

THE FLORIDA DEPARTMENT OF EDUCATION  
CHARTER SCHOOL APPEALS COMMISSION

# Technical Assistance Paper

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APPEAL OF SPIRAL TECH ELEMENTARY CHARTER SCHOOL  
TERMINATION OF CHARTER CONTRACT

APPELLANT: SUCCESSFUL ENTERPRISES, INC. D/B/A  
SPIRAL TECH ELEMENTARY CHARTER SCHOOL

SCHOOL BOARD: THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

## INTRODUCTION & HISTORY

In 1998 the School Board of Miami – Dade County (hereinafter “School Board”) granted a charter contract (hereinafter, “Charter Contract”) to Successful Enterprises, Inc to operate the Spiral Tech Elementary Charter School (hereinafter “School”).

In 2003 the School Board renewed the Charter Contract (hereinafter “Renewal Contract”).

On December 8, 2005 the School Board sent a letter to the School stating various concerns and asking for further information based on the School’s audited financial statements for the year ending June 30, 2005. The letter stated that the School Board’s Audit Committee would be meeting on January 31, 2006 and requested that the School send a representative to respond to any questions from the Audit Committee.

On January 23, 2006 the School responded in writing to the concerns stated in the letter of December 8, 2005 and confirmed that it would be sending a representative to the meeting.

On January 31, 2006, the School Board’s Audit Committee met with representatives of the School and discussed the School’s financial issues.

On February 23, 2006 the School Board’s Superintendent sent notice to the School of his intention to recommend to the School Board that the Charter Contract be terminated as of June 30, 2006. The reason given for termination was the School’s failure to meet generally accepted standards of fiscal management based on a review of the School’s audited financial statements for the year ended June 30, 2005.

On April 6, 2006 the School Board’s Charter School Informal Hearing Committee (hereinafter “Hearing Committee”) held an informal hearing per the School’s request. After the hearing the Committee voted to affirm the recommendation to terminate the Charter Contract.

On May 22, 2006 the School sent a letter to the School Board responding to the issues discussed during the informal hearing held on April 6, 2006.

On June 7, 2006 the School Board sent a response to the letter dated May 22, 2006.

On June 12, 2006 a third-party company, the Leona Group, LLC (hereinafter “Leona”) sent a letter to the School Board indicating that it had an agreement to purchase the School pending satisfactory completion of its due diligence. The letter stated that the sale would eliminate all of the School’s debt. In addition, the letter included budgets for the school with enrollments of 150 and 220 students.

On June 14, 2006 the School Board unanimously voted to terminate the Charter Contract.

On June 20, 2006 the School Board sent notice of termination to the School (hereinafter, “Notice of Termination”).

On June 30, 2006 the School filed a Notice of Appeal of Termination of Charter School Contract with the State Board of Education.

On July 5, 2006 the School filed a revised Notice of Appeal of Termination of Charter School Contract with the State Board of Education (hereinafter “Appeal”).

On August 3, 2006 the School Board filed a response to the Appeal with the State Board of Education (hereinafter “Response”).

ISSUE ONE

**WHETHER THE SCHOOL BOARD VIOLATED THE SCHOOL'S DUE PROCESS RIGHTS DURING THE CHARTER CONTRACT TERMINATION PROCEEDINGS.**

- The School states that the facts concerning the School's financial condition are more favorable today than when previously accepted by the School Board; therefore, the School Board's decision to terminate the Charter Contract was either arbitrary or capricious or was based upon other matters not disclosed (Appeal pages 2-3).
- The School states that it is apparent from the transcript of the informal hearing held on April 6, 2006 that the Hearing Committee had prejudged the facts in order to provide the School Board's Superintendent with the recommendation he sought (to terminate the School's Charter Contract for a purportedly dismal financial condition) (Appeal page 5).
- The School Board states that it provided the School with proper notice of all meetings, evidenced by the fact that the School took advantage of every opportunity to be heard (Response page 13).
- The School Board states that it gave the School numerous opportunities to present a viable, reliable financial plan (Response page 10).
- The School Board states that School representatives were present and spoke at the informal hearing held on April 6, 2006 as required by F.S. 1002.33(8)(c) (Response page 11).
- The School Board states that at the June 12, 2006 School Board meeting, School representatives addressed the School Board, but no further corrective action plan was submitted.
- The pertinent Florida Statute on this issue reads as follows:

F.S. §1002.33 (8): CAUSES FOR NONRENEWAL 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).

(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).

## ISSUE TWO

### **WHETHER THE SCHOOL BOARD HAD GOOD CAUSE TO TERMINATE THE CHARTER CONTRACT BASED ON THE FAILURE OF THE CHARTER SCHOOL TO FOLLOW GENERALLY ACCEPTED STANDARDS OF FISCAL MANAGEMENT.**

- The School argues that its financial condition at the time of the termination had improved from when the School Board had granted the Charter Contract Renewal in 2003 (Appeal pages 2-3).
- The parties agree that the School owes money to the IRS for unpaid taxes. The School states that as part of the Renewal Contract, the parties agreed that the outstanding debt to the IRS was to be paid in full by 2008 (Appeal page 6). The School argues that it has already paid the IRS \$120,000.00 towards the debt (Appeal pages 4-5), and that by making the payment to the IRS it was ahead of the financial plan the School Board accepted when it approved the renewal of the Charter Contract in 2003 (Appeal page 6).
- The School argues that the founder of the School stated at the informal hearing on April 6, 2006 that she would be willing to forgive the School's debt to her (Appeal page 4).
- The School states that a third-party company had agreed to purchase the real property where the School is located and would manage the School. As part of the purchase the third-party company would extinguish all of the School's debts (Appeal page 6).
- On May 22, 2006, the School submitted a plan to the School Board for the continuing viability of the school. The plan included increasing student enrollment to up to 240 students, contracting with outsourced management and raising money through private fundraising and donations (Exhibit J of Appeal Response).
- The School Board argues that the School's last three audited financial statements show that the School's financial condition has steadily and incrementally worsened. Because of the substantial debt and increasing recurring losses, two different independent certified public accountants hired by the School for the fiscal years 2004 and 2005 expressed serious doubts about the School's ability to survive (Response page 6).
- The School Board argues that after applying the School's payment of \$120,000.00 to the IRS, there still remains a balance of \$220,443.00 not including any additional interest that may have

accrued (Response page 6).

- The School Board argues that there was no evidence that the School would be able to obtain a certificate of occupancy for the proposed increased student enrollment, and the School has not provided a contract or other definitive documentation with any third-party management company.
- With regard to private fundraising efforts, the School Board argues that the School has presented no business plan and has not identified any potential sources or targeted amount for the fundraising effort (Response page 9).