School Statute three different times and
19 was rejected. Once I cite in my motion, the other
20 by Representative Dudley at HB 7029 and then
21 another time. Each time it was rejected.

22 This means that the Legislature has spoken.
23 This is not the law. They have rejected it. The
24 CSAC cannot use a standard that's been rejected by
25 the Legislature with respect to Charter Schools.

1 Putting that aside, I don't really want to
2 take more time because I want to move things along
3 and open the floor for questions. Again, our view
4 is the same application has been approved by them,
5 virtually the same. I know this is a high school
6 and the curriculum is a bit different, but the
7 substance of the academy model is basically the
8 same.

9 So, again, I don't want to reiterate, I just
10 want to open the floor for questions. But, again,
11 they themselves have approved our application
12 seven times. The CSAC has approved it. The State
13 Board has approved it. These are all virtually
14 identical. We're all only here today because of
15 this ongoing issue with the School Board not
16 wanting anymore of our Charter Schools there, and
17 that's lawlessness and that shouldn't be upheld.
18 Thank you.

19 CHAIR TEPPER: For the District, three
20 minutes on the first issue.

21 MR. FAHEY: Hello. I'll go ahead and have
22 Mr. Pegg come up now and explain why the -- with
23 respect to Section One that this did not meet the
24 standard.

25 MR. PEGG: I'm Jim Pegg, the Director of the

1 Department of Charter Schools for the School
2 District of Palm Beach County.

3 In regard to the Section One, the mission and
4 vision as it applies to the application, applying
5 not only the DOE rubric but also the rubric that
6 applies to innovation that the School District of
7 Palm Beach County uses with School Board Policy
8 2.57, we found that it was insufficient, that many
9 of the things that have been shared just recently
10 by Mr. Haiko are things that are regular practices
11 in most schools, in most all schools across the
12 State of Florida in regards to every day
13 practices. And they don't really speak to the
14 rubric as being innovative.

15 You can research or access that rubric on the
16 School Board policy for the School District of
17 Palm Beach County or we can provide you a copy of
18 that. But as we look at those individual
19 situations like the pupil individual plan, that is
20 something that takes place in every school in the
21 State of Florida on a regular basis and primarily
22 in the School District of Palm Beach County.

23 They also spoke of different innovative
24 structures in regards to the technology and the
25 implementation of instructional programs that are

1 identical to what we might see across the State of
2 Florida and also in the School District of Palm
3 Beach County.

4 Well, what innovation is is something that's
5 going to provide an opportunity for students to
6 grow and to establish a learning pattern. If we
7 have anything we want to back this up on, we look
8 at research, and research says that with each year
9 that a child attends school, their interest and
10 their progress in school decreases because they
11 are not facing innovative strategies that can help
12 them be more successful. We would like to see
13 Charter Schools USA, the School District of Palm
14 Beach County, or any Charter School, provide those
15 innovative strategies that can keep students
16 interested in learning each and every day and be
17 successful as they move along.

18 MR. FAHEY: How much time do I have left?

19 CHAIR TEPPER: One minute.

20 MR. FAHEY: One minute?

21 CHAIR TEPPER: Yes.

22 MR. FAHEY: If I can briefly address -- we'll
23 rely on our written arguments to the extent I'm
24 not able to address them now. But for the other
25 two sections in this issue, Section (6) concerns

1 exceptional students. And this one is of
2 paramount importance. One of the criteria under
3 the evaluation instrument is that the Applicants
4 make realistic enrollment projections of students
5 with disabilities and a staffing plan that aligns
6 with that projection.

7 And the Applicants considerably
8 under-projected. They projected 10 percent
9 population. The District average is anywhere
10 between 15 to 20 percent. You know, 20 percent is
11 what our budget director relies upon. Palm Beach
12 County has a larger ESE population than other
13 schools in Palm Beach County (sic.) That's in the
14 record before the Commission.

15 And the reason this is important -- it's not
16 a mere disagreement over numbers -- an Applicant's
17 ability to demonstrate that it will actually serve
18 these students is paramount. Applicants that
19 under-project these issues consistently require
20 extensive monitoring, they run into compliance
21 issues, they don't have adequate staffing to serve
22 these students and those students' needs are not
23 met. And that has been an issue in our District
24 in particular, and that's why the District looks
25 for this in the front end.

1 Section (7) concerns English Language
2 Learners. And, again, same thing, has to assure
3 the School Board of its ability and its capacity
4 to comply with its obligation under federal law.
5 Thank you.

6 CHAIR TEPPER: Thank you.

7 So questions from Commission Members on Issue
8 One?

9 Jenna.

10 MS. HODGENS: I have a couple of questions.
11 So on the ESE, if the School District can tell me,
12 I read 14 percent, 15 percent, 20 percent
13 throughout the documents. What is the percentage
14 of ESE students in high school in Palm Beach
15 County, because since this is a high school I just
16 kind of want to know what that looks like?

17 MR. PEGG: Typically in high schools in the
18 School District of Palm Beach County run between
19 17 and 19 percent, depending on what location they
20 are in. But that is the standard of the ESE.

21 MS. HODGENS: 17 to 19 percent of high school
22 students across the District?

23 MR. PEGG: Uh-huh. You obviously have some,
24 we'll say, special programs, like we have Suncoast
25 High School, which is an International

1 Baccalaureate that has a very low percentage of
2 ESE students. But as you go to a comprehensive
3 high school such as John I. Leonard, you have more
4 than 20 percent of the students that would have
5 ESE, so it balances out between 17 and 19.

6 MS. HODGENS: Okay. So stay there for one
7 more second. Then tell me, in the other schools
8 that they operate, which I understand are not high
9 schools, they are K-8 schools, has there been ESE
10 issues in those schools? Have there been students
11 that have not been served based on their IEP in
12 those schools?

13 MR. PEGG: Actually, we have an issue as we
14 sit here today. They have had difficulty. Maybe
15 it's related to their budget, perhaps it's related
16 to their hiring practice, but they have difficulty
17 in recruiting and retaining ESE teaching staff to
18 address the IEP needs of the students. As a
19 result, compensatory plans have been put in place
20 at Renaissance operated schools in the School
21 District of Palm Beach County.

22 MS. HODGENS: Okay. Thank you.

23 MS. ALEXANDER: Can we respond?

24 CHAIR TEPPER: Absolutely.

25 MS. HODGENS: Yeah.

1 MS. ALEXANDER: Thanks. With respect to the
2 percentages, we --

3 CHAIR TEPPER: You need to go to the podium
4 so we can all hear you.

5 MS. ALEXANDER: I'm sorry. Sure.

6 With respect to the percentages, Charter
7 Schools USA used the ESE percentages that it found
8 throughout the state in its other high schools and
9 so their position is that it was accurate for
10 their high schools and what they've shown to be
11 true throughout the state.

12 In addition, what it plainly says is they'll
13 adjust up or down teacher staffing, based on what
14 the percentages turn out to be. And they also
15 have a number of schools already in the District
16 and that's basically what their percentage is.

17 And I'm not sure that what the current ESE
18 evidence is is relevant to the Charter Application
19 that's going on here.

20 MS. HODGENS: I think it lends itself to
21 capacity. I mean, I think we -- as Districts, we
22 always look at capacity also, so I do -- if I'm
23 reviewing an application for a school and I have
24 schools that operate in my District, I do look at
25 the issues at those schools, too, that's why I

1 asked the question.

2 MS. ALEXANDER: Sure. Do you want to speak
3 to one of our ESE people?

4 CHAIR TEPPER: I have a question first. You
5 said in order to get your percentage, you looked
6 at other Renaissance High Schools?

7 MS. ALEXANDER: Yes, throughout the state.

8 CHAIR TEPPER: All over the state, not in
9 this District?

10 MS. ALEXANDER: Right. And I think --

11 MR. KELMANSON: We don't have any.

12 CHAIR TEPPER: Okay. But you didn't look at
13 their other high schools?

14 MR. KELMANSON: We evaluated several
15 percentages but we --

16 CHAIR TEPPER: Go to the podium, please, and
17 identify yourself, please.

18 MR. KELMANSON: Good morning, everyone. My
19 name is Derek Kelmanson with Charter Schools USA.
20 It's an honor and a privilege to be here. Thank
21 you very much.

22 I worked with the Governing Board in putting
23 together this Charter Application. And in all
24 parts of the Charter Application, we tried to make
25 it consistent, and that's why we budgeted

1 10 percent ESE student population. And that's
2 referenced in the ESE section.

3 But on page 100 in the Charter Application,
4 it states, based on the enrollment of students
5 with disabilities, the school will hire and train
6 the appropriate number of teachers to ensure all
7 necessary IEP services are being implemented.

8 And I think that can be demonstrated by what
9 actually happens in the schools. So at this time,
10 I would like to call Dr. Raskin.

11 CHAIR TEPPER: We're good. We're going to go
12 with more questions.

13 MR. KELMANSON: Okay.

14 CHAIR TEPPER: Go ahead.

15 MS. HODGENS: Can I go ahead and ask that
16 question?

17 CHAIR TEPPER: You can ask the question.

18 MS. HODGENS: The second question?

19 CHAIR TEPPER: Yes.

20 MS. HODGENS: So my second question was are
21 there any issues with ESE students at the other
22 schools that are run in Palm Beach County? Are
23 there any ESE issues in Renaissance Schools in
24 Palm Beach County?

25 MR. KELMANSON: Identify yourself first.

1 DR. RASKIN: Hi. Good morning. I'm Jana
2 Petersell Raskin, Director of Special Education
3 for Charter Schools USA. Thank you for allowing
4 me to be here today.

5 Ask me your question again. Are there
6 current issues?

7 MS. HODGENS: So in the schools that you
8 currently run in Palm Beach County, do you have
9 issues meeting the needs of the students based on
10 their IEP in your other schools?

11 DR. RASKIN: From our perspective, we do not
12 have any issues at the present time. We do have
13 some ongoing conversation that's happening with
14 Palm Beach County right now where there was a
15 teacher who left for a short -- who left and then
16 we had to go through the hiring process to bring a
17 new teacher on board. And plans to make up all of
18 those services are already in place and underway.
19 So it's not a current issue, it's an old issue
20 that from our perspective is fully resolved.

21 MS. HODGENS: And so how long was there no
22 teacher for the ESE students at that site?

23 DR. RASKIN: It's not that there was no
24 teacher. One teacher had left, so the other
25 teachers were filling in the pieces. Arrangements

1 were made for a substitute teacher to be able to
2 come in and to be able to provide services in that
3 interim period. I think that it was four weeks
4 from when the teacher left until another teacher
5 was in place.

6 MS. HODGENS: So all of your schools have
7 certified teachers?

8 DR. RASKIN: Yes.

9 MS. HODGENS: Provide services based on the
10 IEP that the students have when they come to your
11 school?

12 DR. RASKIN: Yes.

13 MS. HODGENS: And you're providing the same
14 services they would have received in a District
15 School?

16 DR. RASKIN: Yes.

17 CHAIR TEPPER: Other questions?

18 District, I'll give you one minute on that
19 before we go on to the next question.

20 MS. SAGERHOLM: I would like just to
21 reiterate what we put in the response under the
22 budget for ESE. They are doing 10 percent versus
23 15 to 20, which they could easily have looked at
24 the numbers that we provided they have access to
25 that would show that they are well below. And

1 that's been a problem because they haven't
2 correctly addressed the needs of some of the ESE
3 students, which is what Mr. Pegg referred to. But
4 right now the situation was where there was not
5 coverage for nine weeks.

6 MR. PEGG: October through December.

7 MS. SAGERHOLM: October through December,
8 compensatory time. And you can't give that back
9 to those children. So that is a concern of ours.
10 There's a reason why we put it in there partially
11 meets, because this has been an ongoing issue with
12 them either not having a certified teacher or not
13 providing services under the IEP sufficiently for
14 those students.

15 CHAIR TEPPER: Other questions?

16 MS. SAGERHOLM: And that's noted -- the
17 budget issue is noted in our response. I'm sorry.

18 CHAIR TEPPER: Other questions?

19 MS. ALEXANDER: Just a brief response.

20 CHAIR TEPPER: Ms. Alexander.

21 MS. ALEXANDER: I'm sorry.

22 CHAIR TEPPER: Thank you.

23 MS. ALEXANDER: Okay.

24 CHAIR TEPPER: Go ahead, Sonia.

25 MS. ESPOSITO: I just have a question for the

1 District in regards to the ELL section. When I
2 look at the review, it says that the Charter
3 Applicant must make reference to the District
4 agreement.

5 Do you share that information to all the
6 Applicants or there is something that you can even
7 add during your contract negotiations to Charter
8 Schools? Is there a rubric or is there some
9 guidance that it says in order for you to comply
10 with this section, you must include this?

11 MR. PEGG: When we entertained -- or we have
12 an Applicant training each spring. And last year
13 the Applicant training was held on May 13th of
14 2015. I remember because it was my birthday. So
15 at that time, what we do is we provide them with a
16 Department of Justice ruling and what is expected
17 to be included in the applications for those
18 Charter Schools. So they are given an actual copy
19 of that ruling and of that direction.

20 MS. ESPOSITO: And they're told that they
21 must reference the --

22 MR. PEGG: Absolutely, because the Department
23 of Justice says Charter Schools and District
24 operated schools must adhere to the plan.

25 MS. HODGENS: I have a question for the

1 school.

2 MS. BRUBAKER: I have a question, too.

3 CHAIR TEPPER: I'm going to let the school
4 respond to that.

5 MR. KELMANSON: Good morning again. Yes, we
6 did attend the District Applicant's training. It
7 was brought to our attention at the Charter
8 Application interview. The person that reviewed
9 that section was under the impression that one of
10 our schools was having an issue, but it actually
11 wasn't our school, it was another school in the
12 District with the name Renaissance in it. And at
13 the end of that, he said, oh, I'm sorry about
14 that.

15 We did acknowledge in the interview that we
16 would comply with that ruling and we are currently
17 complying with that in our existing schools. We
18 also said in the Charter Application on page 103
19 that the school will adhere to the School District
20 of Palm Beach County's LEP Plan, so we'll follow
21 their plan.

22 CHAIR TEPPER: Okay. Thank you.

23 Cathy.

24 MS. BRUBAKER: I'm looking at the Statement
25 of Assurances and I'm thinking that during the

1 application wouldn't that cover that compliance
2 issue and then during the contract you would have
3 additional perhaps paperwork that you would have
4 to -- the Charter School would have to agree to
5 the -- what do they call it -- agreement with the
6 Department of Justice?

7 MR. FAHEY: Sure, the Statement of Assurances
8 is a broad issue. But the School Board would
9 respectfully respond that we're more interested in
10 an Applicant demonstrating its understanding and
11 its capacity to actually meet those obligations,
12 so that's the distinction that we would draw. A
13 broad Statement of Assurances is required to be in
14 the application and that's fine. But the specific
15 issues that pertain to Charter Schools operating
16 in the School District of Palm Beach County, this
17 resolution agreement is specifically relevant to
18 that.

19 MS. BRUBAKER: And how long would this
20 agreement go on, do you know, with the Federal
21 Government? Do you have an end date?

22 MS. SAGERHOLM: Yeah. It could be -- they're
23 subject to a review sometime in May, and so it
24 could be extended, the agreement could be
25 extended.

1 CHAIR TEPPER: Ms. Alexander.

2 MS. ALEXANDER: Yeah. It's our position that
3 the assurance provision actually meets the
4 standard. And I don't think that they can deny
5 our application based on their agreement with the
6 Federal Government. It's not part of the model
7 application. It's not part of the statute.

8 And we're a good citizen, of course we're
9 going to comply with whatever laws it dictates are
10 required of us.

11 CHAIR TEPPER: Jenna.

12 MS. HODGENS: So I guess my question is the
13 same. And I think that Mr. Kelmanson may have
14 said it, but I want to ask it anyway for the
15 record.

16 The schools that operate in the District, are
17 they following that agreement with the Department
18 of Justice? And I don't have the exact name here,
19 but are they following that agreement and is there
20 any problems with the schools that are currently
21 operating with ELL?

22 And I guess you can speak first, Mr. Epstein,
23 but then maybe somebody from the District could.

24 MR. EPSTEIN: Sure. Good morning. My name
25 is Steve Epstein. I'm principal of Renaissance

1 Charter of Palms West in Palm Beach County. We do
2 comply with the District's plan. So other than
3 that, the answer is that we are in compliance with
4 the plan.

5 CHAIR TEPPER: And the District.

6 MR. EPSTEIN: We haven't had any issues.

7 MR. FAHEY: We would just say this was
8 addressed in the transcript of the interview. It
9 has not -- there was an audit, several Charter
10 Schools are unfavorable under that audit, but by
11 this operator, no.

12 MR. EPSTEIN: We haven't had any ESE problems
13 or ELL issues, no.

14 CHAIR TEPPER: Okay. Other questions?

15 (No response.)

16 CHAIR TEPPER: Okay. Then would someone --

17 MS. HODGENS: I do have a question.

18 CHAIR TEPPER: Go ahead.

19 MS. HODGENS: I have to bring this up because
20 I want to understand this more, so I don't know
21 exactly what my question is going to be, but this
22 has been something that I think is important.

23 So if the District requires additional
24 information, and they're allowed to require
25 additional information, and it's defined, then if

1 the innovation piece is defined and it's provided
2 to every Applicant that applies, is that something
3 that can be used to deny an application if it
4 doesn't meet that standard?

5 I mean, I really do need clarity on that
6 because as I read this, it kept going back to
7 that. So if it really has no substance at all,
8 then why would a District ever add additional
9 information?

10 So I think I'm asking you a question first
11 and then I think I want to ask the School District
12 a question.

13 CHAIR TEPPER: Dave and I talked about that
14 and they can ask for further information, but it's
15 up to you to decide if they deny on that whether
16 that was good cause.

17 MS. HODGENS: Okay.

18 CHAIR TEPPER: In other words, the District
19 can say all Charter Schools have to paint their
20 schools purple and the Charter School may or may
21 not and they can deny them for that. And then you
22 have to decide whether that was a good reason.

23 MS. HODGENS: Okay.

24 CHAIR TEPPER: Okay.

25 MS. HODGENS: All right. So with that being

1 said -- thank you, because I needed clarity on
2 that because that's come up throughout this, too.
3 So with that being said, if the School District
4 could help me with your rubric because when I see
5 your rubric, I feel that I -- I want to know what
6 would a school that met this criteria look like,
7 because that was where I struggled, too?

8 The definition I get -- and it did look kind
9 of dictionary-ish, so I could go with that. But
10 then when I had the rubric, I'm just trying to
11 figure out what would a school that meets this
12 standard looked like, because there are some
13 things that it appears that Renaissance is doing
14 that is different than the District.

15 I mean, I read the Board Member comments, and
16 I don't know that I 100 percent think that the
17 Board Members were saying, we don't do this, we
18 should, this is innovative, I don't know if I
19 would go that far. But clearly there were some
20 things in here that it appears that Renaissance
21 K-8 schools are doing that District Schools are
22 not doing, which in essence by default maybe would
23 make that innovative in your School District.

24 But tell me what a school that meets this
25 rubric would look like.

1 MR. PEGG: I think the best way to answer
2 that question is in regards to the applications
3 that we have approved. And if we look at the
4 three applications approved for this past school
5 year, those schools have imported into their
6 programs things that will help students grow. For
7 example, two of the applications are for high
8 schools, other high schools. And those two high
9 schools are going to apply strategies and
10 techniques and innovative strategies to get to
11 where the students need to be to be successful.
12 They're going to use a combination -- a more
13 readily or more concrete picture of how they're
14 going to blend with, say, facilitative learning
15 and computer learning and teacher learning
16 altogether, so I -- teacher teaching I guess you
17 would say altogether.

18 And I didn't see that in this application.
19 And I would really be interested to know that
20 which you think that they are doing that they say
21 that they're doing because that's not the picture
22 I have really, I got to be honest with you.

23 Likewise, the third one that was applied was
24 one that's going to provide special education
25 services above and beyond what the School District

1 would have been able to do because they're going
2 to use a different ratio. They're going to use
3 different strategies and different people that are
4 trained in a different way to work with those
5 students that have special education
6 identification. So we look at each application.

7 And there were applications that actually
8 were denied for other reasons this year that met
9 the innovative criteria as we reviewed those
10 applications, but they may not have had a strong
11 budget and therefore either were denied or
12 withdrew.

13 MS. HODGENS: Okay.

14 CHAIR TEPPER: For the school.

15 MS. ALEXANDER: Ms. Hodgens, you asked
16 actually when the School Boards could ask for
17 additional information without imposing your own
18 standard. And I want to use an example that
19 oftentimes -- especially with like Palm Beach --
20 we'll get a request we need budget information put
21 forth on our specific rubric to work with our
22 computers or whatever. And I think that kind of
23 additional information is fine.

24 What they can't do is put forth a definition
25 of innovative which I just asserted has been

1 rejected by the Legislature three times in the
2 last month. They can't then remake the law. Our
3 view is that is wholly illegal.

4 But putting that aside, the crux of the issue
5 is if you want to focus on, well, they can ask for
6 additional information, we agree. They asked for
7 no additional information with respect to
8 innovation. They asked for none. They asked for
9 the Charter Application, which we provided. And
10 then after we put it in, they said, we're going to
11 use our rubric and analyze it.

12 So in order to fall within that, it goes
13 without saying that they would have had to have
14 asked for additional information in the first
15 place. They didn't. They just chose to deny it
16 after the fact on the basis of innovation.

17 And Derek is here, he was in charge of the
18 application from our side, and he'll confirm that
19 they asked for no additional information on the
20 innovation issue so they cannot use that as an
21 escape hatch here.

22 MR. KELMANSON: If I may, just to clarify the
23 comments. At the District training, it was stated
24 that Charter Applicants that submit applications
25 need to be aware of the new School Board policy

1 that was passed regarding innovation. We were
2 given this rubric. We feel like we addressed all
3 of the information provided to us at that time in
4 this Charter Application by addressing what would
5 be innovative about the school.

6 What Ms. Alexander is referring to about no
7 additional information is that I believe during
8 the review process, the evaluation instrument was
9 made available to us. There was a -- this
10 application was submitted online, and there's a
11 tool called Charter Tools where the reviewers go
12 in and put notes and then the Applicant reviews
13 them and then we come to an interview and we're
14 asked questions about it.

15 In the Charter Tools, there were no comments
16 provided for why it was lacking innovation. But
17 at that time, we were told that this section did
18 not meet. At the interview no discussion was had
19 about innovation.

20 And then as a letter was issued that said you
21 have seven days to provide supplemental
22 information, did not request additional
23 information at that time.

24 CHAIR TEPPER: For the District.

25 MR. FAHEY: Thank you. I just want to

1 clarify there are two provisions of the Charter
2 School Statute that are implicated here how they
3 operate in tandem.

4 So the request for additional information,
5 that's codified in the School Board Policy 2.57.
6 And that's automatic. There's no need for the
7 School Board to request it. It's supposed to be
8 included with the application. And the Applicants
9 have acknowledged that they were trained on that
10 requirement and made aware of it.

11 The second provision that's at issue here is
12 the provision of the Charter School Statute that
13 only allows for nonsubstantive changes to be made
14 once the application is in, typographical errors,
15 other issues like that. Obviously substantive
16 information about whether or not the Applicants
17 met our innovative criteria could not be provided
18 after the fact. So it's true no request was made
19 after the application was submitted for additional
20 information on that point, but that's perfectly in
21 line with the Charter School Statute and also the
22 School Board Policy 2.57 which prohibits the
23 submission of additional substantive information.

24 CHAIR TEPPER: Go ahead.

25 MS. HODGENS: And just to clarify, I was

1 asking about the additional information that you
2 asked prior to the application being submitted.
3 Just for clarity, that's what I was referring to.

4 MS. ESPOSITO: And just for clarity or
5 comment, you know, when the evaluation instrument
6 is sent to the Applicant and there's no notes in
7 there, sometimes it's really hard for the two
8 parties to communicate exactly why it doesn't
9 meet. I just wanted to make that point.

10 CHAIR TEPPER: Are we ready for a vote?

11 (Affirmative response.)

12 CHAIR TEPPER: Would someone like to make the
13 motion then?

14 MS. BRUBAKER: I'll make it.

15 CHAIR TEPPER: Cathy.

16 MS. BRUBAKER: I move that the Commission
17 find that the School Board did not have competent
18 substantial evidence to support its denial of the
19 application based on the Applicant's failure to
20 meet the standard for the Educational Plan.

21 CHAIR TEPPER: You've heard the motion, that
22 the Commission find the School Board did not have
23 competent substantial evidence for its denial on
24 this issue.

25 Is there a second?

1 MR. MORENO: I'll second it.

2 CHAIR TEPPER: Richard.

3 So the motion is the Commission find the
4 School Board did not have competent substantial
5 evidence to support it's denial of the application
6 based on the Applicant's failure to meet the
7 standards for the Educational Plan. If you vote
8 yes, you are voting for the Charter School. If
9 you vote no, you are voting for the School
10 District.

11 Jackie.

12 MS. HITCHCOCK: Cathy Brubaker.

13 MS. BRUBAKER: Yes.

14 MS. HITCHCOCK: Sonia Esposito.

15 MS. ESPOSITO: Yes.

16 MS. HITCHCOCK: Jenna Hodgens.

17 MS. HODGENS: Yes.

18 MS. HITCHCOCK: Richard Moreno.

19 MR. MORENO: Yes.

20 CHAIR TEPPER: Okay. You have found that the
21 School Board did not have competent substantial
22 evidence so we don't need to do part two, and the
23 Charter School prevails on that issue.

24 Issue Two is whether the Organizational Plan
25 failed to meet the following standard. There's

1 just one, student recruitment and enrollment.

2 For the Charter School.

3 MS. ALEXANDER: Again, I won't take all of my
4 time in the interest of efficiency. I just want
5 to say, again, this application has been accepted
6 by them seven times, by the CSAC, by the State
7 Board. And they already have six schools running
8 in Palm Beach County, so they know how to recruit
9 students and enroll and all this other stuff. So
10 our position is, like the seven times previously
11 that they approved it, it fully met the standard.
12 Thank you.

13 CHAIR TEPPER: For the District.

14 MR. FAHEY: Thank you. The issue here is the
15 adequacy of Section (13), which concerns student
16 recruitment and enrollment. The specific issue
17 was with the volunteer hour requirement for the
18 parents. The evaluation instrument requires the
19 school's enrollment process as a whole to be open,
20 fair and in accordance with applicable law.

21 The model application meanwhile expressly
22 requires the Applicant to explain if and how the
23 school will enforce parent volunteer contracts.
24 Those contracts are enforceable, so that's not the
25 issue. The issue is that the Applicant conceded

1 that it did not explain in the application if and
2 how it would enforce those contracts.

3 This was not merely an oversight. Twelve
4 pages of the interview transcript are dedicated to
5 this seemingly simple issue because the
6 Applicant's representatives simply would not
7 definitely explain when and how they would enforce
8 these volunteer hour requirements. There's a lot
9 of language about working with parents. But at
10 the end, all they could really say was the
11 students' enrollment for the next year would be
12 questioned or that there would be the potential
13 for nonenrollment of that student.

14 So this really -- what the District's concern
15 here is, the School Board's concern is arbitrary
16 or unfair enforcement of these volunteer hour
17 requirements. And if the Charter School doesn't
18 indicate to the School Board how it will enforce
19 its parent volunteer hour contracts, then it's
20 difficult for the School Board not to be concerned
21 or to conclude the enforcement won't be arbitrary
22 or unfair.

23 So the School Board's findings on
24 Section (13) were supported by competent
25 substantial evidence, including the concession of

1 the Applicants, and were good cause to deny the
2 application. Thank you.

3 CHAIR TEPPER: Okay. Questions from
4 Commission Members on Issue Two?

5 MR. MORENO: For the District. On the
6 current schools that are operating, is there any
7 issue out there with the current parent contract
8 that they are using?

9 MR. PEGG: There have been several situations
10 that I've had to investigate the parents' report
11 that their students were dismissed because they
12 hadn't met volunteer hours.

13 Now, I got to be honest, I have not been able
14 to substantiate that. It's a parent's claim.
15 However, it did create a conflict or some
16 controversy in regards to that. And that is one
17 of the concerns we have as we move forward, that
18 parents will be -- and their children would be
19 punished for not satisfying volunteer hours.

20 CHAIR TEPPER: School District on that issue.

21 MS. ALEXANDER: You mean us?

22 CHAIR TEPPER: I mean school, sorry.

23 MS. ALEXANDER: Sure. With respect to the
24 parent contract, it wasn't provided in the
25 application because it wasn't required. They

1 already had multiple copies of our parent
2 contract. It was going to be provided in tandem
3 with the application checklist, which is where it
4 comes in. But our parent contracts clearly comply
5 with the law and they know that.

6 MR. EPSTEIN: Steve Epstein again. We
7 haven't had to deal with any of that as far as
8 with our parents.

9 CHAIR TEPPER: No issues?

10 MR. EPSTEIN: No.

11 CHAIR TEPPER: Okay.

12 MS. HODGENS: So no student has been not
13 reenrolled or not admitted because of that?

14 MR. EPSTEIN: No.

15 MS. HODGENS: I guess it wouldn't be a not
16 admitted because you can't volunteer before you
17 come, but I guess you could.

18 MR. EPSTEIN: I mean, in any situation -- and
19 I've been in multiple schools with our
20 organization, and in any situation we work with
21 the parents. I mean, it's what's best for the
22 students and what's best for our parents that come
23 to our school.

24 MS. HODGENS: Okay.

25 CHAIR TEPPER: Other questions?

1 (No response.)

2 CHAIR TEPPER: Would someone like to make the
3 motion then on Issue Two and choose did or did
4 not?

5 MS. HODGENS: I'll do it.

6 CHAIR TEPPER: Okay.

7 MS. HODGENS: I move that the Commission find
8 that the School Board did not have competent
9 substantial evidence to support its denial of the
10 application based on the Applicant's failure to
11 meet the standards for the Organizational Plan.

12 CHAIR TEPPER: You've heard the motion, the
13 Commission find the School Board did not have
14 competent substantial evidence on this issue.

15 Is there a second?

16 MS. ESPOSITO: Second.

17 CHAIR TEPPER: Sonia.

18 So the motion is the Commission find the
19 School Board did not have competent substantial
20 evidence to support its denial of the application
21 based on the Applicant's failure to meet the
22 standards for the Organizational Plan. If you
23 vote yes, you are voting for the Charter School.
24 If you vote no, you are voting for the School
25 District.

1 Jackie.

2 MS. HITCHCOCK: Cathy Brubaker.

3 MS. BRUBAKER: Yes.

4 MS. HITCHCOCK: Sonia Esposito.

5 MS. ESPOSITO: Yes.

6 CHAIR TEPPER: Jenna Hodgens.

7 MS. HODGENS: Yes.

8 MS. HITCHCOCK: Richard Moreno.

9 MR. MORENO: Yes.

10 CHAIR TEPPER: So the Charter School prevails
11 on that issue. We don't need to do Section Two.

12 Issue Three, whether the Applicant's Business
13 Plan failed to meet the following standard:
14 Budget, just one.

15 For the Charter School.

16 MS. ALEXANDER: Again, I know you're tired of
17 hearing this from me, but they have approved the
18 same application virtually seven times, so has the
19 CSAC and the State Board. With respect to these
20 issues, one of the main concerns seem to be that
21 they have an issue with how much we pay our
22 teachers. Frankly, that's a business issue,
23 that's not a legal issue for them to decide.
24 That's related to our organizational stuff.

25 And the other issue is -- I'm sorry, I'm

1 blanking out on that. But in any event, that's
2 not a legal issue. They can't decide what we pay
3 our teachers.

4 Also, with respect to the budgetary
5 constraints, this is well known throughout the
6 state is Charter Schools USA stands behind all of
7 its schools. So if there is a budgetary shortfall
8 in one particular year or less students enroll in
9 a particular school, they fully stand behind it
10 financially. So we've never had an issue in any
11 school throughout the state where there was any
12 kind of financial emergency or any other issue
13 like that, so the same would apply here. Thank
14 you.

15 CHAIR TEPPER: For the District.

16 MR. FAHEY: Thank you. So we'll just say the
17 issue here, whether the Applicant's budget was
18 consistent with all parts of the application and
19 presented a realistic projection of expenses and
20 revenues -- and that's really the issue, it's not
21 so much what they're paying their teachers, it's
22 whether it's realistic -- and the budget director
23 noted, particularly with respect to teacher
24 salary, given the qualifications of the teachers
25 they expected to have in this school, the salary

1 projections were too low. And what they meant in
2 reality was higher teacher turnover and the
3 inability to retain these teachers that they
4 needed to operate this school.

5 And with respect to -- but also that meant,
6 you know, practically, business speaking, they
7 were going to be operating at a cumulative deficit
8 based on the adjustments the budget director
9 found. So our findings on Section 17 were
10 supported by competent substantial evidence and
11 amounted to good cause to deny the application.

12 And if I could also just use this moment to
13 briefly reiterate two objections, the School
14 Board's standing objection to the motion sheet and
15 the School Board's argument that it does not waive
16 its objection to the proceedings as
17 unconstitutional for the reasons detailed in our
18 written arguments. Thank you.

19 CHAIR TEPPER: Okay. Questions from
20 Commission Members on the budget?

21 MS. BRUBAKER: I have a question. In your
22 other schools, do you have a high turnover rate
23 with the same average salary?

24 MR. KELMANSON: Steve, do you have an example
25 from your school?

1 MR. EPSTEIN: No. I can tell you that the
2 majority -- from when I came in to the County, the
3 majority of the staff has been there for the three
4 years the school has been open. And I think any
5 School District, private, Charter, has teacher
6 issues that's not necessarily based on salary. I
7 mean, you try to build that culture and the
8 relationship as a building leader to keep your
9 staff there as well.

10 CHAIR TEPPER: Okay. Others?

11 Richard.

12 MR. MORENO: Yeah. Let's say that you do
13 need to increase the salaries a little bit. Is
14 there flexibility within the budget to adjust? As
15 you mentioned, CSUSA will stand behind. Maybe you
16 can clarify how that would work.

17 MS. LEWIN: Good morning. My name is Alexis
18 Lewin. I'm the Manager of Financial Planning and
19 Analysis for Charter Schools, or one of them.
20 Thank you for allowing me to be here.

21 In response to your question, basically there
22 are certain elements and there are certain
23 surpluses that may exist that you can offset these
24 requirements. I think that if you look at some of
25 the details of what makes up their contention of

1 the insufficiency of the budget -- and I think
2 that's really the criteria here, is the budget
3 sufficient?

4 I think that some of what they have really
5 pointed out are extreme to us. They emphasize on
6 benefits and what the reasonable benefit allotment
7 would be when we've got a rather large portfolio
8 of schools. And this budget was consistent
9 percentage-wise with what we've realized
10 throughout our portfolio. Good, bad or
11 indifferent, it is what it is. And, therefore,
12 there really isn't a sufficiency argument in that
13 regard.

14 In terms of compensation, I think that one
15 thing that really needs to be important here is we
16 may not be equivalent with what the District is,
17 but there is a certain type of individual that
18 tends to lend itself well to our organization in
19 terms of commitment and what they're looking for.
20 And so it's beyond just a compensation level,
21 because they really have -- their methodology is
22 so specific on what they're doing and it takes a
23 certain kind of individual to be there, and that's
24 been the practice.

25 But in terms of budget and compensation, I

1 think that there has been an overemphasis in terms
2 of what the requirement would be.

3 MS. ALEXANDER: We want to make sure you get
4 your question answered. Sorry.

5 MR. KELMANSON: Answer the question
6 specifically.

7 MS. LEWIN: In terms of the offset --

8 MR. KELMANSON: On page 139.

9 MS. LEWIN: -- you've emphasized that like
10 three or four times. CSUSA will do whatever is
11 necessary in order for the institution to meet its
12 financial obligations. We will offset our
13 management fees accordingly in order to meet the
14 end goal.

15 MR. MORENO: Yeah. So in the budget just
16 identify where was that and how much was
17 apportioned so we know how much flexibility there
18 is there.

19 MS. LEWIN: I mean, there are many areas
20 throughout the budget. I can address some of
21 where there have been, quote, unquote, shortfalls.
22 And I think that there were certain line items
23 that were overlooked in terms of consideration on
24 the instructional side.

25 Specifically, we have our own business model,

1 and we try to fit it as best we can. We've got
2 other --

3 MR. KELMANSON: Specifically his question was
4 about the management fees.

5 MS. LEWIN: Oh, I'm sorry.

6 MR. KELMANSON: On page 161 in the expense
7 assumptions, it lays out the management fees that
8 will be collected in the first five years of the
9 budget.

10 MR. MORENO: I just wanted to make sure
11 there's enough flexibility here.

12 CHAIR TEPPER: Okay. For the District, your
13 response.

14 MR. FAHEY: Just to briefly reiterate -- the
15 detail are in our written arguments -- but the
16 budget director looked at other schools managed by
17 Charter Schools USA so our comparison point wasn't
18 arbitrary or extreme, it was based on the
19 Applicant's other schools. So that's all I wanted
20 to reiterate.

21 CHAIR TEPPER: Jenna.

22 MS. HODGENS: And I did want to make mention
23 of that because it seemed that you did put a
24 salary of 37,000 in this budget, and you're saying
25 that -- the lady that just spoke, I'm sorry, I

1 didn't catch your name.

2 MS. LEWIN: Alexis.

3 MS. HODGENS: Alexis. You said that your
4 benefits piece might look low, but it's actually
5 what you're realizing in your portfolio. But your
6 average teacher salary is higher in the schools
7 that are in Palm Beach County.

8 So is there a reason why you wouldn't have
9 used the historical data that you have for teacher
10 salaries in this budget also, because I believe it
11 was like 39,100 or something instead of the
12 37,000. I can't remember the exact amount, but it
13 was higher than that.

14 MS. SAGERHOLM: If I could --

15 CHAIR TEPPER: For the school first and then
16 I'll come back.

17 Go ahead. Was there a reason that you picked
18 the salary you picked?

19 MR. KELMANSON: I would just respond if we
20 look back at the personnel section in the human
21 resources, I believe it's Section 12 where we talk
22 about the pay for performance and the teacher
23 evaluation and the success of students, I think
24 that was all taken into consideration in this
25 proposal for the budget.

1 MS. HODGENS: So then the 39,000 that the
2 teachers receive at the other schools includes all
3 those other payments, payments on pay for
4 performance and the Student Success Act and all
5 that?

6 MR. KELMANSON: I think what I'm trying to
7 say is that we anticipated at this level starting
8 at 37 and moving them up rather quickly based on
9 these factors, if they could perform well.

10 MS. HODGENS: Okay.

11 CHAIR TEPPER: The District.

12 MS. SAGERHOLM: I just would reiterate again
13 what we had in our rating under the budget. I'm
14 not here to speak on behalf of the budget director
15 but trying to recapture it as best I can.

16 The average teacher salary for Palm Beach
17 County Charter Schools is 39,500, District average
18 is 49,300. Average teacher salaries for Charter
19 Schools USA schools operated in Palm Beach County
20 is 38,670 based on teacher salary information
21 reported to Palm Beach County for teachers paid
22 over 18,000. The proposed average salary is well
23 below that of other Charter Schools in the area as
24 well as Charter Schools USA average. The average
25 benefit rate for Charter Schools in Palm Beach

1 County is 25 percent. 17 percent is well below
2 the average.

3 And, again, we would reiterate what the
4 budget director's concerns were, is that the
5 result will result in higher teacher turnover and
6 fewer certified teachers. And at the original
7 budget submitted had a net income ranging from
8 \$12,674 to 364,860. After making adjustments for
9 the issues noted above, she says, the school will
10 be operating in a cumulative deficit.

11 So I would reiterate we would have been fine
12 if we had looked at what they did for -- they're
13 saying over and over again we're doing the same
14 thing as we did in our same six applications, you
15 approved that. Well, when we're looking at the
16 budget and we're looking at what's being currently
17 expended, it's well below. We have concerns about
18 that, along with the ESE budget.

19 CHAIR TEPPER: I'll let the school have the
20 last word.

21 MR. KELMANSON: Just to put the review of the
22 application in context, there was a lot of
23 discussion at the interview and in the denial
24 letter about all of these sections, not just the
25 teacher salary that the budget director felt would

1 make the school operate in a deficit, as the lady
2 just said.

3 Subsequent to that within the seven-day
4 period, we were able to submit documentation with
5 considerations, as Alexis alluded to, where we
6 adjusted some of her misunderstandings in the
7 budget and pointed out where they were and
8 provided her with the reassurance that it would
9 not end in a deficit.

10 MS. ALEXANDER: When you say "her," are you
11 referring to the School Board representative?

12 MR. KELMANSON: Heather Knust, I believe is
13 her name.

14 MS. SAGERHOLM: Knust is our budget director.

15 CHAIR TEPPER: Thank you. Other questions?

16 (No response.)

17 CHAIR TEPPER: Then would someone please make
18 the motion on Issue Three.

19 Cathy.

20 MS. BRUBAKER: Sure. I move that the
21 Commission find that the School Board did not have
22 competent substantial evidence to support its
23 denial of the application based on the Applicant's
24 failure to meet the standards for the Business
25 Plan.

1 CHAIR TEPPER: You've heard the motion, that
2 Commission find the School Board did not have
3 competent substantial evidence for its denial on
4 this issue.

5 Is there a second?

6 MR. MORENO: I'll second it.

7 CHAIR TEPPER: Richard.

8 So the motion is the Commission find the
9 School Board did not have competent substantial
10 evidence to support its denial of the application
11 based on the Applicant's failure to meet the
12 standards for the business plan. If you vote yes,
13 you are voting for the Charter School. If you
14 vote no, you are voting for the School District.

15 Jackie.

16 MS. HITCHCOCK: Cathy Brubaker.

17 MS. BRUBAKER: Yes.

18 MS. HITCHCOCK: Sonia Esposito.

19 MS. ESPOSITO: Yes.

20 MS. HITCHCOCK: Jenna Hodgens.

21 MS. HODGENS: No.

22 MS. HITCHCOCK: And Richard Moreno.

23 MR. MORENO: Yes.

24 CHAIR TEPPER: So we don't have to do Section
25 Two. The Charter School has prevailed on all

1 three issues. So would someone please make the
2 final motion to grant the appeal.

3 MS. HODGENS: I'll do it.

4 CHAIR TEPPER: Okay.

5 MS. HODGENS: I move the Commission recommend
6 that the State Board of Education grant the
7 appeal.

8 CHAIR TEPPER: Is there a second?

9 MS. ESPOSITO: Second.

10 CHAIR TEPPER: Sonia.
11 Jackie.

12 MS. HITCHCOCK: Cathy Brubaker.

13 MS. BRUBAKER: Yes.

14 MS. HITCHCOCK: Sonia Esposito.

15 MS. ESPOSITO: Yes.

16 MS. HITCHCOCK: Jenna Hodgens.

17 MS. HODGENS: Yes.

18 MS. HITCHCOCK: And Richard Moreno.

19 MR. MORENO: Yes.

20 CHAIR TEPPER: Okay. So the appeal of the
21 Charter School is granted. This appeal will be
22 heard at the State Board on May 20th in Orlando.
23 Our recommendation is just that. The State
24 Board Members may or may not have questions for
25 you. You'll have about five minutes to speak and

1 then they will issue a final order which will come
2 from Jackie. When you're actually on the agenda
3 and we know how big the agenda is and where you
4 fall, Jackie will get in touch with you.

5 I will say, if it matters to any of the
6 parties, the June State Board meeting is in Palm
7 Beach County, if that matters to you, it's on
8 June 20th.

9 MS. SAGERHOLM: Thank you.

10 CHAIR TEPPER: Anything else before we
11 adjourn?

12 (No response.)

13 CHAIR TEPPER: One other thing, Jackie wasn't
14 here last time and I attempted to do my job and
15 her job. We're glad Jackie's back because it
16 turns out that I don't do that very well.

17 We're adjourned.

18 (Whereupon, proceedings were concluded at
19 11:15 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 71, 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 15th day of April, 2016.

Michelle Subia

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

