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for

THE FLORIDA DEPARTMENT OF EDUCATION
CHARTER SCHOOL APPEALS COMMISSION

REPORT & ANALYSIS

APPEAL BY GULF COAST HIGH SCHOOL OF
AN ORDER TO CEASE OPERATIONS ISSUED
BY THE ESCAMBIA COUNTY SCHOOL BOARD
ON JUNE 24, 2003

APPELLANT CHARTER SCHOOL: GULF COAST HIGH SCHOOL, PENSACOLA FLORIDA

RESPONDENT SCHOOL BOARD: SCHOOL BOARD OF ESCAMBIA COUNTY

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REPORT & ANALYSIS

APPEAL BY GULF COAST HIGH SCHOOL OF ORDER TO CEASE
OPERATIONS ISSUED BY THE ESCAMBIA COUNTY SCHOOL BOARD ON
JUNE 24, 2003

INTRODUCTORY MATERIAL

Prepared by Alex Penn-Williams, Ed.D. & Peter C. Doherty, Ph.D. for the Florida
Department of Education Charter School Appeals Commission on 9/3/03

ACTION TAKEN BY DISTRICT SCHOOL BOARD

Relying on the verbatim transcript containing the recommendation made by Superintendent Jim Paul to the Escambia County School Board and the subsequent motion laid before the Board on June 24, 2003, this was an action to TERMINATE the charter of Gulf Coast High School effective June 30, 2003.

However, the Respondent's filing relies upon the language found in s. 1002.33(8)(d), F.S. authorizing a School Board to issue an order for IMMEDIATE TERMINATION which in this case was to become effective six days later on June 30, 2003.

Further, as a practical matter the action was one of NON-RENEWAL as the charter contract period ended on its own on June 30, 2003. This term is *also* used in Respondent's filing.

The decision of the Commission relative to whether this was an action to TERMINATE, IMMEDIATELY TERMINATE or NON-RENEW is important because they are separate and independently defined actions. Discreet criteria apply to each. Two share criteria in terms of advance notice, and all have independently defined standards for sustaining.

RELIEF SOUGHT BY CHARTER SCHOOL

The Charter School petition requests that the SBE:

1. Overturn the decision of the Escambia County School Board not to renew the charter school's contract.

2. Order the Escambia County School Board to issue Gulf Coast High School a five (5) year charter contract to continue the operation of the school.

INTRODUCTION

On June 24, 2003 at a special meeting of the Escambia County School Board Superintendent Jim Paul recommended, and pursuant to a motion based on the recommendation, the Board voted 3 to 2 to *Terminate* the charter contract of Gulf Coast High School, a charter school for troubled youth, located in Pensacola, Florida effective June 30, 2003. This was not an arbitrary date. The school's current charter contract was set to expire that day. Gulf Coast High School has been since its opening in 1999-2000, operating under a series on one-year contracts. Its latest contract had been granted on July 15-16, 2002 with the proviso that the school was to work toward correcting problems that had been identified during the 2001-2002 contract period.

It is to be noted that at the end of the 2001-2002 School Year a tragedy involving the loss of a student's life by drowning during a school sponsored outing had brought the school under intense scrutiny, and had resulted in a District Staff recommendation that the school be *Immediately Terminated* at that time. However, the recommendation was not adopted by the Board and the school was given a contract for School Year 2002-2003 apparently with the understanding that it was a "probationary" or "trial" contract.

In the present action four reasons were given for seeking closure of the school in a notice dated June 19, 2003 signed by Superintendent Paul. The letter was issued subsequent to a review of the charter school conducted by District Staff, the results of which were communicated to the Superintendent by Memo on June 18, 2003. Staff recommended the contract be *Non-Renewed*.

At the special meeting of the School Board testimony was taken from District Staff and from personnel of the Charter School. After the vote Board Attorney Francisco Negron hand delivered to Darnell Sims, President and CEO of the Intervention Group, Inc. the operators of GCHS, a formal letter announcing the Board's decision. The letter contained a notification that GCHS could file an appeal of the action with the SBE within 14 days.

Gulf Coast High School filed an appeal with the SBE on July 7, 2003.

SUMMARY OF REASONS FOR SCHOOL BOARD ACTION

The reasons for seeking closure were given by Superintendent Jim Paul in his letter of June 19, 2003. The reasons themselves are found in a staff memo addressed to him on June 18, 2003, and attached to his letter. They were:

1. "Gulf Coast High School requested and received capital outlay funds which were not used for the purpose described in their request."
2. "A transportation audit of Gulf Coast High School received a failing score of 60%. A passing score is 90%."
3. "Gulf Coast High School employed two teachers who were not Florida certified teachers. Their contract and state law requires all charter school teachers to be certified."
4. "Financial reports demonstrate a pattern of inadequate funding for operational costs."

SUMMARY OF POINTS CONTAINED IN THE CHARTER SCHOOL'S APPEAL

In its Appeal dated July 7, 2003 Gulf Coast High School raised the following points:

1. "Both the School Board's process of granting one year charter contracts and the School Board's procedure for non-renewal of the Charter School's contract contradict Florida law and violate due process and are thus invalid."
 - (a) "The School Board's issuance of successive one-year contracts contradicts Florida law and consequently, the Charter School's contract should not currently be subject to renewal."
 - (b) "The School Board's notification to the Charter School of its proposed action five (5) days prior to the School Board's Special Meeting violates due process and Florida law."

2. "The School Board lacked "good cause" to not renew the Charter School contract."
 - (a) "The School Board contends that the Charter School's financial reports demonstrate a pattern of inadequate funding for operational costs."
 - (b) "The School Board contends that the Charter School requested and received capital outlay funds which were not used for the purpose described in their request."
 - (c) "A transportation audit of the Charter School received a failing score of 60%. A passing score is 90%."
 - (d) "The School Board asserts that two teachers employed by the Charter School were not certified."

SUMMARY OF POINTS IN THE SCHOOL BOARD'S RESPONSE

In its Response to the Appeal of Gulf Coast High School the School Board of Escambia County raised the following points:

1. "Gulf Coast Experienced Systemic Failures During the 2001-2002 School Year."
 - (a) "Gulf Coast's systemic failures resulted in the drowning death of a student in May 2002."
 - (b) "Gulf Coast Was Permitted to Remain in Operation on a Trial Basis Only."

2. "Gulf Coast's Systemic Failures Continued in School Year 2002-2003."
 - (a) "Gulf Coast High School Misused Capital Outlay Funds."
 - (b) "Gulf Coast Operated Unsafe School Buses."
 - (c) "Gulf Coast High School Employed Uncertified Teachers to Teach Students."
 - (d) "Gulf Coast High School Mismanaged Its Finances."

3. "The School Board Complied with the Requirements of the Law in Non-Renewing Gulf Coast's Charter."

**ARGUMENTS PRESENTED IN SUPPORT / OPPOSITION TO THE POINTS RAISED
BY BOTH PARTIES WITH DISCUSSION**

JOINT ISSUE ONE

“Gulf Coast High School Misused Capital Outlay Funds.”

Key points of GCHS’s appeal of this charge:

GCHS acknowledges receiving a total of \$60,478.00 in Capital Outlay funds in December 2002. The funds were released by the School Board in response to a request made in November 2002 that cited two uses for the funds:

- (1) “Initial Down Payment and subsequent monthly payments fro two (2) new buses.”
- (2) “Monthly payments on property purchased.”

Purpose (1) was disallowed by FDOE, and GCHS elected to purchase one (1) new bus outright. Therefore in December 2002 GCHS sought and received a price quote and a Buyers Agreement for a cash purchase for one (1) bus from Rivers Bus Sales, Inc., and maintains they intended to purchase the bus in January of 2003.

GCHS states its intent was always to obtain a new bus or buses with the funds, and that they had arranged for financing in October before the lease/purchase arrangement was disallowed. However, GCHS says in December when school officials realized the extent of the impact of the reduction in monthly operating revenues subsequent to the October 2002 FTE headcount they knew they could not complete the bus purchase at that time and that they faced three choices:

- (1) Close the school.
- (2) Lay off 75% of the school employees.
- (3) Use a portion of the capital outlay funds for operating purposes and pay back the amount used out of future revenues, and then purchase the bus. Subsequent to this decision the funds were used as follows:

\$27,876.00 (46%) of the \$60,478.00 was used to cover operating deficits.

\$20,556.14 (33%) was used for lease and mortgage payments.

\$12,054.00 (11%) was used on March 31, 2003 to put a down payment on the bus.

GCHS contends it never “misled” the District as to the use of the funds, and that they “...openly disclosed how the capital outlay dollars were spent...” Further, GCHS says that it “...engaged in open communication with the School Board regarding its intent and ability to purchase a new bus in July 2003.”

GCHS also contends that the action they took to use part of the Capital Outlay money for operating costs would not have become necessary but for the School District’s “error” in basing its initial 2002-2003 School Year funding calculation on 115 students instead of 100. This “error”, when compounded by the actual October FTE headcount of 92, caused the school’s monthly funding to drop by 44% and place the school in a dire situation.

Finally, GCHS states its intent to complete the purchase of the bus in time for the beginning of the 2003-2004 School Year (August 6, 2003).

Key points of ECSD's response:

The fact that GCHS sought a financing agreement *prior* to requesting funds for the bus "...is *prima facie* evidence of Gulf Coast's intent to violate the law and use the Capital Outlay funds for impermissible purposes." This is backed up by the fact that GCHS received the entire cash purchase price of the bus and so no financing agreement was necessary.

The intent to deceive on the part of GCHS is further proved by "...financial statements [revealing] Gulf Coast had, in fact, been misusing restricted funds, unlawfully transferring capital outlay monies to salary accounts ... at various times." And that the records indicate that despite the historic misuse of funds GCHS's finances "appeared to be spiraling in a negative direction."

That though the Capital Outlay funds were received on December 17, 2002 GCHS made no effort to complete the purchase of the bus until March 31, 2003 when it made the down payment, and that this only took place after being questioned by District officials about the matter following the completion of the State Transportation Audit when questions arose as to why GCHS would not have submitted its "new" bus for inspection.

DISCUSSION

That GCHS received the Capital Outlay funds is not in dispute. That GCHS used a portion of those funds for operating expenses is not in dispute. That the use of Capital Outlay funds for operating purposes is improper is not in dispute.

However, there is a dispute over the matter of intent and mitigating factors. The District claims GCHS entered into the Capital Outlay process with the intent to deceive as proved by the October 2002 financing agreement while GCHS contends the change in its plans was forced upon it by the reduction in monthly operating funds by 44% following the October FTE headcount, and that they always intended purchase the bus as proved by the down payment. The severe reduction in funding was, they argue, a mitigating factor, was not intended to be permanent, and that the bus purchase would still be made by July 2003. Indeed GCHS's CPA reported to the School Board that a sum of \$7,752.14 had been repaid by the school to the Capital Outlay fund by late June 2003. As further proof of their intent GCHS supplied a copy of the minutes of its August 21, 2002 Governing Board meeting where the issue of obtaining new bus(es) was originally discussed.

There then remains the issue of the timing of the down payment and whether that is significant. The County contends that the down payment was only made after it began questioning why the new bus had not been purchased following GCHS's poor showing in the early March 2003 Transportation Audit. The District suggests that this was part of an attempt by GCHS to cover up its intent to deceive. For its part GCHS does not reply to this charge.

As for GCHS engaging in the pattern of misuse of funds that the County alleges, no supporting documentation is to be found in the filings.

JOINT ISSUE TWO

“Gulf Coast Operated Unsafe School Buses.”

Key points of GCHS’s appeal of this charge:

GCHS acknowledges its failing score in the March 2003 Transportation Audit, but contends that “...a failing score can be cured, and the Charter School has made every attempt to do so.”

GCHS says that it has had in place a plan for “20” and “30” day inspections for its buses and that it has had repairs performed as needed.

GCHS maintains that part of the problem it has experienced with its buses are related to their age, and that this issue would not have even arisen if they had been able to apply the requested Capital Outlay funds toward purchasing a new bus in January 2003 as planned. However, they were not able to do so due to the crisis created by the 44% drop in operating funds that came about as a result of the District’s initial funding calculation error and the results of the October 2002 FTE headcount.

Finally, GCHS says that the District had taken the position that they would not perform the required inspections of GCHS’s buses and that the work had to be obtained from a contractor “presumably at a higher cost,” but that recently the District had agreed to do the inspections at the school’s expense and that this arrangement will assist in catching and correcting problems faster.

Key points of ECSD’s response:

ECSD maintains that GCHS’s buses have “...routinely failed past inspections,” and that after the 2002 transportation audit all of the school’s buses were declared “grounded” and “out of service” due to their condition.

ECSD says that the bus submitted by GCHS for the 2003 inspection was one of its own choice that that it was represented as the “flagship” of its bus fleet. Yet this bus was declared “grounded” by inspectors at that the list of failures included, “...its air brake system, hydraulic brake system, mirrors, pupil warning light, stop arms, student crossing arms, and front brakes.” The District contends that this result, coming as it did on GCHS’s “flagship” bus represents “... an immediate danger to the health, safety and welfare of [GCHS] students.”

ECSD notes that twice in the past year GCHS has been warned by the District about its obligation to care for its buses. First, on May 24, 2002 a motion was adopted by the Board requiring GCHS “... to see that buses were ... given proper attention to, ‘ensure that all inefficiencies that were identified ... were corrected.’” Second on July 15, 2003 that the “...Board required Gulf Coast, and Gulf Coast agreed, that it would be responsible for the certification and inspection of buses, and to maintain its school buses in safe and working condition,” and that in the intervening time GCHS had failed to do so thereby failing “...to insure the complete safety of its students in all aspects of the operation of the school buses it operates.”

DISCUSSION:

Notwithstanding the assertions by GCHS that it is concerned, watchful, and proactive where the safety of its bus fleet is concerned, that had the financial crisis precipitated by the cut in funding as a result of the District’s calculation error and the results of the October 2002 FTE headcount not happened, and the new bus been purchased in January 2003 as planned the poor

showing would have been avoided, the fact is that the bus selected for the 2003 Transportation Audit was completely unacceptable.

While GCHS score on the Transportation Audit was in fact the lowest in the County among Charter Schools, and while the District's own buses and Transportation Department received sterling marks during the same inspection, the fact needs to be noted that of the six charter schools in Escambia County only two passed with a score of 90%. Four received scores of 80% and GCHS received a 60.

With regard to the bus related requirements reported by the Respondent as imposed upon GCHS by the Board during its meetings of May 24, 2002 and July 15, 2002 the record is incomplete. No mention of these is made in the Charter Contract approved at the July 15, 2002 meeting nor is a transcript of that meeting present. In addition, the subject of the meeting of May 24, 2002 appears to have been to consider a District Staff Report of on the drowning incident involving GCHS student Earl Beasley and the recommendations made in that report. While the report is thorough in explaining the incident, and while it makes three specific recommendations, not one word of it deals with the subject of bus transportation or the condition of buses. However, there is mention in the transcript of the June 24, 2003 meeting indicating buses had been a subject of discussion at some point in the past, and that GCHS had been charged with improving their conditions.

JOINT ISSUE THREE

“Gulf Coast High School employed two teachers who were not Florida certified teachers. Their contract and state law requires all charter school teachers to be certified.”

Key points of GCHS's appeal of this charge:

GCHS acknowledges that two teachers (one in English and one in Physical Education) were uncertified as required by s. 1002.33(12)(f), F.S., and by s. 9 of the Charter Contract between the ECSD and The Intervention Group, Inc. dated July 16, 2002.

GCHS maintains that both teachers are qualified and have now obtained certification, and that the school “...is in the process of obtaining appropriate documentation.”

Key points of ECSD's response:

GCHS employed two uncertified teachers. One taught without certification during both FTE headcount periods and one taught during the February FTE headcount period. This use of uncertified teachers is contrary both to State Law and the Charter Contract, and “... [constituted] an immediate danger to the health, safety and welfare of students.”

ECSD submits that the “lackadaisical approach” of GCHS toward the issue will have “... serious financial repercussions” as it will cause a loss to the District of \$85,000.00 in State FTE money. The District says it plans to require GCHS to repay the funds, but that due to the school’s “... history of financial mismanagement...” the District doubts GCHS can meet the obligation and the loss will have to be absorbed by the taxpayers of Escambia County.

DISCUSSION:

Given the evidence available from the filings it appears it was in April 2003 that the discovery of the uncertified teachers was made as a by product of the visit to GCHS of Ms. Weheimer of the ECSD to explain to school officials the implications of the federal “No Child Left Behind” legislation.

No explanation is given in the Appeal of GCHS of why this situation was not discovered or corrected earlier. However, Mr. Darnell Sims, President and CEO of The Intervention Group, Inc., the operator of GCHS, spoke to the issue during the June 24, 2003 meeting of the School Board. At that time Mr. Sims indicated the English teacher had originally been engaged as a substitute for “... maybe two months,” had a degree in psychology and needed to be certified to teach out-of-field. Mr. Sims said the request had been made, but that the paperwork had gotten lost at the District and then “... miraculously showed up.” Mr. Sims also indicated that the Physical Education teacher had submitted paperwork to the District “... about August 14th [2002] or so ... and was told he needed one more course.” Mr. Sims says he assumed things had been worked out to allow the teacher to teach pending completion of the course and that “... I know right now [June 24, 2003] he is certified.”

Neither party presented any evidence in their filings relative to the current status of these teachers.

JOINT ISSUE FOUR

“Gulf Coast High School Mismanaged Its Finances.”

Key points of GCHS’s appeal of this charge:

The Charter Contract between ECSD and GCHS dated July 16, 2002 specifies in s. 3 that the school will be authorized to serve “...up to one hundred (100) students.” On June 18, 2002 the ECSD forwarded to GCHS an FTE worksheet indicating that the school would receive a total payment during the succeeding 12 months of \$540,252.00 or \$45,021.00 per month. This number was then confirmed on July 19, 2002 by a Purchase Order for Services issued by ECSD. GCHS built its 2002 – 2003 budget using this amount.

On November 26, 2002 the ECSD forwarded to GCHS an FTE worksheet indicating that following the October FTE headcount the school’s yearly allocation had been adjusted downward to \$422,530.00 based upon the 92 students actually counted, and that this would result in a monthly payment to the school of \$21,772.00. This was 44% less than the initial payments of \$45,021.00 though the school only missed its maximum enrollment by 8%. It was quickly found that the worksheet contained an arithmetical error and that the actual monthly payment should be \$25,400.60. The new amount also reflected deductions for overpayments during the first six months of the contract which would be amortized over the subsequent six months.

On March 27, 2003, ECSD forwarded to GCHS an FTE worksheet indicating that following the February FTE headcount the school’s yearly allocation had been adjusted upward to \$448,581.00 based upon the 95.50 students actually counted, and that this would result in a monthly payment to the school of \$34,084.33. This was an increase over the December amount, but was still 24% less than the initial payments of \$45,021.00 though the school only missed its maximum enrollment by 5.5%. The new amount also continued to reflect deductions for overpayments during the first six months of the contract.

With the fluctuations in the funding causing distress GCHS undertook in December to examine the funding paperwork they had received from the County and discovered that the initial estimated FTE used by the County to calculate GCHS’s yearly payment had been 115 despite there being an enrollment cap of 100 in the Charter, but that the same yearly amount was stated on the ECSD Purchase Order though the FTE reflected there was 100. GCHS maintains it discussed this and its impact with the District both in December 2002 and in March 2003.

GCHS acknowledges that beginning in calendar year 2003 their monthly expenses began to exceed their revenues, but places the cause of this on the 44% reduction of funding in December which came in the middle of a budget constructed for the full estimated amount given them the previous June and July. This problem would have been lessened, GCHS contends, were the District not attempting to hold their initial error in calculation against the school.

GCHS disputes the District’s contention that the deficits it encountered by reason of the error “... creates a growing concern for the ability of the [Charter School] to meet current and future financial obligations and to operate effectively....” The school argues that a “thorough study” by their CPA conducted in June 2003 contains the following statement: “Consequently, it would appear that the concern that [the District] has regarding the negative trend in revenues is unwarranted. The school has positive working capital as of the May 31st [2003] financial statements. The school is not now nor has it been in default on any of its loan agreements, nor has the school attempted to restructure any of its debt agreements. There has been no denial of credit with any of the school’s creditors and the school is current on all trade payables.”

GCHS contends that it has supplied the District with a prospective financial statement for the year 2003 - 2004 that shows an excess of revenues against expenditures, and that the school

is taking further steps to ensure this by putting into place budget cuts during SY 2003 - 2004 of \$105,041.00. The steps they are taking, GCHS maintains, will place them in the black.

Key points of ECSD's response:

ECSD contends that GCHS has a history of deficit positions that were unrelated to the District's FTE projections and that "... as far back as August 2002 ... Gulf Coast was operating at a deficit..."

ECSD contends that this pattern continued and that "[b]y December 2002, before any downward adjustments were made in the FTE projections, Gulf Coast was operating with a monthly deficit of [\$21,583.65] and an overall year-to-date deficit of [\$45,85416]. [Further] Gulf Coast's net revenues at the close of the November 2002 reporting period were at a deficit of [\$69,141.14]."

ECSD claims that given GCHS's financial record "it is clear" the school's ability to meet its financial obligations is "impaired," and that "... it is unlikely that [GCHS] can recover from the weight of beginning [a new School Year] with the [\$85,000.00] liability..." incurred due to the presence of the two uncertified teachers.

DISCUSSION:

There is no question that the reduction in revenues had an adverse impact on GCHS. Any business that experiences a sudden cut in monthly revenues from \$45,000 to \$25,000 will be adversely impacted.

There is also no question that a mistake was made at the District level in basing its initial FTE funding calculations based upon the number 115 instead of 100. At the June 24, 2003 hearing Superintendent Paul took responsibility for giving that number to the Finance Office.

There is also no question that the documents supplied to GCHS (the worksheet and the Purchase Order) were conflicting. The worksheet shows clearly that the calculation is based on 115 while the Purchase Order reflects the same total yearly amount of money (\$540,000.00), but says that this is based on a projected FTE of 100.

There is also no question that both parties should have noticed the discrepancies at the outset. The numbers in question are easily identifiable to the untrained eye on the forms, and as was repeatedly said at the June 24, 2003 hearing, such forms were "nothing new" either to GCHS or the ECSD.

There is a question, and indeed this was also mentioned at the June 24, 2003 hearing, whether GCHS should have built its budget based upon the maximum amount quoted even had that amount been accurately based on 100 instead of 115 students given that there were still to come the October and February FTE headcounts.

As for the financial statements. The record submitted is incomplete for the 2002 – 2003 School Year. However, given the contention of the District of a growing problem at GCHS it is useful to look at the numbers they submitted in support of their position.

For the month ending :

August 31, 2002:	Deficit for Month: <\$10, 080.47>	Surplus for Year: \$ 4,012.65
September 30, 2002:	Surplus for Month: \$ 3,335.93	Surplus for Year: \$ 7,348.58
October 31, 2002:	Deficit for Month: <\$ 1,872.82>	Surplus for Year: \$ 5,475.76
November 30, 2002	Deficit for Month: <\$29,746.27>	Deficit for Year: <\$24,270.51>

December 31, 2002:	Deficit for Month: <\$21,583.65>	Deficit for Year: <\$45,854.16>
January 31, 2003**:	Deficit for Month: <\$24,359.32>	Deficit for Year: <\$52,748.08>
February 28, 2003:	Deficit for Month: <\$25,535.68>	Deficit for Year: <\$78,283.76>

**According to County figures January was the month when GCHS FEFP revenue dropped from \$45,000 to \$25,000. The rate became effective as of December 1, 2002, but did not show up until January.

Net Revenues:

August 31, 2002:	<\$21,358.74> Deficit
September 30, 2002:	<\$23,504.05> Deficit
October 31, 2002:	<\$34,545.39> Deficit
November 30, 2002:	<\$69,141.14> Deficit
December 31, 2002:	<\$28,097.93> Deficit
January 31, 2003:	<\$6,913.55> Surplus
February 28, 2003:	<\$23,147.79> Deficit
March 31, 2003:	<\$34,611.54> Deficit

GCHS General Fund Balances at end of Fiscal Year:

June 30, 2001:	\$79,666.00 Surplus
June 30, 2002:	\$9,453.00 Surplus

JOINT ISSUE FIVE

“The School Board’s notification to the Charter School of its proposed action five (5) days prior to the School Board’s Special Meeting violates due process and Florida law.”

Key points of GCHS’s appeal of this charge:

ECSD failed to comply with the provisions of s. 1002.33(8)(c), F.S. providing for written notice at least 90 days in advance of a proposed action to Terminate, or Non-Renew by notifying GCHS of its proposed action on June 19, 2002 four calendar days in advance of the Special Meeting of the School Board on June 24, 2003. GCHS also notes that the relevant statute permits a Charter School to request an informal hearing within 14 days after receiving the written notice and that the informal hearing is to be held within 30 days of when the request for it is received. Given the time frame established by the School District in this case there was no opportunity for the statutory due process to be carried out.

GCHS contends that School Board Attorney Francisco Negrón in his letter to GCHS dated June 24, 2003 stated “... the School Board voted to terminate the charter contract in accordance with Florida Statutes s. 1002.33(8)(d), which permits a charter to be terminated ‘if the sponsor determines that good cause has been shown or if the health, safety or welfare of the students is threatened.’ [The letter] also states that ... the Superintendent’s recommendation was to terminate the charter contract effective June 30, 2003. However, June 30, 2003 served as the natural expiration of the contract...” and therefore the action of the Board was more in the nature of a Non-Renewal as was recommended in the Staff memo to the Superintendent dated June 18, 2003.

Key points of ECSD’s response:

ECSD contends that it is relying on s.1002.33(8)(d),F.S., which specifically deals with *Immediate Termination*, and that under this section the requirements of 90 day notice and hearing do not apply. The action to Immediately Terminate with four days notice, contends the District, was based on “Gulf Coast’s endangerment of the health, safety and welfare of its students.”

ECSD argues that even if the 90 day due process provision did apply that GCHS has failed to show it was in “any way” prejudiced by the time frame. Also, the District argues that GCHS can be proven to have had a “full and fair opportunity” to make its case since “...nearly half of the 59 pages of transcript of the hearing are dedicated to statements” from GCHS in its defense. Finally, as regards due process the ECSD contends that in not raising the due process question “in advance” of the School Board hearing it “.may well” have waived its right to do so on appeal.

DISCUSSION:

There is no question that the 90 day period provided for in the statutes was not observed. Equally there is no question that the 30 day period of notice for amendment or termination of the charter provided for in s. 8 the Charter itself was not observed. Lastly, there is no evidence presented that the District “assumed control” of the school following its June 24, 2003 decision as is required in cases of Immediate Termination even if there is an appeal.

It is, then, up to the Commission to decide whether this action is sustainable as one of Immediate Termination, or as the Guidelines put it, “[d]id the totality of the circumstances ... justify the District’s decision to forego the 90-day notice and hearing, and terminate immediately?”

In addition, there is the question of “good cause” which the Guidelines speak of in relation to Immediate Termination by saying: “[t]he ‘good cause’ set forth in subsection (8)(d) must necessarily be a higher standard of good cause than that which as been set forth in (8)(a) in order for the 90-day notice and hearing provisions of (8)(c) to have meaning.”

**ARGUMENTS PRESENTED IN SUPPORT OF POINTS RAISED BY ONLY ONE
PARTY WITH DISCUSSION**

FIRST ISSUE RAISED ONLY BY GCHS:

“The School Board’s issuance of successive one-year contracts contradicts Florida law, are invalid, and consequently, the Charter School’s contract should not currently be subject to renewal.”

Key points of GCHS’s appeal of this charge:

GCHS points out that the statutes (s. 1002.33(7)(a)12, F.S.) provide for initial charters to be for terms of “...3, 4, or 5 years.” The school contends that they were subjected to a series of 1 year contracts which were contrary to law and the legislative intent of “[ensuring] long term contracts.” Further, the short term, and the consequent necessity of going through renewal “every summer”, “...unduly burdens and profoundly interferes with the Charter School’s ability to engage in long-term strategic planning in areas critical to the operation of the school...”

Key points of ECSD’s response:

ECSD did not address this issue.

DISCUSSION:

The plain language of the statute cited by GCHS would seem to support this contention. However, the facts are that GCHS negotiated and agreed to a series of one (1) year contracts without prior complaint. It is then arguable that GCHS has waived this issue through its past actions.

SECOND ISSUE RAISED ONLY BY GCHS:

“The School Board lacked “good cause” to not renew the Charter School contract.”

Key points of GCHS’s appeal of this charge:

GCHS raises this as a separate point using the definition found in s. 1002.33(8)(a), F.S. and claims that the charges lodged against the school in Superintendent Paul’s June 19, 2003 letter fail to rise to the level of “good cause”.

Key points of ECSD’s response:

ECSD does not treat this as a separate issue. However, in their defense of the procedures employed in taking action against GCHS they write: “Good cause is defined in Section 1002.33(8)(a), Florida Statutes, to include: failure to meet the requirements for student performance stated in the charter; failure to meet generally accepted standards of fiscal management; and violation of law.

Thus, where a charter school either endangers student health, safety or welfare, or commits any of the infractions in 1002.33(8)(a), a school board is authorized to immediately terminate the charter. The School Board was well within its statutory authority to act expeditiously to terminate Gulf Coast’s charter for [the] violations [cited]....”

DISCUSSION:

The particulars of this issue are largely contained within the boundaries of Joint Issue Five in the preceding section.

FIRST ISSUE RAISED ONLY BY ECSD:

“Gulf Coast’s systemic failures resulted in the drowning death of a student in May 2002.”

Key points of ECSD in relation to this charge:

ECSD raises this point to bolster its contention that GCHS has had a pattern of “systemic failures”. The issue recounted here deals with the tragic incident in the Spring of 2002 when GCHS student Earl Beasley drowned in the Gulf of Mexico off Pensacola Beach during a school outing. A report was prepared at that time which recommended the Immediate Termination of GCHS. The report was taken up at a special meeting of the School Board in May of 2002.

Key points of GCHS’s response:

GCHS did not address this issue.

DISCUSSION:

Though the story of the death of Earl Beasley is a tragic one it was not cited as a reason in 2003 by Superintendent Paul for seeking closure of GCHS. Further, in 2002, the key recommendation of the Staff memo discussing the incident was to Immediately Terminate GCHS. The recommendation was not adopted by the School Board.

However, during the discussion of the instant action at the June 24, 2003 Board meeting the incident is referred to by, among other, Superintendent Paul. His remarks suggest the Beasley drowning was a factor in this case even though it was not among the formal reasons advanced for seeking to close GCHS.

SECOND ISSUE RAISED ONLY BY ECSD:

“Gulf Coast Was Permitted to Remain in Operation on a Trial Basis Only.”

Key points of ECSD in relation to this charge:

ECSD maintains as a result of the “systemic failures” of GCHS during 2001-2002 (the year of the Beasley death) the School Board voted to renew the contract for one year with certain stipulations relating to the health safety and welfare of the GCHS students.

Key points of GCHS’s response:

GCHS did not address this issue in its filings. However, there was some acknowledgement by GCHS of conditions imposed in 2002 during the discussion before the School Board on June 24, 2003.

DISCUSSION:

From the record available there is no real way of discerning what the specific “stipulations” imposed upon GCHS were, or if the 2002-2003 contract was indeed granted on a “trial basis”. These items were not incorporated into the contract, and if they exist at all in written form they most probably exist in the minutes or transcript of the May 24, 2002 and July 15, 2002 meetings of the Escambia County School Board. However, “trial basis” or not the current contract was set to expire on June 30, 2003.

THIRD ISSUE RAISED ONLY BY ECSD:

Gulf Coast's Failures Continued In School Year 2002-2003

Key points of ECSD in relation to this charge:

ECSD contends that “[d]espite some minor initial programmatic and building code changes during the last school year [2002-2003] Gulf Coast began to again experience systemic operational failures that demonstrated Gulf Coast’s inability to provide an adequate and appropriate educational setting for children.”

Key points of GCHS's response:

GCHS did not address this issue in its filings.

DISCUSSION:

The level of detail provided in the filings are sparse on this topic, however, the transcript of the June 24, 2003 meeting shows that Mr. Charles Thomas, Escambia County Director of Alternative Education told the Board:

“In the fall meetings were held with Otha Leverett who was then principal of Gulf Coast High School to review the safety and procedural issues which needed to be addressed. They were held in late July and early August and again in the fall and shortly before Christmas.

Reviews of the safety corrections were done by Steve Sharp to ensure that the identified building code deficiencies have been corrected and Mr. Sharp found the items to be in order.

I also reviewed processes related to registration, scheduling, attendance and accountability of students during the day and found the areas which had been addressed ... as concerns were now seemingly at a satisfactory level.”

Mr. Thomas goes on to say that with these issues adequately addressed, and knowing the bus audit was coming in the spring, that that one remaining issue would be dealt with then.

So, it would seem that barring a bad review on the bus audit, which is, of course, what happened, one can infer that the concerns raised in May and July of 2002 after the Beasley incident (and at the time of the charter renewal) had been addressed adequately by GCHS.

TIME LINE

TIME LINE

1999

July 1999 – 1st 1 year contract

2000

July 2000 – 2nd 1 year contract

2001

July 2001 – 3rd 1 year contract

2002

May 10, 2002 -- GCHS field trip to Pensacola Beach – Fatality occurs when student Earl Douglas Beasley, Jr. drowns in Gulf of Mexico.

May 13, 2002 -- GCHS staff interviewed about Beasley incident.

May 16, 2002 -- Memo to Superintendent Jim Paul and School Board members from Joseph Bernard, Director of Risk Management, Francisco Negron, General Counsel, and Charles Thomas, Director of Alternative Education entitled “Review of Student Drowning Fatality on Pensacola Beach Field Trip sponsored by Gulf Coast High School (Charter School)”. Memo recounts Beasley incident and investigation undertaken by District staff. Issues three recommendations:

1. The GCHS charter school should be terminated immediately pursuant to Section 228.056(11)(d), Florida Statutes {*now* s. 1002.33(8)(d), F.S.}, as a threat to the health, safety and welfare of students in its care.
2. The School Board should suspend the application of The Intervention Group, Inc. from an elementary school at the Dixon property pending its review of The Intervention Group, Inc.’s practices, to determine whether the collective systemic failures that led to this instant tragedy may occur at The Intervention Group, Inc.’s prospective charter at the Dixon property.
3. A charter should not be granted to The Intervention Group, Inc., for the Dixon property until such time as the School Board and the Superintendent are satisfied the operation of the prospective charter does not pose a threat to the health, safety and welfare of its students.

May 24, 2002 -- At a Special meeting of the School Board a motion is adopted relating to GCHS requiring it “ensure that all inefficiencies that were identified ... were corrected.”

June 14, 2002 -- ECSD faxes estimated revenue calculation sheets to GCHS showing that estimate is based on a projected FTE of 115 for a total yearly amount of \$540,252.

June 18, 2002 -- Memo from Charles Thomas informing GCHS their monthly invoice beginning July 1, 2002 will be \$45,021 based upon their estimated FTE.

June 19, 2002 -- Purchase order executed by ECSD for amount reflected in letter from Thomas.

July 15, 2002 -- One (1) year (Contract #4) is completed at regular meeting of School Board School Board requires GCHS to be responsible for certification and inspection of its buses and to maintain the buses in a safe and working condition.

July 16, 2002 -- 4th 1 year contract for GCHS approved. Contract stipulates that contract may be amended or terminated by either party "...after thirty (30) days written notice and shall remain in effect for one (1) year beginning July 17, 2002 and ending June 30, 2003."

July 19, 2002 -- ECSD issues a purchase order to pay GCHS a total of \$540,252.00 over the succeeding 12 months and Purchase Order indicates it is based upon a projection of 100 FTE as specified by the enrollment cap in the GCHS contract.

July, August, September, October, November, and December 2002 -- GCHS received \$45,021 per month.

Late July and early August 2002, also during Fall and "just before Christmas," 2002 -- According to Charles Thomas of ECSD meetings were held with the principal of GCHS to "Review the safety and procedural issues which needed to be addressed" by the school subsequent to its contract renewal in July 2002. Steve Sharp of the ECSD reviewed the needed safety corrections and found them "in order." Mr. Thomas reviewed processes related to registration, scheduling, attendance and accountability of students and sound them to be at a "satisfactory level."

August 21, 2002 -- GCHS Governing Board has initial discussion of obtaining new buses. The first idea explored was leasing.

August 31, 2002 -- GCHS reports an deficit for the month of \$10,080.47 and a year-to-date surplus of \$4,012.65.

September 2002 -- GCHS Transportation Director leaves. Governing Board holds over decision on new buses until November.

September 30, 2002 -- GCHS reports a surplus for the month of \$3,335.93 and a year-to-date surplus of \$7,348.58.

October 2002 -- October student count reveals 92 students at GCHS.

October 8, 2002 -- Navistar Financial Corp. prepares 60 month contract to finance GCHS for purchase of one (1) bus.

October 31, 2002 -- GCHS reports an deficit for the month of \$1,872.82 and a year-to-date surplus of \$5,475.76.

November 2002 -- GCHS requests a total of \$126, 813.25 in Capital Outlay funds for two (2) purposes: 1. "Initial down payment and subsequent monthly payments for two (2) new buses," and 2. "Monthly payments on property purchased."

NOTE: The amount requested was lowered by District staff to \$69,204.00, and the amount eventually approved was \$60,478.00.

November 2002 -- Governing Board gives approval to begin process of leasing buses. Leases were to be five years with option to purchase. This plan was later disallowed by FDOE.

November 25, 2002 -- ECSD faxes revised revenue calculation sheets to GCHS showing that is based on the October 2002 headcount FTE of 92 for a total yearly amount of \$422,530 yielding the school a monthly amount of \$21,772 (later adjusted due to District error to \$25,400.60) which reflects adjustments due to overpayments since July 2002.

November 26, 2002 -- Memo From Charles Thomas to GCHS announcing cut in monthly amount to school based on October count. New amount is \$21,772. This was later corrected to amount of \$25,400.67.

November 30, 2002 -- GCHS reports an deficit for the month of \$29,746.27 and a year-to-date deficit of \$24,270.51

December 2002 -- GCHS discussed discrepancy in calculation with District based on 115 students instead of 100 which resulted in big cut in December.

December 2002 -- GCHS submits request to buy a bus, and plans to purchase bus "at the beginning of the year" (2003).

December 11, 2002 -- Letter from Barbara Rinker, Assistant Superintendent for Finance and Business Services to Darnell Sims of GCHS notifying him she has sent a copy of the GCHS 2002-2003 Capital Outlay Plan to FDOE. Plan submitted specifies that capital outlay funds will be spent for two purposes:

1. Initial down payment and subsequent monthly payments for two (2) new buses.
2. Monthly payments on property purchased.

NOTE: The proposed arrangement for the busses was to be a lease with option to buy and it was turned down by FDOE. So GCHS requested finds to purchase one bus outright.

December 11, 2002 -- Rivers Bus Sales, Inc., of Jacksonville prepares a Buyers Agreement for GCHS for the purchase of one (1) bus at a price of \$60,478.00.

December 12, 2002 -- Rivers Bus Sales, Inc. of Jacksonville prepares document showing specifications and price for purchase of one (1) bus by GCHS.

December 13, 2002 -- Rivers Bus Inc., of Jacksonville faxes Buyers Agreement, specifications, and price quote for one (1) bus to GCHS.

December 16, 2002 -- ECSD issues warrant request in favor of GCHS in the amount of \$60,478.00 in capital outlay finds for purchase of bus.

December 17, 2002 -- GCHS receives funds to purchase bus.

December 31, 2002 -- GCHS reports an deficit for the month of \$21,583.65 and a year-to-date deficit of \$45,854.16.

2003

Early January 2003 -- GCHS expected to receive funds in the amount of \$50,000 from a "major project," that was to be completed in December. This GCHS believed would cover the deficit caused by the cuts due to lower FTE funding. The project was not completed and the funds did not arrive until late January, and when they did they were not as high as expected.

January 2003 -- GCHS decides to delay bus purchase until summer and to use the funds they had to keep the school running though they realized “we’d probably get a little flack from this.”

January 31, 2003 -- GCHS reports an deficit for the month of \$24,359.32 and a year-to-date deficit of \$52,748.08.

February 2003 -- February student count reveals 95.5 students.

February 28, 2003 -- GCHS reports a deficit for the month of \$25,535.68 and a year-to-date deficit of \$78,283.76.

March 2003 -- GCHS discussed new amount with District based upon February 2003 student counts.

March 12, 2003 (week of) -- FDOE conducts District Transportation Audit.

March 21, 2003 -- Letter to Jim Paul from Wayne Pierson, FDOE Chief Financial Officer, informing him of results of Transportation Audit and of deficiencies found regarding Charter Schools in the County. Results earned by GCHS causes county officials to wonder why GCHS did not submit their new bus as their sample. That uncovers the fact that a new bus had not been purchased by GCHS even though funds had been disbursed in December 2002.

March 24 2003 -- 90 days out from June 24, 2003.

March 24, 2003 -- ECSD faxes revised revenue calculation sheets to GCHS showing that is based on the February 2003 headcount FTE of 95.50 a total yearly funding amount of \$448,581.00 which will yield the school a monthly amount of \$34,084.33. The new monthly amount reflects continuing adjustments due to previous overpayments.

March 27, 2003 -- Memo to Jim Paul from Shawn Dennis of the District Transportation Department entitled “Transportation State Monitoring Visit Result Summary.” Memo highlights performance of the 6 charter schools in the county. Results show that 2 schools received passing grades and 4 did not with GCHS receiving the lowest grade at 60%.

March 27, 2003 -- Memo from Charles Thomas informing GCHS their revised monthly invoice beginning April 1, 2003 will be \$34,084.33 based upon the February FTE count.

March 31, 2003 -- GCHS pays Rivers Bus Sales, Inc. \$12,054.00 as down payment on bus.

April 2003 -- Ms. Weheimer of the ECSD meets with GCHS to discuss the implications of the “No Child Left Behind Act” and the issue of the two uncertified teachers is uncovered. The teachers had not gone through the process of certification, but later Ms. Weheimer indicated both would qualify if they went through the process.

June 17, 2003 -- E-mails are exchanged between Charles Thomas, Escambia School District Director of Alternative Education, and Brad Searcy of the Rivers Bus Sales, Inc. Thomas asks Searcy, “Has there been any further contact from Gulf Coast High School ... regarding purchase of the bus?....” Searcy replies, “There has not However I do have a sizeable deposit from them that binds

me to execute the delivery as intended by the deposit. At the very least the school system gets a brand new bus.”

June 18, 2003 -- Memo to Jim Paul from Paul Fetsko, Assistant Superintendent for Curriculum and Instruction; Barbara Linker, Assistant Superintendent for Finance and Business Services; Dr. Doug Garber, Assistant Superintendent for Human Resources; Ted Kircharr, Assistant Superintendent for Operations; and Charles Thomas, Director, Department of Alternative Education entitled “Recommendation Regarding Gulf Coast High School.”

Memo recounts results of reviews of expected performance of GCHS and recommends “*Non-Renewal*” of the charter at a Special Meeting of the District Board on June 24, 2003 to be effective June 30, 2003. The recommendation is based on four (4) reasons. The reasons are:

1. Gulf Coast High School requested and received capital outlay funds which were not used for the purpose described in their request.
2. A transportation audit of Gulf Coast High School received a failing score of 60%. A passing score is 90%.
3. Gulf Coast High School employed two teachers who were not Florida certified teachers. Their contract and state law requires all charter school teachers to be certified.
4. Financial reports demonstrate a patten of inadequate funding for operational costs.

June 19, 2003 -- Letter from Superintendent Jim Paul notifying GCHS that at Special Board Meeting on June 24, 2003 he will recommend GCHS contract be “terminated” effective June 30, 2003. Encloses documentation concerning deficiencies of school. Enclosures are:

1. June 18, 2003 memo to Jim Paul from Paul Fetsko, Assistant Superintendent for Curriculum and Instruction; Barbara Linker, Assistant Superintendent for Finance and Business services; Dr. Doug Garber, Assistant Superintendent for Human Resources; Ted Kircharr, Assistant Superintendent for Operations; and Charles Thomas, Director, Department of Alternative Education entitled “Recommendations Regarding Gulf Coast High School.”
2. March 27, 2003 memo to Jim Paul from Shawn Dennis of the District Transportation Department entitled “Transportation State Monitoring Visit Result Summary”.
3. March 21, 2003 Letter to Jim Paul from Wayne Pierson, FDOE Chief Financial Officer, informing Superintendent Paul of results of Transportation Inspection and of deficiencies found regarding Charter Schools in the County.
4. Copies of paperwork related to Capital Outlay request and disbursement for GCHS school bus purchase.

June 24, 2003 -- GCHS calls Rivers Bus Sales Inc. Is told bus is ready for them, and GCHS says it will be in “mid-July” to get it. GCHS tells the District School Board that after they had made their down payment they had “expected” Rivers to “call us and say the bus was ready,” and that is why there had been no contact between March and June.

June 24, 2003 -- School Board meets. Votes 3-2 to terminate.

June 24 2003 [Board Meeting] -- Edith Kirk CPA for GCHS tells School Board that as of May 31 2003 GCHS has “positive working capital,” and she says that the concerns expressed by Assistant Superintendent Fetsko in the June 18, 2003 memo to Superintendent Paul regarding a “negative trend” in GCHS finances is “unwarranted.”

June 24 2003 [Board Meeting] -- In FY 2000 GCHS CPA Edith Kirk maintains that GCHS had a positive income situation.

June 24 2003 [Board Meeting] -- In FY 2001 GCHS CPA Edith Kirk maintains that GCHS had a positive income situation.

June 24 2003 [Board Meeting] -- In FY 2003 GCHS CPA Edith Kirk maintains that GCHS will suffer a loss.

June 24, 2003 [Board Meeting] -- GCHS CPA Edith Kirk reveals that GCHS is planning \$105,041 in budget cuts for the 2003 – 2004 School Year in order to correct its financial problems.

June 24, 2003 [Board Meeting] -- GCHS CPA Edith Kirk reports that GCHS has repaid \$7,752.14 of the Capital Outlay funds it spent on operating expenses, and plans to put \$16,000 it will receive from a CD and \$20,000 from a pending gift toward the same purpose.

June 24, 2003 [Board Meeting] -- Charles Thomas reports that GCHS deficit on January 31, 2003 was \$52,748.08, and by April 30, 2003 this had risen to \$92, 454.00.

June 24, 2003 [Board Meeting] -- GCHS CPA Edith Kirk maintains that GCHS had built its budget upon the assumption that it would receive \$540,252 but because of the errors in the FTE amount this actual revenue was decreased to \$448,581 which led to a SY 2002 – 2003 budget shortfall of \$91,671.00.

June 24, 2003 [Board Meeting] -- Darnell Sims of GCHS reports that both teachers that had been found not to have certification now had it. Said that the problem was lost paperwork in both cases, and the need for one of the teachers to take one additional course.

June 24, 2003 -- Following School Board vote Francisco Negron, Attorney for School Board, delivers formal letter by hand to GCHS notifying them of the Board's decision and of their right to appeal within 14 days.

June 30, 2003 -- 4th 1 year contract expires.

July 2003 -- Month GCHS intended to complete purchase of bus.

July 7, 2003 -- Appeal of Gulf Coast High School dated and forwarded to SBE.

August 6 2003 -- Projected beginning of GCHS 2003-2004 School Year.

September 3, 2003 – Consideration of Appeal by Charter School Appeals Commission.

SUMMARY OF RESEARCH FINDINGS

SUMMARIES OF RESEARCH FINDINGS ON ARGUMENTS PRESENTED IN SUPPORT /
OPPOSITION TO THE POINTS RAISED BY BOTH PARTIES

• **Summary of Research Findings on Joint Issue One: *Gulf Coast High School Misused Capital Outlay Funds***

- GCHS received a total of \$60,478.00 in December 2002 to purchase a new bus.
 - \$27,876.00 (46%) was used to cover operating deficits.
 - \$20,556.14 (33%) was used for lease and mortgage payments.
 - \$12,054.00 (11%) was used on March 31, 2003 to put a down payment on the bus.

- The use of Capital Outlay funds for operating expenses even temporarily is clearly impermissible. However, GCHS maintains that the financial crisis precipitated by ECSD's initial miscalculation of FTE funding forced them do so rather than take drastic actions such as laying off 75% of its employees or closing the school. GCHS maintains they intended to pay the money back, and to purchase the bus later in the year as proved by their March 2003 down payment.

- ECSD maintains that GCHS obtained the Capital Outlay funds with “an intent to deceive,” and did not intend to purchase a bus outright with the money, but to finance one and to convert the Capital Outlay money into operating funds. ECSD maintains that GCHS only made a down payment on a bus after the District questioned why one had not been purchased. ECSD maintains this action on the part of GCHS was nothing new, and the school had at “various times in the past” engaged in similar misuse of restricted funds.

• **Summary of Research Findings on Joint Issue Two: *Gulf Coast Operated Unsafe School Buses***

- The bus submitted for inspection by GCHS during the State Transportation Audit in March 2003 was completely unacceptable though it was called the “flagship” of its five bus fleet. Severe mechanical problems were identified in the bus inspected.

- GCHS received the lowest score of any Charter School in the county at 60% with 90% being passing. The next lowest grade was 80%.

- GCHS maintains that had it been in a financial position to purchase a new bus the problem would not have occurred.

- ECSD maintains that GCHS had flunked bus inspections in previous years and had been charged by the District at the time the Charter Contract was renewed in 2002 to correct the problems if it wanted to stay in operation beyond the 2002 – 2003 School Year.

- ECSD points out that the Bus Audit was the triggering incident that began exposing the other problems leading to the School Board's action in June to close the school.

- **Summary of Research Findings on Joint Issue Three: *Gulf Coast High School Employed Two Teachers Who Were Not Florida Certified Teachers. Their Contract and State Law Requires all Charter School Teachers to be Certified***
 - GCHS admits that two teachers were discovered by ECSD to be uncertified in April of 2003.
 - GCHS says they took appropriate and timely steps to obtain certification and that the paperwork got lost at the District for some months. GCHS says both teachers are now certified.
 - ECSD says that GCHS did nothing about the status of the teachers until their status was accidentally discovered by the District, and that their “lackadaisical approach” to this important matter endangered students’ learning and will cost the County \$85,000.00 in lost FTE funds since one teacher taught without certification through both 2002 – 2003 FTE headcounts and one did so through the spring 2003 FTE headcount. ECSD says it will charge GCHS the \$85,000.00, but doubts the school, given their poor financial situation, can pay it and survive so the taxpayers will end up with the bill.

- **Summary of Research Findings on Joint Issue Four: *Gulf Coast High School Mismanaged its Finances***
 - ECSD maintains that GCHS has had a history of running deficits, and that the deficits have grown to the point where the school is not viable. ECSD also maintains that despite GCHS’s argument the history of deficits extends back to well before any errors were made in any calculations by the District.
 - GCHS maintains that they had been operating successfully and that the present the financial crisis was precipitated by District errors in SY 2002 – 2003 FTE funding calculations that cut the school’s funding drastically during the budget year, and that absent the errors the problem would not exist. In addition, GCHS says that during SY 2003 – 2004 it will make \$105,000.00 in budget cuts that will work to cure the problem.
 - ECSD says the problems are too severe for the school to survive especially with the added burden of \$85,000.00 that will be charged to the school as a result of the penalty for employing uncertified teachers.
 - That there were mistakes made in the initial estimated SY 2002 – 2003 FTE calculations there is no doubt, but they should have been discovered and corrected much sooner. Additionally, GCHS built its budget around the *initial* yearly estimated FTE funding figure which it knew would be subject to adjustment after the October and February FTE headcounts. Further, there is evidence that the deficits did pre-date any cut in funding.

- **Summary of Research Findings on Joint Issue Five: *The School Board’s Notification to the Charter School of its Proposed Action Five Days Prior to the School Board’s Special Meeting Violates Due Process and Florida Law***
 - GCHS was notified by letter on June 19, 2003 that the School Board would take up the matter of its closing four days later on June 24, 2003. The school submits that under State law it was entitled to 90 days notice.
 - ECSD maintains that the action was permissible under the provision of the law relating to Immediate Termination of a Charter School in severe cases, and that given the problems

uncovered at GCHS such an action to Immediately Terminate was permissible, and even mandatory, to keep students from being endangered.

- The question here is, was this action consistent with the standards for Immediate Termination in which case the 90 day requirement does not apply, or since the action took effect with the natural end of the contract and thus has characteristics of Non-Renewal where the 90 days is required, was it that type of action ?

SUMMARY OF RESEARCH FINDINGS ON POINTS RAISED BY ONLY ONE PARTY

- **Summary of Research Findings on First Issue Raised Only by GCHS: *The School Board's Issuance of Successive One-Year Contracts Contradicts Florida Law, are Invalid, and Consequently, the Charter School's Contract Should Not Currently Be Subject to Renewal***
 - GCHS has, in fact, operated under a series of one year contracts since it opened in 1999 while State law says that initial contract periods are to be 3, 4, or 5 years. However, as GCHS negotiated and signed these contracts it is arguable that they have waived the prerogative to raise this issue now.

- **Summary of Research Findings on Second Issue Raised Only by GCHS: *The School Board lacked "Good Cause" to Not Renew the Charter School Contract***
 - This issue is largely covered within the boundaries of Joint Issue Five, above.

- **Summary of Research Findings on First Issue Raised Only by ECSD: *Gulf Coast's Systemic Failures Resulted in the Drowning Death of a Student in May 2002***
 - This issue was first raised during SY 2001 – 2002, and while it may tend to evince a pattern of poor performance on the part of GCHS, and while it is doubtless a major part of the historical context of this issue, it was not one of the specific charges under consideration at the June 24, 2003 School Board meeting where the closure was ordered.

- **Summary of Research Findings on Second Issue Raised Only by ECSD: *Gulf Coast was Permitted to Remain in Operation on a Trial Basis Only***
 - There is no written evidence in the contract that any trial basis was contemplated. However, the transcript of the June 24, 2003 School Board meeting contains statements that could be interpreted this way. However, in the larger sense it does not matter since the contract was for one year and would expire on its own on June 30, 2003.

- **Summary of Research Findings on Third Issue Raised Only by ECSD: *Gulf Coast's Failures Continued in School Year 2002 – 2003***
 - ECSD maintains that while GCHS initially made some progress in correcting deficiencies uncovered during SY 2001 – 2002 it began to slip back into its old ways during SY 2002 – 2003 thus proving itself unable, "... to provide an adequate and appropriate educational setting for children."

 - The transcript of the June 24, 2003 meeting of the School Board contains statements by Charles Thomas, Escambia County Director of Alternative Education, which indicate that GCHS did make progress toward correcting problems in several areas. However, this progress was made before the March 2003 State Transportation Audit -- the event which began the discovery of further problems at the school.