

THE FLORIDA DEPARTMENT OF EDUCATION
CHARTER SCHOOL APPEALS COMMISSION

Technical Assistance Paper

APPEAL OF STUDENTS ARE FOR EDUCATION, INC.

NON-RENEWAL OF CHARTER CONTRACT

APPELLANT: STUDENTS ARE FOR EDUCATION, INC.

SCHOOL BOARD: JACKSON COUNTY SCHOOL BOARD

INTRODUCTION & HISTORY

On June 17, 1998, the Jackson County School Board (hereinafter “School Board”) approved a contract with Schools Are For Education, Inc. (hereinafter “SAFE”) to operate the Challenge for Success Charter School (hereinafter “Charter School”) within the jurisdiction of the Jackson County School District (hereinafter “School Board”).

On June 18, 2002, the School Board approved a three-year renewal charter school contract (hereinafter “Charter Contract”) with SAFE to continue operating the Charter School through June 30, 2005.

On January 18, 2005, the School Board voted to accept the recommendation of the School District Superintendent and not renew the Charter Contract upon its expiration. Notice of the School Board’s intent not to renew and information regarding SAFE’s right to request an informal hearing before the School Board were dated January 25, 2005 and sent via certified mail.

On February 4, 2005, SAFE requested a hearing with the School Board on its decision not to renew the Charter Contract. The School Board held hearing on the non-renewal of the Charter Contract on June 3, 2005. Due to the length of the hearing, the meeting was adjourned and continued on June 13, 2005 (hereinafter “Hearing”). At the conclusion of the Hearing on June 13, 2005, the School Board voted (5-0) to not renew the Charter Contract.

On July 13, 2005, SAFE filed a Notice of Appeal of the Denial of Charter Renewal with the Florida Department of Education (hereinafter, “FLDOE”). The Notice of Appeal included assertions of 17 errors made by the School Board in electing not to renew the Charter Contract, but did not include evidence or written arguments in support of those assertions.

On July 13, 2005, SAFE filed a Motion for Extension of Time to File Written Arguments, Exhibits and Transcript (hereinafter “Motion for Extension”) with FLDOE. The motion requested an extension of not less than 15 days.

On July 15, 2005, the School Board filed a Motion to Dismiss Appeal (hereinafter “Motion to Dismiss”) with the FLDOE.

On July 21, 2005, SAFE filed Appellant’s Response to Motion to Dismiss Appeal (hereinafter “Response to Motion to Dismiss”) with the FLDOE.

On September 25, 2005, SAFE filed a 37-page document entitled Notice of Appeal from Denial of Charter Renewal with the FLDOE.

On October 5, 2005, SAFE filed a 33-page document entitled Appellant’s Corrected Brief on Appeal from the Non-Renewal of Charter (hereinafter “Appeal”) with the FLDOE.

[Note: For the purposes of this document the Corrected Brief filed on October 5, 2005 was considered as the true and final version of SAFE’s appeal (“Appeal”). The text of this document will be considered over and above conflicting, missing or differing text in the initial Appeal filed by SAFE on September 25, 2005.]

On November 1, 2005, the School Board filed a 45-page document entitled On Appeal from Denial of Charter Renewal – Appellee’s Answer Brief (hereinafter “Appeal Response”) with the FLDOE.

ISSUE ONE:

WHETHER THE FILING OF THE APPEAL OF THE DENIAL OF CHARTER CONTRACT RENEWAL BY SAFE WAS TIMELY.

- The School Board states in its Motion to Dismiss that a copy of the School Board’s order to not renew the Charter Contract (hereinafter “Order of Non-Renewal”) was provided to SAFE on June 13, 2005 and that according to Florida Law SAFE has 14 days in which to file its appeal (Motion To Dismiss page 1, paragraphs 1 and 2).
- SAFE states the School Board did not provide it with a copy of a written order on June 13, 2005. SAFE acknowledges receiving the Superintendent’s written recommendation at the Hearing. SAFE states that the document they received was legally insufficient as cannot be considered proper notice of the decision not to renew because it was undated, did not contain words of finality, and failed to include a statement informing the Charter School of its right of appeal. Therefore, it did not begin tolling the time towards the deadline for filing an appeal with the FLDOE (Response to Motion to Dismiss pages 1 – 2, Paragraphs I and II).
 - School Board states that the filing of the Appeal was untimely because it was filed over 14 calendar days after SAFE had received timely notice of the School Board’s notice of its election not to renew the charter contract. The School Board argues that time limitations with respect to appeals of administrative agency actions are jurisdictional (Motion to Dismiss page 1, paragraph 2).
 - SAFE contends that the law is unclear as to what the deadline is for filing the appeal of a school board’s decision not to renew a charter contract (Response to Motion to Dismiss pages 4-6)*.
 - ANALYSIS: While there are some areas of the pertinent sections that could be confusing, the language dealing with when a notice of appeal must be filed and what it must contain are not. The law clearly states that an appeal of a non-renewal must be filed no later than 14 calendar days after receiving notice of a school board’s decision. In the case of a charter application being denied the appeal must be submitted within 30 calendar days. This is clearly not a case of the denial of a charter application. SAFE failed to file any documents within 14 calendar days of their notice of non-renewal, and the filing made by

SAFE on July 13th would not meet the standards stated in the Florida Administrative Code because it was lacking written argument supporting their arguments as well as the requested transcripts.

- ANALYSIS (CONT'D): The Order of Denial is undated, and there is no evidence in the record which would reflect when SAFE actually received it. Florida courts have held that a late request for an administrative hearing is not a jurisdictional defect (*Brown v. Florida Dept. of Financial Services*, 899 So. 2d 1246 (Fla. 4th DCA 2005)). The Florida Supreme Court has held that “equitable tolling” of time limits is used in the interests of justice to accommodate a plaintiff’s right to assert a meritorious claim when equitable circumstances have prevented a timely filing. “Equitable tolling” is a type of equitable modification which focuses on the plaintiff’s excusable ignorance of the limitations period and on the lack of prejudice to the defendant (*Machules v. Dept. of Administration*, 523 So. 2d 1123 (Fla. 1988)).

* It should be noted that in addition to the filing of the notice of appeal on July 13, 2005, SAFE also filed a request for an extension of time.

- The pertinent Florida Statutes on this issue reads as follows (emphasis added):

F.S. 1002.33(8)(c): At least 90 days prior to renewing or terminating a charter, the sponsor shall notify the governing body of the school of the proposed action in writing. ***The notice shall state in reasonable detail the grounds for the proposed action and stipulate that the school's governing body may, within 14 calendar days after receiving the notice, request an informal hearing before the sponsor.*** The sponsor shall conduct the informal hearing within 30 calendar days after receiving a written request. ***The charter school's governing body may, within 14 calendar days after receiving the sponsor's decision to terminate or refuse to renew the charter, appeal the decision pursuant to the procedure established in subsection (6)***

F.S. 1002.33(6)(c): ***An applicant may appeal any denial of that applicant's application or failure to act on an application to the State Board of Education no later than 30 calendar days after receipt of the district school board's decision or failure to act and shall notify the district school board of its appeal.*** Any response of the district school board shall be submitted to the State Board of Education within 30 calendar days after notification of the appeal. Upon receipt of notification from the State Board of Education that a charter school applicant is filing an appeal, the Commissioner of Education shall convene a meeting of the Charter School Appeal Commission to study and make recommendations to the State Board of Education regarding its pending decision about the appeal. The commission shall forward its recommendation to the state board no later than 7 calendar days prior to the date on which the appeal is to be heard. The State Board of Education shall by majority vote accept or reject the decision of the district school board no later than 90 calendar days after an appeal is filed in accordance with State Board of Education rule. ***The Charter School Appeal Commission may reject an appeal submission for failure to comply with procedural rules governing the appeals process. The rejection shall describe the submission errors. The appellant may have up to 15 calendar days from notice of rejection to resubmit an appeal that meets requirements***

of State Board of Education rule. An application for appeal submitted subsequent to such rejection shall be considered timely if the original appeal was filed within 30 calendar days after receipt of notice of the specific reasons for the district school board's denial of the charter application. The State Board of Education shall remand the application to the district school board with its written decision that the district school board approve or deny the application. The district school board shall implement the decision of the State Board of Education. The decision of the State Board of Education is not subject to the provisions of the Administrative Procedure Act, chapter 120.

- The pertinent section of the Florida Administrative Code reads as follows (emphasis added):

F.A.C 6A-6.0781 Procedures for Appealing a District School Board Decision Denying Application for Charter School: The procedures for filing and reviewing all appeals to the State Board of Education under provisions of Chapter 96-186, Laws of Florida, shall be as follows:

(1) Within thirty (30) days after the date of a decision of a district school board which denies an application for a Charter School, the applicant may file a written notice of appeal with the Agency Clerk for the Department of Education in Room 1702, The Capitol, Tallahassee, Florida. Copy of the notice of appeal shall be sent to the school board and to each member of the State Board of Education by the applicant on date of filing with the Agency Clerk. (a) The notice of appeal must include: name and address of applicant; name and address of the school board; date of the school board decision; name and address of applicant's attorney, if any; precise identification of alleged errors of the district school board in rejecting the Charter School application; and written argument limited to specific alleged errors of the school board. (b) The Charter School application together with available transcripts of all meetings before the district school board in which the application was considered shall be filed as exhibits to the notice of appeal. (c) Within ten (10) days after filing notice of appeal the school board shall file with the Agency Clerk and submit to each member of the State Board of Education its written arguments limited to the specific alleged errors of the school board as identified in the notice of appeal. Such written arguments required from both parties shall not exceed twenty (20) pages exclusive of any addendum. Information provided in an addendum shall be limited to the actual Charter School application presented to the local board and the transcripts of meetings of the local boards' actions. Written arguments may be produced by any duplicating or copying process which produces a clear black image on white paper. All written arguments shall be on 8 1/2 × 11 inch paper, double spaced, except quoted material and footnotes, and bound at the top left corner. Typewritten text, including footnotes must be no smaller than ten (10) pitch spacing, and there must be no more than twenty-six (26) lines of text per paper. Margins shall be no less than one inch at the top, bottom, left and right. (d) Failure to meet the requirements herein specified may cause rejection of the submission by the State Board. (e) The Charter School application, transcripts of meetings before the district school board, and written arguments of the parties shall constitute the record on appeal.

ISSUE TWO:

WHETHER THE SCHOOL BOARD WAS CORRECT IN DENYING RENEWAL OF THE CHARTER ON THE GROUND THAT THE CHARTER SCHOOL FAILED TO SUBMIT FINANCIAL REPORTS TO THE SCHOOL BOARD IN A TIMELY MANNER.

- The School Board states that the Charter School failed to meet its obligations under the Charter Contract by not submitting financial reports in a timely manner, including a complete failure to submit reports from February 2004 through February 2005 (Order of Non-Renewal Page 1, Paragraph I A).
- SAFE states that there were mitigating reasons for its failure to provide the reports including illness by two school officials and the failure of the School Board to forward the FEFP funds due the Charter School from the period of February 2004 through June 2004 (Appeal pages 3-5).
- SAFE claims that the illness of the two school officials brought about a situation that was beyond its reasonable control and should fall under the “impossibility of performance” clause in the Charter Contract (Appeal pages 3-4).
- SAFE claims that the failure of the School Board to fund the Charter School was in violation of state law and caused it to be unable to file the reports. SAFE asserts that the School Board cannot use the consequences of “sabotage” to justify the non-renewal of the Charter Contract (Appeal Page 5)
- SAFE claims that its independent audit indicated that there were no accounting irregularities and that SAFE had followed Generally Accepted Accounting Principles (hereinafter “GAAP”) in handling the financial affairs of the Charter School (Appeal page 4).
- ANALYSIS: The Charter School admits to having not met its obligations under the Charter Contract. The School Board admits that it withheld funding during the time period stated above.
- The pertinent Florida Statutes read as follows (emphasis added):

F.S. 1002.33(17)(d) *District school boards shall make every effort to ensure that charter schools receive timely and efficient reimbursement*, including processing paperwork required to access special state and federal funding for which they may be eligible. The district school board may distribute funds to a charter school for up to 3 months based on the projected full-time equivalent student membership of the charter school. Thereafter, the results of full-time equivalent student membership surveys shall be used in adjusting the amount of funds distributed monthly to the charter school for the remainder of the fiscal year. *The payment shall be issued no later than 10 working days after the district school board receives a distribution of state or federal funds.* If a

warrant for payment is not issued within 30 working days after receipt of funding by the district school board, the school district shall pay to the charter school, in addition to the amount of the scheduled disbursement, interest at a rate of 1 percent per month calculated on a daily basis on the unpaid balance from the expiration of the 30-day period until such time as the warrant is issued.

ISSUE THREE:

WHETHER THE SCHOOL BOARD WAS CORRECT IN DENYING RENEWAL OF THE CHARTER ON THE GROUND THAT THE CHARTER SCHOOL FAILED TO PAY INVOICES FOR TRANSPORTATION AND FOOD SERVICES BILLED TO IT BY THE SCHOOL BOARD.

- The School Board states that the failure of SAFE to pay its vendors as stated in the Order of Non-Renewal, including invoices from the School Board for transportation and food services may not in and of itself be a valid reason for non-renewal, but that it is indicative of financial mismanagement by SAFE which led the School Board to elect to not renew the Charter Contract (Appeal Response pages 10-14).
- SAFE states that the agreements for food and transportation services with the School Board must be treated like any other third party contract and not as part of the Charter Contract (Appeal pages 5-11).
- SAFE states that the invoices that they did not pay, both from the School Board and other third-party vendors, was because of good-faith disputes that were in ongoing negotiations (Appeal pages 5 – 11).
- SAFE states that the School Board illegally withheld its FEFP Funds from February 2004 through June 30, 2004 making it difficult for SAFE to pay its vendors (Appeal pages 5– 11).
- SAFE states that the School Board, in violation of the Charter Contract and Florida law, deducted the total amount that the School Board claimed to be owed under the food services contract from the FEFP funds to be paid to SAFE (Appeal pages 5 – 11).
- SAFE states that the amounts owed to other vendors are not indicative of financial mismanagement, but rather are either isolated incidents or caused by the failure of the School Board to forward the FEFP funds from February 2004 through June 2004 (Appeal pages 8–11).
- The School Board states that even with the non-payment of the FEFP funds, SAFE's financial records showed that it never had under \$26,000 in available funds and should have paid its obligations (Appeal Response page 14).
- ANALYSIS: The School Board acknowledges that it withheld FEFP funds from February 2004 through June 2004. It appears that for a variety of reasons SAFE was

unable or unwilling to pay some invoices during the term of the Charter Contract. There is no evidence presented that any of the creditors instituted legal action to collect any funds that may have been due them. There is nothing in the Florida Law that defines “generally accepted standards of fiscal management;” however SAFE asserted numerous times in its Appeal that the independent third-party audit stated that the school had operated within the bounds of GAAP.

- The pertinent Florida Statutes read as follows (emphasis added):

F.S. 1002.33(8) Causes for Non-renewal or Termination of Charter:

(a) At the end of the term of a charter, the sponsor may choose not to renew the charter for any of the following grounds:

1. Failure to participate in the state's education accountability system created in s. 1008.31, as required in this section, or failure to meet the requirements for student performance stated in the charter.

2. Failure to meet generally accepted standards of fiscal management.

3. Violation of law.

4. Other good cause shown.

(b) During the term of a charter, the sponsor may terminate the charter for any of the grounds listed in paragraph (a).

ISSUE FOUR:

WHETHER THE SCHOOL BOARD WAS CORRECT IN DENYING RENEWAL OF THE CHARTER ON THE GROUND THAT THE CHARTER SCHOOL FAILED TO SUBMIT ITS CAPITAL OUTLAY PLANS FOR FISCAL YEARS 2004 AND 2005 IN A TIMELY MANNER.

- The School Board states that SAFE failed to file capital outlay plans for the fiscal years 2003-2004 and 2004-2005 in a timely manner (Order of Non-Renewal page 1, paragraph I C.).
- SAFE states that the School Board, which takes a 5% fee from all capital outlay funds received by the Charter School, did not meet its statutory obligation under 1002.33(17)(d) and inform the school of the due date or offer any assistance in completing and processing the capital outlay plans as it had in prior years, and that in not doing so the School Board was in violation of the law and had not acted in good faith (Appeal pages 12–13).

- SAFE states that the School Board may have also been responsible for some of the delays in filing the plans with the state and in disbursing the corresponding capital outlay funds to SAFE (Appeal Page 13).
- The School Board acknowledges that the failure of SAFE to file the capital outlay plans may not in and of itself be a valid reason for non-renewal, but that it is another indication that there a pattern of financial mismanagement (Appeal Response page 15).
- The School Board states that Florida law requires the School Board to assist in the processing of the reports to the state, not remind the Charter School of when reports are due. In addition, the School Board states that it was unable to assist in the processing of the paperwork to receive the funding because it had never received the paperwork from SAFE (Appeal Response pages 15-16).
- ANALYSIS: SAFE does not disagree with the School Board’s claim that the school did not file the capital outlay plans in a timely manner. There is nothing in Florida law that would list this specific failing as adequate reason for non-renewal.
- The pertinent Florida Statutes read as follows (emphasis added):

F.S. 1002.33(17)(d) *District school boards shall make every effort to ensure that charter schools receive timely and efficient reimbursement, including processing paperwork required to access special state and federal funding for which they may be eligible...*

ISSUE FIVE:

WHETHER THE SCHOOL BOARD WAS CORRECT IN DENYING RENEWAL OF THE CHARTER ON THE GROUND THAT THE FINANCIAL STATUS OF THE CHARTER SCHOOL WAS POOR.

- The School Board states that SAFE’s expenses exceeded revenues by \$70,664. Projections based on the previous year would indicate that the school would either have to raise \$70,000 or run out of money and cease to operate after September 2005 (Appeal Response pages 18-19).
- SAFE states that it is unsupported speculation that the school would be unable to operate past September 2005 (Appeal page 14).
- SAFE states that the school had a fiscal problem only when the School Board withheld its FEFP funding in 2004 and that once the funds were received, the Charter School finished with a positive fund balance for the 2005 fiscal year (Appeal page 14).
- SAFE states that it has a history of proven “efficient and effective fiscal management” (Appeal page 15).

- ANALYSIS: There is not enough data presented in the Appeal or the Appeal Response to determine the financial viability of the school going forward. Neither party supplied financial projections and backup data to support their assertions regarding the school's financial stability beyond September 2005.

ISSUE SIX:

WHETHER THE SCHOOL BOARD WAS CORRECT IN DENYING RENEWAL OF THE CHARTER ON THE GROUND THAT THE CHARTER SCHOOL FAILED TO DOCUMENT THE USE OF THE SUNSHINE STATE STANDARDS.

- The School Board states that during a pre-arranged monitoring visit to the Charter School, School Board representatives discovered and noted that two of the teachers did not have references to the Sunshine Standards in their lesson plans (Appeal Response pages 20-21).
- The School Board states that the Charter School was out of compliance with the Sunshine State Standards by its use of outdated, non-compliant text materials. (Appeal Response page 21).
- SAFE states that the findings during the monitoring visit were based on the actions of one teacher who had been terminated by the Charter School for, among other things, failing to document the Sunshine State Standards (Appeal page 16).
- SAFE states that the materials that the School Board examined and found to be outdated had been replaced with newer materials, and it was only through the School Board's error and lack of further investigation on the part of the School Board's monitors that they did not discover the current material (Appeal page 16).
- SAFE states that the Charter Contract does not state the standards by which the School Board would determine whether the Charter School was meeting its obligations under the Sunshine State Standards (Appeal page 16).
- ANALYSIS: Neither the School Board or SAFE present compelling information regarding whether or not the Sunshine State Standards are being met by the Charter School. It is hard to tell if the missing lesson plans was a one-time situation that SAFE quickly corrected. The School Board determined the school to be out of compliance based on the information presented at the hearings, and in so doing ruled that the Charter School was in default of the Charter Contract. If the School Board is correct, this would be a valid reason for non-renewal.
- The pertinent Florida Statutes read as follows (emphasis added):

F.S. 1002.33(8) Causes for Non-renewal or Termination of Charter:

(a) At the end of the term of a charter, the sponsor may choose not to renew the charter for any of the following grounds:

1. Failure to participate in the state's education accountability system created in s. 1008.31, as required in this section, or failure to meet the requirements for student performance stated in the charter.

ISSUE SEVEN:

WHETHER THE SCHOOL BOARD WAS CORRECT IN DENYING RENEWAL OF THE CHARTER ON THE GROUND THAT THE CHARTER SCHOOL FAILED TO PROVIDE ADEQUATE STUDENT ACCESS TO TECHNOLOGY.

- SAFE states that the school has a computer lab which is utilized by students. SAFE asserts that this deficiency is an example of the School Board fabricating or inventing a deficiency in order to sabotage or thwart the school (Appeal page 17).
- The School Board states that both parties failed to address this issue at the hearing and therefore it concedes that this issue may not be considered as a basis for renewal (Appeal Response page 23).

ISSUE EIGHT:

WHETHER THE SCHOOL BOARD WAS CORRECT IN DENYING RENEWAL OF THE CHARTER ON THE GROUND THAT THE CHARTER SCHOOL VIOLATED SECURITY RULES AND ACADEMIC INTEGRITY STANDARDS DURING THE FLORIDA COMPREHENSIVE ASSESSMENT TEST.

- The School Board states that based on the testimony of a former teacher at the Charter School, the Charter School's director granted students additional time to take the tests, helped or coached students with answers and reviewed and changed test answers (Order of Non-Renewal pages 2-3, Paragraph II C).
- The School Board states that the Charter School used personnel who had not executed the proper security documentation before transporting the tests from the Charter School to the School Board for processing (Appeal Response page 28).
- The School Board states that due to testing irregularities, the FLDOE invalidated the FCAT test scores during the 2003-2004 school year (Order of Non-Renewal pages 2-3, Paragraph II C).
- SAFE states that the testimony provided and used as the sole basis of the School Board's decision not to renew was from a disgruntled employee and not credible (Appeal pages 17-22).

- SAFE states that the employee who delivered the tests from the Charter School to the School Board office was a trained security officer who had signed a security agreement which was later provided to the School Board (Appeal pages 17-22).
- SAFE states that further investigation on its part revealed that the FLDOE did not invalidate the tests; the FLDOE had only concurred with the School Board in the School Board's decision to invalidate the tests (Appeal page 18).
- SAFE states that neither the School Board nor the FLDOE ever supplied it with the basis for the invalidation of the tests or any opportunity to appeal the decision (Appeal pages 17-18).
- ANALYSIS: There is nothing in the record which indicates whether the FLDOE invalidated the FCAT test scores. There is nothing in the record which indicates what the Charter School students scored on the FCAT.

ISSUE NINE:

WHETHER THE SCHOOL BOARD WAS CORRECT IN DENYING RENEWAL OF THE CHARTER ON THE GROUND THAT THE CHARTER SCHOOL FAILED TO ENSURE STUDENT PARTICIPATION IN RELATED SERVICES.

- The School Board states that the Charter School did not ensure that two students attend the speech therapy sessions as dictated by each student's IEP (Order of Non-Renewal Page 3 Paragraph II. D.).
- SAFE states that it uses a consultative model for its special education students and that it makes efforts to ensure the student's attendance at the therapy sessions, but it was the parents/guardians of the students who demanded that the students not attend the sessions (Appeal Page 23).
- SAFE states that the therapist for the students has determined that the one of the students no longer needed the therapy as the problem had been rectified. Additionally, that student's mother had demanded the student be removed from the program. The parent of the other child has agreed to transport the student to the therapy session but has not been doing so on a regular basis because the therapist provided by the School Board has not been providing services (Appeal Page 23).
- ANALYSIS: There is no information in the record to determine whether the charter school was in compliance with each student's IEP.

ISSUE TEN:

WHETHER THE SCHOOL BOARD WAS CORRECT IN DENYING RENEWAL OF THE CHARTER ON THE GROUND THAT THE CHARTER SCHOOL

EXPERIENCED A HIGH MOBILITY RATE OF STUDENTS.

- The School Board states that only one (1) student had stayed at the Charter School for four (4) years (Appeal Response page 32).
- The School Board states that since so few students stay at the Charter School for several years it is very difficult to track the progress of the Charter School and evaluate the effectiveness of its teaching methods. (Appeal Response page 33).
- SAFE states that there were at least two (2) students that had stayed at the Charter School for at least four (4) years (Appeal Page 24).
- SAFE states that under F.S. 1002.33(10)(g) a student may withdraw at anytime and the decision to withdraw is caused by a variety of factors and is beyond the control of the Charter School (Appeal page 24).
- ANALYSIS: Both the School Board and the Charter School argued this point in their briefs; however, it does not appear on the Order of Non-Renewal. There is nothing in Florida law or the record that would indicate this is grounds for non-renewal.
- The pertinent Florida Statutes read as follows:

F.S. 1002.33(10)(g): A student may withdraw from a charter school at any time and enroll in another public school as determined by district school board rule.

ISSUE ELEVEN:

WHETHER THE SCHOOL BOARD WAS CORRECT IN DENYING RENEWAL OF THE CHARTER ON THE GROUND THAT THE CHARTER SCHOOL FAILED TO PROVIDE COPIES OF THE INSURANCE POLICIES AND CERTIFICATES.

- The School Board states that SAFE failed to provide the School Board with copies of its insurance policies and certificates and this was a breach of the Charter Contract (Appeal Response pages 34-35).
- SAFE states that the School Board in violation of state law withheld its FEFP funding which forced the Charter School to be unable to pay the insurance premiums forcing the cancellation of the policies. SAFE argues that the withholding of funds and resulting policy cancellations was caused by the School Board's misconduct and/or malfeasance (Appeal pages 25-26).
- SAFE states that the School Board received notices of the insurance cancellation and elected not to release funds to SAFE (Appeal page 25).

- The School Board states that despite the withholding of the FEFP funds by the School Board that the Charter School's financials indicate that SAFE had a fund balance of at least \$26,000 and could have paid the premiums (Appeal Response page 34).
- ANALYSIS: There is no issue in dispute that the Charter School failed to maintain required insurance policies. The only point at issue is whether the cancellations were caused by the School Board.

ISSUE TWELVE:

WHETHER THE SCHOOL BOARD WAS CORRECT IN DENYING RENEWAL OF THE CHARTER ON THE GROUND THAT THE CHARTER SCHOOL FAILED TO PROVIDE A CERTIFICATE OF OCCUPANCY FOR ITS CURRENT FACILITY IN VIOLATION OF THE CHARTER CONTRACT.

- The School Board acknowledges that due Jackson County's unwillingness to issue a certificate of occupancy, this issue should be disregarded and not considered a valid reason for non-renewal of the Charter Application (Appeal Response page 36).

ISSUE THIRTEEN:

WHETHER THE SCHOOL BOARD WAS CORRECT IN DENYING RENEWAL OF THE CHARTER ON THE GROUND THAT THE CHARTER SCHOOL FAILED TO PROVIDE COPIES OF ANNUAL INSPECTION PLANS AND CHARTER SCHOOL LOCATION FLOOR PLANS.

- The School Board states that SAFE did not supply the School Board with the requisite Annual Safety Inspection Plans and Charter School Floor Plans in a timely manner (Appeal Response pages 37-38).
- The School Board states that the failure to provide these documents is indicative of the Charter School's failure to appropriately manage its business of educating children (Appeal Response page 37).
- SAFE states that it had never failed a safety inspection and had showed evidence of inspections and floor plans to School Board representatives in the past and provided them as evidence at the hearing (Appeal pages 29-30).
- ANALYSIS: Both parties acknowledge that evidence of annual inspections and facility floor plans were provided to the School Board at the Hearing. The School Board argues that the Charter School's failure to submit them earlier indicates a lack of management. The Charter School argues that these documents were provided to School Board staff earlier, and the evidence provided to support this claim is oral testimony by Charter School representatives.

ISSUE FOURTEEN:

WHETHER THE SCHOOL BOARD WAS CORRECT IN DENYING RENEWAL OF THE CHARTER ON THE GROUNDS THAT THE CHARTER SCHOOL FAILED TO PROPERLY TRANSFER STUDENT RECORDS.

- SAFE acknowledges that there have been occasions when it was delayed in transferring student records, but the delay was not extraordinary and no different than the delay in record transfer experienced by other public schools in the district (Appeal page 29).
- The School Board acknowledges that lack of timely responses to requests for student records is not in and of itself a major violation, but it is illustrative of SAFE's inability to maintain an educational unit which is capable of fulfilling the goals of an educational institution (Appeal Response page 40).
- ANALYSIS: Each party provided oral testimony at the Hearing in support of its position.

ISSUE FIFTEEN:

WHETHER THE SCHOOL BOARD WAS CORRECT IN DENYING RENEWAL OF THE CHARTER ON THE GROUND THAT THE CHARTER SCHOOL FAILED TO INPUT STUDENT GRADES INTO THE SCHOOL BOARD'S AS400 DATA SYSTEM AND FAILED TO UTILIZE ELECTRONIC DATA PROCESSING IN VIOLATION OF THE CHARTER CONTRACT.

- SAFE states that it does use the School Board's system for entering data (Appeal pages 30-31).
- SAFE states that while Florida law and the Charter Contract require that student grades be input in the School Board's computer system, there is no requirement as to when it must be done and no language in the Charter Contract that speaks to how the Charter School should be measured on whether it is in compliance with this requirement. As there is no stated method for measurement, it is unfair for the School Board to use it as a reason for non-renewal (Appeal pages 30-31).
- The School Board states that the Charter School consistently failed to input student grades in a timely manner resulting in the School Board, parents, and the Charter School being unable to determine how a child is progressing in the school (Appeal Response pages 41-42).
- ANALYSIS: There is no evidence in the record which would indicate specifics as to the Charter School's delays in entering data.

ISSUE SIXTEEN:

WHETHER THE SCHOOL BOARD WAS CORRECT IN DENYING RENEWAL OF THE CHARTER ON THE GROUNDS THAT SAFE FAILED TO MAINTAIN ITS CORPORATE STATUS IN GOOD STANDING AND FAILED TO HAVE REGULAR MEETINGS OF ITS BOARD OF DIRECTORS IN VIOLATION OF THE CHARTER CONTRACT.

- SAFE states that it is currently a corporation in good standing and holds regular meetings of its board of directors (Appeal page 32).
- SAFE states when given notice of the School Board's reasons for non-renewal of the Charter Contract prior to the Hearing, there was no mention of any issue regarding SAFE's corporate standing or the frequency of board meetings and that SAFE was unprepared to respond to any questions on the matter and was consequently denied due process (Appeal page 31).
- The School Board states that SAFE had its corporate status administratively dissolved on three (3) occasions (Appeal Response page 43).
- The School Board states that SAFE had at one time not held a meeting of its board of directors for a period of over three (3) years (Appeal Response page 43).
- ANALYSIS: There was no evidence presented which would indicate whether the corporation was administratively dissolved. School Board Exhibit 19 contains minutes from Charter School board meetings dated June 26, 2001; the next set of minutes is dated January 20, 2005.