



**STATE BOARD OF EDUCATION
AGENDA**

**Marva Johnson, Chair
John R. Padgett, Vice Chair
Gary Chartrand
Tom Grady
Rebecca Fishman Lipsey
Michael Olenick
Andy Tuck**

**February 18, 2016
Room LL03, The Capitol
400 South Monroe Street
Tallahassee, Florida**

9 a.m. Call to Order

Chair Marva Johnson

Welcome

Pledge of Allegiance

Member Comments

Chair Marva Johnson

Commissioner's Report

Commissioner Pam Stewart

- Commissioner's Leadership Recognition

Approval

1. Minutes of January 6, 2016 Meeting pg. 3

Updates

2. Florida College System –Dr. Edward Meadows, President, Pensacola State College, on behalf of the Council of Presidents pg. 10
3. K-12 Public Schools – Bill Husfelt, Superintendent, Bay County Public Schools on behalf of the Florida Association of District School Superintendents pg. 11

Action Items

4. Approval of Amendment to Rule 6A-1.09401, Student Performance Standards pg. 12
5. Approval of Amendment to Rule 6A-6.0201, State of Florida High School Diplomas, as of January 1, 2014 pg. 14
6. Approval of A.A.A. Scholarship Foundation- Florida, LLC as a Scholarship Funding Organization for 2016-17 pg. 16
7. Approval of Step Up For Students, Inc. as a Scholarship Funding Organization for 2016-17 pg. 18
8. Our Children's Prep School, Inc. vs. School Board of Polk County pg. 20
9. Somerset Academy, Inc., Somerset College Prep Academy Middle School vs. School Board of St. Lucie County pg. 24

10. Somerset Academy, Inc., Somerset Academy Middle School Vero Beach vs. School Board of Indian River County pg. 87
11. Somerset Academy, Inc., Somerset Academy Vero Beach vs. School Board of Indian River County pg. 137

Consent Items

12. Approval of Amendment to Rule 6A-3.0141, Employment of School Bus Operators and Repeal of Rule 6A-3.0151, School Bus Driver Physical Examination and Medical Examiners Certificate pg. 187
13. Approval of Amendment to Rule 6A-3.0171, Responsibilities of School Districts for Student Transportation pg. 194
14. Adoption of a Resolution Requesting the Issuance and Sale of Not Exceeding \$68,000,000 State of Florida, State Board of Education Lottery Revenue Refunding Bonds Series (to be determined) pg. 199
15. Approval of Amendment to Rule 6A-20.023, Jose Marti Scholarship Challenge Grant Fund pg. 202
16. Approval of Repeal of Rules 6A-1.039, Supplemental Educational Services in Title I Schools and 6A-1.0391, Evaluation of Supplemental Educational Service Providers pg. 214
17. Approval of Appointments to the Education Practices Commission pg. 233
18. Approval of Amendment to Rule 6A-10.081, Principles of Professional Conduct for the Education Profession in Florida and Repeal of Rule 6A-10.080, Code of Ethics of the Education Profession in Florida pg. 243
19. Approval of Amendment to Rule 6A-10.024, Articulation Between and Among Universities, Florida Colleges, and School Districts pg. 248
20. Approval of Amendment to Rules 6M-8.603, 6M-8.700, and 6M-8.701 related to the Voluntary Prekindergarten Education Program pg. 274

Presentation

Northeast Florida Regional STEM² Hub, Gary Chartrand pg. 291

Concluding Remarks

Chair Marva Johnson

STATE BOARD OF EDUCATION
Action Item
February 18, 2016

SUBJECT: Approval of Minutes of January 6, 2016, Meeting

PROPOSED BOARD ACTION

For Approval

AUTHORITY FOR STATE BOARD ACTION

N/A

EXECUTIVE SUMMARY

The minutes of the January 6, 2016, Meeting are presented for approval.

Supporting Documentation Included: Minutes, January 6, 2016

Facilitator/Presenter: Chair Marva Johnson

**MINUTES
STATE BOARD OF EDUCATION
MEETING**

January 6, 2016
Room LL03, The Capitol
400 South Monroe Street
Tallahassee, Florida

Chair Marva Johnson called the meeting to order at 9:00 a.m. and welcomed members and guests to the State Board of Education meeting. The following members were present: Vice Chair John Padget, Gary Chartrand, Tom Grady, Rebecca Fishman Lipsey, Michael Olenick and Andy Tuck.

Chair Johnson outlined the procedures for providing comment on items before the Board.

MEMBER COMMENTS

Vice Chair Padget welcomed Mr. Grady to the Board.

Ms. Fishman Lipsey thanked everyone for all their comments regarding the proposed cut scores and school grades. She also congratulated superintendents on the rise in graduation rates.

Mr. Olenick reiterated Ms. Fishman Lipsey's comments on the graduation rates and also shared his appreciation for all the comments received on the issues before the Board.

Mr. Tuck also praised the improved graduation rates and thanked all the teachers and staff as they begin a new year.

Mr. Chartrand stressed the importance of the decisions before the Board on cut scores and school grades including comments on the 12-year high graduation rates. He also shared that there are 300,000 open jobs in Florida that need skilled workers and it's the Board's responsibility to ensure Florida has a robust K-12 and college system preparing students for the jobs of tomorrow.

Mr. Grady congratulated Commissioner Stewart, the Board, the Department of Education and the students for the increased graduation rate. He shared the following statistics: Florida was seventh in the nation in student achievement last year; Graduation rates rose consistently among African-American and Hispanic students in 2010 and 2011; and in 2013, Florida was the only state to narrow the achievement gap in both grades four and eight in both reading and mathematics.

Chair Johnson shared that Florida has led the nation in terms of closing the achievement gap between cultural minorities and the majority and congratulated teachers and educators for driving those results.

COMMISSIONER'S REPORT

Commissioner Stewart announced the newly developed *Commissioner's Leadership Award* to recognize students who have overcome adversity to succeed on their academic journeys. She recognized the following recipients: Samantha Carpenter, Wakulla High School graduate and Tallahassee Community College student; Shawn Holloway, James S. Rickards High School; and Lauren Wallat, Taylor County Elementary School.

Commissioner Stewart reiterated the 12-year high graduation rate which is 77.8 percent of students graduating within four years and an increase of 1.7 percent from last year and more than 18 percentage points since 2003-2004.

She shared that Governor Scott has proclaimed, January 4 through 8 *Florida First Responder Appreciation Week*. Governor Scott and First Lady Ann Scott will host the *2016 Black History Month* contest for students and educators. Three educators will be selected with one from each, elementary, middle and high and this year's theme is African-American Heroes.

Commissioner Stewart recognized Bob Runcie, Superintendent of Broward County who was nominated by the Florida Association of District School Superintendents (FADSS) as the Florida Superintendent of the Year.

She shared the Department's communication plan for explaining the difference between each of the five achievement levels a student can obtain on the Florida Standards Assessment and presented the redesigned score report.

Chair Johnson requested additional information to help the Board better understand what some of the differentials are in terms of what states require for graduation and the rigor of other states curriculum compared to Florida. She also shared her appreciation for the redesigned student report as an effective way to communicate to families what exactly the standardized test scores are meant to communicate, in terms of their ability to master or to satisfy the requirements for our state.

Chair Johnson called for a motion to approve the Commissioner's Report. Ms. Fishman Lipsey made the motion with a second by Mr. Chartrand. The motion passed unanimously.

MINUTES

Chair Johnson called for a motion to approve the minutes from the December 4 Board meeting. Mr. Tuck made the motion with a second by Mr. Olenick. The motion passed unanimously.

UPDATES

Florida College System –Dr. Jim Murdaugh, Tallahassee Community College on behalf of the Council of Presidents

Chair Johnson recognized Dr. Jim Murdaugh, Tallahassee Community College, on behalf of the Council of Presidents (COP). President Murdaugh provided the results of a survey conducted among the colleges in the following targeted areas: science, technology, engineering and mathematics, advanced manufacturing, health, aerospace and other high-wage, high-demand areas. The survey provided the types of programs in these fields, from short-term certificates, to Associate's degrees, to Applied Bachelor's degrees, and the projected number of job openings based on the local data from career source, as well as the number of projected graduates to fill the job, the hourly wage per occupation in these fields, and the number of business partnerships being established.

Mr. Grady requested the COP provide an update at a future meeting in response to the letter from Governor Scott to the college presidents identifying 12 specific areas for them to consider.

K-12 Public Schools – Dr. Barbara Jenkins, Superintendent, Orange County Public Schools on behalf of the Florida Association of District School Superintendents

Chair Johnson recognized Dr. Barbara Jenkins, Superintendent, Orange County Public Schools, on behalf of FADSS. Superintendent Jenkins expressed FADSS support for the achievement level cut scores recommended by Commissioner Stewart and their strong rejection to mirroring levels of the National Assessment of Educational Progress (NAEP). She reiterated their position that school grades should be held in abeyance or deemed incomplete but in the absence of either of those remedies they believe the Commissioner's recommendations for school grades is most appropriate for this year. FADSS also requested a comprehensive review of the entire accountability system.

ACTION ITEMS

Approval of Amendment to Rule 6A-6.0786, Forms for Charter School Applicants and Sponsors

Chair Johnson recognized Adam Miller, Executive Director, Office of Independent Education and Parental Choice to provide an overview of the amendment. Mr. Olenick thanked Mr. Miller and his staff for collaborating with stakeholders, school districts and national entities throughout the process. Chair Johnson called for a motion to approve Rule 6A-6.0786, F.A.C. Vice Chair Padgett made the motion to approve the rule with a second by Mr. Tuck. Chair Johnson recognized Katie Piehl, Director of Authorizer Development for the National Association of Charter School Authorizers (NACSA). The motion passed unanimously.

Approval of Florida College System Performance Funding Mid-Year Reports

Chair Johnson recognized Madeline Pumariiega, Chancellor, Florida College System, for an overview of the mid-year reports.

Pasco Hernando State College – Dr. Timothy Beard

Chancellor Pumariiega recognized Timothy Beard, President, Pasco Hernando State College to present the mid-year report. Mr. Grady requested the college provide an update on how the college is responding to the letter from Governor Scott to the college presidents identifying 12 specific areas for them to consider. Chair Johnson called for a motion to approve the mid-year report. Vice Chair Padgett made the motion to approve with a second by Mr. Tuck. The motion passed unanimously.

Pensacola State College – Dr. Ed Meadows

Chair Johnson recognized Ed Meadows, President, Pensacola State College to present the mid-year report. Chair Johnson requested more information on the recruit-back program including the percentage of students dropping out by reason. Chair Johnson called for a motion to approve the mid-year report. Vice Chair Padgett made the motion to approve with a second by Mr. Tuck. Chancellor Pumariiega clarified that the Board approved the full reports in September and before the Board is the mid-year report showing the steps towards improving their performance and an approval today would allow the division to release 50 percent of the funds that were withheld at the beginning of the fiscal year. Chancellor Pumariiega shared that the division has worked closely with the five colleges and each college has met the December milestones. The motion passed unanimously.

College of Central Florida – Dr. Jim Henningsen

Chair Johnson recognized Jim Henningsen, President, College of Central Florida to present the mid-year report. Chair Johnson called for a motion to approve the mid-year report. Vice Chair Padgett made the motion to approve with a second by Ms. Fishman Lipsey. The motion passed unanimously.

Northwest Florida State College – Dr. Sasha Jarrell

Chair Johnson recognized Sasha Jarrell, President, Northwest Florida State College to present the mid-year report. Chair Johnson called for a motion to approve the mid-year report. Mr. Tuck made the motion to approve with a second by Mr. Olenick. The motion passed unanimously.

Daytona State College – Dr. Tom LoBasso

Chair Johnson recognized Thomas LoBasso, President, Daytona State College to present the mid-year report. Chair Johnson called for a motion to approve the mid-year report. Vice Chair Padgett made the motion to approve with a second by Mr. Tuck. The motion passed unanimously.

Approval of New Bachelor Degree Program(s) in the Florida College System

Chair Johnson recognized Chancellor Pumariega to provide an overview of baccalaureates before the Board and the process.

Florida Keys Community College – Bachelors of Applied Science in Supervision and Management

Chancellor Pumariega recognized Jonathan Gueverra, President, Florida Keys Community College to provide an overview of the proposed baccalaureate degree. President Gueverra recognized Doria Goodrich, Executive Vice-President, First State Bank of the Florida Keys, for a video presentation in support of the degree proposal. Vice Chair Padgett made the motion to approve the baccalaureate degree with a second by Mr. Olenick. The motion passed unanimously.

Pensacola State College – Bachelors of Applied Science in Cybersecurity

Chancellor Pumariega recognized Ed Meadows, President, Pensacola State College to provide an overview of the proposed baccalaureate degree. President Meadows recognized Jim McClellan, Chairman of Innovation Coast and Director of Marketing for AppRiver and Steve Greunke, Global Business Solutions, Inc., in support of the Cybersecurity degree proposal. Mr. Tuck made the motion to approve the baccalaureate degree with a second by Vice Chair Padgett. The motion passed unanimously.

Approval of Amendment to Rule 6A-1.09422, Statewide, Standardized Assessment Requirements

Chair Johnson recognized Commissioner Stewart to provide an overview the process used to establish the recommended cut scores. Chair Johnson called for a motion to approve Rule 6A-1.09422, F.A.C. Mr. Tuck made the motion to approve the rule with a second by Mr. Olenick. Chair Johnson opened the meeting for public comment and stated that each individual would have two minutes. (See the transcript of the meeting for official proceedings and deliberations.) Upon completion of public comment Chair Johnson recognized fellow Board members for discussion. Mr. Chartrand shared that Florida Statutes

defines a Level 3 as satisfactory, not proficient and the recommended level 4 is closely aligned with NAEP. He commended the Legislature for giving the Board the authority to set both the cut scores and the grading scale and that the cut scores are not and should not be a moving target. Vice Chair Padgett shared his respect for the process and pointed out that the reactor panel could have been more balanced with employers and he would be unable to support the Commissioner's recommendation. Mr. Grady explained that what matters is our kids and if they are prepared for college. Are they prepared for a career? And how do we get all of them there? The Constitution says that we have to have adequate regard for all children in the state of Florida. Mr. Grady ended his comments by sharing his support for the Commissioner's recommendation. Mr. Olenick provide an overview and statistics from a recent visit to Indiantown Middle School and his support for the Commissioner's recommendation. Chair Johnson thanked the Board members for their diligence in getting additional data points brought forward for consideration. She shared her respect for the rigorous process and her delight with the new score report. The motion passed 6-1 with Vice Chair Padgett in opposition.

Approval of Amendment to Rule 6A-1.09981, School and District Accountability

Chair Johnson recognized Commissioner Stewart to provide an overview of the amendment. Commissioner Stewart explained that Senate Bill 1642 removed bonus points and safety nets from the grading formula. She further explained that when looking at the school grading formula to remember it is a transitional year and when we have additional years of data and learning gains, the Board will have the opportunity to revise the grading scale upward if needed, as indicated in law. Chair Johnson called for a motion to approve Rule 6A-1.09981, F.A.C. Mr. Chartrand made the motion to approve the rule with a second by Mr. Tuck. Chair Johnson recognized Dr. Christine Hovanetz, Senior Policy Fellow, Accountability, Foundation for Excellence, for a presentation. She presented three grading options and simulated impact. Chair Johnson recognized Juan Copa, Deputy Commissioner, Division of Accountability, Research, and Measurement, for comment on the presentation. Mr. Copa explained that under option one Florida would have 503 F schools and 35 percent of Florida schools would be rated a D or an F and in the entire history of school grades, since 1999, Florida has never had more than 192 F schools. Mr. Chartrand clarified that when the Board has the complete data it has the authority to raise the scale but not to reduce it.

Chair Johnson opened the meeting for public comment and stated that each individual would have two minutes. (See the transcript of the meeting for official proceedings and deliberations.) Upon completion of public comment Chair Johnson recognized fellow Board members for discussion. Ms. Fishman Lipsey shared her appreciation for the Department's efforts to improve communication regarding grade levels 1 through 5 and expressed her hope that when the Board has two years of data it will take another look and determine the best way to communicate what's happening in our schools. Mr. Olenick reiterated the Alpine study that had 13 recommendations that were followed up on. He also clarified that the Board is bound by law to issue grades and incompletes are not an option. He shared his support for the Commissioner's recommendation and recommended schools receive formal recognition for great gains. Mr. Tuck shared his support for the Commissioner's recommendation. Mr. Grady reiterated that the Board only has authority to increase the rigor and can revisit the grading rule at a later date when the data is complete. He also shared his support for the Commissioner's recommendation. Mr. Chartrand shared his support for the Commissioner's recommendation and recommended the Board conduct an in-depth review of the data once learning gains are complete to make sure the grading scale is correct. Vice Chair Padgett shared his support for one of the three options he participated in developing which were presented earlier by the Foundation for Excellence and declared his intentions to vote against the amendment. Chair Johnson stated that this is a transition year and per Florida Statutes the Board does have an opportunity for a periodic

review of the grading rule once the data is finalized. The motion passed 6-1 with Vice Chair Padgett in opposition.

CONSENT ITEMS

Chair Johnson called for a motion to approve the consent items. Mr. Olenick made the motion with a second by Mr. Tuck. The motion passed unanimously.

CLOSING REMARKS

Chair Johnson announced that the next meeting would be on February 17th in Tallahassee.

ADJOURNMENT

Having no further business, Chair Johnson adjourned the meeting of the State Board of Education at 2:32 p.m.

Cathy Schroeder, Corporate Secretary

Marva Johnson, Chair

STATE BOARD OF EDUCATION**Update**

February 18, 2016

SUBJECT: Florida College System –Dr. Edward Meadows, President, Pensacola State College, on behalf of the Council of Presidents

PROPOSED BOARD ACTION

N/A

AUTHORITY FOR STATE BOARD ACTION

N/A

EXECUTIVE SUMMARY

Dr. Edward Meadows, President of Pensacola State College will present and discuss the Council of Presidents (COP) recommendations regarding revisions to the Florida College System funding formula for 2016-2017.

The COP held its monthly business meeting in January in conjunction with the Annual Trustee Conference, and voted to approve a number of updates to the Florida College System funding formula. Therefore, we now have agreement for any System allocation of new funding.

The first approved recommendation took steps to refine each college's unmet need by removing the Educator Preparation Institute (EPI) stipend as a factor in the academic support component of the funding model, including dual enrollment revenue in determining relative funding need, including baccalaureate tuition revenue in determining funding need, applying each college's actual tuition rate, rather than standard tuition rate in determining funding need, and utilizing the actual District Cost Differential (DCD) rates rather than the current process of providing a minimum of 1.0 for colleges.

Also at the January meeting, the COP voted to ask the committee of business officers working with the Division staff to continue over the next six months to determine if there are other modernizations they wish to recommend to the Council of Presidents in the future. This ensures that we will continue to support the funding formula as a means to allocate appropriations equitability across the System.

Supporting Documentation Included: N/A

Facilitator/Presenter: Dr. Edward Meadows, President, Pensacola State College

STATE BOARD OF EDUCATION
Update
February 18, 2016

SUBJECT: K-12 Public Schools – Bill Husfelt, Superintendent, Bay County Public Schools
on behalf of the Florida Association of District School Superintendents

PROPOSED BOARD ACTION

N/A

AUTHORITY FOR STATE BOARD ACTION

N/A

EXECUTIVE SUMMARY

An update will be provided by Superintendent Husfelt, on issues relating to K-12 education initiatives.

Supporting Documentation Included: N/A

Facilitator/Presenter: Bill Husfelt, Superintendent, Bay County Public Schools

STATE BOARD OF EDUCATION
Action Item
February 18, 2016

SUBJECT: Approval of Amendment to Rule 6A-1.09401, Student Performance Standards

PROPOSED BOARD ACTION

For Approval

AUTHORITY FOR STATE BOARD ACTION

Sections 1001.02, 1001.03, Florida Statutes

EXECUTIVE SUMMARY

Amendment to revise and adopt Next Generation Sunshine State Standards (Florida Standards) for Mathematics, Access Points to Next Generation Sunshine State Standards (Florida Standards) for Mathematics and Access Points to Next Generation Sunshine State Standards for Science.

Supporting Documentation Included: Proposed Rule 6A-1.09401, F.A.C. [Next Generation Sunshine State Standards \(Florida Standards\) for Mathematics](#); [Access Points to Next Generation Sunshine State Standards \(Florida Standards\) for Mathematics](#); and [Access Points to Next Generation Sunshine State Standards for Science](#) (under separate cover)

Facilitator/Presenter: Mary Jane Tappen, Executive Vice Chancellor, K-12 Public Schools

6A-1.09401 Student Performance Standards.

(1) through (a) No change.

(b) Next Generation Sunshine State Standards (Florida Standards) – Mathematics 2016 ~~2014~~
(http://www.flrules.org/Gateway/reference.asp?No=Ref-06467_03098),

(c) through (e) No change.

(f) Next Generation Sunshine State Standards – The Arts, 2014
(<http://www.flrules.org/Gateway/reference.asp?No=Ref-03100>),

(g) through (k) No change.

(l) Access Points to Next Generation Sunshine State Standards (Florida Standards) – English Language Arts
2014 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-04241>), ~~and~~

(m) Access Points to Next Generation Sunshine State Standards (Florida Standards) – Mathematics 2016 ~~2014~~
(http://www.flrules.org/Gateway/reference.asp?No=Ref-06468_04242), ~~and~~

(n) Access Points to the Next Generation Sunshine State Standards for Science – 2016
(<http://www.flrules.org/Gateway/reference.asp?No=Ref-06469>).

Copies of these publications may be obtained from the Division of Public Schools, Department of Education, 325
West Gaines St., Tallahassee, Florida 32399-0400.

(2) through (4) No change.

*Rulemaking Authority 1001.02, 1003.41(4) FS. Law Implemented 1001.03, 1003.41 FS. History—New 6-18-96, Amended 9-28-99,
3-1-07, 7-25-07, 11-25-07, 4-14-08, 9-22-08, 2-1-09, 1-6-10, 9-5-10, 2-8-11, 3-25-14, 7-22-14.*

STATE BOARD OF EDUCATION

Action Item

February 18, 2016

5

SUBJECT: Approval of Amendment to Rule 6A-6.0201, State of Florida High School Diploma, as of January 1, 2014

PROPOSED BOARD ACTION

For Approval

AUTHORITY FOR STATE BOARD ACTION

Section 1003.435(1), Florida Statutes

EXECUTIVE SUMMARY

Amendment implements changes to the high school equivalency diploma program. GED Testing Service® amended the recommended high school equivalency cut scores for the four test modules in language arts, mathematics, science and social studies. The recommended cut score of 145 for each test module is now required to earn the Florida's high school equivalency credential—State of Florida High School Diploma. Candidates who took the 2014 GED® Test prior to the adoption of this amendment who achieved a score of 145 may be eligible for the award of the high school equivalency diploma. There is also a technical amendment to approve eligible testing centers.

Supporting Documentation Included: Proposed Rule 6A-6.0201, F.A.C.

Facilitator/Presenter: Rod Duckworth, Chancellor, Division of Career and Adult Education

6A-6.0201 State of Florida High School Diplomas, as of January 1, 2014.

(1) through (a) No change.

(b) Attains a minimum score of one hundred and forty-five (145) ~~forty (140)~~ on each of the four (4) sub-tests of the 2014 GED® Test: Reasoning through Language Arts, Mathematical Reasoning, Science and Social Studies.

(2) The Commissioner of Education shall award a State of Florida High School Diploma to a candidate who achieved the criteria in subsection (1) from January 1, 2014, to the effective date of this rule.

(3)(2) The Department shall convert sub-test scores which meet the minimum requirement from test administrations at any approved GED® testing center in another state or jurisdiction for residents of the state of Florida. The Commissioner shall award a State of Florida High School Diploma to Florida residents who meet the passing standard as specified in paragraph (1)(b) of this rule or the Florida passing standard for any previous test series. Individuals must provide proof of residency for a test score from another state or jurisdiction to be converted.

(4)(3) The Department shall designate official testing centers in the state which are authorized to act as agents of the state in administering the 2014 GED® Test. The following entities are eligible to ~~shall~~ be authorized to offer the 2014 GED ® Test:

(a) through (e) No change.

(5)(4) Each official testing center shall establish a schedule for testing which adequately meets the needs of the candidates within its service area.

(6)(5) The Department shall maintain a perpetual record of individual test results and issue State of Florida High School Diplomas and official transcripts to successful candidates.

(7)(6) The statewide testing fee for the 2014 GED® Test shall be thirty-two (32) dollars for each of the following sub-tests: Reasoning through Language Arts, Mathematical Reasoning, Social Studies and Science. This fee shall be paid by the candidate at the time of the registration and scheduling of the test.

(8)(7) A fee of fifteen (15) dollars shall be assessed for the following services and document production to test takers or other entities seeking official documents with the signed authority of the test candidate or recipient of the diploma for all documents and services provided on or after January 1, 2014:

(a) through (b) No change.

Rulemaking Authority 1001.02(1), 1003.435(1) FS. Law Implemented 1003.435 FS. History—New 11-19-13, Amended

STATE BOARD OF EDUCATION

Action Item

February 18, 2016

SUBJECT: Approval of A.A.A. Scholarship Foundation- Florida, LLC as a Scholarship Funding Organization for 2016-17

PROPOSED BOARD ACTION

Approve the renewal of A.A.A. Scholarship Foundation- Florida, LLC as an eligible Scholarship Funding Organization (SFO) for purposes of administering the Florida Tax Credit (FTC) Scholarship Program and the Personal Learning Scholarship Account (PLSA) Program for 2016-17.

AUTHORITY FOR STATE BOARD ACTION

Section 1002.395(16), Florida Statutes

EXECUTIVE SUMMARY

In order to participate in the FTC or PLSA Program, a charitable organization that seeks to be a nonprofit SFO must submit an application for initial approval or renewal to the Office of Independent Education and Parental Choice no later than September 1 of each year before the school year for which the organizations intends to offer scholarships. In consultation with the Department of Revenue and the Chief Financial Officer, the Office of Independent Education and Parental Choice shall review the application and the Commissioner of Education shall recommend approval or denial of the application to the State Board of Education. The Board of Education shall approve or deny the application.

Supporting Documentation Included: Renewal Application Requirements. [Application packet for A.A.A. Scholarship Foundation- Florida, LLC](#) (under separate cover)

Facilitators/Presenters: Adam Miller, Executive Director, Office of Independent Education and Parental Choice; Kimberly Dyson, President, A.A.A. Scholarship Foundation- Florida, LLC

A.A.A. Scholarship Foundation-FL, LLC

2016-2017 Scholarship Funding Organization Renewal Application

Requirements:

- A signed IEPC SFO-2 form
- A copy of your IRS Determination Letter as a 501(c)(3) not for profit organization
- A copy of your organization's incorporation and registration with the Florida Division of Corporations, Office of the Secretary of State
- Level 2 criminal background screening results for owners and operators
- A description of your organization's financial plan that demonstrates sufficient funds to operate throughout the school year
- The organization's organizational chart
- A description of the criteria and methodology that the organization will use to evaluate scholarship eligibility
- A description of the application process, including deadlines and any associated fees
- A description of the deadlines for attendance verification and scholarship payments
- A copy of the organization's policies on conflict of interest and whistleblowers
- A surety bond or letter of credit in an amount equal to the amount of the undisbursed donations held by the organization based on the annual report provided to the Auditor General and the Department of Education and conducted by an independent certified public accountant (s.1002.395(6)(m), F.S.). The amount of the surety bond or letter of credit must be at least \$100,000.00, but no more than \$25 million
- The organization's completed IRS Form 990 (due no later than November 30)
- A copy of the statutorily required audit to the Department of Education and Auditor General
- A detailed accounting of how the organization spent the administrative funds, *if applicable*
- An annual report that includes the number of students who completed applications, by county and by grade, the number of students who were approved for scholarships, by county and by grade, and the number of students who received funding for scholarships within each category, by county and by grade, as well as the amount of funds received, the amount of funds distributed in scholarships, and an accounting of remaining funds and the obligations of those funds

STATE BOARD OF EDUCATION

Action Item

February 18, 2016

SUBJECT: Approval of Step Up For Students, Inc. as a Scholarship Funding Organization for 2016-17

PROPOSED BOARD ACTION

Approve the renewal of Step Up For Students, Inc. as an eligible Scholarship Funding Organization (SFO) for purposes of administering the Florida Tax Credit (FTC) Scholarship Program and the Personal Learning Scholarship Account (PLSA) Program for 2016-17.

AUTHORITY FOR STATE BOARD ACTION

Section 1002.395(16), Florida Statutes

EXECUTIVE SUMMARY

In order to participate in the FTC or PLSA Program, a charitable organization that seeks to be a nonprofit SFO must submit an application for initial approval or renewal to the Office of Independent Education and Parental Choice no later than September 1 of each year before the school year for which the organizations intends to offer scholarships. In consultation with the Department of Revenue and the Chief Financial Officer, the Office of Independent Education and Parental Choice shall review the application and the Commissioner of Education shall recommend approval or denial of the application to the State Board of Education. The Board of Education shall approve or deny the application.

Supporting Documentation Included: Renewal Application Requirements. [Application packet for Step Up For Students, Inc.](#) (under separate cover)

Facilitators/Presenters: Adam Miller, Executive Director, Office of Independent Education and Parental Choice; Doug Tuthill, President, Step Up For Students, Inc.

Step Up For Students, Inc.

2016-2017 Scholarship Funding Organization Renewal Application

Requirements:

- A signed IEPC SFO-2 form
- A copy of your IRS Determination Letter as a 501(c)(3) not for profit organization
- A copy of your organization's incorporation and registration with the Florida Division of Corporations, Office of the Secretary of State
- Level 2 criminal background screening results for owners and operators
- A description of your organization's financial plan that demonstrates sufficient funds to operate throughout the school year
- The organization's organizational chart
- A description of the criteria and methodology that the organization will use to evaluate scholarship eligibility
- A description of the application process, including deadlines and any associated fees
- A description of the deadlines for attendance verification and scholarship payments
- A copy of the organization's policies on conflict of interest and whistleblowers
- A surety bond or letter of credit in an amount equal to the amount of the undisbursed donations held by the organization based on the annual report provided to the Auditor General and the Department of Education and conducted by an independent certified public accountant (s.1002.395(6)(m), F.S.). The amount of the surety bond or letter of credit must be at least \$100,000.00, but no more than \$25 million
- The organization's completed IRS Form 990 (due no later than November 30)
- A copy of the statutorily required audit to the Department of Education and Auditor General
- A detailed accounting of how the organization spent the administrative funds, *if applicable*
- An annual report that includes the number of students who completed applications, by county and by grade, the number of students who were approved for scholarships, by county and by grade, and the number of students who received funding for scholarships within each category, by county and by grade, as well as the amount of funds received, the amount of funds distributed in scholarships, and an accounting of remaining funds and the obligations of those funds

STATE BOARD OF EDUCATION

Action Item

February 18, 2016

SUBJECT: Our Children's Prep School, Inc. vs. School Board of Polk County

PROPOSED BOARD ACTION

Accept Recommendation to Deny the Appeal

AUTHORITY FOR STATE BOARD ACTION

Section 1002.33, Florida Statutes

EXECUTIVE SUMMARY

This is an appeal by Our Children's Prep School, Inc., of the decision of the School Board of Polk County to deny the charter application submitted by the Applicant.

ISSUE:

Whether the School Board had good cause to deny the application based on the Applicant's failure to comply with Section 1002.33, Florida Statutes.

STANDARD OF REVIEW: Competent substantial evidence

The School Board's determination must be based on good cause. The standard by which the State Board is to review the School Board's decision is whether the School Board had competent substantial evidence to make that determination. The question, therefore, is whether the evidence upon which the School Board based its determination is sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached. If so, the School Board's decision must be upheld.

SCHOOL BOARD'S GROUNDS FOR DENIAL:

The School Board of Polk County based its denial on the following pursuant to Section 1002.33, Florida Statutes:

- Application failed to meet the requirements of the Educational Plan
 - Target Population and Student Body: Sections 1002.33(10)(e); 1002.33(6)(b)2.;1002.33(7)(a)1.;1003.03, Florida Statutes
 - Educational Program Design: 1002.33(7)(a)2., Florida Statutes
 - Curriculum Plan: Sections 1002.33(6)(a)2.; 1002.33(6)(a)4.; 1002.33(7)(a)2.;1002.33(7)(a)4., Florida Statutes
 - Student Performance, Assessment and Evaluation: Sections 1002.33(6)(a)3.;1002.33(7)(a)3.; 1002.33(7)(a)4.; 1002.33(7)(a)5., Florida Statutes
 - Exceptional Students: Section 1002.33(16)(a)3., Florida Statutes
- Application failed to meet the requirements of the Organizational Plan
 - Student Recruitment and Enrollment: Sections 1002.33(7)(a)7.; 1002.33(7)(a)8.; 1002.33(10), Florida Statutes

- Application failed to meet the requirements of the Business Plan
 - Facilities: Sections 1002.33(7)(a)13.; 1002.33(18), Florida Statutes
 - Food Service: Section 1002.33(20)(a)1., Florida Statutes
 - Budget: Sections 1002.33(6)(a)5.;1002.33(6)(b)2., Florida Statutes

CONCLUSION:

The School Board did have good cause to determine that the Applicant failed to meet the requirements of Section 1002.33, Florida Statutes, for failure to:

Meet the requirements of the Business Plan.

CSAC RECOMMENDATION:

The Charter School Appeal Commission recommends upholding the decision of the School Board of Polk County by denying the appeal of Our Children's Prep School, Inc.

Supporting Documentation Included: Charter School Appeal Commission Recommendation. [Appeal](#), [Response to Appeal](#) and [Charter School Appeal Commission Transcript](#) (under separate cover)

Facilitator/Presenter: Adam Miller, Executive Director, Office of Independent Education and Parental Choice

CHARTER SCHOOL APPEAL COMMISSION
Recommendation to State Board of Education, February 18, 2016

OUR CHILDREN'S PREP SCHOOL, INC.

v.

SCHOOL BOARD OF POLK
COUNTY

DOE Case No. 2015-3234

FILED AGENCY CLERK
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DEPT OF EDUCATION
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RECOMMENDATION

On October 6, 2015, the School Board of Polk County (School Board) voted to deny the application of Our Children's Prep School, Inc., (Charter Applicant). The School Board's letter of denial was dated October 15, 2015. The Charter Applicant filed this appeal on November 18, 2015. Thereafter, the School Board timely filed its Response with the State Board of Education. On January 12, 2016, the Charter School Appeal Commission met and heard the appeal of this matter. **Thereafter, the Commission voted 6 to 0 to recommend that the State Board of Education deny the appeal of the Charter Applicant.** The Commission's justifications for its recommendation were as follows:

Due Process

- The Commission voted 3 to 3 with the chair making the tie-breaking vote that the School Board did not violate the Charter School's due process rights.

Issue One

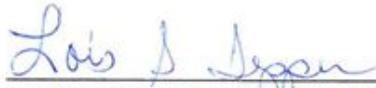
- The Commission voted 6 to 0 that the School Board did not have competent substantial evidence to support its denial of the Charter School Application based on the Applicant's failure to meet the standards for the Educational Plan pursuant to Section 1002.33, Florida Statutes, and State Board of Education Rule 6A-6.0786, Florida Administrative Code.

Issue Two

- The Commission voted 4 to 2 that the School Board did not have competent substantial evidence to support its denial of the Charter School Application based on the Applicant's failure to meet the standards for the Organization Plan pursuant to Section 1002.33, Florida Statutes, and State Board of Education Rule 6A-6.0786, Florida Administrative Code.

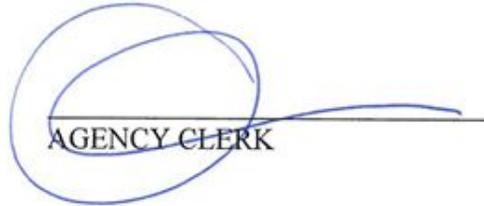
Issue Three

- The Commission voted 6 to 0 that the School Board did have competent substantial evidence to support its denial of the Charter School Application based on the Applicant's failure to meet the standards for the Business Plan pursuant to Section 1002.33, Florida Statutes, and State Board of Education Rule 6A-6.0786, Florida Administrative Code.
- The Commission voted 6 to 0 that the School Board's denial of the Charter School Application based on the Applicant's failure to meet the standards of Section 1002.33, Florida Statutes, and State Board of Education Rule 6A-6.0786, Florida Administrative Code, regarding Business Plan, was statutory good cause for denial.



Lois S. Tepper, Commissioner's Designee
Chair, Charter School Appeal Commission

FILED with the Agency Clerk of the Department of Education this 20 day of January, 2016.



AGENCY CLERK

STATE BOARD OF EDUCATION

Action Item

February 18, 2016

SUBJECT: Somerset Academy, Inc., Somerset College Prep Academy Middle School vs. School Board of St. Lucie County

PROPOSED BOARD ACTION

Grant or Deny the Charter School Appeal

AUTHORITY FOR STATE BOARD ACTION

Section 1002.33(6)(c)3.b., Florida Statutes

EXECUTIVE SUMMARY

This is a high performing replication appeal by Somerset Academy, Inc., of the decision of the School Board of St. Lucie County to deny the charter replication application of Somerset Academy.

ISSUES:

Whether the School Board had good cause to deny the application based on the Charter School's failure to comply with the provisions of Sections 1002.33 and 1002.331, Florida Statutes.

STANDARD OF REVIEW: Clear and convincing evidence

The School Board's determination must be based on good cause. The standard by which the State Board is to review the School Board's decision is whether the School Board had clear and convincing evidence to make that determination. The question, therefore, is whether the School Board had clear and convincing evidence (highly probable or reasonably certain) that the application for a High Performing Charter School does not materially comply with statutory requirements of Section 1002.33, Florida Statutes. If so, the School Board's decision must be upheld.

Supporting Documentation Included: Legal Description of Appeal Process; Historical Information; Appeal of Charter School; Response of District; Portions of Sections 1002.33 and 1002.331, Florida Statutes. Full [appeal](#) and [response](#) (under separate cover)

Facilitator/Presenter: Adam Miller, Executive Director, Office of Independent Education & Parental Choice

Legal Description of Appeal Process and Standard of Review:

Issue: Whether the School Board has met their burden to prove with clear and convincing evidence (i.e. highly probable or reasonably certain) that the application for a High Performing Charter School does not materially comply with the statutory requirements of section 1002.33(6)(c)3.b., Florida Statutes.

The State Board of Education will consider the appeal of a High Performing Charter School to replicate an existing High Performing Charter School which has received at least two school grades of “A” and no school grade below “B” during each of the previous three school years. The Charter School Appeal Commission does not provide a nonbinding recommendation and is not involved in the High Performing Charter School appeal process.

The School Board, not the applicant, in such cases, has the burden of proof to show material noncompliance, which is defined as a failure to follow requirements or a violation of prohibitions applicable to charter school applications. The failure must be quantitatively or qualitatively significant either individually or when aggregated with other noncompliance.

The State Board of Education shall issue a written decision that the School Board either approve or deny the application. The State Board’s decision is a final action subject to judicial review in the district court of appeal.

**Somerset College Prep Academy Middle School vs. School District
of St. Lucie County**

Historical Information

The following table provides academic and financial performance data for Somerset Academy Middle School at Chapel Trail (06-5151) which is the high-performing charter school to be replicated (designated as high-performing on July 29, 2011).

	School Grade	Enrollment	% Minority - %FRL	Unassigned Fund Balance
2010-11	A	795	86% - 27%	\$95,110
2011-12	A	842	86% - 38%	\$286,175
2012-13	A	868	89% - 32%	\$419,022
2013-14	A	870	88% - 33%	\$406,144
2014-15	A*	827	88% - 33%	\$605,286

* Simulated Grade

Before the Florida State Board of Education

In re: Denial of Somerset College Prep Academy Middle School
High Performing Replication Application 2015

Notice of Appeal

Somerset Academy, Inc.,
APPLICANT/APPELLANT

v.

St. Lucie Public School Board,
APPELLEE

I. Names and Addresses of Parties

Appellant:

Somerset Academy, Inc.
David Concepcion, Board Chair
Bernardo Montero, President
6340 Sunset Drive
Miami, FL 33143

Counsel for Appellant:

Collette D. Papa, Esq.
6340 Sunset Drive
Miami, FL 33143
Telephone: 305-669-2906

School Board:

St. Lucie Public School Board
Wayne Gent
Superintendent
4204 Okeechobee Road,
Fort Pierce, FL 34947

Counsel for School Board:

Daniel Harrell
School Board Attorney
c/o Karen B Russ, Adm Asst
1600 S Federal Hwy Ste 200
Fort Pierce, FL 34950-5178

Date of Action:

September 22, 2015

Date of Denial Letter:

October 1, 2015

Receipt of Denial Letter:

October 2, 2015

I. Introduction

Somerset Academy Inc. ("Somerset") is a highly experienced applicant with an impressive record of success in the continuing operation of its schools. Opening the proposed school within Somerset's network, with SACS CASI/AdvancED accreditation, and as a high-performing replication of Somerset Academy Middle School MSID 5151 ("Chapel Trail"), the proposed school will implement the same best practices and quality standards proven effective in raising student achievement. For Sponsor to deny the Application after what appears to be a cursory review yielding unfounded accusations and reasons for denial inapplicable to a high-performing replication, is without cause, and insulting to the review process and the advancement of education through choice.

Pursuant to Section 1002.33 F.S., a high-performing charter school may appeal Sponsor's denial of its high-performing replication by submitting notice of appeal to the State Board of Education. Sponsor, not Applicant, has the burden to prove with clear and convincing evidence (i.e. highly probable or reasonably certain) an application for a high-performing Charter School does not materially comply with statutory requirements of 1002.33(6)(c)3.b., F.S. Sponsor has failed to meet its burden. Denial of Somerset's high-performing application is contrary to the best interests of the students, the school district, and the community, and for the reasons below, Somerset respectfully requests the State Board overturn the decision of the St. Lucie County School Board and remand the application with instructions to approve the application at this time. The State Board of Education must find that the application should be approved by Sponsor if reasons for denial set forth in the denial letter: (1) are not based on competent substantial evidence (clear and convincing evidence for a high-performing application); or (2) is not a statutorily required element of a charter school application.ⁱⁱ None of the reasons set forth in Sponsor's notice constitutes good cause to deny the application much less the clear and convincing evidence required.

II. Procedural History

1. On August 3, 2015, Somerset Academy Inc. submitted its charter application entitled "Somerset College Prep Academy Middle School" to replicate a high-performing middle school model.
2. On August 27, 2015, Somerset attended a Governing Board Interview to address questions
3. On September 22, 2015, the St. Lucie County School Board voted 5-0 to deny Somerset's High Performing Charter School application.
4. On October 2, 2011, Somerset received the Letter from the School District denying its application.
5. On October 27, 2015, Somerset appeals the decision of the St. Lucie Public School Board.

III. Summary of Alleged Deficiencies

1. Sponsor failed to show by clear and convincing evidence that Somerset's proposed school is not substantially similar to at least one of Somerset's high-performing charter schools, and fails to show by clear and convincing evidence that Somerset is not involved in the establishment and operation of the proposed school or is not significantly involved in the operation of replicated schools.
2. Sponsor has failed to show by clear and convincing evidence that the Applicant will not use the guiding principles or meet the defined purpose of a charter school, and misstates the standards.
3. Sponsor failed to show by clear and convincing evidence that the Applicant did not materially comply with the standard for target populations and student body.
4. Sponsor failed to show by clear and convincing evidence that the Applicant did not materially comply with the standards for School climate and discipline.
5. Sponsor failed to show by clear and convincing evidence that the Applicant did not materially comply with application standards for Educational Program Design.
6. Sponsor failed to show by clear and convincing evidence that the Applicant did not materially comply with application standards for curriculum plan.
7. Sponsor failed to show by clear and convincing evidence that the Applicant did not materially comply with application standards for Student Performance, Assessment and Evaluation.
8. Sponsor failed to show by clear and convincing evidence that the Applicant did not materially comply with application standards for Exceptional Students.
9. Sponsor failed to show by clear and convincing evidence that the Applicant did not materially comply with application standards for Governance.
10. Sponsor failed to show by clear and convincing evidence that the Applicant did not materially comply with the standard for Management.
11. Sponsor failed to show by clear and convincing evidence that the Applicant did not materially comply with application standards for ESP.
12. Sponsor failed to show by clear and convincing evidence that the Applicant did not materially comply with application standards for Facilities.
13. Sponsor failed to show by clear and convincing evidence that the Applicant did not materially comply with application standards for Transportation.
14. Sponsor failed to show by clear and convincing evidence that the Applicant did not materially comply with application standards for Employment.
15. Sponsor failed to show by clear and convincing evidence that the Applicant did not materially comply with application standards for Student Recruitment and Enrollment.
16. Sponsor failed to show clear and convincing evidence Applicant did not materially comply with application standards for Budget.
17. Sponsor failed to show by clear and convincing evidence that the Applicant did not materially comply with application standards for Financial Management and Oversight.

APPLICANT RESPONSE: Sponsor was required to articulate specific reasons in writing supporting its decision in an official notice of denial to Applicant and the Department of Education along with supporting documentation pursuant to F.S. 1002.33(6)(b)(3). In its letter, (Exhibit 2) Sponsor does not specifically allege reasons for denial, and the letter fails to explain the clear and convincing standard Sponsor must prove, or how the Application allegedly did not materially comply. Instead, the letter attempts to cure deficiencies by referring to, and incorporating, the previously written Memorandum to the School Board (Exhibit 2.A.) and the Application Evaluation Instrument (Exhibit 2.B.) as cause for denial instead of as supporting documentation, creating a composite 44-page Notice of Denial. In order to preserve Applicant's rights, Applicant is left to guess the specific reasons for Sponsor's denial. This does not meet the requirements of 1002.33(6)(b)(3). An illegal and insufficient letter cannot support denial of an application. Sponsor's allegations do not comport with the Statute and neither does the denial letter. Accordingly, the denial letter should be stricken and the application approved.

Sponsor deprived Applicant of Procedural Due Process by denying Applicant a meaningful manner of review of its Application.ⁱⁱ Due Process guaranteed by the 14th Amendment requires that review occur at a meaningful time and in a meaningful manner.ⁱⁱⁱ For example, Sponsor rated 6 sections of the Application as having met or having partially met the standard, but noted only one strength throughout the entire application. Class size, despite being identified as the only strength, was included in a section rated as not meeting the standard (Ex. 2.B., pg. 5). In addition, the School Board meeting regarding the application was reportedly published as canceled, (Ex. 4, pg. 59). This lackluster and disingenuous review denies due process and questions Sponsor's entire review of the application. Sponsor failed to: demonstrate a lack of bias; provide Applicant a meaningful, fair review; and demonstrate that the Application was actually reviewed as high-performing by denying the application for reasons beyond those applicable to high-performing applicants. The opportunity to be heard "must be full and fair, not merely colorable or illusive."^{iv} In the alternative, and to preserve its rights, Applicant responds as follows:

- 1. Sponsor failed to prove clear and convincing evidence Somerset's proposed school is not substantially similar to at least one of Somerset's high-performing charter schools, or that Somerset is not involved in establishment/operation of the proposed school, or is not significantly involved in the operation of replicated schools.**

The Application ("App") submitted by Somerset, (the "Applicant"), pursuant to Sections 1002.331(3)(a); 1002.33(6)(b)3.b., F.S., is a replication of Chapel Trail, a high-performing charter school. Pages 20-24 of the App details the high-performing status of Somerset. It is clear the App is submitted by Somerset pursuant to 1002.331 to establish and operate a new charter school to substantially replicate Somerset's educational program, specifically, the existing Chapel Trail. (App, 20). Four pages of the App are dedicated to an in-depth review of Somerset's qualifications as a high-performing charter and how the proposed school will substantially replicate the existing school design. (App, 20-24). Section 1002.331, F.S. states:

"An applicant is considered to be replicating a high-performing charter school if the proposed school is substantially similar to at least one of the applicant's high-performing charter schools and the organization or individuals involved in the establishment and operation of the proposed school are significantly involved in the operation of replicated schools."

The App bases the proposed school's replication on substantial similarities in several areas including educational model and governance by the same organization. Chapel Trail is co-located on the same physical property as Somerset's high-performing High School. The proposed school will be a middle school co-located on the same campus as a Somerset "A" rated High School. Sponsor contends a valid verification letter was not provided by the Commissioner of Education classifying Applicant as a High-Performing replication, because the letter is dated in 2011. This is inaccurate. Pursuant to Section 1002.331(5), F.S., the Commissioner of Education, upon request, shall verify that the charter school is a high-performing charter school and provide a verification letter, and determines whether the charter school continues to meet the high-performing criteria on an annual basis. By law, the charter school maintains its high-performing status unless the Commissioner determines the charter school no longer meets criteria and declassifies the charter school. To date, and since receiving high-performing status in 2011, Chapel Trail has maintained its high-performing status. Sponsor believes Applicant cannot be a replication since Somerset takes pride in each of its schools being unique, citing nuances in areas of the education plan, and since Somerset's schools serve different populations and demographics and have students with different needs. There is no "one size fits all" prescription of replication as Sponsor suggests. A substantial replication is not a carbon copy, nor should it be. The 5th DCA held: "[T]o be 'substantially similar' within the meaning of Florida Statutes, a charter school must have the same characteristics and be alike in substance or essentials to the school it is replicating." The proposed school is substantially similar to the existing school in that the proposed school consists of the essential characteristics of the existing school, and is alike in substance/important concepts to the existing school. Throughout the App, and during the Interview, Applicant discusses replication of Chapel Trail, and states the educational program is "mirrored" after Chapel Trail, (See App at 1, 10, 20, 28, 40-41, 52, 59, 82 and 121.) Strategies for replication of the existing school, including outreach and guidelines to manage and run the school, are documented throughout the App and the Interview, (See App, at 2-4, 10, 22-24, 29-30, 37-68, 125; See Also Interview at 8-10; 39-43). Applicant details additional strategies for replication of Chapel Trail's design including but not limited to the following Sections of the App: 3, implementing the same core values and beliefs of Chapel Trail and its existing programs; 9 and 11, utilizing team of experts with ownership of Somerset educational program as consultants to continuously provide training; 8 and 13, adopted uniform/common Somerset expectations of student behavior and parental involvement; 18, policies for financial management and oversight used at Chapel Trail and ALL Somerset's, (App, 2). This evidences Applicant's substantial similarity to Chapel Trail. There is no evidence to the contrary.

Sponsor further alleges the Education Plan was not substantially similar in school mission, target population, educational plan, curriculum, and assessment section. Having some unique elements to school design does not frustrate replication or substantial similarities clearly evident between the schools. All Somerset schools share a common philosophy of student expectations, a unique code of excellence, an expectation of parental commitment, and collaborative management infrastructure derived from its first school, Somerset Neighborhood, (App, 2). All Somerset programs have replicated the "neighborhood" paradigm in school design and management practices, including Chapel Trail and the proposed school, from facilities design to academic program approach, (App, 2). Every Somerset school is intended to serve the immediate needs of its local community, (App, 2). Sponsor criticizes Applicant for serving a different student population than the existing school, and ensuring that the school's services are tailored to meet the needs of its population, and attempts to use this as a failure of the App. This, however, is Applicant following the law with respect to admissions and student populations. Pursuant to section 1002.33(10)^{vi}, a charter school is open to any student residing in the school district, subject to statutory preferences and limited enrollment categories. Accordingly, the App states Somerset's intent to serve the needs of the community, and will take into consideration the best practices for the local demographic, (App, 2). It is expected that geographic differences in the proposed locations will result in a different student population in the literal sense, this does not change the common strategies used to serve these demographics. While the populations may be unique, Somerset's and Chapel Trail's mission, vision, and values will be implemented with fidelity in every aspect of the proposed school, and the Somerset philosophy is evident throughout. The mission of Somerset's network is included at page 5, and the proposed school has a site-specific mission tailored to the needs of the anticipated students, the community, (App, 5). Somerset as a network has a common vision, purpose, core principles, and set of beliefs which have been adopted system-wide and are replicated from Chapel Trail to the proposed school, (App, 5). Finally, Sponsor states a general disbelief that Somerset and individuals from the existing school will participate in the establishment and operation of the proposed school. This contention is disingenuous. Chapel Trail, and the Somerset Governing Board, have already contributed to the establishment of the proposed school and have demonstrated a commitment through assistance with the App, responses to Sponsor questions, and by physically appearing to meet with Sponsor at the Applicant interview. As required by the replication standard pursuant to statute, the President of Somerset Academy Inc., Bernardo Montero, demonstrates his commitment to the proposed school and pledges to deploy staff members and experts to the proposed school and speaks directly to the collaboration with the proposed school to instill the vision of Chapel Trail and implement its programs, (Ex. 3, pg. 11). Sponsor inaccurately stated the replication standard. Correctly stated, the standard for replication is that the organization involved in the establishment/operation of the proposed school be

significantly involved in the operation of *replicated schools*. At the time of application, Somerset had 16 high-performing schools and had successfully replicated its schools into 48 other high quality programs in multiple counties, (See App at 1 and 30-35). Board members speak to the commitment of the Board and the network to share resources, foster and nurture the development of the proposed school and provide ongoing support between the schools in the same manner it has for other Somerset replicated schools, (Ex. 3, pg. 10-11, 17-18, 24, 30-31). Applicant indicates it will utilize Somerset's educational program consultants to provide continuous training to the proposed school's administrators and staff, and they will be providing ongoing communication, training, and support for the school's changing operational needs, (App, 2-3). Somerset's Board is ultimately responsible for its schools' operation and governance, (App, 2-3). Somerset governs Chapel Trail and will govern the proposed school as well, (App, 2-3). It has been said that past performance predicts future behavior. Somerset has a strong history of support and success; the Board is committed to all of its schools. THIS school is no different. The Board spoke to this directly; Sponsor has no reason to find otherwise.

2. Sponsor failed to prove clear and convincing evidence that Applicant will not use the guiding principles or meet the defined purpose of a charter school, and misstates the standards here in several respects.

Sponsor alleges Applicant did not detail how it will meet the guiding principles or defined purposes of a charter school, is not innovative, does not offer something different, and does not replicate Chapel Trail's mission. Applicant states the guiding principles and purposes and discusses each individually and in detail, (App, 6-12). Applicant identifies each principle/ purpose individually, and for each, articulates several specific, measurable, realistic, and attainable strategies which relate directly to the school's operations and which are currently in place at the existing school. The uniform mission, vision, and purpose of the Somerset network and all its schools is detailed, and includes Somerset's core principles and beliefs, (App, 5). Somerset identifies student learning and achievement as paramount, measured by other stated core principles including data assessments to drive curriculum and educational focus; research-based curriculum; continuous improvement; teacher training and mentoring, (App, 5). Sponsor alleges the proposed school is not innovative. It is not a statutory requirement for a charter school *to be* innovative, rather that the school *encourage* innovative learning methods and strategies, (emphasis supplied), see section 1002.33(2)(b)3. This is not limited to charter schools; ALL schools should encourage innovative learning methods. Sponsor states it is innovative and progressive with its choice policies, having approved so many charters as they have, currently 5 or 6. (Ex. 4, pg. 4, 71, 69). Somerset, though, has always been on the edge of innovation, and its Neighborhood school, opened in 1997, was among the first charter schools to open in the State of Florida. Somerset has developed a multi-tiered system of management, assessment, instruction, and professional development that integrates technology within curriculum to achieve increased performance over all student populations and sub-groups, (App, 10). Additional innovative

methods are detailed and listed throughout the App on pages 10, 11, 23, 30, 36, and 37 and examples of innovative lesson plan activities begin at Page 82. In addition, Board Members Ana Diaz and Lourdes Isla spoke about innovation and uniqueness of Somerset and the proposed school (Interview, 8). Innovation was further addressed in the Interview by Chapel Trail's curriculum specialist, Ms. Fye, Mr. Montero and Ms. Isla, reinforcing Chapel Trail's and the proposed school's college preparatory focus beginning in middle school and the use of integrated technology in the curriculum (Ex. 3, pg. 11-14). Sponsor alleges Applicant did not identify particular need for the proposed school "beyond offering choice in a generic sense", and believes there are diverse educational opportunities already provided to middle school students within the School District, (Ex. 2.B., pg. 4). This demonstrates Sponsor's impetus for denial: it is clear Sponsor does want a high performing charter middle school. There is no requirement in law or the App that Applicant demonstrate outstanding need in order to be approved. The purpose of a charter school is to offer parents in a community an educational choice. Applicant explains its rationale for the program stating its paramount concern is that this school will provide parents a *meaningful* choice in middle school educational options which currently does not exist, (App, 13). As seen in the chart on page 20 of the App, there is only one stand-alone middle school option within a 5-mile radius of the proposed school. All other middle school offerings are configured in a K-8 model. Further, there is currently only one middle school in the entire District co-located with a high school. At the time of Application, they reported a total enrollment of 1900 students, of which 787 were middle school students (App, 15). The proposed school has a projected enrollment of 375, is co-located with a high school, and offers a high-school pre-college preparatory curriculum - a much different educational environment than currently available in this District, (App, 15). Legislative intent regarding educational choice is clear:

"expanding educational opportunities and improving the quality of educational services within the state...[and that] ensuring that all parents, regardless of means, may exercise and enjoy their basic right to educate their children as they see fit... [and that] expanding educational opportunities and the healthy competition they promote are critical to improving the quality of education in the state and to ensuring that all children receive the high-quality education to which they are entitled.^{vii} It is a statutory purpose of Charter schools, in fulfilling choice to, "provide rigorous competition within the public school district to stimulate continual improvement in all public schools."^{viii} Applicant uses the guiding principles, is innovative and clearly fulfils the statutory intent of a charter school. There is not clear and convincing evidence of non-compliance with any statutory requirement. The Application should be approved.

3. Sponsor failed to show by clear and convincing evidence that Applicant did not materially comply with the standard for target populations and School climate and discipline.

F.S. § 1002.33(7) applies to approved charter applications entering the contract phase and does not govern the application process. Sections, 1002.33(7)(a)(1) and (7) specifically state that, "the *charter* shall address and criteria for approval of the *charter* shall be based on the school's mission, the students to be served, and the ages and grades to be included," and

“the admissions procedures and dismissal procedures, including the school's code of student conduct.” (emphasis supplied). As a high-performing replication, these allegations are not cause for denial. Nevertheless, Applicant has provided a response which fully answers to the model application. Sponsor alleges Applicant is not replicating the existing school because the demographic makeup of the proposed school will be “markedly different” than Chapel Trail and further alleges Applicant “may be targeting discreet student populations which may include impermissible criteria.” Applicant expects its target population to be students with a college-preparatory focus, the same target population at Chapel Trail. Additionally, the proposed school is promoting a small sized school, conducive to school safety and an academically rigorous environment students need to succeed in high school and college, (App, 15). Both the proposed school and Chapel Trail strive to reflect racial and economic diversity, as well as ESE/ELL populations reflective of the surrounding public schools. Here again, Sponsor misunderstands replication. To suggest populations of 2 schools nearly 150 miles apart should be identical would run afoul of Somerset's Admission policy which is in compliance with federal and state anti-discrimination laws and the Florida Educational Equity Act, (App, 13). Applicant details the admissions process, including enrollment preferences and limited enrollment categories, and includes the data which informed Somerset's enrollment projections, (App, 13,14,16-20). Applicant also includes a full plan for student recruitment and enrollment, (App, 174-175). Somerset understands the demographic of the area and the target population for its school and informed its research and developed its plan based on the existing high-performing Chapel Trail model. Sponsor apparently disagrees with Somerset's business decision based on sound principles, thorough research, and its own expertise having successfully operated 57 charter schools, 48 in Florida. This pretext for denial is pure conjecture and bias, and not reasons upon which a legal denial may be based.^{ix}

Sponsor takes issue with Applicant's inclusion of statutory limited enrollment provisions provided for all charter schools in Section 1002.33(10)(e), F.S., whereby a charter school may limit enrollment to target certain student populations, including “students residing within a reasonable distance of the charter school.” The Interview and the App both explain that the Enrollment Limitation serves the purpose to minimize any traffic impact caused by the school and ensure that the school is available to serve the residents of the neighborhood where the school is located, (App, 14; See Also Ex.3, pg.18-19). There is ample documentation that Applicant understands statutory preferences and limited enrollment categories schools may use in their enrollment practices. Finally, Sponsor alleges the proposed school does not have similar discipline procedures to Chapel Trail, alleging specifically that Applicant includes admissions and dismissal procedures used by the school as agreed by Sponsor. Sponsor states that the charter does not have authority to implement dismissal procedures not agreed to in the Charter. As noted above, admissions and dismissal procedures, including the school's code of conduct are issues the Charter

shall address, see Section 1002.33(7)(a)(7). Sponsor does not have the authority to deny a high-performing application for reasons outside of the limited statutory reasons in 1002.33(6)(c)3.b.^x Sponsor has implemented and/or approved similar admissions criteria in the county. Applicant is personally aware of a school in the district with the same 2.0 grade policy^{xi}. It is anticipated, at the time of contract, the proposed school will include enrollment/dismissal standards pursuant to Section 1002.33(10)(e), F.S.^{xii} Regarding Sponsor's feigned concern of replication, Bernardo Montero, clarified at the Interview that Chapel Trail indeed had a similar requirement to the proposed school's 2.0 GPA admission requirement stating it's a requirement for students to perform, (Interview, 16). It is clear the schools have substantially similar requirements. The proposed school enforces this standard beginning with the admissions process, while Chapel Trail enforces this standard through academic contracts. (App, 141; Ex.3, pg.16) Sponsor further alleges Applicant's dismissal policies do not meet standards as there are no academic supports identified prior to dismissing a student. Academic supports, utilized with success at Chapel Trail, are a main component of Applicant's educational plan and are detailed in the App and include: PLC's, direct instruction, personalized instruction, counselor's, cooperative learning, information processing strategies, targeted tutoring, etc., (App, 24-27). Applicant has a sound plan for classroom management and student discipline, making clear that a collaborative problem solving process is utilized to address learning challenges and targeted interventions are implemented, (App, 136). Applicant describes a team/discipline committee, which Sponsor inaccurately states was not included in the budget. The budget detail, lists Pupil Personnel Services and includes salaries for a "counselor", and is referenced in Line 27 on the budget narrative. (App, 310, 313). A counselor is included in each of the budget monthlies (App 318, 321, 324, 327, 330).

As stated, targeted interventions are implemented for all students, and prior to any student dismissal. Students not meeting state standards are identified, and measures for remediation will be implemented based on individual needs. (App, 135). Remedial students or students failing one of more classes, have access to supervised study time and tutoring during lunch/after school/weekend to accelerate progress, reinforce basic skills and preview new material, (App, 11-12; 28). Additional interventions including supplemental and/or additional instruction, course recovery, and/or supplemental programs for advancement and/or remediation are further detailed in the App at: 7, 10-12, 22, 29, 40, 65, 89, 120, 135, 307. It is further disingenuous to state that the proposed school is using a Parent Contract other than one substantially replicated from Chapel Trail's Parent Contract. The two documents are identical with 2 minor additions to Chapel Trail's contract: one regarding traffic patterns which was required by the local jurisdiction, and the other a minor modification to the unauthorized items policy, allowing cell phones in certain circumstances. In all other respects the contracts are alike.

4. Sponsor failed to show by clear and convincing evidence that Applicant did not materially comply with application standards for Educational Program Design.

Sponsor alleges Applicant does not explain how they replicate Chapel Trail and further alleges Applicant does not provide information as to how the education program is innovative. Ample evidence of Applicant's educational program is provided throughout the App, specifically, pages 21-35, evidencing how Applicant provides information in reference to instructional techniques incorporated throughout the curriculum in order to maximize learning and successful attainment of learning objectives. These educational goals and the detailed program, clearly implement the mission of Chapel Trail and Somerset Academy Inc. at the proposed school. The annual calendar and instructional time, including the coursework required by the state of Florida for all middle school students to progress to high school are an integral part of the Educational Program Design for the proposed school, as is the current practice of Chapel Trail. (App, 21). The evaluation instrument suggests that meeting these state standards (which all of Somerset's schools meet) is inconsistent with replication and further identifies the provision of state-required courses as an application deficiency. (Ex.2B, pg. 7). Somerset Academy has no response to the implication that it should provide an educational program that does not meet state standards. This is yet another example of the colored review Sponsor gave to Applicant's high-performing application. Many methods of the program philosophy "High Expectations/High Achievement" are described in detail including: differentiated instruction, direct instruction, group frameworks and collaborative learning and the rotational instructional models as the primary instructional methods, (App, 22). The proposed school will implement the tenets that have made Chapel Trail successful: a standards-based curriculum infusing a thematic approach to integrate core areas of study such as mathematics, literacy, English language arts, science, and social studies; appropriate assessments for learning utilizing the diagnostic-formative-summative assessment cycle model; data-driven high quality differentiated instruction; supplemental programs for student advancement and/or remediation; and support for teachers and ongoing professional development. "Unique" methods and "innovative resources" to augment learning are further discussed in detail at page 23 of the App and includes, among others recognition that students learn in a variety of ways and discusses giving students the opportunity to learn through different techniques. Pages 24-27 contain a detailed explanation of specific instructional techniques employed at Chapel Trail and how these techniques align with Somerset's mission and which are incorporated throughout the proposed school's curriculum in order to replicate Chapel Trail's high-quality. These include: Personalized Instruction, Target Tutoring, Professional Learning Communities, Vertical Planning, Department meetings, Leadership meetings, Counselors, Scaffolding, Cooperative Learning, Academic Excellence and Leadership Development, "Pull and Push" Methods, Home Learning, Vertical and Horizontal Alignment, Community Partnerships, Parental Involvement, Service Learning, among others. (App, 27-29). Sponsor alleges Applicant has not been innovative, yet innovative techniques

and strategies are documented throughout the App. This is the first college preparatory charter middle school to propose co-location with a high-school in this county. Applicant states that the proposed school will implement the same principles as Chapel Trail, and in the same manner stating, "these principles are best implemented through a curriculum that: 1) requires active engagement by doing (project based learning, Spring Board, kinesthetic activities, etc), 2) engages a broad range of learning modalities (TCI, HMH, RIM, etc), offering students multiple ways to demonstrate learning, 3) requires the use of imagination, creativity and application of knowledge, 4) inspires, motivates students, especially those who may struggle in other content area classes, 5) develops personal and social skills such as communication, cooperation, discipline, and perseverance, all of which will help to prepare students for high school and college, ensuring a well-rounded, community minded individual, (App at 28-29). Guided by these principles, our program, [Chapel Trail], aims to achieve three learning goals: academic accomplishment, intellectual curiosity and civic engagement resulting in responsible citizens," (App, 29). Applicant further details unique and innovative strategies aimed at student achievement throughout the application, and summarizes this at page 30, including partnerships with community stakeholders, local universities, and implementation of interns for collaborative learning experiences; the utilization of Project CRISS, SpringBoard, MyAccess, Study Island, Turn It In, Reading Plus, Reading Counts, HMH, TCI, etc; (App, 30). Applicant has more than demonstrated innovation and unique aspects of the Educational Program Design and has demonstrated how the proposed school is replicating the program already in place at Chapel Trail. Finally, Sponsor believes Somerset's capacity to replicate is not credible, even though Somerset as an institution has successfully replicated its model more than 40 times; Somerset has an 18-year history of successful operations and is collectively an "A" district among its schools, and has achieved increased performance network-wide. (App, 30). Sponsor's allegations are baseless; the App must be approved.

5. Sponsor failed to show by clear and convincing evidence that Applicant did not materially comply with application standards for curriculum plan.

Sponsor states that the curriculum plan for the proposed school is unclear and internally inconsistent, and that Applicant does not provide sufficient information about Chapel Trail's curriculum plan, making it impossible for Sponsor to confirm that Applicant's plan is aligned with Chapel Trail. Applicant has included curriculum standards in the App. Curriculum is described fully and in great detail, (App, 36-38) and instructional methods are detailed as well, (App, 9). Specifically,

"The School, in accordance with the law, will improve student learning and academic achievement through a variety of means that include but are not limited to direct instruction in the classroom, differentiated instruction, pull outs as needed, home learning assignments, lunch tutoring, after school tutoring, Saturday preps, online support systems, supplemental software, teacher access via school based text system, email, and message boards on the interactive teacher webpages, etc, as does #5151." (App, 9).

By Sponsor's own admission, substantial similarities between the proposed school and Chapel Trail "cannot be determined," (Evaluation Instrument, 9). As such, Sponsor has failed to meet its burden of proof demonstrating clear and convincing evidence that Applicant has not materially complied, and the application should be approved. In the alternative, it is Applicant's assertion that the App has clearly demonstrated the ability to replicate the Somerset model and states in the application factors that show the organization's capacity to replicate the school model such as:

"Implementing the same instructional methodology of the existing program (Section 3-4), Adopting the research-based educational concept for the existing program (Sections 3-4) Utilizing the team of experts (who have ownership of the Somerset program) as consultants who continuously provide training to the proposed school's administrators, faculty and staff (Sections 9 and 11), just to name a few examples."

Any reference to Somerset as a system, denotes practices in place system-wide, including Chapel Trail and the proposed school. The success in Somerset's ability to replicate has been its success as a system, (App, 3).

Specifically referencing Chapel Trail, Applicant outlines its plan and includes a litany of methods in which the school will meet and exceed high standards of achievement, including, among other reasons: implementing a rigorous curriculum; offering advanced and honors classes in grades 6-8; offering college Board's pre-AP curriculum (Springboard); curricula specifically designed to meet student needs through data-driven differentiated instructional model; and indicates that all of these methods are employed by Chapel Trail, (App, 6). In addition, Applicant, includes the following high standards for students replicated from Chapel Trail: Providing a vigorous, educational program; Delivering a dynamic school curriculum, including emphasis given to student-centered instruction towards student mastery of the Florida Standards; complement and enhance classroom studies through premium curricular and technology infused extra-curricular programs, Employing mechanisms to continuously monitor, evaluate, and improve curriculum to achieve continuous student improvement year to year; Utilizing strong technologically rich academic programs and tools to assist and increase a multisensory learning experience, (App, 6). Applicant discusses offering courses at honors level, such as SpringBoard, which has also been used at Chapel Trail, (see App, 9); and the use of approved academic programs that mirror Chapel Trail such as the use of an HMH Collection to meet the needs of lower level students, (see App, 10). Applicant also references support software replicated from and evaluated by Chapel Trail's program, including Study Island, My Access and Scholastic Reading Counts, (App, 11).

Further evidence of replication is found where Applicant states:

"In replicating Somerset Academy Middle School #5151, the School will follow some of the tenets that have made that school successful, including, but not limited to: A standards-based curriculum infusing a thematic approach to integrate core areas of study, such as mathematics, literacy, English language arts, science, and social studies; Appropriate assessments for learning utilizing the diagnostic, formative, summative

assessment cycle model; Data-driven high-quality differentiated instruction; Supplemental programs for student advancement /remediation; Support for teachers and ongoing professional development". (App, 22). Applicant lists instructional techniques, utilized with success at Chapel Trail that "will be incorporated throughout the curriculum in order to maximize learning and successful attainment of learning objectives and replicate quality" on pages 24-27.

"Instructional strategies utilized at #5151 and other Somerset schools that will yield the greatest results" at the proposed school are listed on pages 38-40. Applicant details specific curriculum being used at Chapel Trail and offered at the proposed school, broken down by both course and subject in great detail, including: English Language Arts/Reading/Writing is (39-49; 69-81); Math (51-55); Science (55-58); Social Studies, including character education, (58-64); Health and Physical Education, (81-82); Music, art and other electives (83-84.), (See App, 39-84). Methods of delivery curriculum are described on pages 64-68. Text books used at Chapel Trail are indicated within each subject area, and identified as texts to be used at the proposed school.

Additional evidence of Applicant's understanding and implementation of curriculum based on Chapel Trail's replicated model are the processes in place to support delivery of the curriculum and includes, but is not limited to, discussion of the following: continuous review of the curriculum to ensure a year's worth of learning; research based instructional practices, staff development through implementation of PLC; afterschool, lunch, and Saturday tutoring for remediation and acceleration; Support for Curriculum Delivery; Instructional Strategies to be utilized throughout all subject areas; Integration of Technology; etc. It is clear by the above, that Applicant meets the standard required pertaining to Florida Standards. There is no good cause to deny a charter school application where the application has met all the statutory elements^{xiii}. The inclusion of this as a reason for denial, is unwarranted, and without supporting evidence. This does not constitute clear and convincing evidence of non-compliance with any statutory requirement. Application should be approved.

6. Sponsor failed to show by clear and convincing evidence that Applicant did not materially comply with application standards for Student Performance, Assessment and Evaluation.

Sponsor states the proposed school's expectations of student performance is not aligned with student performance at Chapel Trail and does not align with the guiding principles. A discussion of how Applicant uses the guiding principles has been included in Section 2, above, and will not be repeated here. Students at Chapel Trail meet or exceed state and district averages by an average of 10% points, (Ex.3, pg.28-29). Applicant addresses and sets AMOs, and states the proposed school's student performance expectation is to "meet or exceed the District and/or State average, whichever is higher...", (App, 87-88, 97). Applicant includes specific goals regarding pass rates including, 7% points higher than state on 8th grade Science FCAT, 2% points higher on Biology EOC, 5% points higher on Civics EOC and 2% points higher on US History EOC, (App, 88). Learning gains are defined and addressed in detail, (App, 88). Somerset clearly demonstrates an understanding of the state accountability system as evidenced by the high quality schools it operates, (App, 1, 30-35). The goals identified are

baseline and will be adjusted based on data from the first assessment period, but is fair based on historical data for first year charter schools. Sponsor states Applicant's expectation of student performance is not aligned with "the guiding principles that charter schools are required to meet." Charter schools are not "required to meet" these principles, but should "use" and be "guided by" them^{xiv}. Somerset implements the guiding principles throughout its system. As a high-performing replication, Applicant states that the expectation is to meet or exceed state or district averages. Since Chapel Trail consistently exceeds state and district averages, Applicant maintains that the guiding principles are being used in a manner substantially similar to Chapel Trail. Contrary to Sponsor's assertions that Applicant does not demonstrate an understanding of testing and assessment regimes, Applicant states it "will participate in all applicable components of the Florida State Accountability System as required by Florida Statute, as well as many other age-appropriate research-based assessments," (App, 12). Further, Applicant intends to utilize data from assessments to drive instruction and provide remediation and differentiation, (App, 6, 8-11, 22-24, 38, 65)

7. Sponsor failed to show by clear and convincing evidence that Applicant did not materially comply with application standards for Exceptional Students.

Exceptional Students is found in statute in Section 1002.33(16)(a)(3), F.S., which states in relevant part, "a charter school shall be in compliance with...those statutes pertaining to the provision of services to students with disabilities." Somerset agrees that the proposed school, and every Somerset school, fully complies with the law regarding the identification and provision of services for Exceptional Students. However, as a high-performing replication, these allegations are not statutory reasons for denial of a high-performing application. Sponsor alleges Applicant does not clearly define the students Applicant intends to serve, and further alleges Applicant will not serve students with moderate to severe disabilities. These allegations are false and offensive. Applicant defines the students served and services provided, including students: with speech or language impairment; Specific Learning Disabilities; Other Health Impairments; Emotional Behavioral Disabilities; Deaf/Hard of Hearing; Developmental Delays; Dual Sensory Impairments; Intellectual Disabilities; physical therapy and occupational therapy needs; orthopedic impairments; traumatic brain injuries; and visual impairments, (App, 109-111). Nowhere does Applicant state that it will not serve students with moderate to severe disabilities. Somerset is offended by any assertion that it would do anything less than follow the law. Governing board member, Ana Diaz, states that the ESE services will be dictated by the student's IEP, (Ex.3, pg.31). Sponsor alleges the staffing plan and budget do not support services described. Line 22 of the Budget Detail (and Line 16 of the Budget Narrative) reflects contracted professional services, to include physical, speech, language and occupational therapists, while line 35 references counseling and psychological services. In addition, Line 29 of the Budget Narrative references counseling and psychological services. The Staffing Plan allocates for ESE personnel in lines 17, 25, and

76. Further, the App discusses the services provided to Exceptional Students in great detail at pages 102-127. Federal Compliance with ESE is discussed at page 68; instructional minutes for ESE students is found at page 43; ESE transportation is found at 182; and other ESE contracted services are addressed at 188. The school states it will provide a continuum of services to students, (Ex.3, pg.37). The App states at page 118 and throughout, that students with disabilities may receive accommodations in the General Education setting as deemed appropriate or the team will create custom accommodations to meet the needs of the students within the least restrictive environment.

8. Sponsor failed to show by clear and convincing evidence that Applicant did not materially comply with application standards for Governance and Management.

Sponsor alleges "serious" deficiencies in Somerset's governance plan and further alleges a lack of an effective management structure. There is no basis for these allegations. As a high-performing replication, the allegations regarding Governance and Management are not statutory cause for denial. Somerset Academy Inc.'s board fully complies with the Sunshine law, and Florida Statutes applicable to charter schools in all respects. Sponsor alleges Applicant would not be able to replicate an existing school design by opining that since Board members live outside of St. Lucie, and since Somerset Academy Inc. operates over 40 schools in multiple Florida counties and three other states, they would not be able to effectively manage these schools. It is well-settled in Florida that there is no residency requirement as to any number of Board Members of a Charter School. Section 1002.33(7)(d)1, F.S. states,

"The sponsor may not require that governing board members reside in the school district in which the charter school is located if the charter school... appoints a representative [who resides in the school district] to facilitate parental involvement, provide access to information, assist parents and others with questions and concerns, and resolve disputes."

Somerset is in full compliance with law requiring the appointment of a local representative in each district it operates, and discusses this, (App, 152-153). Sponsor expresses concern with the governing board holding at least two public meetings per school year in the school district. This is conjecture.^{xv} Applicant describes Somerset's compliance with Sunshine law, by holding a minimum of 2 meetings per year in the district which will be noticed, open, and accessible to the public and attendees will be provided an opportunity to receive information and provide input on school operations, (App, 148). Applicant is fully compliant with current legislation, and will continue to provide oversight of all Somerset Schools in the manner required by law. Sponsor falsely alleges Applicant does not have administrative support. The Corporate Documents for Somerset Academy Inc., clearly reflect Somerset's corporate President, Vice-President, and Treasurer, and as noted above, each Somerset school has a local representative. Applicant describes how the Principal and school-site administration handle day-to-day on-site operations including curriculum, instruction, classroom management, discipline, faculty and staff evaluation, testing, support

services, etc, (App, 154-155). With this structure, Somerset operates over 40 successful charter schools in multiple counties in Florida (App, 4). Board minutes posted on Somerset Academy Inc.'s website and the Board Schedule, attached as Exhibit 5, reflect a minimum of 12 meetings each during the 14-15 year and the 15-16 year. In addition, Board members indicated that regular publicly noticed strategic planning meetings occur, (Ex.3, pg.40). These were noted as being longer than board meetings and assist the board in addressing school needs and principal concerns at an individual, more personal level, (Ex.3, pg.41). Sponsor also inaccurately states that the proposed school shows a half-time principal and no other administrative support. The budget detail clearly states multiple times "Salaries in the staffing plan are for Full Time Equivalent (FTE) instruction positions. Individuals may be utilized for other functions." Sponsor criticizes Applicant's budget for indicating the principal's salary is .5. This does not indicate the principal is not full-time. Due to the size of the school in its first year, the .5 indicates the adjustment in salary due to limited FTE. As the school grows, the budget indicates that the salary becomes 1.0. The budget included indicates 14 total employees, including instructional staff, pupil/personnel services, and a school registrar. Staff reflected in the budget is clearly adequate as further evidenced by Sponsor's awarding Applicant it's only application strength of student: teacher (class size) ratio. It is expected that staff will play a dual role in assisting in administrative and operational duties, as necessary. This is a common practice of Charter Schools in start-up mode until FTE is sufficient to support additional staff. The plan meets the needs of school operations. There are no statutorily mandated ratios pertaining to Administration or office staff.

Somerset has demonstrated its ability to comply with the standards regarding governance and management, at the corporate and school-based levels. Somerset Academy, Inc.'s. Governing Board is the ultimate policy-making body, hires and oversees the Principal, and has the responsibility for the activities and affairs of the corporation, and of operation and oversight of the school including but not limited to curriculum, operational policies, academic accountability and financial accountability, (App,143-144, 154, 167). Applicant has never been cited by a sponsoring county for not being in compliance. Somerset Academy Inc. was awarded SACS CASI/ AdvancED accreditation because Somerset has demonstrated that it has the proper systems in place to ensure that its schools have the proper level of oversight. Applicant has met all the statutory requirements for governance and management, and there is no good cause to deny this application.^{xvi}.

9. Sponsor failed to show by clear and convincing evidence that Applicant did not materially comply with application standards for ESP.

Sponsor did not have clear and convincing evidence to find Applicant did not meet the standard with respect to ESP. As a high-performing replication, allegations regarding ESP are not statutory cause for denial. Applicant desired to replicate the

Somerset model, and chose the ESP based on the success of the ESP in the area of charter school replication as well as the competitive price offered by the ESP. Applicant describes the highlights of the ESP's accolades which attracted Applicant to the ESP and states that the ESP was selected for the following reasons, including but not limited to: the ESP's history of working with successful charter schools; the ESP currently works with over 90 charter schools, including Somerset, and Somerset is a high-performing school; the success of the ESP in growing high-performing networks of charter schools; all of the schools served by the ESP are either fully SACS-CASI accredited, or are in the process of obtaining such accreditation; the success of having two (including the first ever) district accredited system from SACS CASI/AdvancED; the proven track record of the ESP's client schools in being successfully renewed, and the overall ability of the ESP to provide the school's governing board with services and support necessary to fulfill the Board's mission. This is not an exhaustive list of reasons which led the board to the decision to work with the ESP, however, it does represent the objective reasons why the Board made their decision. Sponsor may not agree with Applicant's choice, however, a difference in opinion is hardly good cause to deny a charter application. Denial of a charter school based on conjecture or opinion does not constitute good cause.^{xvii} Furthermore, any given Applicant may decide whether they desire to contract with an ESP. Somerset Academy, Inc.'s, administrative review of competing ESP's led to the determination by the Board that the ESP selected for the proposed school was the right choice for the replication of the Somerset model and for the further expansion of Somerset. The ESP selected offered the highest level of service, the most competitive price, and the ability for the school to replicate their own model, thus retaining their Somerset identity. It is Applicant's belief these reasons are compelling. Sponsor alleges the Board does not have an arms-length business relationship with the ESP and has delegated too much of the day-to-day operations to the ESP. Applicant disagrees. The Governing Board will ensure that an "arm's length" performance-based relationship exists between the Board and the ESP, (App, 154, 167). Sponsor alleges the ESP and Somerset are "essentially one and the same", because the CFO of the ESP assists with the preparation of the annual tax returns for Somerset. The most recent 990 for the year ending 2014, identifies Andreina Figueroa, the then-current president of Somerset Academy Inc., as the principal officer, (See Ex. 6). Ana Martinez signs only in the capacity of "authorized representative," and the declaration above the signature block is a statement by the paid-preparer, HLB Gravier. Somerset and the ESP are two distinct legal entities (See Ex. 7). The ESP is hired by the Board to perform specific duties at the direction of the Board and only to the extent instructed by the Board, as described in the proposed ESP agreement, (App, 267-279). Applicant states that the Board evaluates ESP performance annually, (App, 167). Any failure on the ESP's part to perform its obligations under the agreement is grounds for termination by the Board on behalf of the School, (App, 167). This demonstrates a performance-based relationship as the Board will assess the ESP's continuing ability to provide

educational services and support. The Board operates independently of the ESP, and the board makes all decisions concerning school operations. The Principal, is responsible for day-to-day administration of the school pursuant to board policy, and in compliance with district, state, and federal guidelines for the school's operation, (App, 154). The ESP neither acts without specific direction of the Board, nor manages day-to-day operations. The ESP provides "back office" support for the Board through a team of individuals with expertise in the areas of business, law, quality assurance, strategic planning and development, and governmental compliance.

10. Sponsor failed to show by clear and convincing evidence that Applicant did not materially comply with application standards for Facilities.

As a high-performing replication, the allegations regarding Facilities are not statutory cause for denial of a high-performing application. Applicant describes its facility and its backup facility. (See App at 178-180; See Also Ex.3, pg.48-49.) It is clear that there is no requirement, in the application or the law, that the facility be identified or described at the time of application.

Pursuant to Section 1002.33(5)(b)1.c., F.S., "The sponsor may approve a charter for a charter school before Applicant has identified space and Pursuant to 1002.33(7)(a)13. F.S., "the Charter contract (not the Application) shall identify the facilities to be used and their location." Sponsor takes issue in the evaluation instrument that a timeline was not provided for a decision to implement the backup plan. State law is clear: "The sponsor may not require a charter school to have a certificate of occupancy or a temporary certificate of occupancy for such a facility earlier than 15 calendar days before the first day of school," (F.S. 1002.33(7)(a)13). Therefore, the "timeline" for the new building is the statutory 15 calendar days before the first day of school. The "timeline" for the backup plan, consisting of modular facilities at Somerset's high school with which the proposed school will co-locate, is 15 calendar days before the first day of school. As Applicant explained in the Interview, the high school is located on the campus of Indian River State College who controls its own permitting process. Accordingly, Somerset does not have to apply to anyone other than its current Landlord, in order to effectuate any necessary backup plan which may be required.

11. Sponsor failed to show by clear and convincing evidence that Applicant did not materially comply with application standards for Transportation.

Sponsor did not have clear and convincing evidence to find Applicant did not meet the standard with respect to Transportation. As a high-performing replication, the allegations regarding Transportation are not a statutory cause for denial of a high-performing application. Consistent with Section 1002.33(20)(c), F.S. Transportation shall be provided by Applicant consistent with requirements of subpart I.E. of chapter 1006 and s. 1012.45. Applicant may provide transportation through an agreement or contract with Sponsor, a private provider, or parents. Applicant and Sponsor shall cooperate in making arrangements that ensure transportation is not a barrier to equal access for all students residing within a reasonable distance of the charter school as determined in its charter. Somerset intends to provide transportation pursuant to law and Sponsor has no

genuine reason to question Somerset's commitment to meet this commitment. Somerset will provide transportation necessary to ensure that it is not a barrier to access and as stated in the application, will assess needs annually during application and enrollment of students through the use of enrollment surveys, registration packets, and parent transportation agreements, all in accordance with applicable law, (App, 181). Transportation (App, 116), and the procedures the proposed school intends to implement to assess transportation needs are included, (App, 181-182) and a transportation vendor is identified (A&S Transportation) in the event transportation is deemed necessary to meet the needs of the projected student body.

Applicant states: "if the parent advises the School that there is a hardship, and he/she is unable to provide the transportation, the School will provide transportation within a defined reasonable distance (App, 114). Sponsor argues that parents should not have to prove that transportation is a hardship and operates as a barrier to equal access. Sponsor goes on that the school should provide transportation to all parents without question which reside within a reasonable distance. In response, Applicant is not suggesting that parents go to extensive lengths to "prove" a hardship; rather Applicant is requesting only that parents inform the school that transportation is needed and arrangements will then be made. In the same way that students must meet eligibility requirements for free and reduced lunch, so too must students meet eligibility requirements for transportation. The law does not require Applicant to provide transportation to all students residing within a reasonable distance, nor does the law give Sponsor authority to determine what "reasonable distance" means. The reasonable distance provision allows charter schools to establish a transportation zone that sets an outer boundary or radius beyond which a charter school is not required to provide regular transportation. Somerset currently operates a school in this District which offers transportation. Applicant states the proposed school will offer transportation in the same manner as the current Somerset school. (App, 181).

Employment, Enrollment and Budget: The Model Evaluation Instrument does not indicate whether an Applicant "Partially Failed to meet" any given standard. Rather, the Model Evaluation Instrument indicates whether an Applicant's Response "Meets the Standard", "Partially Meets the Standard", or "Does Not Meet the Standard". A response which Partially Meets the Standard is a response which addresses most of the criteria, but requires additional information. Sponsor has not articulated a basis for denial on the basis of employment, enrollment or budget as further discussed below. Alleged "Partial failure" to meet requirements where the response has been rated to "partially meets the standard" is insufficient to meet clear and convincing standard of material noncompliance Sponsor is required to prove and the App cannot be denied as to the below allegations.

12. Sponsor failed to show by clear and convincing evidence that Applicant did not materially comply with application standards for Employment.

As a high-performing replication, allegations regarding Employment are not statutory cause for denial of a high-performing application. Sponsor lacks actual evidence to support its assertion that Applicant partially failed to meet these standards, and in

fact, Sponsor further acknowledges that Applicant adequately addresses most of the criteria in this section, yet again, due to a cursory and biased review, not a single strength is listed in the Evaluation Instrument, (Ex.2A, pg.7). Sponsor's Overview includes only a generic statement which alleges Applicant does not provide detail for how teachers will receive specific training to ensure implementation of teaching strategies. However, an extremely detailed and comprehensive Staff Development Plan is included, (App, 160-164) which includes specific professional development workshops, school-site and district based trainings, professional development trainings, state and national conferences, and includes other programs made available for professional development opportunities. As this section was found to partially meet the standard, Sponsor failed to prove with clear and convincing evidence that Applicant did not materially comply with the application standards for employment.

13. Sponsor failed to show by clear and convincing evidence that Applicant did not materially comply with application standards for Student Recruitment and Enrollment.

As a high-performing replication, allegations regarding Student Recruitment and Enrollment are not statutory cause for denial of a high-performing application. Therefore, the application may not be denied as to allegations regarding enrollment. Sponsor lacks actual evidence to support its assertion that Applicant partially failed to meet these standards. As stated previously, Sponsor failed to give a meaningful review to the App, and for this category, failed to include either any strengths or concerns to which Applicant can respond. The Overview includes only a generic statement that the admissions process may not be in accordance with law because of a lack of specificity as to how applications from students with disabilities will be handled and does not reference sections of law or the App. However, the application process does not take into account a potential student's disability status, and does not request a student's disability status as part of the application process, thereby allowing every student who applies an equal opportunity to enroll in the school, (App, 112). Sponsor has not articulated a basis for denial on these grounds. As this section was found to partially meet the standard, Sponsor failed to prove with clear and convincing evidence that Applicant did not materially comply with the application standards for enrollment.

14. Sponsor failed to show clear and convincing evidence Applicant did not materially comply with application standards for Budget.

A high-performing charter school is required to submit an annual financial plan for each year requested by the charter for operation of the school for up to 5 years, and provide anticipated fund balances based on revenue projections and a spending plan based on projected revenues and expenses. Applicant sets forth such data in the Exhibits to the App, where each year is shown in the budgets, budget narratives, and budget detail, and contains additional detail on anticipated fund balances and projected revenues and expenses, (App, 308-332). A description of controls that will safeguard finances and projected enrollment trends, also required by statute, is provided (App, 192-194.). These include procedures in which "The Governing Board shall annually adopt and maintain an operating budget, retain the services of a certified public accountant or

auditor for the annual independent financial audit and review, and will approve the audit report, including audit findings and recommendations," (App, 144, 154). Applicant has submitted a budget which fully complies with the statute, and there is no good cause to deny this application.^{xviii} Somerset Academy is a highly experienced Applicant with an impressive record of success in not only its number of approved applications with similar budgets and financial plans, but continuing success in its existing schools. The budget forecast was developed using statistical data collected from a decade worth of operations in Somerset's successfully operating schools, and specifically those in alignment with the proposed school's 6-8 program. The methodology used to prepare the budget forecast is reliable. Every one of the charter schools that developed budgets using this system yielded a budget surplus this past year. The proposed school will implement the same best practices and quality standards that have proven effective throughout the Somerset system, including Chapel Trail. Sponsor alleges the proposed budget does not include funds to pay for the staffing and operational plan outlined in the application and that many of the educational and operational services proposed cannot be provided. However, the positions budgeted for in the Staffing Plan are found in the instructional and operational section of the budget on pages 310 and 316. These positions are sufficient to provide educational and operational services proposed for the projected population. The budget detail states multiple times "Salaries in the staffing plan are for Full Time Equivalent (FTE) instruction positions. Individuals may be utilized for other functions." As discussed above, it is common practice for staff in a start-up school to "wear multiple hats" and hold dual roles in administrative and operational duties until FTE is sufficient to support additional staff. The budget and staffing plan is sufficient and meets the needs of school operations. The budget was created to cover basic operating costs for the school and to show viability at the most conservative budget level, without assuming grants or loans. As a replication of a High-performing school, applicant expects to apply and receive a start-up grant. As contingency, Somerset received a letter of Commitment from BuildingHope, a non-profit lender, to assure the proposed school would have sufficient funding in the event a grant is not awarded. The Lender Commitment Letter, including a range of loans and terms, is included in the App under Appendix H. Somerset has the funding and willingness to support the proposed school financially, which may include reduction, deferral, or waiver of part or all of the network fee, as needed, (Ex.3, pg.51-54). Sponsor rated this Section "partially meets the standard," and failed to prove with clear and convincing evidence that Applicant did not materially comply with application standards.

15. Sponsor failed to show by clear and convincing evidence that Applicant did not materially comply with application standards for Financial Management and Oversight.

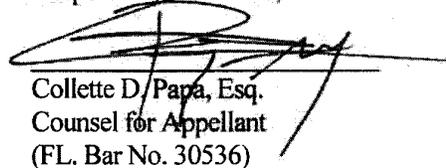
Sponsor alleges Applicant does not provide a description of how finances will be handled or any assurances the Governing Board will control school finances. The App details financial policies and procedures at pages 192-196. The Governing Board will annually adopt and maintain an operating budget, quarterly or monthly financial statements as required

which include a balance sheet and statement of revenue, expenditures and changes in fund balance; retain services of a certified public accountant/auditor for independent financial audit, and will review and approve the audit report, including audit findings and recommendations; report to all applicable legal agencies including Sponsor; and oversee the principal in any delegated financial matters, (App, 192, 194). In addition, internal accounting procedures to ensure financial controls are detailed at pages 193-194, and are in accordance with federal, state, and local laws and in-line with industry standards and best practices. Procedures are in place for General accounting, Internal accounting procedures, receivables, bank statements, wire transfers, Internal Revenue Collection, Capital Expenditures, Operational Checking Accounts, Authorized Check Signors. While the ESP coordinates these services and policies at the request of the Governing Board, the Governing Board retains all authority over all decisions. The ESP Agreement, attached hereto as part of the App, states that the Board must have "complete autonomy and control" and Service Provider must obtain "review and approval" of the Board. While the ESP may be assisting with checks, paying bills and serving as a liaison between the board and the accounting firm, all this is done in accordance with board policy and procedure, and with the review and approval of the board. Any action done by the ESP on behalf of the Board is subject to the ultimate control of the board. These services are included as part of the ESP fee as the ESP has an internal accounting department to service the ESP's client schools. (App, 267-279). The annual audit is paid for by the school to the auditor separately as this is an independent audit. Sponsor failed to demonstrate by clear and convincing evidence that Applicant would not exercise proper financial management and oversight of the School and comply with the Florida Statutes.

CONCLUSION: For the numerous reasons outlined above, Sponsor has not provided clear and convincing evidence to support denial, nor that Applicant did not materially comply with any application standard applicable to a High-Performing charter school replication. As stated at the School Board Meeting by a former State Representative, the Legislature passed this law because, " not all charters are the same, and if you have a high-performing charter school... we want to replicate those throughout the State... We wanted to create a format to make it easier, not harder to be approved," (Ex.4, pg.14). Nothing about this review suggests the process was easier for this high-performing school. The School Board members state they will follow the law and they will follow what the Department of Education says, whether they agree with it or not, (Ex.4, pg.67). Sponsor's failure to do so here requires approval of the application. Accordingly, this appeal should be granted, and Sponsor's denial should be overturned by the State Board of Education and remanded with instructions that Sponsor approve the application.

Dated this 27th day of October, 2015

Respectfully submitted,



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Certificate of Service

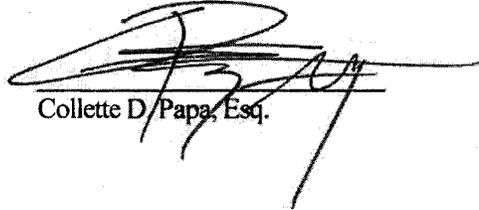
I hereby certify that a true and correct copy of the foregoing instrument has been furnished this 27th day of October, 2015 by overnight delivery to:

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**FLORIDA DEPARTMENT OF EDUCATION
STATE BOARD OF EDUCATION**

SOMERSET ACADEMY, INC.

Petitioner/Appellant,

v.

DOE Case No. 2015-3228

THE SCHOOL BOARD OF ST.
LUCIE COUNTY, FLORIDA,

Respondent/Appellee.

**RESPONSE OF THE SCHOOL BOARD OF ST. LUCIE COUNTY, FLORIDA,
TO THE APPEAL OF SOMERSET ACADEMY, INC., OF DENIAL
OF CHARTER SCHOOL APPLICATION**

**On Appeal from a Decision of the
School Board of St. Lucie County, Florida**

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PRELIMINARY STATEMENT

Petitioner/Appellant SOMERSET ACADEMY, INC., will be referred to as "Somerset." Respondent/Appellee THE SCHOOL BOARD OF ST. LUCIE COUNTY, FLORIDA will be referred to as the "School Board" or "School District." The proposed charter school, Somerset College Prep Academy Middle School will be referred to as "College Prep Middle School." Somerset's appeal of the School Board's denial of Somerset's charter school application, which appeal was received by the School Board on October 28, 2015, will be referred to as the "Appeal." All Florida Statute references are to the 2015 version unless otherwise indicated. For purposes of this response the following abbreviations will have the following meanings:

(Pet. Ex. #, pg. #) = Petitioner/Appellant's exhibit number and page number, if applicable.

(Res. Ex. #, pg. #) = Respondent/Appellee's exhibit number and page number, if applicable.

STATEMENT OF THE CASE AND FACTS

On August 3, 2015, Somerset submitted a Model Florida Charter School Application – High Performing Replications ("Application")(Pet. Ex. 1) to the School Board to open and operate a charter school pursuant to Sec. 1002.33, Fla. Stat. The proposed charter school, College Prep Middle School, would open in August 2016 and would serve grades 6 – 8. Somerset submitted the application pursuant to Sec. 1002.331, Fla. Stat., which allows "[a] high-performing charter school [to] submit an application pursuant to s. 1002.33(6) in any school district in the state to establish and operate a new charter school that will substantially replicate its educational program." Sec. 1002.331(3)(a), Fla. Stat. Somerset is proposing to open College Prep Middle School as a replication of the existing Somerset Academy Middle School #06-5151 ("School #5151") which is located in Broward County.

The Application was reviewed by an evaluation team headed by Dr. Kathy McGinn.¹ The evaluation was based on the standards and criteria set forth in Sec. 1002.33, Fla. Stat., using the Florida Charter School Application Evaluation Instrument – High Performing Replications (“Evaluation Instrument”) and in accordance with School Board Policy 3.90. The Evaluation Instrument sets out 20 standards to be reviewed which are based on the standards set forth in Sec. 1002.33, Fla. Stat. The evaluation team determines after a review of the application; an interview with the charter school’s board members; and consideration of all subsequent materials provided by the applicant, whether the applicable section of the application: 1) meets the standard; 2) partially meets the standard; or 3) does not meet the standard. Based on all of the materials submitted and the information learned during the Somerset Board interview, Dr. McGinn prepared the Evaluation Instrument in accordance with the guidelines set forth above.

Based on all of the information reviewed by the evaluation team, the Superintendent submitted a report and recommendation to the School Board to deny the Application. The School Board considered the Application at a duly noticed public hearing held on September 22, 2015.

Somerset argues that it was denied procedural due process because it claims that the School District’s review was “lackluster and disingenuous” and, therefore, Somerset was not offered a meaningful and fair review. Somerset’s assertion is without merit and is countered by Somerset’s own acknowledgement that it received a 44 page Notice of Denial which outlined the statutory shortcomings with Somerset’s application. Furthermore, Somerset and the public was afforded an opportunity to address the School Board at a public hearing which is not required to be part of the charter school application review process. Sec. 1002.33(6)(b)3.a., Fla. Stat. (“A sponsor shall by a

¹ The evaluation team consists of: Chief Financial Officer, Chief Academic Officer, Executive Director of Student Services and ESE, Executive Director of Strategic Planning and Central Services, Executive Director of Facilities and Maintenance, Executive Director of Legal Services, Director of Accountability and Assessment, Director of Transportation, and Curriculum Director.

majority vote approve or deny an application no later than 60 calendar days after the application is received,..." This vote takes place at a public meeting but it does not have to be a public hearing.). The review of Somerset's application was full, fair and complete and satisfied all notions of due process.

After reviewing all of the materials submitted to the School District and hearing testimony at the public hearing, the School Board voted unanimously to deny Somerset's Application. The reasons for the denial were set forth in a notification letter sent to Somerset as required by Sec. 1002.33(6)(b)3.c., Fla. Stat. This Appeal by Somerset followed.

SUMMARY OF THE ARGUMENT

The School Board must ensure that all public schools, including charter schools, meet the high standards set by the State of Florida for educating its students. Towards that end, the School Board is charged with fairly and carefully reviewing charter school applications and only approving those applications that meet the criteria and standards established by law.

Charter school applications are reviewed to determine if the application clearly establishes that the charter school "shall fulfill the following purposes: 1. Improve student learning and academic achievement. 2. Increase learning opportunities for all students, with special emphasis on low-performing students and reading. 3. Encourage the use of innovative learning methods. 4. Require the measurement of learning outcomes." Sec. 1002.33(2)(b)1.-4., Fla. Stat. These broad principles are further refined in the application requirements set forth in Sec. 1002.33(6)(a), Fla. Stat. Specifically, the application must demonstrate and include: how the school will meet the statutorily defined purpose of a charter school; provide a detailed curriculum plan aligned to state standards; contain detailed goals and objectives for improving student learning; describe the reading curriculum and differentiated strategies for students at different reading levels; contain a sustainable annual

financial plan that supports the operational plan; and contain such other information as the school district might require.

A replication application must also comply with the criteria identified in Sec. 1002.33(6)(b)3.b.(I) through (V), Fla. Stat. Specifically, subsection (I) requires the application to meet the criteria set forth in subsection (6)(a) set forth above; subsection (II) requires the application to materially comply with subsections (9)(a)-(f); subsection (III) requires the applicant to demonstrate that the proposed charter school substantially replicates the existing high performing charter school; subsection (IV) requires a finding that the application does not contain a material misrepresentation or false statement or concealed an essential material fact during the application process; and subsection (V) requires the educational program and financial management practices to materially comply with the application criteria. For purposes of subsection (III), “[a]n applicant is considered to be replicating a high-performing charter school if the proposed school is substantially similar to at least one of the applicant’s high-performing charter schools and the organization or individuals involved in the establishment and operation of the proposed school are significantly involved in the operation of [the replicated school]”. Sec. 1002.33(6)(b)3.b., Fla. Stat.

Based on these evaluation criteria and standards the School Board determined that there was clear and convincing evidence that Somerset’s Application materially failed to comply with a sufficient number of criteria and standards and, therefore, the Application warranted denial.

ARGUMENT

A. The School Board Had Clear and Convincing Evidence That Somerset’s Proposed Educational Program Did Not Substantially Replicate That of One of Somerset’s High-Performing Charter Schools. (Sec. 1002.33(6)(b)3.b.(III), Fla. Stat.)

A charter school “applicant is considered to be replicating a high-performing charter school if the proposed school is *substantially similar* to at least one of the applicant’s high-performing

charter schools and the organization or individuals involved in the establishment and operation of the proposed school are **significantly involved** in the operation of [the replicated school].” (emphasis added) Sec. 1002.33(6)(b)3.b., Fla. Stat. Substantially similar does not simply mean that the schools share “a substantially similar instruction model and the very same organizations, *i.e.*, the very same governing board and ESP.” *School Board of Seminole County v. Renaissance Charter School, Inc.*, 113 So.3d 72, 75 (Fla. 5th DCA 2013). “[T]o be ‘substantially similar’ within the meaning of the Florida Statutes, a charter school must have the same characteristics and be alike in substance or essentials to the school it is replicating.” *Seminole County*, 113 So.3d at 75. The crux of Somerset’s argument on this point is that the Application “bases the proposed school’s replication on substantial similarities in several areas including educational model and governance by the same organization.” (Somerset’s Appeal, pg. 2). This definition of replication was explicitly rejected by the *Seminole County* court.

Furthermore, by Somerset’s own admissions, College Prep Middle School is not replicating School #5151. For example, in the Application Somerset states that “the **one central common thread is that each and every Somerset school is unique and different**. Each school serves a **different population and demographic**, and has students with **different needs**. The Somerset schools meet each student’s needs in the way that is best for that student. Therefore, there is no specific design replication to any of our schools.” (emphasis in original)(Pet. Ex. 1, pg. 4). In addition, “[f]rom facilities design to academic program approach, every Somerset school is unique in that it is intended to serve the immediate needs of its local community.” (Pet. Ex. 1, pg. 2).

Somerset further acknowledges that the “school accepts the curriculum of St. Lucie County Public Schools as its basic curriculum.” (Pet. Ex. 1, pg. 11). School #5151 is located in Broward County and follows the Broward County School District curriculum. There is nothing in the Application to indicate that the Broward County School District curriculum is aligned with the St.

Lucie County School District's curriculum. Replicating School #5151's curriculum at College Prep Middle School is a fundamental requirement if College Prep Middle School is to be considered replicating the "same characteristics and be alike in substance or essentials to the school it is replicating." *Seminole County*, 113 So.3d at 75.

The Application contains references to generalized educational principles and then parenthetically will indicate that such principles are the same as those at School #5151. For example, the College Prep Middle School will "[p]rovide a vigorous educational program (as does #5151) vital for every child's scholastic success." (Pet. Ex. 1, pg. 6). This statement and many other similar statements is not material or meaningful evidence that College Prep Middle School is replicating School #5151.

Furthermore, it can be reasonably expected that College Prep Middle School will not have the same demographic "characteristics" as School #5151 which adds credence to Somerset's point that "every Somerset school is unique in that it is intended to serve the immediate needs of its local community." (Pet. Ex. 1, pg. 2). School #5151's 2014-15 school year enrollment demographics indicates a student population as follows: 60.2% Hispanic; 17.4% Black; 11.7% White; and 33.3% economically disadvantaged. (Res. Ex. 4). Compare this to St. Lucie County's 2014-15 school year student population which is as follows: 27.6% Hispanic; 30.1% Black; 36.5% White; and 62.0% economically disadvantaged. (Res. Ex. 3). Such a significant difference in demographic characteristics would make it difficult to replicate School #5151 in St. Lucie County.

In addition, School #5151 had a 2014-15 school year enrollment of 831 students (Res. Ex. 4). College Prep Middle School is proposing a total enrollment of 375 by the fifth year (with only 200-250 the first year). (Pet. Ex. 1, Cover Sheet). This is a significant difference in enrollment between School #5151 and College Prep Middle School. Enrollment directly impacts the classes and programs that can be offered. Notwithstanding the representations in the Application, it is difficult

to understand how College Prep Middle School can replicate the programs and classes offered at School #5151 when the projected enrollment is only 45% of the replicated school's enrollment.

The second component of replication is demonstrating that the "organization or individuals involved in the establishment and operation of the proposed school are *significantly involved* in the operation of [the replicated school]." (emphasis added) Sec. 1002.33(6)(b)3.b., Fla. Stat. As the court in *Seminole County* said, simply sharing "the very same organizations, *i.e.*, the very same governing board and ESP" is not substantially similar for purposes of the Florida Statutes. *Seminole County*, 113 So.3d at 75. While the board for both schools is the same, it is difficult to see how the Somerset Board members can be significantly involved when the board chair lives and works in California (Pet. Ex. 1, pg. 148); two of the board members live and work in Texas (Pet. Ex. 1, pg. 151, 152); and a fourth board member goes to school in Pennsylvania (Pet. Ex. 1, pg. 151). Furthermore, because of the Sunshine Law and other legal constraints on public governing boards, it is difficult to conceive how the Somerset Board could be "significantly involved in the operation" of either school to the extent required by Sec. 1002.33(6)(b)3.b., Fla. Stat. Furthermore, the legislature would not have imposed the "significantly involved" requirement if simply having the same board would suffice.

Finally, the individual most involved with the establishment and future operation of College Prep Middle School is expected to be Erika Rains. She is the current Principal of Somerset College Preparatory Academy, a charter high school located in St. Lucie County, and she is expected to be College Prep Middle School's half time Principal. (Pet. Ex. 1, pg. 318) There is nothing in the Application to indicate that Ms. Rains is "significantly involved in the operation" of School #5151. This is perfectly understandable since she is the full time Principal of a charter high school in St. Lucie County. The Application indicates that College Prep Middle School's "leader will have access to the school leader of" School #5151. (Pet. Ex. 1, pg. 3). Involvement by School #5151's Principal

is not the legal standard established in Sec. 1002.33(6)(b)3.b., Fla. Stat. To satisfy the legal standard, it is necessary for Ms. Rains or some other person involved in the operation of College Prep Middle School to be “significantly involved in the operation” of School #5151 and there is absolutely no information in the Application or in any other materials supporting such a conclusion. Based on the above information and other information that was presented to the School Board at the public hearing, the School Board had clear and convincing evidence that College Prep Middle School is not replicating School #5151. Therefore, the Application was correctly denied.

B. The School Board Had Clear and Convincing Evidence That Somerset’s Proposed Annual Financial Plan Does Not Support The Educational Program Or Operational Plan Proposed In The Application. (Sec. 1002.33(6)(b)3.b.(V), Fla. Stat.)

A fundamental requirement of the Application is that it outline and describe educational programs and financial management practices that materially comply with the charter school application requirements of Sec. 1002.33, Fla. Stat. *See*, Sec. 1002.33(6)(b)3.b.(V), Fla. Stat. This includes the requirement that the charter school application contain “an annual financial plan for each year requested by the charter for operation of the school for up to 5 years.” Sec. 1002.33(6)(a)5., Fla. Stat. Somerset’s staffing plan and accompanying proposed budget does not support the educational programs described in the Application and, therefore, there is clear and convincing evidence that College Prep Middle School’s “educational program and financial management practices do not materially comply with the requirements of [Sec. 1002.33, Fla. Stat.]” Sec. 1002.33(6)(b)3.b.(V), Fla. Stat.

College Prep Middle School’s first year enrollment is projected to be a total of 236 students in grades 6 through 8. (Pet. Ex. 1, pg. 317). The maximum class size is projected to be 22 students per class which is the maximum allowed by law. (Pet. Ex. 1, pg. 317). This means that there will be a minimum of eleven classes of students at any one time (236 students divided by 22 students per

class equals 10.73 classes or 11 classes since it is necessary to round up in order to comply with class size requirements). The projected staffing for the first year is eleven teachers, a half time principal, a half time ESE Teacher/Coordinator, and a half time registrar. (Pet. Ex. 1, pg. 318). This means that each teacher will be teaching a class each available period each day. The most likely method of scheduling is the 4x4 block schedule. (Pet. Ex. 1, pg. 21). Each day has four 90 minute class periods and the full schedule consists of eight 90 minute class periods spread over two days which are available for the core subjects of English language arts (“ELA”), math, science, and social studies. (Pet. Ex. 1, pg. 21). Therefore, each teacher is limited to eight classes if they teach a core subject yet with the number of enrolled students projected it will require eleven classes for each core subject since each student takes a class in each of the core subjects each semester. As a result, it will require a minimum of two teachers in each of the core subjects or eight of the projected eleven teachers.

The Application contains lists of classes that will be available. (Pet. Ex. 1, pg. 50, 54, 55, 57, 58, 64, 81 – 84). There is a total of 90 separate classes listed of which 55 are in the core subject areas. This includes 18 separate course offerings in ELA (Pet. Ex. 1, pg. 50); 14 separate course offerings in math (Pet. Ex. 1, pg. 54); 14 separate course offerings in science (Pet. Ex. 1, pg. 57-58); and 9 separate course offerings in social studies (Pet. Ex. 1, pg. 64). There are 35 non-core subject classes listed in such diverse areas as: physical education (Pet. Ex. 1, pg. 81); music (Pet. Ex. 1, pg. 83); art (Pet. Ex. 1, pg. 83); French (Pet. Ex. 1, pg. 82); Spanish (Pet. Ex. 1, pg. 82); computers (Pet. Ex. 1, pg. 83); business (Pet. Ex. 1, pg. 83); and journalism (Pet. Ex. 1, pg. 84). While the course list is impressive, it is clear from the staffing plan that very few courses other than the core subject courses can be offered. There is simply not enough teachers and periods in the day. Even if every teacher carried dual certifications, such as a teacher certified in ELA and art, there is insufficient time in the day with the number of teachers available to offer anywhere near the classes identified as being

available. Therefore, the staffing plan and budget clearly does not support the majority of the educational program described in the Application.

The hollowness of College Prep Middle School's educational program is further compounded by the reference throughout the Application of support positions that are critical to the educational programs but are not staffed or budgeted. The Application contains the following job descriptions (the positions identified in **bold** are not staffed or budgeted): Principal (Pet. Ex. 1, pg. 280) which is shown in the first year as a half time position (Pet. Ex. 1, pg. 316); **Assistant Principal** (Pet. Ex. 1, pg. 287) – no staffing or budget (Pet. Ex. 1, pg. 316); Teacher (Pet. Ex. 1, pg. 292) which is staffed and budgeted at eleven positions (Pet. Ex. 1, pg. 316); **Guidance Counselor** (Pet. Ex. 1, pg. 296) – no staffing or budget (Pet. Ex. 1, pg. 316); **English Language Lerner (ELL) Specialist/Teacher** (Pet. Ex. 1, pg. 298) – no staffing or budget (Pet. Ex. 1, pg. 316); Exceptional Student Education (ESE) Program Specialist (Pet. Ex. 1, pg. 300) which is shown in the first year as a half time position (Pet. Ex. 1, pg. 316); **Reading/Literary Coach** (Pet. Ex. 1, pg. 302) – no staffing or budget (Pet. Ex. 1, pg. 316); Registrar (Pet. Ex. 1, pg. 304) which is shown in the first year as a half time position (Pet. Ex. 1, pg. 316). The fact that many of the these positions are not staffed or budgeted is critically important because throughout the Application there are references to many of these positions, and others not specifically described, as being actively involved in College Prep Middle School's educational programs. Examples include:

A close group of *counselors* serve as a constant resource for parents, teachers and students. They strive to ensure course credits are met, ESE accommodations are implemented, resolve issues, etc. (emphasis added)(Pet. Ex. 1, pg. 25).

There is no staffing or budget for counselors.

The School will monitor student's academic and emotional progress using a "pull and push" method. Students may be either "pulled" out of a class for additional remediation or acceleration, based on their needs. Conversely, a *teacher or interventionist* may "push" into an existing class to facilitate either a remediation program or for students in need of additional educational stimulation to take the

most challenging curriculum in which they can be successful to maximize upon their potential. (emphasis added)(Pet. Ex. 1, pg. 26).

There is no staffing or budget for the extra teachers or interventionist needed to achieve “pull or push” services.

The **Reading Coach** will also be responsible to review and monitor lessons, Differentiated Instruction and delivery of instruction. The **Reading Coach** will support classroom teachers and model sample lessons to ensure all teachers meet the school’s expectation. ... The **Reading Coach** will assist to maintain and implement the school’s reading program, supplemental reading programs, and to ensure high-fidelity implementation of reading instruction. Examples include: modeling effective strategies for teachers, providing professional development, differentiated instruction, monitoring progress, and analyzing student data. As student data are collected and analyzed, these data will be used to identify specific areas in which teachers can benefit from additional professional development opportunities (emphasis added)(Pet. Ex. 1, pg. 38 and 79).

There is no staffing or budget for Reading Coaches. Based on the above, Reading Coaches are a critical component of College Prep Middle School’s reading program.

Teachers at the school are required to document instruction of the Common Core Standards (including ELL and ESE strategies) by completing daily lesson plans, as well as records of weekly and monthly thematic unit plans. Lesson plans identify specific objectives taught and benchmarks met as listed in the curriculum. The administrative team (principal, **assistant principal, and curriculum coaches**) will check lesson plans weekly and conduct daily Classroom Walk-Throughs to ensure that curricular objectives are being documented in each teacher’s lesson plan book and taught accordingly. (emphasis added)(Pet. Ex. 1, pg. 39).

The Principal is staffed half time and there is no staffing or budget for an Assistant Principal or curriculum coaches. Clearly a half time Principal will not have time to do everything identified in the above paragraph in addition to all of the other duties assigned to the Principal in the Application. As an aside, the “Common Core Standards” are not the adopted standards in Florida.

The school will establish a Literacy Leadership Team, ... The principal selects team members based on a cross section of the faculty and administrative team that represents highly qualified professionals who are interested in serving to improve literacy instruction across the curriculum. ... The principal, **reading coach, mentor reading teachers**, content area teachers, will serve on this team. ... The administrative team and LLT members will conduct classroom visitations, monitor lesson plans and ensure that reading strategies are implemented across the curriculum. ... Administrator will identify teachers in need of support and provide

assistance through **reading coaches**, veteran teachers and the LLT members. (emphasis added)(Pet. Ex. 1, pg. 79-80).

The “administrative team” consists of a half time Principal and there is no staffing or budget for reading coaches and it is not clear who will serve as “mentor reading teachers” or how the content area teachers will have time to serve as mentor reading teachers. Again, it is clear that a half time Principal will not have time to do everything identified in the above paragraph.

The main function of the ELL Committee is to resolve any issue that affects the instructional program of an ELL student. It is composed of: an administrator or *designee*, the *ESOL teacher/coordinator*, the **home language teacher** (if any), the classroom/subject area teacher(s), and a *guidance counselor*, or other educators as appropriate for the situation. (emphasis added)(Pet. Ex. 1, pg. 132).

The administrator is limited to the half time Principal. There can be no designee since there is no additional administrator to delegate the duties to. In addition, there is no staffing or budget for an ESOL teacher, home language teacher, or a guidance counselor.

Based on the above information and other information that was presented to the School Board at the public hearing, the School Board had clear and convincing evidence that College Prep Middle School’s proposed “educational program and financial management practices do not materially comply with the requirements of [Sec. 1002.33, Fla. Stat.],” Sec. 1002.33(6)(b)3.b.(V), Fla. Stat. Therefore, the Application was correctly denied.

C. The School Board Had Clear and Convincing Evidence That Somerset Cannot Provide the Reading Curriculum and Differentiated Strategies Described in the Application. (Sec. 1002.33(6)(b)3.b.(I), Fla. Stat.)

Somerset is required to “[d]escribe the reading curriculum and differentiated strategies that will be used for students reading at grade level or higher and a separate curriculum and strategies for students who are reading below grade level.” Sec. 1002.33(6)(a)4., Fla. Stat. In addition to identifying the reading curriculum, Somerset must demonstrate that the reading curriculum can be reasonably implemented with the resources identified. As shown in Part B above, Somerset does not have the

staffing or budget necessary to implement the various reading programs and strategies outlined in the Application. Based on the above information and other information that was presented to the School Board at the public hearing, the School Board had clear and convincing evidence that College Prep Middle School cannot provide the reading curriculum and differentiated strategies described in the Application and, therefore, the Application did not materially comply with the requirements of [Sec. 1002.33, Fla. Stat.],” Sec. 1002.33(6)(b)3.b.(I), Fla. Stat. Therefore, the Application was correctly denied.

D. The School Board Had Clear and Convincing Evidence That Students With Moderate to Severe Disabilities Will Not Have An Equal Opportunity of Being Selected For Enrollment. (Sec. 1002.33(6)(b)3.b.(II), Fla. Stat.)

In the Application Somerset must demonstrate how “[s]tudents with disabilities and students served in English for Speakers of Other Languages programs shall have an equal opportunity of being selected for enrollment.” Sec. 1002.33(10)(f), Fla. Stat. The statutory requirement does not distinguish between the type or severity of the disability. Somerset has failed to meet this requirement because they are proposing to accept only those disabled students that do not need extensive services and who can be educated in the general education setting a vast majority of the time. Therefore, all disabled students do not have an equal opportunity of being selected for enrollment.

Somerset has made it clear that it will only “serve students with disabilities whose needs can be met in a regular classroom environment (at least 80% of instruction occurring in a class with non-disabled peers) with the provision of supplementary supports and services and/or modifications and accommodations.” (Pet. Ex. 1, pg. 102). Somerset readily admits that it “will not be equipped to provide a full range of services” for disabled students. (Pet. Ex. 1, pg. 111). Somerset has specifically declined to “serve students with disabilities whose needs can be met in a regular classroom and

resource room combination (between 40%-80% of instruction occurring in a class with non-disabled peers)” and they have specifically declined to “serve students with disabilities whose needs can be met in a separate classroom (less than 40% of instruction occurring in a class with non-disabled peers).” (Pet. Ex. 1, pg. 102). Somerset lists thirteen specific disabilities that they will address but in all cases Somerset “will provide services within the General Education setting.” (Pet. Ex. 1, pg. 109-111). Clearly moderate to severely disabled students do not have an “equal opportunity of being selected for enrollment” as Somerset will not provide services for such students. Furthermore, Somerset’s staffing plan only indicates a half time ESE teacher which would be insufficient if Somerset was going to enroll students with more severe disabilities.

Somerset claims that determining whether College Prep Middle School is open to all students with disabilities no matter how severe the disability is not a statutory reason for denying a high-performing replication application. Somerset’s legal assertion is wrong. The law clearly requires that high-performing replication applications show how “[s]tudents with disabilities . . . shall have an equal opportunity of being selected for enrollment in a charter school.” Sec. 1002.33(10)(f), Fla. Stat. (which is made applicable to high-performing replication applications by Sec. 1002.33(6)(b)3.a.(II), Fla. Stat.). Somerset’s Application is clear that College Prep Middle School will not serve all students with a disability which makes it impossible for all students with a disability to “have an equal opportunity of being selected for enrollment.”

Based on the above information and other information that was presented to the School Board at the public hearing, the School Board had clear and convincing evidence that students with moderate to severe disabilities will not have an equal opportunity of being selected for enrollment at College Prep Middle School. Sec. 1002.33(6)(b)3.b.(II), Fla. Stat. Therefore, the Application was correctly denied.

E. The School Board Had Clear and Convincing Evidence That Somerset's Governance, Management and Relationship To The ESP Adversely Impacts Somerset's Ability To Operate College Prep Middle School.

(Sec. 1002.33(6)(b)3.b.(I), Fla. Stat.)

Somerset's Application must materially comply with all of the requirements of Section 1002.33(6)(a), Fla. Stat. *See* Sec. 1002.33(6)(b)3.b.(I), Fla. Stat. This includes any "additional information [the School Board] may require." Sec. 1002.33(6)(a)6., Fla. Stat. School Board Policy 3.90 requires the following:

During the application review and evaluation process, the District may solicit additional background information from the applicant regarding: (1) the history and background of individual applicants and/or founding/governing boards and individual members including, but not limited to, a demonstration of the professional experience or competence of those individuals or organizations applying to operate the charter school or those hired or retained to perform professional services; and (2) whether the applicant currently operates charter schools in Florida and if the proposed school will be a replication of an existing school design. This information may be used to evaluate the applicant's ability to operate a charter school. Policy 3.90(12)(d).

There are serious deficiencies in Somerset's governance plan. For example, as noted above, four members of the nine person Somerset Board live and work outside of Florida, including the Somerset Board Chair. Additionally, none of the Somerset Board members live or work in St. Lucie County. The Somerset Board is responsible for overseeing and operating over 40 schools in six Florida counties, three states and the District of Columbia (Pet. Ex. 1, pg. 4). The charter school law requires "each charter school's governing board [to] hold at least two public meetings per school year in the school district. The meetings must be noticed, open, and accessible to the public, and attendees must be provided an opportunity to receive information and provide input regarding the charter school's operations. The appointed representative and charter school principal or director, or his or her equivalent, must be physically present at each meeting." Sec. 1002.33(7)(d)2., Fla. Stat. Based on information published on Somerset's website, the Somerset Board did not comply with the

meeting requirements during the 2014-2015 school year (Res. Ex. 2) and the proposed schedule of meetings for the 2015-2016 school year indicate that the Somerset Board will not comply with the meeting requirements for the 2015-16 school year as well. (Pet. Ex. 5)

The Somerset Board is subject to the Sunshine Law and, therefore, may only conduct Somerset business during duly noticed public meetings. Somerset, however, has no administrative support to carry out the statutory duties and responsibilities imposed on charter school boards outside of what occurs at those public meetings. It is difficult to conceive how the Somerset Board can perform its legally required functions when it typically only meets once a month at best (during the 2014-2015 school year the Somerset Board did not meet in December 2014 or in April 2015)(Res. Ex. 2). For example, the Somerset Board is responsible for an annual evaluation of each school's principal (for over 40 schools), yet there is no indication in any Somerset Board meeting minutes for the 2014-2015 school year that those evaluations took place at a public meeting or otherwise. (Res. Ex. 2).

Somerset's inability to effectively govern is closely related to the lack of an effective management structure outside of the individual administrators at each school and those services provided by the ESP. As noted above, Somerset has no administrative staff to assist with the day to day management and operation of each of its schools. Somerset relies heavily on the principal and other school based administrators to manage the day to day affairs as "[t]he administration will implement policies and procedures for the daily operations of the school. The principal will delegate duties to administrative support staff to ensure that daily operations, resources, policies and procedures are being implemented in accordance with the school's mission." (Pet. Ex. 1, pg. 154). College Prep Middle School's staffing plan for the first year shows a half time principal and no other administrative support such as assistant principals, deans, guidance counselors or the like. There is no administrative support staff for the half time principal to delegate duties to and, therefore, no

effective way for the Somerset Board to manage and operate College Prep Middle School. Somerset makes the incredible argument that budgeting the Principal at .5 FTE “does not indicate the principal is not full time.” (Somerset Appeal, pg. 14). Somerset further states that “individuals may be utilized for other functions.” *Id.* However, there is nothing in the budget or staffing plan to indicate that the half time principal will be filling any other role. Therefore, the only logical conclusion is that College Prep Middle School will have a part time principal and no other administrative support.

Somerset identifies Academica Corporation (“Academica”) as the Education Service Provider (“ESP”). Somerset states in the Application that “[t]he Board analyzed data regarding several ESP’s currently working with charter schools in Florida and concluded that the ESP chosen offered the most competitive price and had a proven track record of success.” (Pet. Ex. 1, pg. 165). This appears to be a material misrepresentation in violation of Sec. 1002.33(6)(b)3.b.(IV), Fla. Stat., as there is no evidence, despite public records requests for such material, that any other ESP was considered. In fact, the evidence indicates that for all intents and purposes Somerset and Academica are essentially joined at the hip notwithstanding their separate legal status and that Somerset could not function without such a close relationship with Academica.

For example, the two corporations share the same mailing address in Miami, Florida. Academica’s in-house attorney prepared the Appeal for Somerset and Academica’s Chief Financial Officer (“CFO”) signs Somerset’s IRS Form 990. (Pet Ex. 6) By signing Somerset Academy, Inc.’s IRS Form 990, Academica’s CFO is swearing that “[u]nder penalties of perjury, ... I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.” (Pet. Ex. 6). Furthermore, the IRS Form 990 “must be signed by the current president, vice president, treasurer, assistant treasurer, chief accounting officer, or other corporate officer (such as a tax officer) who is authorized to sign as of the date the return is

filed.” *2014 Instructions for Form 990 Return of Organization Exempt From Income Tax*. (Res. Ex. 6)

Academica’s CFO is not listed as an officer of Somerset.

Based on the above information and other information that was presented to the School Board at the public hearing, the School Board had clear and convincing evidence that Somerset’s insufficient governance and management plan and inappropriate relationship with the ESP will adversely impact Somerset’s ability to operate College Prep Middle School. Sec. 1002.33(6)(b)3.b.(I), Fla. Stat. Therefore, the Application was correctly denied.

F. The School Board Had Clear and Convincing Evidence That Somerset Did Not Materially Comply With The Application Requirements Because Somerset Failed to Quantitatively and Qualitatively Describe How Somerset Would Encourage the Use of Innovative Learning Methods. (Sec. 1002.33(6)(b)3.b.(I), Fla. Stat.)

Somerset failed to quantitatively and qualitatively describe how they were going to “[e]ncourage the use of innovative learning methods” which is a purpose that all “charter schools shall fulfill.” Sec. 1002.33(2)(b)3., Fla. Stat. While Somerset used the term “innovative” throughout the Application, the methods and means described were by no means innovative. In many cases the curriculum, materials and teaching methods described were the same as those used in St. Lucie County Public Schools. (“All course offerings will be, at minimum, aligned with St. Lucie County Public Schools’ Curriculum Course Codes and will cover all content specified in FL-DOE Course content descriptions.”) (Pet. Ex. 1, pg. 36). In many instances, the specific curriculum, materials, teaching methods and learning strategies were not identified as they were simply listed like a menu of available options. Overall, there was nothing in Somerset’s Application that indicated or supported the notion that College Prep Middle School was going to be different in any fashion from any other middle school in St. Lucie County, including the two existing K-8 charter schools.

Based on the above information and other information that was presented to the School Board at the public hearing, the School Board had clear and convincing evidence that Somerset did not materially comply with the application requirements because Somerset failed to quantitatively and qualitatively describe how Somerset would encourage the use of innovative learning methods. (Sec. 1002.33(6)(b)3.b.(I), Fla. Stat. Therefore, the Application was correctly denied.

G. The School Board Had Clear and Convincing Evidence That Somerset Did Not Materially Comply With The Application Requirements As Demonstrated By The Failure To Meet The Standard For A Majority of The Criteria Set Forth In The Evaluation Instrument. (Sec. 1002.33(6)(b)3.b.(I), Fla. Stat.)

The School Board is required to review charter school applications using an evaluation instrument developed by the Florida Department of Education (“Department”). Sec. 1002.33(6)(b), Fla. Stat. The Department adopted Form IEPC-HP2, Florida Charter School Application Evaluation Instrument High Performing Replications. Fla. Admin. Code R. 6A-6.0786. The evaluation instrument (Form IEPC-HP2) prepared by the School District is Petitioner’s Exhibit 2.B. (“Evaluation Instrument”). This Evaluation Instrument was prepared by School District staff with expertise in the various areas to be reviewed. There are 20 separate criteria that are evaluated as part of the evaluation instrument. Somerset’s Application was analyzed in accordance with the evaluation instrument to determine whether the Application met the standard, partially met the standard or did not meet the standard for each evaluation instrument criteria.

Based on staff’s review it was found by clear and convincing evidence that Somerset met the standard for three criteria; partially met the standard for three criteria; and did not meet the standard for 14 criteria. (Pet. Ex. 2.B., pg. 8). The Evaluation Instrument and the analyses and reasoning set forth therein is incorporated herein by this reference and made a material part of the School Board’s response. Based on the Evaluation Instrument, the School Board had clear and convincing evidence

that Somerset's Application did not meet a sufficient number of the evaluation criteria. Therefore, the Application was correctly denied.

CONCLUSION

The School Board's review of Somerset's Application was thorough, fair and in full compliance with Florida law and Department regulations. As demonstrated herein, the School Board was presented with clear and convincing evidence that Somerset's Application did not meet the minimum criteria set forth in Sec. 1002.33(6)(b)3.b., Fla. Stat. Therefore, based on the School Board's duties pursuant to the Florida Constitution and Florida law, the School Board had no option but to deny Somerset's Application.

For the reasons set forth above, Somerset's Appeal should be denied.

Dated this 17th day of December, 2015.

Respectfully submitted,

s/ Johnathan A. Ferguson

Johnathan A. Ferguson
Florida Bar No. 529036

CERTIFICATE OF SERVICE

I certify that a copy hereof has been furnished to Collette D. Papa, Esq., 6340 Sunset Dr., Miami, FL 33143, and to David Concepcion, Board Chair, Somerset Academy, Inc., 6340 Sunset Dr., Miami, FL 33143 by U.S. Mail on December 17, 2015.

s/ Johnathan A. Ferguson
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- 6) APPLICATION PROCESS AND REVIEW.—Charter school applications are subject to the following requirements:
- (a) A person or entity wishing to open a charter school shall prepare and submit an application on a model application form prepared by the Department of Education which:
 - 1. Demonstrates how the school will use the guiding principles and meet the statutorily defined purpose of a charter school.
 - 2. Provides a detailed curriculum plan that illustrates how students will be provided services to attain the Sunshine State Standards.
 - 3. Contains goals and objectives for improving student learning and measuring that improvement. These goals and objectives must indicate how much academic improvement students are expected to show each year, how success will be evaluated, and the specific results to be attained through instruction.
 - 4. Describes the reading curriculum and differentiated strategies that will be used for students reading at grade level or higher and a separate curriculum and strategies for students who are reading below grade level. A sponsor shall deny a charter if the school does not propose a reading curriculum that is consistent with effective teaching strategies that are grounded in scientifically based reading research.
 - 5. Contains an annual financial plan for each year requested by the charter for operation of the school for up to 5 years. This plan must contain anticipated fund balances based on revenue projections, a spending plan based on projected revenues and expenses, and a description of controls that will safeguard finances and projected enrollment trends.
 - 6. Contains additional information a sponsor may require, which shall be attached as an addendum to the charter school application described in this paragraph.
 - 7. For the establishment of a virtual charter school, documents that the applicant has contracted with a provider of virtual instruction services pursuant to s. 1002.45(1)(d).
 - (b) A sponsor shall receive and review all applications for a charter school using an evaluation instrument developed by the Department of Education. A sponsor shall receive and consider charter school applications received on or before August 1 of each calendar year for charter schools to be opened at the beginning of the school district's next school year, or to be opened at a time agreed to by the applicant and the sponsor. A sponsor may not refuse to receive a charter school application submitted before August 1 and may receive an application submitted later than August 1 if it chooses. In order to facilitate greater collaboration in the application process, an applicant may submit a draft charter school application on or before May 1 with an application fee of \$500. If a draft application is timely submitted, the sponsor shall review and provide feedback as to material deficiencies in the application by July 1. The applicant shall then have until August 1 to resubmit a revised and final application. The sponsor may approve the draft application. A sponsor may not charge an applicant for a charter any fee for the processing or consideration of an application, and a sponsor may not base its consideration or approval of a final application upon the promise of future payment of any kind. Before approving or denying any final application, the sponsor shall allow the applicant, upon receipt of written notification, at least 7 calendar days to make technical or nonsubstantive corrections and clarifications, including, but not limited to, corrections of grammatical, typographical, and like errors or missing signatures, if such errors are identified by the sponsor as cause to deny the final application.
 - 1. In order to facilitate an accurate budget projection process, a sponsor shall be held harmless for FTE students who are not included in the FTE projection due to approval of charter school applications after the FTE projection deadline. In a further effort to facilitate an accurate budget projection, within 15 calendar days after receipt of a charter school application, a sponsor shall report to the Department of Education the name of the applicant entity, the proposed charter school location, and its projected FTE.
 - 2. In order to ensure fiscal responsibility, an application for a charter school shall include a full accounting of expected assets, a projection of expected sources and amounts of income, including income derived from projected student enrollments and from community support, and an expense projection that includes full accounting of the costs of operation, including start-up costs.
 - 3.a. A sponsor shall by a majority vote approve or deny an application no later than 60 calendar days after the application is received, unless the sponsor and the applicant mutually agree in writing to

temporarily postpone the vote to a specific date, at which time the sponsor shall by a majority vote approve or deny the application. If the sponsor fails to act on the application, an applicant may appeal to the State Board of Education as provided in paragraph (c). If an application is denied, the sponsor shall, within 10 calendar days after such denial, articulate in writing the specific reasons, based upon good cause, supporting its denial of the charter application and shall provide the letter of denial and supporting documentation to the applicant and to the Department of Education.

b. An application submitted by a high-performing charter school identified pursuant to s. 1002.331 may be denied by the sponsor only if the sponsor demonstrates by clear and convincing evidence that:

(I) The application does not materially comply with the requirements in paragraph (a);

(II) The charter school proposed in the application does not materially comply with the requirements in paragraphs (9)(a)-(f);

(III) The proposed charter school's educational program does not substantially replicate that of the applicant or one of the applicant's high-performing charter schools;

(IV) The applicant has made a material misrepresentation or false statement or concealed an essential or material fact during the application process; or

(V) The proposed charter school's educational program and financial management practices do not materially comply with the requirements of this section.

Material noncompliance is a failure to follow requirements or a violation of prohibitions applicable to charter school applications, which failure is quantitatively or qualitatively significant either individually or when aggregated with other noncompliance. An applicant is considered to be replicating a high-performing charter school if the proposed school is substantially similar to at least one of the applicant's high-performing charter schools and the organization or individuals involved in the establishment and operation of the proposed school are significantly involved in the operation of replicated schools.

c. If the sponsor denies an application submitted by a high-performing charter school, the sponsor must, within 10 calendar days after such denial, state in writing the specific reasons, based upon the criteria in sub-subparagraph b., supporting its denial of the application and must provide the letter of denial and supporting documentation to the applicant and to the Department of Education. The applicant may appeal the sponsor's denial of the application directly to the State Board of Education pursuant to sub-subparagraph (c)3.b.

4. For budget projection purposes, the sponsor shall report to the Department of Education the approval or denial of a charter application within 10 calendar days after such approval or denial. In the event of approval, the report to the Department of Education shall include the final projected FTE for the approved charter school.

5. Upon approval of a charter application, the initial startup shall commence with the beginning of the public school calendar for the district in which the charter is granted unless the sponsor allows a waiver of this subparagraph for good cause.

(c)1. 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 sponsor's decision or failure to act and shall notify the sponsor of its appeal. Any response of the sponsor 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 at least 7 calendar days before the date on which the appeal is to be heard. An appeal regarding the denial of an application submitted by a high-performing charter school pursuant to s. 1002.331 shall be conducted by the State Board of Education in accordance with this paragraph, except that the commission shall not convene to make recommendations regarding the appeal. However, the Commissioner of Education shall review the appeal and make a recommendation to the state board.

2. The Charter School Appeal Commission or, in the case of an appeal regarding an application submitted by a high-performing charter school, the State Board of Education 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 shall have 15 calendar days after notice of rejection in which to resubmit an appeal that meets the requirements set forth in State Board of Education rule. An appeal submitted subsequent to such rejection is considered timely if the original appeal was filed within 30 calendar days after receipt of notice of the specific reasons for the sponsor's denial of the charter application.

3.a. The State Board of Education shall by majority vote accept or reject the decision of the sponsor no later than 90 calendar days after an appeal is filed in accordance with State Board of Education rule. The State Board of Education shall remand the application to the sponsor with its written decision that the sponsor approve or deny the application. The sponsor 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.

b. If an appeal concerns an application submitted by a high-performing charter school identified pursuant to s. 1002.331, the State Board of Education shall determine whether the sponsor has shown, by clear and convincing evidence, that:

- (I) The application does not materially comply with the requirements in paragraph (a);
- (II) The charter school proposed in the application does not materially comply with the requirements in paragraphs (9)(a)-(f);
- (III) The proposed charter school's educational program does not substantially replicate that of the applicant or one of the applicant's high-performing charter schools;
- (IV) The applicant has made a material misrepresentation or false statement or concealed an essential or material fact during the application process; or
- (V) The proposed charter school's educational program and financial management practices do not materially comply with the requirements of this section.

The State Board of Education shall approve or reject the sponsor's denial of an application no later than 90 calendar days after an appeal is filed in accordance with State Board of Education rule. The State Board of Education shall remand the application to the sponsor with its written decision that the sponsor approve or deny the application. The sponsor shall implement the decision of the State Board of Education. The decision of the State Board of Education is not subject to the Administrative Procedure Act, chapter 120.

(d) The sponsor shall act upon the decision of the State Board of Education within 30 calendar days after it is received. The State Board of Education's decision is a final action subject to judicial review in the district court of appeal.

(e)1. A Charter School Appeal Commission is established to assist the commissioner and the State Board of Education with a fair and impartial review of appeals by applicants whose charter applications have been denied, whose charter contracts have not been renewed, or whose charter contracts have been terminated by their sponsors.

2. The Charter School Appeal Commission may receive copies of the appeal documents forwarded to the State Board of Education, review the documents, gather other applicable information regarding the appeal, and make a written recommendation to the commissioner. The recommendation must state whether the appeal should be upheld or denied and include the reasons for the recommendation being offered. The commissioner shall forward the recommendation to the State Board of Education no later than 7 calendar days prior to the date on which the appeal is to be heard. The state board must consider the commission's recommendation in making its decision, but is not bound by the recommendation. The decision of the Charter School Appeal Commission is not subject to the provisions of the Administrative Procedure Act, chapter 120.

3. The commissioner shall appoint a number of members to the Charter School Appeal Commission sufficient to ensure that no potential conflict of interest exists for any commission appeal decision. Members shall serve without compensation but may be reimbursed for travel and per diem expenses in conjunction with their service. Of the members hearing the appeal, one-half must represent currently operating charter schools and one-half must represent sponsors. The commissioner or a named designee shall chair the Charter School Appeal Commission.

4. The chair shall convene meetings of the commission and shall ensure that the written recommendations are completed and forwarded in a timely manner. In cases where the commission cannot reach a decision, the chair shall make the written recommendation with justification, noting that the decision was rendered by the chair.

5. Commission members shall thoroughly review the materials presented to them from the appellant and the sponsor. The commission may request information to clarify the documentation presented to it. In the course of its review, the commission may facilitate the postponement of an appeal in those cases where additional time and communication may negate the need for a formal appeal and both parties agree, in writing, to postpone the appeal to the State Board of Education. A new date certain for the appeal shall then be set based upon the rules and procedures of the State Board of Education. Commission members shall provide a written recommendation to the state board as to whether the appeal should be upheld or denied. A fact-based justification for the recommendation must be included. The chair must ensure that the written recommendation is submitted to the State Board of Education members no later than 7 calendar days prior to the date on which the appeal is to be heard. Both parties in the case shall also be provided a copy of the recommendation.

(f)1. The Department of Education shall provide or arrange for training and technical assistance to charter schools in developing and adjusting business plans and accounting for costs and income. Training and technical assistance shall also address, at a minimum, state and federal grant and student performance accountability reporting requirements and provide assistance in identifying and applying for the types and amounts of state and federal financial assistance the charter school may be eligible to receive. The department may provide other technical assistance to an applicant upon written request.

2. A charter school applicant must participate in the training provided by the Department of Education after approval of an application but at least 30 calendar days before the first day of classes at the charter school. However, a sponsor may require the charter school applicant to attend training provided by the sponsor in lieu of the department's training if the sponsor's training standards meet or exceed the standards developed by the department. In such case, the sponsor may not require the charter school applicant to attend the training within 30 calendar days before the first day of classes at the charter school. The training must include instruction in accurate financial planning and good business practices. If the applicant is a management company or a nonprofit organization, the charter school principal and the chief financial officer or his or her equivalent must also participate in the training. A sponsor may not require a high-performing charter school or high-performing charter school system applicant to participate in the training described in this subparagraph more than once.

(g) In considering charter applications for a lab school, a state university shall consult with the district school board of the county in which the lab school is located. The decision of a state university may be appealed pursuant to the procedure established in this subsection.

(h) The terms and conditions for the operation of a charter school shall be set forth by the sponsor and the applicant in a written contractual agreement, called a charter. The sponsor may not impose unreasonable rules or regulations that violate the intent of giving charter schools greater flexibility to meet educational goals. The sponsor has 30 days after approval of the application to provide an initial proposed charter contract to the charter school. The applicant and the sponsor have 40 days thereafter to negotiate and notice the charter contract for final approval by the sponsor unless both parties agree to an extension. The proposed charter contract shall be provided to the charter school at least 7 calendar days prior to the date of the meeting at which the charter is scheduled to be voted upon by the sponsor. The Department of Education shall provide mediation services for any dispute regarding this section

subsequent to the approval of a charter application and for any dispute relating to the approved charter, except disputes regarding charter school application denials. If the Commissioner of Education determines that the dispute cannot be settled through mediation, the dispute may be appealed to an administrative law judge appointed by the Division of Administrative Hearings. The administrative law judge has final order authority to rule on issues of equitable treatment of the charter school as a public school, whether proposed provisions of the charter violate the intended flexibility granted charter schools by statute, or on any other matter regarding this section except a charter school application denial, a charter termination, or a charter nonrenewal and shall award the prevailing party reasonable attorney's fees and costs incurred to be paid by the losing party. The costs of the administrative hearing shall be paid by the party whom the administrative law judge rules against.

(9) CHARTER SCHOOL REQUIREMENTS.—

(a) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.

(b) A charter school shall admit students as provided in subsection (10).

(c) A charter school shall be accountable to its sponsor for performance as provided in subsection (7).

(d) A charter school shall not charge tuition or registration fees, except those fees normally charged by other public schools. However, a charter lab school may charge a student activity and service fee as authorized by s. 1002.32(5).

(e) A charter school shall meet all applicable state and local health, safety, and civil rights requirements.

(f) A charter school shall not violate the antidiscrimination provisions of s. 1000.05.

(g)1. In order to provide financial information that is comparable to that reported for other public schools, charter schools are to maintain all financial records that constitute their accounting system:

a. In accordance with the accounts and codes prescribed in the most recent issuance of the publication titled “Financial and Program Cost Accounting and Reporting for Florida Schools”; or

b. At the discretion of the charter school’s governing board, a charter school may elect to follow generally accepted accounting standards for not-for-profit organizations, but must reformat this information for reporting according to this paragraph.

2. Charter schools shall provide annual financial report and program cost report information in the state-required formats for inclusion in district reporting in compliance with s. 1011.60(1). Charter schools that are operated by a municipality or are a component unit of a parent nonprofit organization may use the accounting system of the municipality or the parent but must reformat this information for reporting according to this paragraph.

3. A charter school shall provide the sponsor with a concise, uniform, monthly financial statement summary sheet that contains a balance sheet and a statement of revenue, expenditures, and changes in fund balance. The balance sheet and the statement of revenue, expenditures, and changes in fund balance shall be in the governmental funds format prescribed by the Governmental Accounting Standards Board. A high-performing charter school pursuant to s. 1002.331 may provide a quarterly financial statement in the same format and requirements as the uniform monthly financial statement summary sheet.

4. A charter school shall maintain and provide financial information as required in this paragraph. The financial statement required in subparagraph 3. must be in a form prescribed by the Department of Education.

(h) The governing board of the charter school shall annually adopt and maintain an operating budget.

(i) The governing body of the charter school shall exercise continuing oversight over charter school operations.

(j) The governing body of the charter school shall be responsible for:

1. Ensuring that the charter school has retained the services of a certified public accountant or auditor for the annual financial audit, pursuant to s. 1002.345(2), who shall submit the report to the governing body.

2. Reviewing and approving the audit report, including audit findings and recommendations for the financial recovery plan.

3.a. Performing the duties in s. 1002.345, including monitoring a corrective action plan.

b. Monitoring a financial recovery plan in order to ensure compliance.

4. Participating in governance training approved by the department which must include government in the sunshine, conflicts of interest, ethics, and financial responsibility.

(k) The governing body of the charter school shall report its progress annually to its sponsor, which shall forward the report to the Commissioner of Education at the same time as other annual school accountability reports. The Department of Education shall develop a uniform, online annual accountability report to be completed by charter schools. This report shall be easy to utilize and contain demographic information, student performance data, and financial accountability information. A charter school shall not be required to provide information and data that is duplicative and already in the possession of the department. The Department of Education shall include in its compilation a notation if a

school failed to file its report by the deadline established by the department. The report shall include at least the following components:

1. Student achievement performance data, including the information required for the annual school report and the education accountability system governed by ss. 1008.31 and 1008.345. Charter schools are subject to the same accountability requirements as other public schools, including reports of student achievement information that links baseline student data to the school's performance projections identified in the charter. The charter school shall identify reasons for any difference between projected and actual student performance.
2. Financial status of the charter school which must include revenues and expenditures at a level of detail that allows for analysis of the charter school's ability to meet financial obligations and timely repayment of debt.
3. Documentation of the facilities in current use and any planned facilities for use by the charter school for instruction of students, administrative functions, or investment purposes.
4. Descriptive information about the charter school's personnel, including salary and benefit levels of charter school employees, the proportion of instructional personnel who hold professional or temporary certificates, and the proportion of instructional personnel teaching in-field or out-of-field.
 - (l) A charter school shall not levy taxes or issue bonds secured by tax revenues.
 - (m) A charter school shall provide instruction for at least the number of days required by law for other public schools and may provide instruction for additional days.
 - (n)1. The director and a representative of the governing board of a charter school that has earned a grade of "D" or "F" pursuant to s. 1008.34 shall appear before the sponsor to present information concerning each contract component having noted deficiencies. The director and a representative of the governing board shall submit to the sponsor for approval a school improvement plan to raise student performance. Upon approval by the sponsor, the charter school shall begin implementation of the school improvement plan. The department shall offer technical assistance and training to the charter school and its governing board and establish guidelines for developing, submitting, and approving such plans.
 - 2.a. If a charter school earns three consecutive grades of "D," two consecutive grades of "D," followed by a grade of "F," or two nonconsecutive grades of "F" within a 3-year period, the charter school governing board shall choose one of the following corrective actions:
 - (I) Contract for educational services to be provided directly to students, instructional personnel, and school administrators, as prescribed in state board rule;
 - (II) Contract with an outside entity that has a demonstrated record of effectiveness to operate the school;
 - (III) Reorganize the school under a new director or principal who is authorized to hire new staff; or
 - (IV) Voluntarily close the charter school.
 - b. The charter school must implement the corrective action in the school year following receipt of a third consecutive grade of "D," a grade of "F" following two consecutive grades of "D," or a second nonconsecutive grade of "F" within a 3-year period.
 - c. The sponsor may annually waive a corrective action if it determines that the charter school is likely to improve a letter grade if additional time is provided to implement the intervention and support strategies prescribed by the school improvement plan. Notwithstanding this sub-subparagraph, a charter school that earns a second consecutive grade of "F" is subject to subparagraph 4.
 - d. A charter school is no longer required to implement a corrective action if it improves by at least one letter grade. However, the charter school must continue to implement strategies identified in the school improvement plan. The sponsor must annually review implementation of the school improvement plan to monitor the school's continued improvement pursuant to subparagraph 5.
 - e. A charter school implementing a corrective action that does not improve by at least one letter grade after 2 full school years of implementing the corrective action must select a different corrective action. Implementation of the new corrective action must begin in the school year following the implementation period of the existing corrective action, unless the sponsor determines that the charter school is likely to improve a letter grade if additional time is provided to implement the existing corrective action.

Notwithstanding this sub-subparagraph, a charter school that earns a second consecutive grade of “F” while implementing a corrective action is subject to subparagraph 4.

3. A charter school with a grade of “D” or “F” that improves by at least one letter grade must continue to implement the strategies identified in the school improvement plan. The sponsor must annually review implementation of the school improvement plan to monitor the school’s continued improvement pursuant to subparagraph 5.

4. The sponsor shall terminate a charter if the charter school earns two consecutive grades of “F” unless:

a. The charter school is established to turn around the performance of a district public school pursuant to s. 1008.33(4)(b)3. Such charter schools shall be governed by s. 1008.33;

b. The charter school serves a student population the majority of which resides in a school zone served by a district public school that earned a grade of “F” in the year before the charter school opened and the charter school earns at least a grade of “D” in its third year of operation. The exception provided under this sub-subparagraph does not apply to a charter school in its fourth year of operation and thereafter; or

c. The state board grants the charter school a waiver of termination. The charter school must request the waiver within 15 days after the department’s official release of school grades. The state board may waive termination if the charter school demonstrates that the Learning Gains of its students on statewide assessments are comparable to or better than the Learning Gains of similarly situated students enrolled in nearby district public schools. The waiver is valid for 1 year and may only be granted once. Charter schools that have been in operation for more than 5 years are not eligible for a waiver under this sub-subparagraph.

5. The director and a representative of the governing board of a graded charter school that has implemented a school improvement plan under this paragraph shall appear before the sponsor at least once a year to present information regarding the progress of intervention and support strategies implemented by the school pursuant to the school improvement plan and corrective actions, if applicable. The sponsor shall communicate at the meeting, and in writing to the director, the services provided to the school to help the school address its deficiencies.

6. Notwithstanding any provision of this paragraph except sub-subparagraphs 4.a.-c., the sponsor may terminate the charter at any time pursuant to subsection (8).

(o)1. Upon initial notification of nonrenewal, closure, or termination of its charter, a charter school may not expend more than \$10,000 per expenditure without prior written approval from the sponsor unless such expenditure was included within the annual budget submitted to the sponsor pursuant to the charter contract, is for reasonable attorney fees and costs during the pendency of any appeal, or is for reasonable fees and costs to conduct an independent audit.

2. An independent audit shall be completed within 30 days after notice of nonrenewal, closure, or termination to account for all public funds and assets.

3. A provision in a charter contract that contains an acceleration clause requiring the expenditure of funds based upon closure or upon notification of nonrenewal or termination is void and unenforceable.

4. A charter school may not enter into a contract with an employee that exceeds the term of the school’s charter contract with its sponsor.

5. A violation of this paragraph triggers a reversion or clawback power by the sponsor allowing for collection of an amount equal to or less than the accelerated amount that exceeds normal expenditures. The reversion or clawback plus legal fees and costs shall be levied against the person or entity receiving the accelerated amount.

(p) Each charter school shall maintain a website that enables the public to obtain information regarding the school; the school’s academic performance; the names of the governing board members; the programs at the school; any management companies, service providers, or education management corporations associated with the school; the school’s annual budget and its annual independent fiscal audit; the school’s grade pursuant to s. 1008.34; and, on a quarterly basis, the minutes of governing board meetings.

(q) The charter school principal or the principal’s designee shall immediately notify the parent of a student who is removed from school, school transportation, or a school-sponsored activity and taken to a receiving facility for an involuntary examination pursuant to s. 394.463. The principal or the principal’s

designee may delay notification for no more than 24 hours after the student is removed if the principal or designee deems the delay to be in the student's best interest and if a report has been submitted to the central abuse hotline, pursuant to s. 39.201, based upon knowledge or suspicion of abuse, abandonment, or neglect. Each charter school governing board shall develop a policy and procedures for notification under this paragraph.

1002.331 High-performing charter schools.—

(1) A charter school is a high-performing charter school if it:

- (a) Received at least two school grades of “A” and no school grade below “B,” pursuant to s. 1008.34, during each of the previous 3 school years.
- (b) Received an unqualified opinion on each annual financial audit required under s. 218.39 in the most recent 3 fiscal years for which such audits are available.
- (c) Did not receive a financial audit that revealed one or more of the financial emergency conditions set forth in s. 218.503(1) in the most recent 3 fiscal years for which such audits are available. However, this requirement is deemed met for a charter school-in-the-workplace if there is a finding in an audit that the school has the monetary resources available to cover any reported deficiency or that the deficiency does not result in a deteriorating financial condition pursuant to s. 1002.345(1)(a)3.

A virtual charter school established under s. 1002.33 is not eligible for designation as a high-performing charter school.

(2) A high-performing charter school is authorized to:

- (a) Increase its student enrollment once per school year to more than the capacity identified in the charter, but student enrollment may not exceed the current facility capacity.
- (b) Expand grade levels within kindergarten through grade 12 to add grade levels not already served if any annual enrollment increase resulting from grade level expansion is within the limit established in paragraph (a).
- (c) Submit a quarterly, rather than a monthly, financial statement to the sponsor pursuant to s. 1002.33(9)(g).
- (d) Consolidate under a single charter the charters of multiple high-performing charter schools operated in the same school district by the charter schools’ governing board regardless of the renewal cycle.
- (e) Receive a modification of its charter to a term of 15 years or a 15-year charter renewal. The charter may be modified or renewed for a shorter term at the option of the high-performing charter school. The charter must be consistent with s. 1002.33(7)(a)19. and (10)(h) and (i), is subject to annual review by the sponsor, and may be terminated during its term pursuant to s. 1002.33(8).

A high-performing charter school shall notify its sponsor in writing by March 1 if it intends to increase enrollment or expand grade levels the following school year. The written notice shall specify the amount of the enrollment increase and the grade levels that will be added, as applicable. If a charter school notifies the sponsor of its intent to expand, the sponsor shall modify the charter within 90 days to include the new enrollment maximum and may not make any other changes. The sponsor may deny a request to increase the enrollment of a high-performing charter school if the commissioner has declassified the charter school as high-performing. If a high-performing charter school requests to consolidate multiple charters, the sponsor shall have 40 days after receipt of that request to provide an initial draft charter to the charter school. The sponsor and charter school shall have 50 days thereafter to negotiate and notice the charter contract for final approval by the sponsor.

(3)(a) A high-performing charter school may submit an application pursuant to s. 1002.33(6) in any school district in the state to establish and operate a new charter school that will substantially replicate its educational program. An application submitted by a high-performing charter school must state that the application is being submitted pursuant to this paragraph and must include the verification letter provided by the Commissioner of Education pursuant to subsection (5). If the sponsor fails to act on the application within 60 days after receipt, the application is deemed approved and the procedure in s. 1002.33(6)(h) applies. If the sponsor denies the application, the high-performing charter school may appeal pursuant to s. 1002.33(6).

- (b) A high-performing charter school may not establish more than one charter school within the state under paragraph (a) in any year. A subsequent application to establish a charter school under paragraph (a) may not be submitted unless each charter school established in this manner achieves high-performing charter school status.
- (4) A high-performing charter school may not increase enrollment or expand grade levels following any school year in which it receives a school grade of “C” or below. If the charter school receives a school grade of “C” or below in any 2 years during the term of the charter awarded under subsection (2), the term of the charter may be modified by the sponsor and the charter school loses its high-performing charter school status until it regains that status under subsection (1).
- (5) The Commissioner of Education, upon request by a charter school, shall verify that the charter school meets the criteria in subsection (1) and provide a letter to the charter school and the sponsor stating that the charter school is a high-performing charter school pursuant to this section. The commissioner shall annually determine whether a high-performing charter school under subsection (1) continues to meet the criteria in that subsection. Such high-performing charter school shall maintain its high-performing status unless the commissioner determines that the charter school no longer meets the criteria in subsection (1), at which time the commissioner shall send a letter providing notification of its declassification as a high-performing charter school.
- (6) A high-performing charter school replicated under this section may not be replicated as a virtual charter school.

STATE BOARD OF EDUCATION

Action Item

February 18, 2016

SUBJECT: Somerset Academy, Inc., Somerset Academy Middle School Vero Beach vs. School Board of Indian River County

PROPOSED BOARD ACTION

Determine Jurisdiction of the Appeal

Grant or Deny the Charter School Appeal

AUTHORITY FOR STATE BOARD ACTION

Sections 1002.33, and 1002.331, Florida Statutes

EXECUTIVE SUMMARY

This is a high performing replication appeal by Somerset Academy, Inc., of the decision of the School Board of Indian River County to deny the charter replication application of Somerset Academy Middle School.

ISSUES:

Whether the School Board had good cause to deny the application based on the Charter School's failure to comply with the provisions of Sections 1002.33 and 1002.331, Florida Statutes.

STANDARD OF REVIEW: Clear and convincing evidence

The School Board's determination must be based on good cause. The standard by which the State Board is to review the School Board's decision is whether the School Board had clear and convincing evidence to make that determination. The question, therefore, is whether the School Board had clear and convincing evidence (highly probable or reasonably certain) that the application for a High Performing Charter School does not materially comply with statutory requirements of Section 1002.33, Florida Statutes. If so, the School Board's decision must be upheld.

Supporting Documentation Included: Legal Description of Appeal Process; Procedural History; Historical Information; Appeal of Charter School; Response of District; Portions of Sections 1002.33 and 1002.331, Florida Statutes. Full [appeal](#) and [response](#) (under separate cover)

Facilitator/Presenter: Adam Miller, Executive Director, Office of Independent Education & Parental Choice

Legal Description of Appeal Process and Standard of Review:

Issue: Whether the School Board has met their burden to prove with clear and convincing evidence (i.e. highly probable or reasonably certain) that the application for a High Performing Charter School does not materially comply with the statutory requirements of section 1002.33(6)(c)3.b., Florida Statutes.

The State Board of Education will consider the appeal of a High Performing Charter School to replicate an existing High Performing Charter School which has received at least two school grades of “A” and no school grade below “B” during each of the previous three school years. The Charter School Appeal Commission does not provide a nonbinding recommendation and is not involved in the High Performing Charter School appeal process.

The School Board, not the applicant, in such cases, has the burden of proof to show material noncompliance, which is defined as a failure to follow requirements or a violation of prohibitions applicable to charter school applications. The failure must be quantitatively or qualitatively significant either individually or when aggregated with other noncompliance.

The State Board of Education shall issue a written decision that the School Board either approve or deny the application. The State Board’s decision is a final action subject to judicial review in the district court of appeal.

Procedural History – Somerset Academy Middle School

August 3, 2015 – Somerset application submitted (60 days from this date is October 2, 2015)

August 18, 2015 – Sponsor sent a Charter School Application Timeline to Somerset scheduling School Board vote on October 6, 2015

August 31, 2015 – District email to Somerset with revised schedule attached

August 31, 2015 – Somerset email to District requesting a delay of the interview date

September 1, 2015 – Email from District to Somerset with new schedule attached scheduling interview on September 15 and School Board Meeting on October 13, 2015

September 1, 2015 – Somerset responded to District, “This is great. Thank you very much and we look forward to the 15th.”

September 1, 2015 – District responded to Somerset, “Wonderful. I will let the Review Team know that our revised schedule will work for both parties. Looking forward to seeing you on the 15th.”

Summary
**Somerset Academy Middle School Vero Beach vs. School District
of Indian River County**

Historical Information

The following table provides academic and financial performance data for Somerset Academy Charter Middle School South Miami (13-6053), which is the high-performing charter school to be replicated (designated as high performing on September 5, 2013).

	School Grade	Enrollment	% Minority - %FRL	Unassigned Fund Balance
2010-11	A	73	82% - 8%	\$47,509
2011-12	A	116	82% - 15%	\$81,818
2012-13	A	131	83% - 18%	\$147,518
2013-14	A	115	79% - 8%	\$216,837
2014-15	A*	152	86% - 16%	\$376,731

* Simulated Grade

Before the Florida State Board of Education

In re: Denial of Somerset Academy Middle School Vero Beach
High Performing Replication Application 2015

Notice of Appeal

Somerset Academy, Inc.,
APPLICANT/APPELLANT

v.

School District of Indian River County,
APPELLEE

I. Names and Addresses of Parties

Appellant: Somerset Academy, Inc.
David Concepcion, Board Chair
Bernardo Montero, President
6340 Sunset Drive
Miami, FL 33143

Counsel for Appellant: Collette D. Papa, Esq.
6340 Sunset Drive
Miami, FL 33143
Telephone: 305-669-2906

School Board: School District of Indian River County
Mark J. Rendell
Superintendent
1990 25th Street
Vero Beach, FL 32960

Counsel for School Board: Suzanne D'Agresta, Esq.
School Board Attorney

1990 25th Street
Vero Beach, FL 32960

Date of Action: October 13, 2015
Date of Denial Letter: October 18, 2015
Receipt of Denial Letter: October 21, 2015

JURISDICTION: Somerset Academy Inc. (the "Applicant") filed a new charter school application for Somerset Academy Middle School Vero Beach (the "School") with the School District of Indian River County (the "District" or "Sponsor") on July 31, 2015. The Charter School Application submitted by Somerset Academy Inc., was submitted as a replication of Somerset Academy Charter Middle School South Miami Campus (SoMi), a verified high-performing charter school. Pursuant to 1002.331, (3)(a), a high-performing charter school may submit an application pursuant to s. 1002.33(6) in any school district in the state to establish and operate a new charter school that will substantially replicate its educational program. An application submitted by a high-performing charter school must state the application is being submitted pursuant to this paragraph and must include the verification letter provided by the Commissioner of Education pursuant to subsection (5).

Pages 1-9; 27-29 of the Application detail the high-performing status of Somerset Academy. It is clearly stated that the current application is being submitted by Somerset Academy pursuant to 1002.331 to establish and operate a new charter school that will substantially replicate the SoMi educational program (App, 1). The next several pages of the application are dedicated to an in-depth review of Somerset Academy's qualifications as a high-performing charter and how the proposed school will replicate an existing school design (App, 1-9).

Pursuant to F.S. 1002.33(6)(b)3.a., "A sponsor shall by a majority vote approve or deny an application no later than 60 calendar days after the application is received, unless the sponsor and the applicant mutually agree in writing to temporarily postpone the vote to a specific date." At no time (neither prior to the application's submission, nor concurrent to the submittal of the application, nor during the review process) did Applicant ever agree in writing to postpone the vote on the application to a specific date. The first correspondence received by Applicant from Sponsor, attached hereto as Exhibit 5, was sent on Wednesday, August 5, 2015, and acknowledges receipt of the application as of Friday, July 31, 2015. Sponsor makes no request to postpone the vote on the application, and does not ask if Applicant will agree to a waiver of the 60-day statutory review period as is common-practice in many other Sponsoring Districts in this state (see Ex. 5-1). Absent written mutual agreement to postpone the vote on the application, Sponsor's 60-day review period expired on September 29, 2015. In its correspondence to Applicant on August 18, 2015, Sponsor included a "Charter School Application Timeline" as an attachment, and states that "we truly only have the 60 days this year," indicating to Applicant that Sponsor is taking action on the Application within the 60-day statutory review period," (EX. 5-2). Sponsor goes on to say, "[w]e (Sponsor) have scheduled...sessions as follows," and lists several meetings at which it "hope[s] representatives from Somerset can attend," (EX. 5-2) Looking at

Sponsor's Initial Timeline, it is clearly seen that the School Board meeting to vote on the application was scheduled for October 6, 2015, a full 7 days past the expiration of Sponsors review period for this application. Of particular importance, is Sponsor's continuing failure to request or obtain written mutual agreement to postpone the vote on the application. Statements made by Sponsor indicate Sponsor is adhering to the 60-day review period and Applicant relied on these statements. It is also clear that Sponsor had no intention to act on the application within the statutory period. It is less clear why Sponsor did not request or obtain agreement to postpone the vote to a specific date. Sponsor will argue that they obtained consent through later electronic correspondence with representatives of Applicant and did so by attaching a revised Charter School Application Timeline which changes the date of the School Board meeting to October 13, 2015. In correspondence sent to Applicant on August 28, and due to a pending storm, Sponsor unilaterally changed the dates of the meeting schedule and rescheduled the interviews. Sponsor does not request a waiver of the 60-day review period or obtain agreement to postpone the vote to a later (specific) date. IN correspondence sent to Applicant on August 31, Sponsor attaches a revised schedule for Applicant's "review and approval", (Ex. 5-6). Though Applicant responds to questions specifically regarding the interview dates, and in correspondence to the Sponsor on September 1, confirms in writing Applicants assent to the 15th as an Interview date, Applicant never acknowledges receipt of the revised schedule, and never "approves" it, (5-7). The statute is clear that the application must be reviewed within the 60-day timeframe, "unless sponsor and the applicant mutually agree in writing to temporarily postpone the vote to a specific date." Pursuant to § 1002.331(3)(a), where the sponsor fails to act on a high-performing charter school application *within* 60 days after receipt (emphasis supplied), the application is deemed approved and the procedure governing the issuance of charter contracts (Section 1002.33(6)(h) F.S.) applies. Sponsor failed to obtain agreement from Applicant to exceed the 60-day statutory review period, and thus the application is deemed approved. After reviewing the record on appeal, it is Applicant's position that the failure of the District to act on Somerset Academy's high-performing application within the required 60-day statutory deadline resulted in approval of the application on September 29, 2015 by operation of Florida Law. Sponsors subsequent remedial measure to act on the application by denying the application on October 13, 2015, a full two weeks past the 60-day deadline, is void and ineffective, and could not operate to reverse the approval of an application which, by law, was already deemed approved. For the reasons set forth herein, we respectfully request that the State Board remand the application to the School District of Indian River County with instructions that the high-performing charter school application is deemed approved since the 60-day time period for review has lapsed, and with further instructions to immediately issue and

approve a Charter contract for Somerset Academy's high-performing charter school without further delay as same is presently overdue to the school. Since this is a high performing appeal which was not reviewed in the applicable review period, the application is deemed approved and the statute does not provide for an appeal to the State Board of Education. In the alternative, and in order to preserve its appellate rights, Applicant addresses the merits of the Sponsor's subsequent remedial denial:

The Application ("App") submitted by Somerset, (the "Applicant"), pursuant to Sections 1002.331(3)(a); 1002.33(6)(b)3.b., F.S., is a replication of Somerset Academy Charter Middle School South Miami, a high-performing charter school ("SoMi"). Pages 1-9 and 27-29 of the App details the high-performing status of Somerset, and the system's ability to effectuate this replication. It is clear the App is submitted by Somerset pursuant to 1002.331 to establish and operate a new charter school which will substantially replicate Somerset's educational program, specifically, the existing Somi. (App, 1), 9 pages of the App are dedicated to review of Somerset's high-performing qualifications, and how Applicant replicates the existing school design. (App, 1-9). Sec 1002.331, F.S. states: "An applicant is considered to be replicating a high-performing charter school if the proposed school is substantially similar to at least one of the applicant's high-performing charter schools and the organization or individuals involved in the establishment and operation of the proposed school are significantly involved in the operation of replicated schools."

The App bases the proposed school's replication on substantial similarities in several areas including educational model and governance by the same organization. Somi is co-located on the same property as Somerset's high-performing middle School. The proposed school will be an elementary school co-located on the same campus as the proposed Somerset middle school. A substantial replication is not a carbon copy, nor should it be. The 5th DCA held: "[T]o be 'substantially similar' within the meaning of Florida Statutes, a charter school must have the same characteristics and be alike in substance or essentials to the school it is replicating." The proposed school is substantially similar to the existing school in that the proposed school consists of the essential characteristics of the existing school, and is alike in substance/important concepts to the existing school. Throughout App, and the Interview, Applicant discusses replication of SoMi, highlighting characteristics of the proposed school and the shared similarities, (See App at 2, 1-5, 11, 14, 26-28, 30-32). Strategies for replication of the existing school, including: the same research-based educational concepts; the same curriculum as the existing program; adopting and implementing common policies and procedures as the existing program, are documented throughout the App and the Interview, (See App, at 3-4, 10-11, 13, 14, 18, 22-25, 27-29, 29-30; See Also Interview at 29-31). Applicant details additional strategies for replication

of Somi's design including the following: Sections of the App: 3, implementing the same core values and beliefs as Somi and its existing programs; 9 and 11, utilizing team of experts with ownership of Somerset educational program as consultants to continuously provide training; 8, adopted uniform/common Somerset expectations of student behavior and parental involvement; 18, policies for financial management and oversight used at Somi and ALL Somerset's, (App, 4,27). This evidences Applicant's substantial similarity to Somi. Applicant includes detailed and specific evidence of proposed school's replication methods of SoMi's educational design and Somerset's model, (App, 1-9). Applicant states its commitment to work with administration and staff of SoMi to align and mirror all areas including: Somerset Reading Coach PLC Dialogues, Math and Science PLC Dialogues, the school instructional calendar (so long as it aligns with SDIRC's requirements), educational trainings and PDs, parent nights, newsletter, extra-curricular activities, character education program and curriculum, etc., (App, 2). Applicant includes further evidence of replication of the educational design of SoMi's and Somerset's brand by committing to maintain Somerset's underlying purpose of Academic Excellence with a push towards Secondary (and even College and Career) Readiness, with "push and pull", unique to SoMi and Somerset schools, (App, 2). The proposed school will replicate SoMi's commitment to develop bilingual students who are culturally aware, pluralistic and thereby have a global edge, (App, 2). As stated, the proposed school will feature technology-rich classrooms, be staffed with highly qualified teachers, and provide an environment where students will acquire skills essential to their future development, just as SoMi does. In addition, Applicant includes the following commitments in order to demonstrate replication of SoMi's educational program: Involve SoMi's leadership team in the App and planning processes of the school; Assign administrator or designated representative from SoMi as a mentor to proposed school principal, to assist with planning and program implementation; Appoint SoMi administrator to interview committee that will select the proposed school principal; Guarantee proposed school will meet all five AdvancEd/Southern Association Colleges and Schools-Council on Accreditation and School Improvement (SACS-CASI) Standards for schools; and Ensure support is provided from not only the replicated school but also from all Somerset schools within the entire network, (App, 3). As stated in the Application and in the Interview, Applicant will implement best practices and curriculum at SoMi to ensure complete replication and continuity, however, will align these best practices with the requirements and curriculum of the Sponsor to ensure a smooth transition for students, meet the needs of the community, comply with State law, FLDOE rule and the Charter, (App, 20).

Sponsor alleges Applicant does not explain how it replicates SoMi and further alleges Applicant does not provide information to highlight SoMi's education program or show how it is innovative. Ample evidence of Applicant's educational program is provided throughout the App, specifically, pages 20-29 evidencing how Applicant provides information in reference to instructional techniques incorporated throughout the curriculum in order to maximize learning and successful attainment of learning objectives. These educational goals and the detailed program, clearly implement the mission of SoMi and Somerset Academy Inc. at the proposed school. The annual calendar and instructional time, including the coursework required by the state of Florida for all elementary school students, is an integral part of the Educational Program Design for the proposed school, as is the current practice at SoMi. (App, 20). Beginning on Page 20 of the App is a copy of SoMi's daily schedule and SoMi's daily routines for replication in the proposed school, (App 20-21). As stated in the App and the Interview, Applicant will utilize these and incorporate Sponsor requirements to ensure success of the proposed school, (App, 20). In addition, Applicant includes an extremely detailed account of the educational program and how it will be replicated at the proposed school (App, 20-29).

Many methods of the program philosophy "High Expectations/High Achievement" are described in detail including: differentiated instruction and standards based instruction, direct instruction, scaffolding cooperative learning, Inquiry-based learning, etc. as the primary instructional methods, (App, 23). The proposed school will implement the tenets that have made SoMi successful: a standards-based curriculum with proven teaching strategies and high expectations will benefit students through a systemic approach for teaching the Language Arts and Mathematics Florida Standards (LAFS and MAFS) and the respective Next Generation Sunshine State Standards for other subject areas, as applicable, (App, 10). Pages 23- 25; and 26 contain a detailed explanation of the specific instructional techniques employed at SoMi and how these techniques align with Somerset's mission and which are incorporated throughout the proposed school's curriculum in order to replicate SoMi's high-quality. These include: Personalized Instruction, Target Tutoring, Professional Learning Communities, Vertical Planning, Department meetings, Leadership meetings, Counselors, Cooperative Learning, Academic Excellence and Leadership Development, "Pull and Push" Methods, Home Learning, Vertical and Horizontal Alignment, Community Partnerships, Parental Involvement, Service Learning, among others. (App, 23-25, 26). Applicant states that the proposed school will implement the same principles as SoMi and that the proposed school's educational program is in direct alignment with the school's mission, which supports and facilitates its implementation, (App, 25).

Applicant has clearly included all required components of the Model application and has more than demonstrated its ability to replicate and be true to the SoMi and Somerset program while adhering to State Law, applicable rules and its charter contract. It is evident that the Sponsor believes Somerset's capacity to replicate is not credible, even though Somerset as an institution has successfully replicated its model more than 40 times; Somerset has an 18-year history of successful operations and is collectively an "A" district among its schools, and has achieved increased performance network-wide. There is no evidence to the contrary. Sponsor's allegations are baseless; the App must be approved. Sponsor contends Applicant cannot be a replication since Somerset takes pride in each of its schools' ability to adapt to its demographics, citing nuances in areas of the education plan and curriculum, and since Somerset's schools serve different populations and have students with different needs. There is no "one size fits all" prescription of replication as Sponsor suggests, alleging the Education Plan states the proposed school will align its practices with the Sponsor and not SoMi. It must first be said that having some unique elements to school design does not frustrate replication or substantial similarities clearly evident between the schools. All Somerset schools share a common philosophy of student expectations, code of excellence, an expectation of parental commitment, and collaborative management infrastructure derived from its first school, Somerset Neighborhood, (App, 1). All Somerset programs have replicated this paradigm of school design and management practices, including Somi and the proposed school and it supports the organizations capacity to replicate the model in the present application, (App, 1). Every Somerset school is intended to serve the immediate needs of its local community, and fostering community is a key component to the Somerset model, (See generally App, at 22-23, 25, 29, 31, 34, 41, 43, 55, 61). Community is a common thread interwoven throughout the curriculum component, and is unique to the Somerset system (App 31, 34, 41, 43, 55, 61). To further ensure fidelity of the curriculum and the educational program replication, the governing board oversees network best practices and replication strategies, ensuring its schools, including the proposed school adhere, (App, 2). These strategies include, but are not limited to: fidelity of instructional programming; implementation of appropriate grade/subject level pacing guides and focus calendars utilized by SoMi; verifying the fidelity of curriculum implementation through co-teaching, modeling and mentoring; ensuring the proposed school utilizes the same data-driven continuous improvement methods as SoMi; engaging in professional development for the implementation of curriculum; ensuring the proposed school implements the same curriculum, materials, and scheduling process as SoMi which are in alignment with the Sponsor's requirements, etc, (App, 2-3). The proposed school will implement best practices utilized at SoMi and will align these with the requirements and curriculum of the Sponsor, (App, 3). This is consistent with the Somerset

model state-wide and is confirmed by Board Members at the Interview where it is stated that it is important to implement the policies and procedures of the Sponsoring District, and in addition, the proposed school will integrate Somerset's best practices into this to enhance the overall program (Interview, 29). Upon application, SoMi stated to its Sponsor that it would adopt certain policies of the Sponsor, including the Reading Plan, the Code of Conduct, Pacing Guides, Student Progression Plan, State or District approved textbooks (i.e. curriculum), and ESE Policies. In the present application, the proposed school indicates many of the same. Where both applications indicate the intention to adopt the local jurisdiction's policies and/or State-adopted programs in order for the school to more adequately serve the local population, this IS a direct replication. As is aptly stated in the Interview by the Governing Board, the curriculum is written based on Florida Standards, and adopting materials that ensure mastery of the Florida Standards, ensures this is a direct replication, (Interview, 30-31). Moreover, the proposed school includes sample schedules and daily routines from SoMi, and indicates its commitment to align these to the Sponsor's requirements, (App, 20-22). Applicant includes a detailed description of the SoMi model which will be implemented at the proposed school indicating the curriculum is centered on cognitive science research in mathematics and an emphasis on meaning and understanding in reading, as well as remediation when necessary, (App, 30). Curriculum is more than just a textbook, a pacing-guide, or a Digital Classroom Plan. Somerset's curriculum, and thus the Applicant's curriculum, requires students to interact with one-another and to apply the written text in the real world, (App, 31). The curriculum plan, in use at SoMi, and to be replicated at the proposed school, is detailed at pages 30-64. Somerset's (i.e. SoMi's and Applicant's) curriculum is focused on college preparedness and aims to instill a pre-college mindset from elementary, (App, 30). As stated in the application, the curriculum of both schools meets high standards of student achievement by delivering curriculum with an emphasis on mastery of benchmarks aligned to the Florida Standards in ELA and Mathematics, literacy standards for science and social sciences and the Florida NG-SSS, as applicable to course and grade level, (App, 30). Students at SoMi, and thus in the proposed school, receive a core curriculum of English/language arts (ELA), mathematics, social studies, science and electives in fine arts, physical education, and world languages, in this case Mandarin and Spanish, (App, 30). Somerset has developed strategies that have enabled the words to jump off the page and have made its curriculum come to life. These curriculum techniques and strategies, which are Somerset-specific and not district-based, are found in great detail at pages 30-32 and include: Interdisciplinary Connections, Vertical and Horizontal Teaming, Differentiated Instruction, Scaffolding, Cooperative Learning; and Community-based learning. The curriculum reflects high-quality instruction and implements research-based strategies, innovations and

activities facilitating achievement, (App, 30). The adoption of basic Sponsor policies, including the Student Progression Plan, which are State adopted, does not frustrate replication, and makes for smooth transitions between charter and sponsor schools and vice-versa. In the same way, adoption of Sponsor's Digital Classroom Plan, does not defeat replication. These are single components of the broader Somerset Curriculum, and are generally district-specific boiler-plate policies.

Sponsor criticizes Applicant for serving a different student population than the existing school, and ensuring that the school's services are tailored to meet the needs of its population, and attempts to use this as a failure of the App, (75). Sponsor states the application is not a replication since the existing school had too few numbers of students with disabilities (SWD) to report while the Applicant projects an estimated 12% SWD attending the charter school. This contention is nothing more than a red herring and apparent evidence of Sponsors pretext for denial. Applicant projected an estimated 12% of the anticipated student population may be SWD, and based this on the average SWD population in Indian River County, compared to the estimated 10% SWD projections used by SoMi, which reflected the average SWD population in Miami-Dade County. In replicating the Somerset model, both the proposed school and SoMi strive to reflect diversity, as well as ESE/ELL populations reflective of the surrounding public schools. Here again, Sponsor misunderstands replication. The App clearly states Somerset's intent to serve the needs of the community where the proposed school will be located, and will take into consideration the best practices for the local demographic, (App, 75). SoMi does this, and the proposed school replicates this concept. Applicant's admissions policies are non-discriminatory in all respects, and are designed to reach the entire community, (App, 75). The School's demographics should be reflective of the community it serves, (App, 75). It is expected that geographic differences in the proposed locations will result in a different student population in the literal sense, however, this does not change the common strategies used to serve these demographics. While the resulting populations may be unique, Somerset's and SoMi's mission, vision, and values will be implemented with fidelity in every aspect of the proposed school, and the Somerset philosophy is evident throughout. To suggest populations of 2 schools nearly 150 miles apart should have identical populations, or else not be substantial replications, is not only nonsensical, but runs afoul of Somerset's Admission policy which is in compliance with federal and state anti-discrimination laws and the Florida Educational Equity Act, (App, 123). Applicant details the admissions process, including enrollment preferences and limited enrollment categories, and includes the data which informed Somerset's enrollment projections, (App, 123, 124). Applicant also includes a full plan for student recruitment and enrollment, including students with disabilities, (App, 75). Somerset understands the demographic of the area, informed its research and developed

projections based on the area data, the data most relevant in projecting the proposed school's target population. It would be of little help for the proposed school to base its projections on real time data and demographics of jurisdictions located 150 miles or more from where the proposed school will operate when there is no chance it will serve these students. Instead, Applicant wisely informs its projections using data from the County and the District Schools where it will operate giving Applicant a more realistic goal given the student population it will serve. Sponsor apparently disagrees with Somerset's business decision which is based on sound principles, thorough research, and its own expertise having successfully operated 57 charter schools, 48 in Florida. This pretext for denial is pure conjecture and bias, and not a reason upon which a legal denial may be based.ⁱⁱ

Sponsor takes a dual view on replication and finds "cause" to deny Applicant's high-performing application irrespective of Applicant's response. On the one hand, Sponsor alleges that the proposed school cannot be a replication if Applicant adopts any part of the Sponsor's policies, and therefore denies the application. This seems to indicate that Sponsor believes, that in the case of a replication, the policies and procedures of another School District prevail over its own. In this case, Sponsor suggests Applicant should submit a charter school application to operate a charter school in Indian River County operated under Miami-Dade County Public School Policy and Procedure. Applicant rejects this argument. On the other hand, Sponsor, highlights Applicant's replication and/or adoption of Sponsor's policies and procedures. During the Interview, Sponsor questioned Applicant regarding Applicant's ability to "replicate" or adopt Sponsor's policies and/or best practices, stating at pages 9 and 11, "Some of the things we're doing in our school system don't appear to be replicated in the application... How would you go about replicating what we're doing...?" (Interview, 9,11). Sponsor later commends Applicant for, "wanting to adopt and implement the Sponsor's policies and procedures with respect to serving students with disabilities," (Interview, 42). Sponsor further questions curriculum, "Some of the curriculum listed is no longer used in the District that you have listed in your Application. Do you plan to utilize the same curriculums as the District...?" (Interview, 29). But here, Sponsor echoes one of the underlying concepts of this replication: Both the proposed school and SoMi adopt District materials. Sponsor states, "Your application indicates that you will adopt our District's instruction materials and curriculum pacing guides. However, the school you are replicating currently integrates the curriculum developed by Miami-Dade..." (Interview, 30). The Applicant has met all aspects of the model application, and meets the statutory and legal intent of replication. It is clear that Somerset is replicating substantially the same program, modeled after its currently operating high-performing dual-language school. All elements of the App speak to

Somerset's model and how it is implemented at SoMi and how it will be implemented at the proposed school. The instant application clearly meets the requirements. A denial on these grounds is unjust, improper and without cause.

Sponsor alleges that the App does not "on its face" comply with all civil rights requirements and therefore fails to meet the statutory requirement described in section 1002.33(9)(a)-(f), Florida Statutes. Somerset is in compliance with all civil rights requirements. Sponsor alleges the App fails to address its desegregation order or otherwise offer a student/staff recruitment plan which will "achieve a racial/ethnic balance reflective of the community." Sponsors 1994 Desegregation Order requires that ***"The percentage of minority students assigned to individual schools should be consistent with the percentage of minority students represented in the school district."*** Further, the Order states that ***"The School District will allocate student populations at each school in proportion to the percentage distribution of minority students system-wide within a range of plus or minus 9%."*** Denise Sharpton et al v. The Board of Public Instruction of Indian River County, Florida, Case No.: 64-721-Civ-Atkins. At the time of the Order, Sponsor's minority percentage of students was 17%. Currently, Sponsor's racial makeup is 57.36% White, 16.31% Black, 0.25% Native American, 0.27% Asian, 2.15% from other races, and 3.30% from two or more races. 21.24% of the student populations were Hispanic/Latino of any race. By comparison, as a network, Applicant serves 84% minority students and 59% qualify for free and reduced lunch, (App,17).

Applicant is cognizant of its responsibility in this regard. In an Open Letter sent to all Charter Schools by the Office of Civil Rights, Charter schools were reminded of their civil rights obligations. "Like all public schools", the letter said "charter schools cannot discriminate in admissions on the basis of race, color, national origin, or disability status," (Ex. 6,3) The letter also pointed out the need to be mindful of the rights of children and parents in the community when publicizing the school due to the fact that students choose to attend a charter school and are not simply assigned to attend a charter school (Ex. 6, 3). In a school district subject to a desegregation plan the charter school must be operated in a manner consistent with that desegregation plan. Applicant acknowledges this obligation multiple times over throughout the Application and during the Interview. (See App, 17, 122; See Also Interview 8, 11, 12). In some instances, it may also be necessary for a charter school to seek a modification of the school district's desegregation plan or order from the court or administrative entity requiring the desegregation plan, particularly where the Charter School has little to no effect on the School District's compliance levels. (Ex. 6, 4). However, such would not be the case here, as Somerset is confident in its ability to meet or exceed the requirements of the Order and in fact is confident that Somerset's statistics would be a positive addition. Sponsor further alleges that Applicant does not address a

targeted population. At the time the App was submitted and the interview conducted, a site had not been identified, nor is there any requirement in the law that the site be identified at the time of application. Accordingly, it was impossible to provide the targeted geographic area with specificity, except that the school will openly market enrollment to the entire district as is done in all Somerset schools (App, 122). The *target population*, however, contrary to Sponsor's assertion is included in the App, as well as a detailed marketing plan, (122-124). As stated in the App, the proposed school expects its student population to be reflective of Indian River County, with a higher minority rate than the traditional public schools, (App, 123). Applicant's marketing efforts, detailed in the App, include, but are not limited to the following: a multi-media campaign (print, broadcast, online, minority and community periodicals) to inform about the school, its programs and enrollment period; promotional flyers and brochures to be distributed to community groups/churches to find hard-to-reach families; posting information in local public facilities such as post offices, community centers, libraries, grocery stores; printing materials in multiple languages; distributing press releases and/or public service announcements; running ads in local newspapers; hosting open house events; establishing partnerships with local community groups, etc., (App, 123-124). Sponsor states the Student Recruitment Plan will not recruit a population reflective of the community and will not comply with the Desegregation Order. Following Sponsor's rationale, Applicant would only comply with the Order if it states in the App that it will focus 16% of its recruitment efforts toward Blacks, 57% percent toward Whites and the remaining percentage toward the remaining ethnic groups. This misses the point of non-discriminatory practices altogether. Flawed reasoning such as this may be a contributing factor as to why the order remains in place. Nevertheless, Sponsor has determined Applicant's failure before Applicant has begun, and in doing so institutes a prior restraint on Somerset's rights to operate a charter school. With due respect to Sponsor, Applicant operates 60 charter schools in 6 Florida School Districts and has schools in Texas, DC, and Nevada. 5 of the 6 Florida Districts where Somerset operates, had Desegregation Orders at one time; all have since reached Unitary Status. Somerset has seen both sides of this process multiple times, and in varying areas of our State, and has more experience than Sponsor in this regard. Somerset enjoys a rich cultural diversity and is proud to represent this in its staff, its students, and its educational design throughout the entire Somerset system of schools. Somerset is offended by the accusatory statements suggesting it would not recruit to the demographics reflective of the county, or otherwise comply with the Order. An order to desegregate, this one in particular, is more than just student percentages. At the Interview, Sponsor hyper-focuses on just this aspect, and neglects the components of the Order with which Somerset, as an institution, already complies. It should be stated that in the Interview, Sponsor states its percentage of compliance

inaccurately, stating Sponsor is required to achieve between 9% and 27% of **African-American** students in each school. Pursuant to the Order, Sponsor is required to achieve between 9% and 27% of **minority** students in each school. As a network in Florida, Somerset serves 84% minority students and 59% qualify for free and reduced lunch, (App,16). To further address the Order, a majority of Somerset's teachers are also minorities, ensuring the ratio of Somerset's minority teachers is in line with the ratio of minority students. Applicant includes its teacher recruitment efforts at page 97, which is in line with the student marketing plan. The Applicant commits to expending considerable effort in recruitment and the interview process to hire the most qualified candidates that cumulatively represent the diverse racial/ethnic background of the community, and in line with the ration of minority students, (App, 122, 123). Moreover, the leadership in the Somerset system is a reflection of the diversity in Somerset's hiring practices: more than 55% of Principals alone throughout the Somerset system (not limited to Miami-Dade as implicated by the Sponsor) are minorities. In addition, both the President and Vice-President of Somerset, as well as 8 of the 9 seated Governing Board members and the General Counsel are all minorities. Regarding minority student achievement, Somerset has high expectations of student achievement for **all** of its students irrespective of minority status. All students are held to high standards of achievement. Transportation is, in fact, addressed in the application and the interview, and even though Applicant includes transportation in its Application, and budgets for it, and further discusses it with the Sponsor, Sponsor questions Applicant's veracity regarding Transportation. Of particular note, Sponsor states during the Interview, "We did make an assumption that you had no intent to provide transportation, because there's no transportation being provided at the school being replicated. You explained that's a geographic piece and you do have intent to provide transportation... And [transportation is] in the budget. Well, if it's in the budget, you don't have to spend your budget. You may put it in the budget and not spend it," (Ex. Interview, 84). This statement alone is clear and convincing evidence of Sponsor's pretext for denial. Sponsor had no intention of approving this application, irrespective of how the Applicant responded to any of Sponsors questions. Here, Applicant budgeted \$95,000 for 2 busses and explained this to Sponsor during the Interview (Ex. Interview, 68). Understanding that Transportation needs vary by region, all Sponsor needed to do was look one County over to the Somerset Charter High School currently operating in St. Lucie County where Transportation is provided. Instead, Sponsor assumed the information in the Application was incorrect; and the amounts in the Budget were false as they "did not have to be spent". This is not only an unreasonable assertion, it is inflammatory and prejudicial.

Given Applicant's ability to attract minority students, Applicant is confident that it will be able to meet or exceed the demands of the Desegregation Order. Somerset has operated in more than one county that has been under Desegregation, and these counties have since reached Unitary Status. In the event targeted efforts are required in order to meet areas of the Desegregation Order, Somerset will implement all efforts necessary in coordination with Sponsor in order to effectuate compliance on a continual basis pursuant to law. However, as an open-enrollment school, a true approach cannot be determined until initial applications are received. Notwithstanding, Applicant has consistently stated throughout this process that it will comply with the Desegregation Order. Sponsor alleges that during the Interview, Applicant stated charter schools were restricted in complying with the Desegregation Order. This is patently untrue. The discussion of Desegregation is memorialized in the transcripts at pages 7-11. Upon review, it is clear Applicant made no such comments. In fact, throughout its response, Applicant, on numerous occasions, indicated its willingness to comply with the Desegregation Order. Sponsor attempts to cite newspaper articles as evidence that Applicant will not comply with civil rights laws. Such articles are not fact and should not be considered in an application review. Sponsor's allegations are red herring and are not supported by fact. Sponsor's newspaper reference reveals its desperation to find any reason to deny this high performing application. Notwithstanding, SoMi has not violated any state or federal civil rights laws. The City of South Miami's "investigation", mentioned in the news article was the personal and political attack by the Mayor and certain commissioners in order to garner support from parents whose children did not gain admittance through the SoMi's approved lottery process. This is tangential to the Application process and had no bearing on Sponsor's review of the Application. This is not cause for denial. Again, Sponsor could have contacted the local district, M-DCPS, with any concerns. Sponsor instead makes false assumptions, and conveniently fails to provide any information of its conversations with MDCPS or the resultant findings.

Somerset can certainly understand Sponsor's sensitivity surrounding the Desegregation Order, given the Order's recent attention, (SEE EX.7). However, Somerset respectfully requests that it not be judged by the actions or inactions of others, but only by the actions of Somerset itself. In this respect, and despite the musings of one small South Florida City, Somerset has an impeccable record. Somerset operates in multiple districts who have been under desegregation and have successfully navigated same. In each instance, Somerset has complied. Given this, and Somerset's reputation, there is no reason to believe it would do anything less than comply with this Sponsor's Order as well. Given the opportunity, Somerset would foster the same model and employ the same strategies to its school in Indian River County. Sponsor institutes a prior restraint of sorts on

Somerset's enrollment practices. There is no evidence suggesting Somerset would not comply with the Order in any way. Pursuant to the attached report, all of the sponsored Charter Schools appear to be in compliance. It is Sponsor's traditional Public Schools that appear to be having difficulties with the stated percentages. System wide, Somerset does not have any concern with meeting this Order. Our Leadership Leads by Example and this starts from the top and trickles down. The top Leadership of Somerset is 90% minority; its administration is over 60% minority; and its students are 84% minority. Somerset has reached unitary status. Somerset has no concern with implementing a Desegregation Order and reaching Unitary Status once again.

Financial Management Practices: The Sponsor alleges the App "on its face" does not contain a balanced financial plan. A high-performing charter school is required to submit an annual financial plan for each year requested by the charter for operation of the school for up to 5 years, and provide anticipated fund balances based on revenue projections and a spending plan based on projected revenues and expenses. Applicant sets forth such data in the Exhibits to the App, where each year is shown in the budgets, budget narratives, and budget detail, and contains additional detail on anticipated fund balances and projected revenues and expenses. (App, Budget) A description of controls that will safeguard finances and projected enrollment trends, also required by statute, is provided (App, 139,127.). These include procedures in which "The Governing Board shall annually adopt and maintain an operating budget, retain the services of a certified public accountant or auditor for the annual independent financial audit and review, and will approve the audit report, including audit findings and recommendations," (App,139). Applicant has submitted a budget which fully complies with the statute, and there is no good cause to deny this application.ⁱⁱⁱ

Sponsor alleges the proposed budget does not include funds to pay for the staffing and operational plan outlined in the application and that many of the educational and operational services proposed cannot be provided. However, the positions budgeted for in the Staffing Plan are found in the instructional and operational section of the budget. These positions are sufficient to provide educational and operational services proposed for the projected population. The budget detail states multiple times "Salaries in the staffing plan are for Full Time Equivalent (FTE) instruction positions. Individuals may be utilized for other functions." It is common practice for staff in a start-up school to "wear multiple hats" and hold dual roles in administrative and operational duties until FTE is sufficient to support additional staff. The budget and staffing plan is sufficient and meets the needs of school operations. The budget was created to cover basic operating costs for the school and to show viability at the most conservative budget level, without assuming grants or loans. As a replication of a High-performing school, applicant expects to

apply and receive a start-up grant. As contingency, Somerset received a letter of Commitment from BuildingHope, a non-profit lender, to assure the proposed school would have sufficient funding in the event a grant is not awarded. The Lender Commitment Letter, including a range of loans and terms, is included in the App in its Appendix. In addition, Sponsor complains about the \$14,000 allocation to the food service worker characterizing it as \$77.77 in labor per day. To put this in perspective, and as clarified in the Interview, the cafeteria worker is part-time, working in this capacity only 5-hours a day, 180-days a year. This equates to \$15 an hour. (See generally Interview 72-75). This is a replication of SoMi, who operates with only one cafeteria worker, with assistants who volunteer, (Interview, 74). Sponsor says this is not a realistic assessment of the cost to provide this service to students. As stated in the interview, as a charter school, since you get less funding, you have to be more efficient and conservative, (Interview, 74). Sponsor cannot see how this is realistic, but Applicant sees anything more than this as wasteful. Applicant is unsure which aspects of the Somerset model Sponsor will allow it to replicate since Sponsor has used both replication and alleged "non-replication" as cause for denial, or whether Sponsor means to allow Applicant to replicate at all.

Sponsor alleges the budgeted cost for technology services is not realistic to acquire the products/services technology described. There are 3 separate line items in the budget for technology: \$75 per student for Supplemental instructional materials (CIRP/SIRP and Technology) for an anticipated amount of \$23,625.00; \$110 per student for Digital Education Content Materials on a Leased basis for an anticipated amount of \$34,650.00; and \$1800 per classroom for Computer/Equipment for Instruction also on a leased basis for an anticipated amount of \$ 30,600.00. These rates are seen in the appendix to the App in the Budget Detail and the Budget Monthly's, and was explained in the Interview at pg.14-16. As the budget analyst explained, on an equipment lease of \$30,000, it equates, in average to about \$90,000 worth of equipment, more than sufficient for 315 students. The cumulative fee covers laptop carts for the classrooms and instructional material and the Digital content, (ie textbooks and software). This is realistic and is modeled after SoMi's plan which is currently in operation, and is healthy, vibrant, and meets the needs of the students. Sponsor's apparent disbelief in Somerset's business model is not cause for denial. Applicant has included all required elements of the budget in the Application and has properly budgeted for these in the Budget itself with realistic projections modeled after tried-and-true methods of high-performing schools.

Sponsor alleges Applicant does not provide a description of how finances will be handled or any assurances the Governing Board will control school finances. The App details financial policies and procedures at pages 139-143 The Governing Board will annually adopt and maintain an operating budget, quarterly or monthly financial statements as required which include a

balance sheet and statement of revenue, expenditures and changes in fund balance; retain services of a certified public accountant/auditor for independent financial audit, and will review and approve the audit report, including audit findings and recommendations; report to all applicable legal agencies including Sponsor; and oversee the principal in any delegated financial matters, (App, 132, 134). In addition, internal accounting procedures to ensure financial controls are detailed at pages 133-134, and are in accordance with federal, state, and local laws and in-line with industry standards and best practices. Procedures are in place for General accounting, Internal accounting procedures, receivables, bank statements, wire transfers, Internal Revenue Collection, Capital Expenditures, Operational Checking Accounts, Authorized Check Signors. While the ESP coordinates these services and policies at the request of the Governing Board, the Governing Board retains all authority over all decisions. The ESP Agreement, attached hereto as part of the App, states that the Board must have "complete autonomy and control" and Service Provider must obtain "review and approval" of the Board. While the ESP may be assisting with checks, paying bills and serving as a liaison between the board and the accounting firm, all this is done in accordance with board policy and procedure, and with the review and approval of the board. Any action done by the ESP on behalf of the Board is subject to the ultimate control of the board. These services are included as part of the ESP fee as the ESP has an internal accounting department to service the ESP's client schools. (App, appendix c). The annual audit is paid for by the school to the auditor separately as this is an independent audit. The ESP does not approve its own payments. This was confirmed by the Governing Board in the Interview multiple times. The board also stated that the records are independently reviewed by an auditor and this is something the audit would note. Somerset does not have material findings in its audit, and its organization is in a healthy position. All schools ended the year in a positive position. Sponsor failed to demonstrate by clear and convincing evidence that Applicant would not exercise proper financial management and oversight of the School and comply with the Florida Statutes.

Somerset Academy is a highly experienced Applicant with an impressive record of success in not only its number of approved applications with similar budgets and financial plans, but continuing success in its existing schools. The budgets and financial plans were developed using statistical data collected from a decade worth of operations in Somerset's successfully operating schools, and specifically those in alignment with the proposed school's elementary school program. The methodology used to prepare the budget forecast and financial plans is reliable. Every one of the charter schools that developed budgets using this system yielded a budget surplus this past year. The proposed school will implement the same best practices and

quality standards that have proven effective throughout the Somerset system, including SoMi. There is no cause to deny this Application.

Sponsor alleges the application is generic in scope and nature did not detail how it will meet the guiding principles or defined purposes of a charter school, is not innovative, does not offer something different, and does not replicate Sorni's mission. Applicant states the guiding principles and purposes and discusses each individually and in detail, (App, 10-14). Applicant identifies each principle/ purpose individually, and for each, articulates several specific, measurable, realistic, and attainable strategies which relate directly to the school's operations and which are currently in place at the existing school. The uniform mission, vision, and purpose of the Somerset network and all its schools is detailed, and includes Somerset's core principles and beliefs, (App, 10). Somerset identifies student learning and achievement as paramount, measured by other stated core principles including data assessments to drive curriculum and educational focus; standards-based curriculum; high expectations; proven teacher training and mentoring, (App, 5). Contrary to Sponsors assertion, governing board member Diaz discusses in the Interview, individual testing of students for proficiency in foreign language. Ms. Pestana stated that there is no District testing or formal testing instrument. As Ms. Diaz explained, these instruments are provided with the textbooks and, in addition, the classroom teacher implements testing, (ex. Interview, pg 28,29). As this is an elementary school, one can imagine the students are not quite yet prepared for AP or College Board level testing. This is a distractor and is not cause for denial of a high performing application. Somerset objects to the Sponsors statement that the mission and vision do not align with the dual language of the school. SoMi is more than a foreign language class, and Sponsor's characterization of it as such is insulting to the advancements SoMi has made and the students who have worked so hard. SoMi's model is in alignment with not only the vision of the school, but the vision of Somerset Academy Inc., and it is SoMi's goal to prepare its students for a bilingual culture and its success is evidenced by the High-Performing status the school has obtained. The application does include data demonstrating effective educational programming. First, please reference the high-performing letter issued by the Commissioner of Education verifying that SoMi is a High-Performing School delivering a high-quality education. Next, please reference the list of High-performing Somerset Schools at page 1 of the Application and the Somerset Report Card at pages 5-8. These records speak for themselves regarding the effective educational programming offered by Somerset. Finally, Somerset Academy Inc was awarded SACS CASI/ AdvancED accreditation because Somerset has demonstrated that it has the proper

systems in place to ensure that its schools have the highest levels of academic rigor and the proper level of oversight in place, and was the first charter school entity to achieve this.

F.S. § 1002.33(7) applies to approved charter applications entering the contract phase and does not govern the application process. Sections, 1002.33(7)(a)(2) specifically states, "The focus of the curriculum, the instructional methods to be used, any distinctive instructional techniques to be employed, and identification and acquisition of appropriate technologies needed to improve educational and administrative performance which include a means for promoting safe, ethical, and appropriate uses of technology which comply with legal and professional standards." As a high-performing replication, these allegations are not cause for denial. Nevertheless, Applicant has provided a response which fully answers to the model application. The focus of the curriculum, its instructional methods and techniques are addressed fully in the application, the Interview, and the replication section of this appeal. The technology aspect of this concern has been previously addressed as well. Applicant has included curriculum standards in the App. Curriculum is described fully and in great detail, (App, 30-51) and instructional methods are detailed as well, (App, 13, 64,69).

Specifically referencing Somi, Applicant outlines its plan and includes a litany of methods in which the school will meet and exceed high standards of achievement, including, among other reasons: implementing a rigorous curriculum; curricula specifically designed to meet student needs through data-driven differentiated instructional model; and indicates that all of these methods are employed by Somi, (App, 30-32). In addition, Applicant, includes the following high standards for students replicated from Somi: Providing a vigorous, educational program; Delivering a dynamic school curriculum, including emphasis given to student-centered instruction towards student mastery of the Florida Standards; complement and enhance classroom studies through premium curricular and technology infused extra-curricular programs, Employing mechanisms to continuously monitor, evaluate, and improve curriculum to achieve continuous student improvement year to year; Utilizing strong technologically rich academic programs and tools to assist and increase a multisensory learning experience, (App, 22-23. Applicant lists instructional techniques, utilized with success at Somi that "will be incorporated throughout the curriculum in order to maximize learning and successful attainment of learning objectives and replicate quality" on pages 23-25. "Instructional strategies utilized at SoMi and other Somerset schools that will yield the greatest results" at the proposed school are listed on pages 27-28. Applicant details specific curriculum being used at Somi and offered at the proposed school. Methods of delivery curriculum are described on pages 30-32. Additional evidence of Applicant's understanding and implementation of curriculum

based on Somi's replicated model are the processes in place to support delivery of the curriculum and includes, but is not limited to, discussion of the following: continuous review of the curriculum to ensure a year's worth of learning; research based instructional practices, staff development through implementation of PLC; afterschool, lunch, and Saturday tutoring for remediation and acceleration; Support for Curriculum Delivery; Instructional Strategies to be utilized throughout all subject areas; Integration of Technology; etc. It is clear by the above, that Applicant meets the standard required pertaining to Florida Standards. There is no good cause to deny a charter school application where the application has met all the statutory elements^{iv}. The inclusion of this as a reason for denial, is unwarranted, and without supporting evidence. This does not constitute clear and convincing evidence of non-compliance with any statutory requirement. Application should be approved.

Somerset has developed a multi-tiered system of management, assessment, instruction, and professional development that integrates technology within curriculum to achieve increased performance over all student populations and sub-groups, (App, 22). Sponsor believes there are educational opportunities already provided within the School District and states at the School Board meeting that they just "don't need another School," (Ex. Board Meeting, 19). This demonstrates Sponsor's impetus for denial: Sponsor does want a high-performing charter school.

Exceptional Students is Section 1002.33(16)(a)(3), F.S., "a charter school shall be in compliance with...those statutes pertaining to the provision of services to students with disabilities." As a high-performing replication, these allegations are not statutory reasons for denial of a high-performing application. Moreover, allegations regarding Student Recruitment and Enrollment are not statutory cause for denial of a high-performing application. Therefore, the application may not be denied as to allegations regarding enrollment. Sponsor lacks actual evidence to support its assertion that Applicant failed to meet these standards. Sponsor failed to include concerns to which Applicant can respond. The overview includes only a generic statement that the admissions process may not be in accordance with law because of a lack of specificity as to how applications from students with disabilities will be handled and does not reference sections of law or the App. However, the application process does not take into account a potential student's disability status, and does not request a student's disability status as part of the application process, thereby allowing every student who applies an equal opportunity to enroll in the school, (App, 15). Sponsor has not articulated a basis for denial on these grounds.

Sponsor did not have clear and convincing evidence to find Applicant did not meet the standard with respect to Transportation. As a high-performing replication, the allegations regarding Transportation are not a statutory cause for denial

of a high-performing application. Consistent with Section 1002.33(20)(c), F.S. Transportation shall be provided by Applicant consistent with requirements of subpart I.E. of chapter 1006 and s. 1012.45. Applicant may provide transportation through an agreement or contract with Sponsor, a private provider, or parents. Applicant and Sponsor shall cooperate in making arrangements that ensure transportation is not a barrier to equal access for all students residing within a reasonable distance of the charter school as determined in its charter. Somerset intends to provide transportation pursuant to law, and will provide transportation necessary to ensure that it is not a barrier to access as stated in the application. Applicant will assess needs annually during application and enrollment of students through the use of enrollment surveys, registration packets, and parent transportation agreements, all in accordance with applicable law, (App, 16-17). Transportation (App, 15-17), and the procedures the proposed school intends to implement to assess transportation needs are included, (App, 130-131) Applicant states: "if the parent advises the School that there is a hardship, and he/she is unable to provide the transportation, the School will provide transportation within a defined reasonable distance (App, 17). Applicant is not suggesting that parents go to extensive lengths to "prove" a hardship; rather Applicant is requesting only that parents inform the school that transportation is needed and arrangements will then be made. In the same way that students must meet eligibility requirements for free and reduced lunch, so too must students meet eligibility requirements for transportation. The law does not require Applicant to provide transportation to all students residing within a reasonable distance, nor does the law give Sponsor authority to determine what "reasonable distance" means. The reasonable distance provision allows charter schools to establish a transportation zone that sets an outer boundary or radius beyond which a charter school is not required to provide regular transportation. In the instant case, the budget provides transportation costs in the amount of \$95,000.00, (Interview, 68). This was confirmed by the Sponsor and the Applicant in the Interview, however, Sponsor stated it didn't believe Applicant would use that budgeted amount for transportation. Applicant projected 40% of its student population will be transported, provided for 2 busses, (Interview, 68). Applicant did not object to contracting directly with the Sponsor pursuant to law (Interview, 70). This is not cause for denial. **CONCLUSION/RELIEF:** For the numerous reasons outlined above. This appeal should be granted, and Sponsors denial should be overturned and remanded with instructions that Sponsor approve the Application.

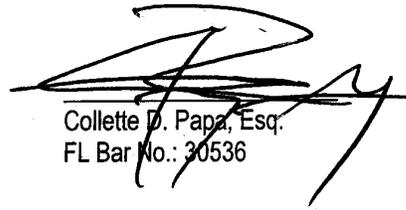
ⁱ See School Bd of Seminole County v. Renaissance Charter School, Inc., 113 So.3d 72 (Fla. 5th DCA 2013)

ⁱⁱ See School Board of Osceola County v. UCP of Central Florida, 905 So. 2d 909.

ⁱⁱⁱ See note ii above; See Also School Board of Volusia County v. Academies of Excellence, Inc., 974 So.2d 1186, 1191.

^{iv} There is no good cause to deny a charter school application where the application has met all the statutory elements. See School Board of Osceola County v. UCP of Central Florida, 905 So.2d 909 ; See Also School Board of Volusia County v. Academies of Excellence, Inc., 974 So.2d 1186, 1191.

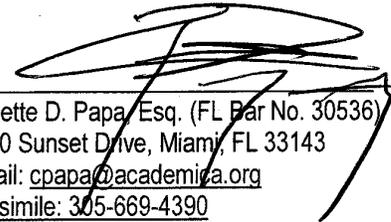
Respectfully Submitted,



Collette D. Papa, Esq.
FL Bar No.: 30536

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing instrument has been furnished this 20th day of November, 2015 by hand delivery delivery to: Cathy Schroeder, Agency Clerk, FLDOE and to Mark J. Rendell, Superintendent, and to Suzanne D'Agresta, Counsel for Sponsor.



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**FLORIDA DEPARTMENT OF EDUCATION
CHARTER SCHOOL APPEAL**

**Somerset Academy Inc., for the application for
Somerset Academy Middle School Vero Beach,**

Applicant/Appellant.

v.

The School Board of Indian River County, Florida

School Board/Appellee.

10

**SCHOOL BOARD'S RESPONSE TO NOTICE OF APPEAL OF DENIAL OF CHARTER
SCHOOL APPLICATION SUBMITTED BY SOMERSET ACADEMY, INC. FOR
SOMERSET ACADEMY MIDDLE SCHOOL VERO BEACH**

Receipt of Notice of Appeal: November 20, 2015.

I. Preliminary Statement. The School Board of Indian River County, Florida (School Board) pursuant to §1002.33, Florida Statutes, hereby responds to the Notice of Appeal from the denial of a charter school application submitted by Appellant, Somerset Academy, Inc., for the Somerset Academy Middle School Vero Beach Charter School (Somerset). References to the Record set out in the Appendix to this Response are shown by "App" followed by the tab number and page number. References to Appellant's exhibits to its Notice of Appeal are shown by "Somerset" followed by the tab number and page number.

II. Procedural Background and Jurisdiction. Contrary to the representation made in the appeal, Somerset submitted its application to replicate a high performing charter school on August 3, 2015. (Somerset 5:1; App 10). In order to be considered a replication of a high performing charter school, the proposed charter school must be "substantially similar to at least one of the applicant's high performing charter schools." §1002.33(6)(b) 3.b., Florida Statutes. School Board staff immediately began its work to establish a sixty day timeline and analyze the application. (Somerset 5:1).

Dr. Michael Ferrentino, the School Board staff member responsible for the coordination of the application review, provided initial applicant interview dates to Somerset. (App 1). However, in its appeal Somerset misrepresents the initial timeline prepared by Dr. Ferrentino.

Dr. Ferrentino's initial application review timeline provides for the School Board to take action on the application on September 22, 2015, within the sixty day review period established by law.

(App 2). On the eve of the scheduled Somerset interview, Somerset inquired if the meeting would be cancelled due to the possibility of Tropical Storm Erika making landfall. (App 3:4). Out of an abundance of caution, Dr. Ferrentino felt it would be safer for the Somerset representatives not to travel through tropical storm weather, and rescheduled the interviews. (App 3:4).

Somerset thereafter indicated by email it was appreciative of Dr. Ferrentino's consideration

(App 3:4), and it is disingenuous for Somerset's appeal to now say such scheduling change was "unilateral" and not agreed to by Somerset. If Somerset representatives really wanted to drive through the tropical storm weather, they should have made that desire known at the time, instead of thanking Dr. Ferrentino for his consideration. When Somerset thereafter requested a schedule change, Dr. Ferrentino was pleased to accommodate it. (App 3:4), and by email dated August 31, 2015, specifically requested that Somerset approve the revised schedule which shows the School Board taking action on the application on October 6, 2015. (App 3:1). With the delay caused by the tropical storm and the schedule change requested by Somerset, it was no longer possible for School Board staff to accomplish the detailed application review work within the original sixty day window; that is why Dr. Ferrentino requested Somerset approve a revised schedule. Rather than responding to Dr. Ferrentino's request, Somerset again requested to postpone the interview date. (App 4:1). Again, Dr. Ferrentino was accommodating, and postponed the interview to the date requested by Somerset. (App 4:1). In that same email, Dr. Ferrentino again requested Somerset "review and consent" to the revised schedule which shows the School Board taking action on the application on October 13, 2015. (App4:1;6).

In response to Dr. Ferrentino's request for "review and consent" to the schedule, which included School Board action on the application on October 13, 2015, Somerset's response was "This is great. Thank you very much and we look forward to the 15th". (App 5:1). Dr. Ferrentino then sent an email to Somerset representatives confirming the "revised schedule will work for both parties." (App 5:1). At no time did Somerset respond to Dr. Ferrentino's September 1, 2015 email that it objected to any of the schedules or that Dr. Ferrentino was mistaken regarding Somerset's consent to a postponement of the School Board's meeting until October 13, 2015. Rather, Somerset affirmatively consented to the application timeline submitted by Dr. Ferrentino, and even attended and participated in the October 13, 2015 School Board meeting without voicing any

objection to the timing of the meeting.

Stating in their appeal that Somerset never agreed to postpone the School Board's decision on their application completely misrepresents the communications between the parties, and should be wholly disregarded by the State Board of Education. This fabricated argument by Somerset is not worthy of any consideration and must be immediately denied.

III. School Board's Basis for Denial of Application. School Board staff conducted a thorough review of the application and completed the state adopted Application Evaluation Instrument for high performing replications. (Somerset 2). While the Application Evaluation Instrument noted several concerns, the School Board based its denial of the application on four specific issues: replication, civil rights requirements, financial management practices, and education plan.

A. Replication. Section 1002.33(6)(b)3.b.(III), Florida Statutes, requires a replication charter application to substantially replicate the educational program of one of the applicant's high performing charter schools. The application submitted by Somerset did not substantially replicate the educational program of a Somerset high performing charter school, and therefore fails to meet the statutory requirement.

In order to be considered "substantially similar" within the meaning of the above referenced statute, a charter application "must have the same characteristics and be alike in substance or essentials to the school it is replicating." *School Board of Seminole County v. Renaissance Charter School, Inc.*, 113 So.3d 72 (Fla. 5th DCA 2013); *School Board of Polk County v. Renaissance Charter School, Inc.*, 147 So.3d 1026 (Fla. 2^d DCA 2014). In the *Seminole School Board* case, a charter school was attempting to replicate a 6-8 middle school as a K-8 school. In that case, the Court agreed with the Seminole School Board that substantial differences in the curriculum, discipline, student management and teaching focus,

were enough to reject the charter school replication application. *Seminole School Board*, 113 So.3d at 75. In the instant case, the School Board denial of the charter application was based on the failure of the proposed charter school to substantially replicate the educational program of Somerset Academy Charter Middle School South Miami (SoMi). (Somerset 2). Rather than detailing the educational program of SoMi, the application instead discusses implementing the educational program of the Indian River School Board. The application states it will implement the School Board's student progression plan, approved instructional materials, curriculum, curriculum pacing guides, code of student conduct, and digital classroom plan. (App 11: 30;32)*¹. By implementing the School Board's educational plan, not SoMi's educational plan, Somerset has failed to provide a replication charter application. The application does not substantially replicate SoMi, a charter school located in south Miami, but instead proposes to replicate the curriculum, discipline, student management, and teaching focus used in the School Board's traditional public schools, which the Appellate Court in the *Seminole School Board* case indicates is not "substantially similar" as required by statute.

Somerset's appeal asserts that adopting "the local jurisdiction's policies and /or State-adopted programs in order for the school to more adequately serve the local population...IS a direct replication." This statement by Somerset contradicts the above statutory and Court definitions of replication.

Somerset's appeal declares that a replication application "is not a carbon copy, nor should it be." That argument was made unsuccessfully in the *Seminole School Board* case. *Id.* Additionally, Somerset's appeal declares it is replicating its model, core values and beliefs, common expectations, and techniques and strategies. This argument has also been made before and rejected. In the *Polk School Board* case which also involved a charter school

¹* The charter application submitted with Somerset's appeal is missing 50% of the pages. Accordingly, a complete copy of the application is provided in the Appendix.

attempting to replicate a 6-8 middle school as a K-8 school, the charter school argued it was replicating "our method and model." *Polk School Board*, 147 So.3d at 1027. The Appellate Court did not agree with that argument and held the replication application failed to substantially replicate the applicant's high performing charter school. *Id.* at 1028. Further, in the *Seminole School Board* case, the charter school argued it was replicating a "substantially similar instruction model" which did not persuade the Appellate Court that it was a substantial replication of the educational program. *Seminole School Board*, 113 So.3d at 75.

Based on the above, the School Board was presented with clear and convincing evidence that the replication application failed to replicate the educational program of SoMi, which is a statutory basis to deny the application. Accordingly, the Somerset appeal must be denied.

B. Civil Rights Requirements - Desegregation. Section 1002.33(6)(b)3.b(II), Florida Statutes, requires the replication charter application to materially comply with all applicable civil rights requirements. The application submitted by Somerset did not comply with the federal desegregation obligations governing Indian River County, and therefore fails to meet the statutory requirement.

The School Board is governed by a federal desegregation order dating from 1965. (App 6). A copy of the most recent Court order dated May 23, 1994 was provided to Somerset. (Somerset 2). The federal desegregation order requires the School Board to achieve certain African American percentages with regard to its student population as well as employees. (Somerset 2). While the application states the charter school will be open to all students in Indian River County, the application only addresses the racial/ethnic population of 2 middle schools. (App 11:19). Further, no specific targeted population is identified in the application to determine whether the charter can meet the requirements of the desegregation order.

The student recruitment plan denoted in the application will not recruit a population to the school reflective of the county's African American student population and will therefore not comply with the desegregation order. (App 11:17;122). The student recruitment plan fails to address the type of student transportation needed and does not discuss affirmative recruitment of African American students. Likewise, the application fails to contain any information for recruitment of African American employees, consistent with the desegregation order requirements. These failures in the application were never addressed by Somerset during the September 15, 2015 interview or the October 13, 2015 School Board meeting. The only response from Somerset seems to be "don't worry, we'll comply." This cavalier approach to a very important issue was concerning to the School Board and School Board staff.

In its appeal, Somerset ridicules the School Board for taking its federal desegregation obligations seriously and for pointing out flaws in Somerset's application on that point. The appeal describes at length other alleged examples of Somerset's involvement in desegregation matters. If this information was pertinent to Somerset's application, it is puzzling why Somerset did not include a description of its desegregation expertise in its application. Incredulously, Somerset actually argues in its appeal the School Board has misinterpreted the desegregation order and that the percentages set out in the desegregation order apply to all minorities, not African American students and staff. Even a cursory review of this case by Somerset would show since 1964 when the matter was initially filed, the case has always been about African American students and staff. (App 6:5; 8-10 and App 7). This uninformed argument is additional clear and convincing evidence Somerset is completely ignorant of the federal desegregation obligations in Indian River County and cannot comply with these obligations.

Somerset's appeal also takes issue with the School Board identifying questionable comments made by a Somerset representative. During the September 15, 2015 interview of

the Somerset representatives, the requirements of the desegregation order were discussed. During that discussion, a Somerset representative clearly stated charter schools were restricted in complying with racial percentages. (Somerset 3:17-22). The interview discussion had to do with the investigation for racial disparity of the companion elementary school to the charter middle school being replicated. A newspaper in 2015 reported 1.1% of SoMi's companion elementary school population was African American while the community's percentage was 17%. Rather than providing a plan for achieving a racial balance at SoMi, or its companion elementary school, Somerset went into great detail why it could not comply, blaming it on the "sibling preference" for filling student seats with students who were not African American, and even questioned if the newspaper article was accurate.

First, Florida law is clear in its requirement that charter schools "achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the same school district," and allows charter schools to limit their enrollment process to target student populations to comply with federal requirements for a racial/ethnic balance. §1002.33(7)(a)8, and (10)(e)4., Florida Statutes. Second, the "sibling preference" allowed in the charter legislation is permissive not mandatory. §1002.33(10)(d), Florida Statutes. If Somerset wanted to rectify the African American student demographic disparity at SoMi, there are options available. Finally, Somerset points out in its appeal the School Board should not rely upon newspaper articles for demographic information for the charter school proposed to be replicated in Indian River. In response, a review of the Survey 2 student membership data for the 2014-2015 school year published by the Florida Department of Education is informative. (App 8). This public information reveals SoMi's student population to be 2% African American, and the student population in the Miami-Dade School District to be 22% African American, an even greater demographic disparity than reported in the newspaper. In fact, historic student

membership data obtained from the Florida Department of Education PK-12 Enrollment EDStats tool shows since the 2011-2012 school year, SoMi has never achieved a racial/ethnic balance reflective of other public schools in the same school district. (App 9).

Due to the failure of the applicant to address the federal desegregation order requirements or otherwise offer a student and employee recruitment plan to address the federal desegregation order requirements, coupled with SoMi's actual African American student demographic disparity, the School Board was presented with clear and convincing evidence that the application did not comply with the desegregation civil rights obligations governing Indian River County, which is a statutory basis to deny the application.

C. Financial Management Practices. Section 1002.33(6)(b)3.b.(I), Florida Statutes, requires a replication charter school application to contain a description of controls that will safeguard finances as described in §1002.33(6)(a)5., Florida Statutes. The application submitted by Somerset does not contain the required safeguards and therefore fails to meet this statutory requirement.

The application reveals an inadequate separation of duties and internal controls. The application provides disbursement vouchers are reviewed and approved by the school principal and the educational service provider (ESP). (App 11:140). Additionally, the application provides authorized signatures on checks are limited to "the Chair of the Governing Board, the president, the School Principal/designee, ESP representative, and others, as approved by the Governing Board." (Somerset 11:140). This structure whereby the ESP has the ability to approve the school's vouchers for payment and is also a signatory on the school's checks suggest an inadequate segregation of duties and poor internal controls, as essentially a vendor to Somerset can approve their own invoices and sign their own checks.

In its appeal, the applicant asserts the ESP does not approve its own payments. The

appeal also asserts the ESP "may be assisting with" the review and approval of invoices and signing checks. However, the application states otherwise and the applicant may not revise its application at this late date. If in fact Somerset's financial controls were structured differently, Somerset should have included such information in its application.

Due to the failure of the application contain a description of controls that will safeguard finances as described in section 1002.33(6)(a)5., Florida Statutes, the School Board was presented with clear and convincing evidence that the application failed to provide sufficient financial safeguards, which is a statutory basis to deny the application.

D. Educational Plan. In addition to the issues of material noncompliance stated above, deficiencies in the area of the charter school's educational plan are also noted.

Dual Language. The application fails to meet the statutory requirement for describing the educational foundation of the school and the teaching and learning strategies that will be employed as required by section 1002.33(7)(a)2., Florida Statutes. The mission and vision of the School refers to a dual language program. (App 11:10). However, the programmatic model presented does not meet the definition of a dual language program, but rather a world languages program. As the replicated school (SoMi) is from Miami Dade School District, the Miami Dade School District's description of dual language programs is instructive. The Miami Dade dual language program description is located at the following link:

(<http://bilingual.dadeschools.net/BEWL/programs.asp>), and provides in part:

The Dual Language Program is also known as two-way bilingual education instruction or bilingual immersion. It is a model that combines Developmental Bilingual Education (DBE) for language-minority students and foreign-language immersion for English-proficient students, with the added benefit of peer tutoring, seeks to enable each group to learn the other's vernacular while also meeting high academic standards.

Broadly speaking, dual language programs in Miami-Dade County Schools have developed along parallel paths, one being that of the elementary Bilingual School Organization (BISO) program, and the other

being that of the Extended Foreign Language (EFL) program. Conceptually, the elementary schools following the BISO model have tended to favor program participation by students in the school. The schools following the Extended Foreign Language have developed "school-within-a-school" variations to serve those students who are especially interested in that type of program. Both the BISO and the EFL programs have aimed toward a 60%/40% (English/Spanish) distribution of time between the two languages of instruction.

This description is also supported by research conducted by The Education Alliance out of Brown University and the National Clearinghouse for English Language Learners (NCELA).

However, contrary to the above description, the application state, "The applicant is hopeful that students will develop an understanding of cross-cultural issues and that some will choose to develop their ability to communicate in more than one language by being part of the school's language program which will require one of their electives to be in either Spanish or Mandarin. Students who are required to take intensive courses (i.e. Intensive Reading and/or Intensive Math), will lose the opportunity to select an elective course while ELL students are required to take a second ESOL course." (App 11:54). This refers to 1 class period for 1 semester in a foreign language, far less than the requirements of a dual language program. The application also refers to "bilingual, bi-literate and bi-cultural students" but never refers to curriculum content being addressed. (App.11-25). While Somerset in its appeal states it is insulted by questions about its dual language program, unfortunately Somerset misses the point. A dual language program is a specifically defined program and Somerset's application simply does not describe or meet the requirements for a dual language program. Accordingly, the application fails to accurately describe its educational model (dual language) but is actually describing a world language program.

Further, there is no clear plan of how students' acquired proficiency levels in a second language will be monitored in a school whose mission is to bilingually foster student achievement by providing a technologically innovative, and challenging environment. No

information was provided in the application regarding data reflecting content specific proficiency in the dual language program. During the applicant interview, the only information shared was that students are assessed on their knowledge of their foreign language but not in relation to how proficient they were in the content area. Since the application asserts this is a replication of a dual language program we would expect to see proficiency scores on how students did in their content subjects in their foreign language as well as in English. Without the inclusion of specific data on the rates of levels of bilingualism it was not possible to evaluate and analyze the effectiveness of the proposed replication.

Finally, the application indicates the school will provide, "A robust bilingual and culturally inquisitive curriculum aimed at the mastery of Florida Standards/NGSSS as applicable". (App 11:26). However, the dual language programming does not focus on standards related to proficiency within core content courses.

Due to the failure of this charter application to accurately describe a dual language program, the School Board was presented with clear and convincing evidence that the application failed to adequately describe its proposed educational plan, which is a statutory basis to deny the application.

IV. Conclusion

The School Board was presented with clear and convincing evidence that the application failed to meet the statutory requirements for a high performing charter school replication on several issues, and the appeal should therefore be denied. Further the date the School Board took action on the application was agreed to by Somerset, and any attempt by Somerset to assert otherwise must be rejected.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 17, 2015, a true and correct copy was furnished via FedEx. to: Kathy Schroeder, the Agency Clerk for the Department of Education, 325 West Gaines Street, Room 1520, Tallahassee, Florida 32399-0400; and Collette Papa, Esquire, 6340 Sunset Drive, Miami, Florida 33143.



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1002.331 High-performing charter schools.—

(1) A charter school is a high-performing charter school if it:

- (a) Received at least two school grades of “A” and no school grade below “B,” pursuant to s. 1008.34, during each of the previous 3 school years.
- (b) Received an unqualified opinion on each annual financial audit required under s. 218.39 in the most recent 3 fiscal years for which such audits are available.
- (c) Did not receive a financial audit that revealed one or more of the financial emergency conditions set forth in s. 218.503(1) in the most recent 3 fiscal years for which such audits are available. However, this requirement is deemed met for a charter school-in-the-workplace if there is a finding in an audit that the school has the monetary resources available to cover any reported deficiency or that the deficiency does not result in a deteriorating financial condition pursuant to s. 1002.345(1)(a)3.

A virtual charter school established under s. 1002.33 is not eligible for designation as a high-performing charter school.

(2) A high-performing charter school is authorized to:

- (a) Increase its student enrollment once per school year to more than the capacity identified in the charter, but student enrollment may not exceed the current facility capacity.
- (b) Expand grade levels within kindergarten through grade 12 to add grade levels not already served if any annual enrollment increase resulting from grade level expansion is within the limit established in paragraph (a).
- (c) Submit a quarterly, rather than a monthly, financial statement to the sponsor pursuant to s. 1002.33(9)(g).
- (d) Consolidate under a single charter the charters of multiple high-performing charter schools operated in the same school district by the charter schools’ governing board regardless of the renewal cycle.
- (e) Receive a modification of its charter to a term of 15 years or a 15-year charter renewal. The charter may be modified or renewed for a shorter term at the option of the high-performing charter school. The charter must be consistent with s. 1002.33(7)(a)19. and (10)(h) and (i), is subject to annual review by the sponsor, and may be terminated during its term pursuant to s. 1002.33(8).

A high-performing charter school shall notify its sponsor in writing by March 1 if it intends to increase enrollment or expand grade levels the following school year. The written notice shall specify the amount of the enrollment increase and the grade levels that will be added, as applicable. If a charter school notifies the sponsor of its intent to expand, the sponsor shall modify the charter within 90 days to include the new enrollment maximum and may not make any other changes. The sponsor may deny a request to increase the enrollment of a high-performing charter school if the commissioner has declassified the charter school as high-performing. If a high-performing charter school requests to consolidate multiple charters, the sponsor shall have 40 days after receipt of that request to provide an initial draft charter to the charter school. The sponsor and charter school shall have 50 days thereafter to negotiate and notice the charter contract for final approval by the sponsor.

(3)(a) A high-performing charter school may submit an application pursuant to s. 1002.33(6) in any school district in the state to establish and operate a new charter school that will substantially replicate its educational program. An application submitted by a high-performing charter school must state that the application is being submitted pursuant to this paragraph and must include the verification letter provided by the Commissioner of Education pursuant to subsection (5). If the sponsor fails to act on the application within 60 days after receipt, the application is deemed approved and the procedure in s. 1002.33(6)(h) applies. If the sponsor denies the application, the high-performing charter school may appeal pursuant to s. 1002.33(6).

(b) A high-performing charter school may not establish more than one charter school within the state under paragraph (a) in any year. A subsequent application to establish a charter school under paragraph (a) may not be submitted unless each charter school established in this manner achieves high-performing charter school status.

(4) A high-performing charter school may not increase enrollment or expand grade levels following any school year in which it receives a school grade of “C” or below. If the charter school receives a school grade of “C” or below in any 2 years during the term of the charter awarded under subsection (2), the term of the charter may be modified by the sponsor and the charter school loses its high-performing charter school status until it regains that status under subsection (1).

(5) The Commissioner of Education, upon request by a charter school, shall verify that the charter school meets the criteria in subsection (1) and provide a letter to the charter school and the sponsor stating that the charter school is a high-performing charter school pursuant to this section. The commissioner shall annually determine whether a high-performing charter school under subsection (1) continues to meet the criteria in that subsection. Such high-performing charter school shall maintain its high-performing status unless the commissioner determines that the charter school no longer meets the criteria in subsection (1), at which time the commissioner shall send a letter providing notification of its declassification as a high-performing charter school.

(6) A high-performing charter school replicated under this section may not be replicated as a virtual charter school.

(9) CHARTER SCHOOL REQUIREMENTS.—

- (a) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.
- (b) A charter school shall admit students as provided in subsection (10).
- (c) A charter school shall be accountable to its sponsor for performance as provided in subsection (7).
- (d) A charter school shall not charge tuition or registration fees, except those fees normally charged by other public schools. However, a charter lab school may charge a student activity and service fee as authorized by s. 1002.32(5).
- (e) A charter school shall meet all applicable state and local health, safety, and civil rights requirements.
- (f) A charter school shall not violate the antidiscrimination provisions of s. 1000.05.

(g)1. In order to provide financial information that is comparable to that reported for other public schools, charter schools are to maintain all financial records that constitute their accounting system:

- a. In accordance with the accounts and codes prescribed in the most recent issuance of the publication titled “Financial and Program Cost Accounting and Reporting for Florida Schools”; or
- b. At the discretion of the charter school’s governing board, a charter school may elect to follow generally accepted accounting standards for not-for-profit organizations, but must reformat this information for reporting according to this paragraph.

2. Charter schools shall provide annual financial report and program cost report information in the state-required formats for inclusion in district reporting in compliance with s. 1011.60(1). Charter schools that are operated by a municipality or are a component unit of a parent nonprofit organization may use the accounting system of the municipality or the parent but must reformat this information for reporting according to this paragraph.

3. A charter school shall provide the sponsor with a concise, uniform, monthly financial statement summary sheet that contains a balance sheet and a statement of revenue, expenditures, and changes in fund balance. The balance sheet and the statement of revenue, expenditures, and changes in fund balance shall be in the governmental funds format prescribed by the Governmental Accounting Standards Board. A high-performing charter school pursuant to s. 1002.331 may provide a quarterly financial statement in the same format and requirements as the uniform monthly financial statement summary sheet.

4. A charter school shall maintain and provide financial information as required in this paragraph. The financial statement required in subparagraph 3. must be in a form prescribed by the Department of Education.

(h) The governing board of the charter school shall annually adopt and maintain an operating budget.

(i) The governing body of the charter school shall exercise continuing oversight over charter school operations.

(j) The governing body of the charter school shall be responsible for:

1. Ensuring that the charter school has retained the services of a certified public accountant or auditor for the annual financial audit, pursuant to s. 1002.345(2), who shall submit the report to the governing body.

2. Reviewing and approving the audit report, including audit findings and recommendations for the financial recovery plan.

3.a. Performing the duties in s. 1002.345, including monitoring a corrective action plan.

b. Monitoring a financial recovery plan in order to ensure compliance.

4. Participating in governance training approved by the department which must include government in the sunshine, conflicts of interest, ethics, and financial responsibility.

(k) The governing body of the charter school shall report its progress annually to its sponsor, which shall forward the report to the Commissioner of Education at the same time as other annual school accountability reports. The Department of Education shall develop a uniform, online annual accountability report to be completed by charter schools. This report shall be easy to utilize and contain demographic information, student performance data, and financial accountability information. A charter school shall not be required to provide information and data that is duplicative and already in the possession of the department. The Department of Education shall include in its compilation a notation if a

school failed to file its report by the deadline established by the department. The report shall include at least the following components:

1. Student achievement performance data, including the information required for the annual school report and the education accountability system governed by ss. 1008.31 and 1008.345. Charter schools are subject to the same accountability requirements as other public schools, including reports of student achievement information that links baseline student data to the school's performance projections identified in the charter. The charter school shall identify reasons for any difference between projected and actual student performance.
2. Financial status of the charter school which must include revenues and expenditures at a level of detail that allows for analysis of the charter school's ability to meet financial obligations and timely repayment of debt.
3. Documentation of the facilities in current use and any planned facilities for use by the charter school for instruction of students, administrative functions, or investment purposes.
4. Descriptive information about the charter school's personnel, including salary and benefit levels of charter school employees, the proportion of instructional personnel who hold professional or temporary certificates, and the proportion of instructional personnel teaching in-field or out-of-field.
 - (l) A charter school shall not levy taxes or issue bonds secured by tax revenues.
 - (m) A charter school shall provide instruction for at least the number of days required by law for other public schools and may provide instruction for additional days.
 - (n)1. The director and a representative of the governing board of a charter school that has earned a grade of "D" or "F" pursuant to s. 1008.34 shall appear before the sponsor to present information concerning each contract component having noted deficiencies. The director and a representative of the governing board shall submit to the sponsor for approval a school improvement plan to raise student performance. Upon approval by the sponsor, the charter school shall begin implementation of the school improvement plan. The department shall offer technical assistance and training to the charter school and its governing board and establish guidelines for developing, submitting, and approving such plans.
 - 2.a. If a charter school earns three consecutive grades of "D," two consecutive grades of "D," followed by a grade of "F," or two nonconsecutive grades of "F" within a 3-year period, the charter school governing board shall choose one of the following corrective actions:
 - (I) Contract for educational services to be provided directly to students, instructional personnel, and school administrators, as prescribed in state board rule;
 - (II) Contract with an outside entity that has a demonstrated record of effectiveness to operate the school;
 - (III) Reorganize the school under a new director or principal who is authorized to hire new staff; or
 - (IV) Voluntarily close the charter school.
 - b. The charter school must implement the corrective action in the school year following receipt of a third consecutive grade of "D," a grade of "F" following two consecutive grades of "D," or a second nonconsecutive grade of "F" within a 3-year period.
 - c. The sponsor may annually waive a corrective action if it determines that the charter school is likely to improve a letter grade if additional time is provided to implement the intervention and support strategies prescribed by the school improvement plan. Notwithstanding this sub-subparagraph, a charter school that earns a second consecutive grade of "F" is subject to subparagraph 4.
 - d. A charter school is no longer required to implement a corrective action if it improves by at least one letter grade. However, the charter school must continue to implement strategies identified in the school improvement plan. The sponsor must annually review implementation of the school improvement plan to monitor the school's continued improvement pursuant to subparagraph 5.
 - e. A charter school implementing a corrective action that does not improve by at least one letter grade after 2 full school years of implementing the corrective action must select a different corrective action. Implementation of the new corrective action must begin in the school year following the implementation period of the existing corrective action, unless the sponsor determines that the charter school is likely to improve a letter grade if additional time is provided to implement the existing corrective action.

Notwithstanding this sub-subparagraph, a charter school that earns a second consecutive grade of “F” while implementing a corrective action is subject to subparagraph 4.

3. A charter school with a grade of “D” or “F” that improves by at least one letter grade must continue to implement the strategies identified in the school improvement plan. The sponsor must annually review implementation of the school improvement plan to monitor the school’s continued improvement pursuant to subparagraph 5.

4. The sponsor shall terminate a charter if the charter school earns two consecutive grades of “F” unless:

a. The charter school is established to turn around the performance of a district public school pursuant to s. 1008.33(4)(b)3. Such charter schools shall be governed by s. 1008.33;

b. The charter school serves a student population the majority of which resides in a school zone served by a district public school that earned a grade of “F” in the year before the charter school opened and the charter school earns at least a grade of “D” in its third year of operation. The exception provided under this sub-subparagraph does not apply to a charter school in its fourth year of operation and thereafter; or

c. The state board grants the charter school a waiver of termination. The charter school must request the waiver within 15 days after the department’s official release of school grades. The state board may waive termination if the charter school demonstrates that the Learning Gains of its students on statewide assessments are comparable to or better than the Learning Gains of similarly situated students enrolled in nearby district public schools. The waiver is valid for 1 year and may only be granted once. Charter schools that have been in operation for more than 5 years are not eligible for a waiver under this sub-subparagraph.

5. The director and a representative of the governing board of a graded charter school that has implemented a school improvement plan under this paragraph shall appear before the sponsor at least once a year to present information regarding the progress of intervention and support strategies implemented by the school pursuant to the school improvement plan and corrective actions, if applicable. The sponsor shall communicate at the meeting, and in writing to the director, the services provided to the school to help the school address its deficiencies.

6. Notwithstanding any provision of this paragraph except sub-subparagraphs 4.a.-c., the sponsor may terminate the charter at any time pursuant to subsection (8).

(o)1. Upon initial notification of nonrenewal, closure, or termination of its charter, a charter school may not expend more than \$10,000 per expenditure without prior written approval from the sponsor unless such expenditure was included within the annual budget submitted to the sponsor pursuant to the charter contract, is for reasonable attorney fees and costs during the pendency of any appeal, or is for reasonable fees and costs to conduct an independent audit.

2. An independent audit shall be completed within 30 days after notice of nonrenewal, closure, or termination to account for all public funds and assets.

3. A provision in a charter contract that contains an acceleration clause requiring the expenditure of funds based upon closure or upon notification of nonrenewal or termination is void and unenforceable.

4. A charter school may not enter into a contract with an employee that exceeds the term of the school’s charter contract with its sponsor.

5. A violation of this paragraph triggers a reversion or clawback power by the sponsor allowing for collection of an amount equal to or less than the accelerated amount that exceeds normal expenditures. The reversion or clawback plus legal fees and costs shall be levied against the person or entity receiving the accelerated amount.

(p) Each charter school shall maintain a website that enables the public to obtain information regarding the school; the school’s academic performance; the names of the governing board members; the programs at the school; any management companies, service providers, or education management corporations associated with the school; the school’s annual budget and its annual independent fiscal audit; the school’s grade pursuant to s. 1008.34; and, on a quarterly basis, the minutes of governing board meetings.

(q) The charter school principal or the principal’s designee shall immediately notify the parent of a student who is removed from school, school transportation, or a school-sponsored activity and taken to a receiving facility for an involuntary examination pursuant to s. 394.463. The principal or the principal’s

designee may delay notification for no more than 24 hours after the student is removed if the principal or designee deems the delay to be in the student's best interest and if a report has been submitted to the central abuse hotline, pursuant to s. 39.201, based upon knowledge or suspicion of abuse, abandonment, or neglect. Each charter school governing board shall develop a policy and procedures for notification under this paragraph.

- 6) APPLICATION PROCESS AND REVIEW.—Charter school applications are subject to the following requirements:
- (a) A person or entity wishing to open a charter school shall prepare and submit an application on a model application form prepared by the Department of Education which:
 1. Demonstrates how the school will use the guiding principles and meet the statutorily defined purpose of a charter school.
 2. Provides a detailed curriculum plan that illustrates how students will be provided services to attain the Sunshine State Standards.
 3. Contains goals and objectives for improving student learning and measuring that improvement. These goals and objectives must indicate how much academic improvement students are expected to show each year, how success will be evaluated, and the specific results to be attained through instruction.
 4. Describes the reading curriculum and differentiated strategies that will be used for students reading at grade level or higher and a separate curriculum and strategies for students who are reading below grade level. A sponsor shall deny a charter if the school does not propose a reading curriculum that is consistent with effective teaching strategies that are grounded in scientifically based reading research.
 5. Contains an annual financial plan for each year requested by the charter for operation of the school for up to 5 years. This plan must contain anticipated fund balances based on revenue projections, a spending plan based on projected revenues and expenses, and a description of controls that will safeguard finances and projected enrollment trends.
 6. Contains additional information a sponsor may require, which shall be attached as an addendum to the charter school application described in this paragraph.
 7. For the establishment of a virtual charter school, documents that the applicant has contracted with a provider of virtual instruction services pursuant to s. 1002.45(1)(d).
 - (b) A sponsor shall receive and review all applications for a charter school using an evaluation instrument developed by the Department of Education. A sponsor shall receive and consider charter school applications received on or before August 1 of each calendar year for charter schools to be opened at the beginning of the school district's next school year, or to be opened at a time agreed to by the applicant and the sponsor. A sponsor may not refuse to receive a charter school application submitted before August 1 and may receive an application submitted later than August 1 if it chooses. In order to facilitate greater collaboration in the application process, an applicant may submit a draft charter school application on or before May 1 with an application fee of \$500. If a draft application is timely submitted, the sponsor shall review and provide feedback as to material deficiencies in the application by July 1. The applicant shall then have until August 1 to resubmit a revised and final application. The sponsor may approve the draft application. A sponsor may not charge an applicant for a charter any fee for the processing or consideration of an application, and a sponsor may not base its consideration or approval of a final application upon the promise of future payment of any kind. Before approving or denying any final application, the sponsor shall allow the applicant, upon receipt of written notification, at least 7 calendar days to make technical or nonsubstantive corrections and clarifications, including, but not limited to, corrections of grammatical, typographical, and like errors or missing signatures, if such errors are identified by the sponsor as cause to deny the final application.
 1. In order to facilitate an accurate budget projection process, a sponsor shall be held harmless for FTE students who are not included in the FTE projection due to approval of charter school applications after the FTE projection deadline. In a further effort to facilitate an accurate budget projection, within 15 calendar days after receipt of a charter school application, a sponsor shall report to the Department of Education the name of the applicant entity, the proposed charter school location, and its projected FTE.
 2. In order to ensure fiscal responsibility, an application for a charter school shall include a full accounting of expected assets, a projection of expected sources and amounts of income, including income derived from projected student enrollments and from community support, and an expense projection that includes full accounting of the costs of operation, including start-up costs.
 - 3.a. A sponsor shall by a majority vote approve or deny an application no later than 60 calendar days after the application is received, unless the sponsor and the applicant mutually agree in writing to

temporarily postpone the vote to a specific date, at which time the sponsor shall by a majority vote approve or deny the application. If the sponsor fails to act on the application, an applicant may appeal to the State Board of Education as provided in paragraph (c). If an application is denied, the sponsor shall, within 10 calendar days after such denial, articulate in writing the specific reasons, based upon good cause, supporting its denial of the charter application and shall provide the letter of denial and supporting documentation to the applicant and to the Department of Education.

b. An application submitted by a high-performing charter school identified pursuant to s. 1002.331 may be denied by the sponsor only if the sponsor demonstrates by clear and convincing evidence that:

(I) The application does not materially comply with the requirements in paragraph (a);

(II) The charter school proposed in the application does not materially comply with the requirements in paragraphs (9)(a)-(f);

(III) The proposed charter school's educational program does not substantially replicate that of the applicant or one of the applicant's high-performing charter schools;

(IV) The applicant has made a material misrepresentation or false statement or concealed an essential or material fact during the application process; or

(V) The proposed charter school's educational program and financial management practices do not materially comply with the requirements of this section.

Material noncompliance is a failure to follow requirements or a violation of prohibitions applicable to charter school applications, which failure is quantitatively or qualitatively significant either individually or when aggregated with other noncompliance. An applicant is considered to be replicating a high-performing charter school if the proposed school is substantially similar to at least one of the applicant's high-performing charter schools and the organization or individuals involved in the establishment and operation of the proposed school are significantly involved in the operation of replicated schools.

c. If the sponsor denies an application submitted by a high-performing charter school, the sponsor must, within 10 calendar days after such denial, state in writing the specific reasons, based upon the criteria in sub-subparagraph b., supporting its denial of the application and must provide the letter of denial and supporting documentation to the applicant and to the Department of Education. The applicant may appeal the sponsor's denial of the application directly to the State Board of Education pursuant to sub-subparagraph (c)3.b.

4. For budget projection purposes, the sponsor shall report to the Department of Education the approval or denial of a charter application within 10 calendar days after such approval or denial. In the event of approval, the report to the Department of Education shall include the final projected FTE for the approved charter school.

5. Upon approval of a charter application, the initial startup shall commence with the beginning of the public school calendar for the district in which the charter is granted unless the sponsor allows a waiver of this subparagraph for good cause.

(c)1. 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 sponsor's decision or failure to act and shall notify the sponsor of its appeal. Any response of the sponsor 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 at least 7 calendar days before the date on which the appeal is to be heard. An appeal regarding the denial of an application submitted by a high-performing charter school pursuant to s. 1002.331 shall be conducted by the State Board of Education in accordance with this paragraph, except that the commission shall not convene to make recommendations regarding the appeal. However, the Commissioner of Education shall review the appeal and make a recommendation to the state board.

2. The Charter School Appeal Commission or, in the case of an appeal regarding an application submitted by a high-performing charter school, the State Board of Education 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 shall have 15 calendar days after notice of rejection in which to resubmit an appeal that meets the requirements set forth in State Board of Education rule. An appeal submitted subsequent to such rejection is considered timely if the original appeal was filed within 30 calendar days after receipt of notice of the specific reasons for the sponsor's denial of the charter application.

3.a. The State Board of Education shall by majority vote accept or reject the decision of the sponsor no later than 90 calendar days after an appeal is filed in accordance with State Board of Education rule. The State Board of Education shall remand the application to the sponsor with its written decision that the sponsor approve or deny the application. The sponsor 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.

b. If an appeal concerns an application submitted by a high-performing charter school identified pursuant to s. 1002.331, the State Board of Education shall determine whether the sponsor has shown, by clear and convincing evidence, that:

(I) The application does not materially comply with the requirements in paragraph (a);

(II) The charter school proposed in the application does not materially comply with the requirements in paragraphs (9)(a)-(f);

(III) The proposed charter school's educational program does not substantially replicate that of the applicant or one of the applicant's high-performing charter schools;

(IV) The applicant has made a material misrepresentation or false statement or concealed an essential or material fact during the application process; or

(V) The proposed charter school's educational program and financial management practices do not materially comply with the requirements of this section.

The State Board of Education shall approve or reject the sponsor's denial of an application no later than 90 calendar days after an appeal is filed in accordance with State Board of Education rule. The State Board of Education shall remand the application to the sponsor with its written decision that the sponsor approve or deny the application. The sponsor shall implement the decision of the State Board of Education. The decision of the State Board of Education is not subject to the Administrative Procedure Act, chapter 120.

(d) The sponsor shall act upon the decision of the State Board of Education within 30 calendar days after it is received. The State Board of Education's decision is a final action subject to judicial review in the district court of appeal.

(e)1. A Charter School Appeal Commission is established to assist the commissioner and the State Board of Education with a fair and impartial review of appeals by applicants whose charter applications have been denied, whose charter contracts have not been renewed, or whose charter contracts have been terminated by their sponsors.

2. The Charter School Appeal Commission may receive copies of the appeal documents forwarded to the State Board of Education, review the documents, gather other applicable information regarding the appeal, and make a written recommendation to the commissioner. The recommendation must state whether the appeal should be upheld or denied and include the reasons for the recommendation being offered. The commissioner shall forward the recommendation to the State Board of Education no later than 7 calendar days prior to the date on which the appeal is to be heard. The state board must consider the commission's recommendation in making its decision, but is not bound by the recommendation. The decision of the Charter School Appeal Commission is not subject to the provisions of the Administrative Procedure Act, chapter 120.

3. The commissioner shall appoint a number of members to the Charter School Appeal Commission sufficient to ensure that no potential conflict of interest exists for any commission appeal decision. Members shall serve without compensation but may be reimbursed for travel and per diem expenses in conjunction with their service. Of the members hearing the appeal, one-half must represent currently operating charter schools and one-half must represent sponsors. The commissioner or a named designee shall chair the Charter School Appeal Commission.

4. The chair shall convene meetings of the commission and shall ensure that the written recommendations are completed and forwarded in a timely manner. In cases where the commission cannot reach a decision, the chair shall make the written recommendation with justification, noting that the decision was rendered by the chair.

5. Commission members shall thoroughly review the materials presented to them from the appellant and the sponsor. The commission may request information to clarify the documentation presented to it. In the course of its review, the commission may facilitate the postponement of an appeal in those cases where additional time and communication may negate the need for a formal appeal and both parties agree, in writing, to postpone the appeal to the State Board of Education. A new date certain for the appeal shall then be set based upon the rules and procedures of the State Board of Education. Commission members shall provide a written recommendation to the state board as to whether the appeal should be upheld or denied. A fact-based justification for the recommendation must be included. The chair must ensure that the written recommendation is submitted to the State Board of Education members no later than 7 calendar days prior to the date on which the appeal is to be heard. Both parties in the case shall also be provided a copy of the recommendation.

(f)1. The Department of Education shall provide or arrange for training and technical assistance to charter schools in developing and adjusting business plans and accounting for costs and income. Training and technical assistance shall also address, at a minimum, state and federal grant and student performance accountability reporting requirements and provide assistance in identifying and applying for the types and amounts of state and federal financial assistance the charter school may be eligible to receive. The department may provide other technical assistance to an applicant upon written request.

2. A charter school applicant must participate in the training provided by the Department of Education after approval of an application but at least 30 calendar days before the first day of classes at the charter school. However, a sponsor may require the charter school applicant to attend training provided by the sponsor in lieu of the department's training if the sponsor's training standards meet or exceed the standards developed by the department. In such case, the sponsor may not require the charter school applicant to attend the training within 30 calendar days before the first day of classes at the charter school. The training must include instruction in accurate financial planning and good business practices. If the applicant is a management company or a nonprofit organization, the charter school principal and the chief financial officer or his or her equivalent must also participate in the training. A sponsor may not require a high-performing charter school or high-performing charter school system applicant to participate in the training described in this subparagraph more than once.

(g) In considering charter applications for a lab school, a state university shall consult with the district school board of the county in which the lab school is located. The decision of a state university may be appealed pursuant to the procedure established in this subsection.

(h) The terms and conditions for the operation of a charter school shall be set forth by the sponsor and the applicant in a written contractual agreement, called a charter. The sponsor may not impose unreasonable rules or regulations that violate the intent of giving charter schools greater flexibility to meet educational goals. The sponsor has 30 days after approval of the application to provide an initial proposed charter contract to the charter school. The applicant and the sponsor have 40 days thereafter to negotiate and notice the charter contract for final approval by the sponsor unless both parties agree to an extension. The proposed charter contract shall be provided to the charter school at least 7 calendar days prior to the date of the meeting at which the charter is scheduled to be voted upon by the sponsor. The Department of Education shall provide mediation services for any dispute regarding this section

subsequent to the approval of a charter application and for any dispute relating to the approved charter, except disputes regarding charter school application denials. If the Commissioner of Education determines that the dispute cannot be settled through mediation, the dispute may be appealed to an administrative law judge appointed by the Division of Administrative Hearings. The administrative law judge has final order authority to rule on issues of equitable treatment of the charter school as a public school, whether proposed provisions of the charter violate the intended flexibility granted charter schools by statute, or on any other matter regarding this section except a charter school application denial, a charter termination, or a charter nonrenewal and shall award the prevailing party reasonable attorney's fees and costs incurred to be paid by the losing party. The costs of the administrative hearing shall be paid by the party whom the administrative law judge rules against.

STATE BOARD OF EDUCATION

Action Item

February 18, 2016

SUBJECT: Somerset Academy, Inc., Somerset Academy Vero Beach vs. School Board of Indian River County

PROPOSED BOARD ACTION

Determine Jurisdiction of the Appeal

Grant or Deny the Charter School Appeal

AUTHORITY FOR STATE BOARD ACTION

Sections 1002.33, and 1002.331, Florida statutes

EXECUTIVE SUMMARY

This is a high performing replication appeal by Somerset Academy, Inc., of the decision of the School Board of Indian River County to deny the charter replication application of Somerset Academy School.

ISSUES:

Whether the School Board had good cause to deny the application based on the Charter School's failure to comply with the provisions of Sections 1002.33 and 1002.331, Florida Statutes.

STANDARD OF REVIEW: Clear and convincing evidence

The School Board's determination must be based on good cause. The standard by which the State Board is to review the School Board's decision is whether the School Board had clear and convincing evidence to make that determination. The question, therefore, is whether the School Board had clear and convincing evidence (highly probable or reasonably certain) that the application for a High Performing Charter School does not materially comply with statutory requirements of Section 1002.33, Florida Statutes. If so, the School Board's decision must be upheld.

Supporting Documentation Included: Legal Description of Appeal Process; Procedural History; Historical Information; Appeal of Charter School; Response of District; Portions of Sections 1002.33 and 1002.331, Florida Statutes. Full [appeal](#) and [response](#) (under separate cover)

Facilitator/Presenter: Adam Miller, Executive Director, Office of Independent Education & Parental Choice

Legal Description of Appeal Process and Standard of Review:

Issue: Whether the School Board has met their burden to prove with clear and convincing evidence (i.e. highly probable or reasonably certain) that the application for a High Performing Charter School does not materially comply with the statutory requirements of section 1002.33(6)(c)3.b., Florida Statutes.

The State Board of Education will consider the appeal of a High Performing Charter School to replicate an existing High Performing Charter School which has received at least two school grades of “A” and no school grade below “B” during each of the previous three school years. The Charter School Appeal Commission does not provide a nonbinding recommendation and is not involved in the High Performing Charter School appeal process.

The School Board, not the applicant, in such cases, has the burden of proof to show material noncompliance, which is defined as a failure to follow requirements or a violation of prohibitions applicable to charter school applications. The failure must be quantitatively or qualitatively significant either individually or when aggregated with other noncompliance.

The State Board of Education shall issue a written decision that the School Board either approve or deny the application. The State Board’s decision is a final action subject to judicial review in the district court of appeal.

Procedural History – Somerset Academy

July 31, 2015 – Somerset application submitted (60 days from this date is September 29, 2015)

August 18, 2015 – Sponsor sent a Charter School Application Timeline to Somerset scheduling School Board vote on October 6, 2015

August 31, 2015 – District email to Somerset with revised schedule attached

August 31, 2015 – Somerset email to District requesting a delay of the interview date

September 1, 2015 – Email from District to Somerset with new schedule attached scheduling interview on September 15 and School Board Meeting on October 13, 2015

September 1, 2015 – Somerset responded to District, “This is great. Thank you very much and we look forward to the 15th.”

September 1, 2015 – District responded to Somerset, “Wonderful. I will let the Review Team know that our revised schedule will work for both parties. Looking forward to seeing you on the 15th.”

Somerset Academy Vero Beach vs. School District of Indian River County

Historical Information

The following table provides academic and financial performance data for Somerset Academy Elementary School South Miami Campus (13-2007) which is the high-performing charter school to be replicated (designated as high performing on September 5, 2013).

	School Grade	Enrollment	% Minority - %FRL	Unassigned Fund Balance
2010-11	A	425	79% - 14%	\$402,182
2011-12	A	456	85% - 14%	\$504,433
2012-13	A	476	87% - 15%	\$589,933
2013-14	A	457	89% - 16%	\$897,039
2014-15	A*	451	89% - 15%	\$1,172,930

* Simulated School Grade

Before the Florida State Board of Education

In re: Denial of Somerset Academy Vero Beach
High Performing Replication Application 2015

Notice of Appeal

Somerset Academy, Inc.,
APPLICANT/APPELLANT

v.

School District of Indian River County,
APPELLEE

I. Names and Addresses of Parties

Appellant:

Somerset Academy, Inc.
David Concepcion, Board Chair
Bernardo Montero, President
6340 Sunset Drive
Miami, FL 33143

Counsel for Appellant:

Collette D. Papa, Esq.
6340 Sunset Drive
Miami, FL 33143
Telephone: 305-669-2906

School Board:

School District of Indian River County
Mark J. Rendell
Superintendent
1990 25th Street
Vero Beach, FL 32960

Counsel for School Board:

Suzanne D'Agresta, Esq.
School Board Attorney

1990 25th Street
Vero Beach, FL 32960

Date of Action:

October 13, 2015

Date of Denial Letter:

October 18, 2015

Receipt of Denial Letter:

October 21, 2015

JURISDICTION.: Somerset Academy Inc. (the "Applicant") filed a new charter school application for Somerset Academy Vero Beach (the "School") with the School District of Indian River County (the "District" or "Sponsor") on July 31, 2015. The Charter School Application submitted by Somerset Academy Inc., was submitted as a replication of Somerset Academy South Miami (SoMi), a verified high-performing charter school. Pursuant to 1002.331, (3)(a), a high-performing charter school may submit an application pursuant to s. 1002.33(6) in any school district in the state to establish and operate a new charter school that will substantially replicate its educational program. An application submitted by a high-performing charter school must state the application is being submitted pursuant to this paragraph and must include the verification letter provided by the Commissioner of Education pursuant to subsection (5).

Pages 1-9; 27-29 of the Application detail the high-performing status of Somerset Academy. It is clearly stated that the current application is being submitted by Somerset Academy pursuant to 1002.331 to establish and operate a new charter school that will substantially replicate the SoMi educational program (App, 1). The next several pages of the application are dedicated to an in-depth review of Somerset Academy's qualifications as a high-performing charter and how the proposed school will replicate an existing school design (App, 1-9).

Pursuant to F.S. 1002.33(6)(b)3.a., "A sponsor shall by a majority vote approve or deny an application no later than 60 calendar days after the application is received, unless the sponsor and the applicant mutually agree in writing to temporarily postpone the vote to a specific date." At no time (neither prior to the application's submission, nor concurrent to the submittal of the application, nor during the review process) did Applicant ever agree in writing to postpone the vote on the application to a specific date. The first correspondence received by Applicant from Sponsor, attached hereto as Exhibit 5, was sent on Wednesday, August 5, 2015, and acknowledges receipt of the application as of Friday, July 31, 2015. Sponsor makes no request to postpone the vote on the application, and does not ask if Applicant will agree to a waiver of the 60-day statutory review period as is common-practice in many other Sponsoring Districts in this state (see Ex. 5-1). Absent written mutual agreement to postpone the vote on the application, Sponsor's 60-day review period expired on September 29, 2015. In its correspondence to Applicant on August 18, 2015, Sponsor included a "Charter School Application Timeline" as an attachment, and states that "we truly only have the 60 days this year," indicating to Applicant that Sponsor is taking action on the Application within the 60-day statutory review period," (EX. 5-2). Sponsor goes on to say, "[w]e (Sponsor) have scheduled...sessions as follows," and lists several meetings at which it "hope[s] representatives from Somerset can attend," (EX. 5-2) Looking at

Sponsor's Initial Timeline, it is clearly seen that the School Board meeting to vote on the application was scheduled for October 6, 2015, a full 7 days past the expiration of Sponsors review period for this application. Of particular importance, is Sponsor's continuing failure to request or obtain written mutual agreement to postpone the vote on the application. Statements made by Sponsor indicate Sponsor is adhering to the 60-day review period and Applicant relied on these statements. It is also clear that Sponsor had no intention to act on the application within the statutory period. It is less clear why Sponsor did not request or obtain agreement to postpone the vote to a specific date. Sponsor will argue that they obtained consent through later electronic correspondence with representatives of Applicant and did so by attaching a revised Charter School Application Timeline which changes the date of the School Board meeting to October 13, 2015. In correspondence sent to Applicant on August 28, and due to a pending storm, Sponsor unilaterally changed the dates of the meeting schedule and rescheduled the interviews. Sponsor does not request a waiver of the 60-day review period or obtain agreement to postpone the vote to a later (specific) date. IN correspondence sent to Applicant on August 31, Sponsor attaches a revised schedule for Applicant's "review and approval", (Ex. 5-6). Though Applicant responds to questions specifically regarding the interview dates, and in correspondence to the Sponsor on September 1, confirms in writing Applicants assent to the 15th as an Interview date, Applicant never acknowledges receipt of the revised schedule, and never "approves" it, (5-7). The statute is clear that the application must be reviewed within the 60-day timeframe, "unless sponsor and the applicant mutually agree in writing to temporarily postpone the vote to a specific date." Pursuant to § 1002.331(3)(a), where the sponsor fails to act on a high-performing charter school application within 60 days after receipt (emphasis supplied), the application is deemed approved and the procedure governing the issuance of charter contracts (Section 1002.33(6)(h) F.S.) applies. Sponsor failed to obtain agreement from Applicant to exceed the 60-day statutory review period, and thus the application is deemed approved. After reviewing the record on appeal, it is Applicant's position that the failure of the District to act on Somerset Academy's high-performing application within the required 60-day statutory deadline resulted in approval of the application on September 29, 2015 by operation of Florida Law. Sponsors subsequent remedial measure to act on the application by denying the application on October 13, 2015, a full two weeks past the 60-day deadline, is void and ineffective, and could not operate to reverse the approval of an application which, by law, was already deemed approved. For the reasons set forth herein, we respectfully request that the State Board remand the application to the School District of Indian River County with instructions that the high-performing charter school application is deemed approved since the 60-day time period for review has lapsed, and with further instructions to immediately issue and

approve a Charter contract for Somerset Academy's high-performing charter school without further delay as same is presently overdue to the school. Since this is a high performing appeal which was not reviewed in the applicable review period, the application is deemed approved and the statute does not provide for an appeal to the State Board of Education. In the alternative, and in order to preserve its appellate rights, Applicant addresses the merits of the Sponsor's subsequent remedial denial:

The Application ("App") submitted by Somerset, (the "Applicant"), pursuant to Sections 1002.331(3)(a); 1002.33(6)(b)3.b., F.S., is a replication of Somerset Academy Elementary School South Miami (# 2007), a high-performing charter school ("SoMi"). Pages 1-9 and 27-29 of the App details the high-performing status of Somerset, and the system's ability to effectuate this replication. It is clear the App is submitted by Somerset pursuant to 1002.331 to establish and operate a new charter school which will substantially replicate Somerset's educational program, specifically, the existing Somi. (App, 1). 9 pages of the App are dedicated to review of Somerset's high-performing qualifications, and how Applicant replicates the existing school design. (App, 1-9). Sec 1002.331, F.S. states: "An applicant is considered to be replicating a high-performing charter school if the proposed school is substantially similar to at least one of the applicant's high-performing charter schools and the organization or individuals involved in the establishment and operation of the proposed school are significantly involved in the operation of replicated schools."

The App bases the proposed school's replication on substantial similarities in several areas including educational model and governance by the same organization. Somi is co-located on the same property as Somerset's high-performing middle School. The proposed school will be an elementary school co-located on the same campus as the proposed Somerset middle school. A substantial replication is not a carbon copy, nor should it be. The 5th DCA held: "[T]o be 'substantially similar' within the meaning of Florida Statutes, a charter school must have the same characteristics and be alike in substance or essentials to the school it is replicating."¹ The proposed school is substantially similar to the existing school in that the proposed school consists of the essential characteristics of the existing school, and is alike in substance/important concepts to the existing school. Throughout App, and the Interview, Applicant discusses replication of SoMi, highlighting characteristics of the proposed school and the shared similarities, (See App at 2, 1-5, 10, 13, 14, 20-28, 30-32.) Strategies for replication of the existing school, including: the same research-based educational concepts; the same curriculum as the existing program; adopting and implementing common policies and procedures as the existing program, are documented throughout the App and the Interview, (See App, at 3-5, 10-11, 13, 16, 22-25, 27-29, 29-30; See Also Interview at 29-31). Applicant details additional strategies for

replication of Somi's design including the following: Sections of the App: 3, implementing the same core values and beliefs as Somi and its existing programs; 9 and 11, utilizing team of experts with ownership of Somerset educational program as consultants to continuously provide training; 8, adopted uniform/common Somerset expectations of student behavior and parental involvement; 18, policies for financial management and oversight used at Somi and ALL Somerset's, (App, 4,27). This evidences Applicant's substantial similarity to Somi. Applicant includes detailed and specific evidence of proposed school's replication methods of SoMi's educational design and Somerset's model, (App, 1-9). Applicant states its commitment to work with administration and staff of SoMi to align and mirror all areas including: Somerset Reading Coach PLC Dialogues, Math and Science PLC Dialogues, the school instructional calendar (so long as it aligns with SDIRC's requirements), educational trainings and PDs, parent nights, newsletter, extra-curricular activities, character education program and curriculum, etc., (App, 2). Applicant includes further evidence of replication of the educational design of SoMi's and Somerset's brand by committing to maintain Somerset's underlying purpose of Academic Excellence with a push towards Secondary (and even College and Career) Readiness, with "push and pull", unique to SoMi and Somerset schools, (App, 2). The proposed school will replicate SoMi's commitment to develop bilingual students who are culturally aware, pluralistic and thereby have a global edge, (App, 2). As stated, the proposed school will feature technology-rich classrooms, be staffed with highly qualified teachers, and provide an environment where students will acquire skills essential to their future development, just as SoMi does. In addition, Applicant includes the following commitments in order to demonstrate replication of SoMi's educational program: Involve SoMi's leadership team in the App and planning processes of the school; Assign administrator or designated representative from SoMi as a mentor to proposed school principal, to assist with planning and program implementation; Appoint SoMi administrator to interview committee that will select the proposed school principal; Guarantee proposed school will meet all five AdvancEd/Southern Association Colleges and Schools-Council on Accreditation and School Improvement (SACS-CASI) Standards for schools; and Ensure support is provided from not only the replicated school but also from all Somerset schools within the entire network, (App, 3). As stated in the Application and in the Interview, Applicant will implement best practices and curriculum at SoMi to ensure complete replication and continuity, however, will align these best practices with the requirements and curriculum of the Sponsor to ensure a smooth transition for students, meet the needs of the community, comply with State law, FLDOE rule and the Charter, (App, 20).

Sponsor alleges Applicant does not explain how it replicates SoMi and further alleges Applicant does not provide information to highlight SoMi's education program or show how it is innovative. Ample evidence of Applicant's educational program is provided throughout the App, specifically, pages 19-26, evidencing how Applicant provides information in reference to instructional techniques incorporated throughout the curriculum in order to maximize learning and successful attainment of learning objectives. These educational goals and the detailed program, clearly implement the mission of SoMi and Somerset Academy Inc. at the proposed school. The annual calendar and instructional time, including the coursework required by the state of Florida for all elementary school students, is an integral part of the Educational Program Design for the proposed school, as is the current practice at SoMi. (App, 19). Beginning on Page 20 of the App is a copy of SoMi's daily schedule and SoMi's daily routines for replication in the proposed school, (App 20-21). As stated in the App and the Interview, Applicant will utilize these and incorporate Sponsor requirements to ensure success of the proposed school, (App, 20). In addition, Applicant includes an extremely detailed account of the educational program and how it will be replicated at the proposed school (App, 22-29).

Many methods of the program philosophy "High Expectations/High Achievement" are described in detail including: differentiated instruction and standards based instruction, direct instruction, scaffolding cooperative learning, Inquiry-based learning, etc. as the primary instructional methods, (App, 23). The proposed school will implement the tenets that have made SoMi successful: a standards-based curriculum with proven teaching strategies and high expectations will benefit students through a systemic approach for teaching the Language Arts and Mathematics Florida Standards (LAFS and MAFS) and the respective Next Generation Sunshine State Standards for other subject areas, as applicable, (App, 10). Pages 23- 25; and 26 contain a detailed explanation of the specific instructional techniques employed at SoMi and how these techniques align with Somerset's mission and which are incorporated throughout the proposed school's curriculum in order to replicate SoMi's high-quality. These include: Personalized Instruction, Target Tutoring, Professional Learning Communities, Vertical Planning, Department meetings, Leadership meetings, Counselors, Cooperative Learning, Academic Excellence and Leadership Development, "Pull and Push" Methods, Home Learning, Vertical and Horizontal Alignment, Community Partnerships, Parental Involvement, Service Learning, among others. (App, 23-25, 26). Applicant states that the proposed school will implement the same principles as SoMi and that the proposed school's educational program is in direct alignment with the school's mission, which supports and facilitates its implementation, (App, 25).

Applicant has clearly included all required components of the Model application and has more than demonstrated its ability to replicate and be true to the SoMi and Somerset program while adhering to State Law, applicable rules and its charter contract. It is evident that the Sponsor believes Somerset's capacity to replicate is not credible, even though Somerset as an institution has successfully replicated its model more than 40 times; Somerset has an 18-year history of successful operations and is collectively an "A" district among its schools, and has achieved increased performance network-wide. There is no evidence to the contrary. Sponsor's allegations are baseless; the App must be approved. Sponsor contends Applicant cannot be a replication since Somerset takes pride in each of its schools' ability to adapt to its demographics, citing nuances in areas of the education plan and curriculum, and since Somerset's schools serve different populations and have students with different needs. There is no "one size fits all" prescription of replication as Sponsor suggests, alleging the Education Plan states the proposed school will align its practices with the Sponsor and not SoMi. It must first be said that having some unique elements to school design does not frustrate replication or substantial similarities clearly evident between the schools. All Somerset schools share a common philosophy of student expectations, code of excellence, an expectation of parental commitment, and collaborative management infrastructure derived from its first school, Somerset Neighborhood, (App, 1). All Somerset programs have replicated this paradigm of school design and management practices, including Somi and the proposed school and it supports the organizations capacity to replicate the model in the present application, (App, 1). Every Somerset school is intended to serve the immediate needs of its local community, and fostering community is a key component to the Somerset model, (See generally App, at 22-23, 25, 29, 31, 34, 39, 43, 48, 56). Community is a common thread interwoven throughout the curriculum component, and is unique to the Somerset system (App 31, 35, 37, 39, 40). To further ensure fidelity of the curriculum and the educational program replication, the governing board oversees network best practices and replication strategies, ensuring its schools, including the proposed school adhere, (App, 2). These strategies include, but are not limited to: fidelity of instructional programming; implementation of appropriate grade/subject level pacing guides and focus calendars utilized by SoMi; verifying the fidelity of curriculum implementation through co-teaching, modeling and mentoring; ensuring the proposed school utilizes the same data-driven continuous improvement methods as SoMi; engaging in professional development for the implementation of curriculum; ensuring the proposed school implements the same curriculum, materials, and scheduling process as SoMi which are in alignment with the Sponsor's requirements, etc, (App, 2-3). The proposed school will implement best practices utilized at SoMi and will align these with the requirements and curriculum of the Sponsor, (App, 3). This is consistent with the Somerset

model state-wide and is confirmed by Board Members at the Interview where it is stated that it is important to implement the policies and procedures of the Sponsoring District, and in addition, the proposed school will integrate Somerset's best practices into this to enhance the overall program (Interview, 29). Upon application, SoMi stated to its Sponsor that it would adopt certain policies of the Sponsor, including the Reading Plan, the Code of Conduct, Pacing Guides, Student Progression Plan, State or District approved textbooks (i.e. curriculum), and ESE Policies. In the present application, the proposed school indicates many of the same. Where both applications indicate the intention to adopt the local jurisdiction's policies and/or State-adopted programs in order for the school to more adequately serve the local population, this IS a direct replication. As is aptly stated in the Interview by the Governing Board, the curriculum is written based on Florida Standards, and adopting materials that ensure mastery of the Florida Standards, ensures this is a direct replication, (Interview, 30-31). Moreover, the proposed school includes sample schedules and daily routines from SoMi, and indicates its commitment to align these to the Sponsor's requirements, (App, 20-22). Applicant includes a detailed description of the SoMi model which will be implemented at the proposed school indicating the curriculum is centered on cognitive science research in mathematics and an emphasis on meaning and understanding in reading, as well as remediation when necessary, (App, 30). Curriculum is more than just a textbook, a pacing-guide, or a Digital Classroom Plan. Somerset's curriculum, and thus the Applicant's curriculum, requires students to interact with one-another and to apply the written text in the real world, (App, 31). The curriculum plan, in use at SoMi, and to be replicated at the proposed school, is detailed at pages 30-41. Somerset's (i.e. SoMi's and Applicant's) curriculum is focused on college preparedness and aims to instill a pre-college mindset from elementary, (App, 30). As stated in the application, the curriculum of both schools meets high standards of student achievement by delivering curriculum with an emphasis on mastery of benchmarks aligned to the Florida Standards in ELA and Mathematics, literacy standards for science and social sciences and the Florida NG-SSS, as applicable to course and grade level, (App, 30). Students at SoMi, and thus in the proposed school, receive a core curriculum of English/language arts (ELA), mathematics, social studies, science and electives in fine arts, physical education, and world languages, in this case Mandarin and Spanish, (App, 30). Somerset has developed strategies that have enabled the words to jump off the page and have made its curriculum come to life. These curriculum techniques and strategies, which are Somerset-specific and not district-based, are found in great detail at pages 30-32 and include: Interdisciplinary Connections, Vertical and Horizontal Teaming, Differentiated Instruction, Scaffolding, Cooperative Learning; and Community-based learning. The curriculum reflects high-quality instruction and implements research-based strategies, innovations and

activities facilitating achievement, (App, 30). The adoption of basic Sponsor policies, including the Student Progression Plan, which are State adopted, does not frustrate replication, and makes for smooth transitions between charter and sponsor schools and vice-versa. In the same way, adoption of Sponsor's Digital Classroom Plan, does not defeat replication. These are single components of the broader Somerset Curriculum, and are generally district-specific boiler-plate policies.

Sponsor criticizes Applicant for serving a different student population than the existing school, and ensuring that the school's services are tailored to meet the needs of its population, and attempts to use this as a failure of the App, (68). Sponsor states the application is not a replication since the existing school had too few numbers of students with disabilities (SWD) to report while the Applicant projects an estimated 12% SWD attending the charter school. This contention is nothing more than a red herring and apparent evidence of Sponsors pretext for denial. Applicant projected an estimated 12% of the anticipated student population may be SWD, and based this on the average SWD population in Indian River County, compared to the estimated 10% SWD projections used by SoMi, which reflected the average SWD population in Miami-Dade County. In replicating the Somerset model, both the proposed school and SoMi strive to reflect diversity, as well as ESE/ELL populations reflective of the surrounding public schools. Here again, Sponsor misunderstands replication. The App clearly states Somerset's intent to serve the needs of the community where the proposed school will be located, and will take into consideration the best practices for the local demographic, (App, 68). SoMi does this, and the proposed school replicates this concept. Applicant's admissions policies are non-discriminatory in all respects, and are designed to reach the entire community, (App, 68). The School's demographics should be reflective of the community it serves, (App, 68). It is expected that geographic differences in the proposed locations will result in a different student population in the literal sense, however, this does not change the common strategies used to serve these demographics. While the resulting populations may be unique, Somerset's and SoMi's mission, vision, and values will be implemented with fidelity in every aspect of the proposed school, and the Somerset philosophy is evident throughout. To suggest populations of 2 schools nearly 150 miles apart should have identical populations, or else not be substantial replications, is not only nonsensical, but runs afoul of Somerset's Admission policy which is in compliance with federal and state anti-discrimination laws and the Florida Educational Equity Act, (App, 116). Applicant details the admissions process, including enrollment preferences and limited enrollment categories, and includes the data which informed Somerset's enrollment projections, (App, 116, 117). Applicant also includes a full plan for student recruitment and enrollment, including students with disabilities, (App, 68). Somerset understands the demographic of the area, informed its research and developed

projections based on the area data, the data most relevant in projecting the proposed school's target population. It would be of little help for the proposed school to base its projections on real time data and demographics of jurisdictions located 150 miles or more from where the proposed school will operate when there is no chance it will serve these students. Instead, Applicant wisely informs its projections using data from the County and the District Schools where it will operate giving Applicant a more realistic goal given the student population it will serve. Sponsor apparently disagrees with Somerset's business decision which is based on sound principles, thorough research, and its own expertise having successfully operated 57 charter schools, 48 in Florida. This pretext for denial is pure conjecture and bias, and not a reason upon which a legal denial may be based."

Sponsor takes a dual view on replication and finds "cause" to deny Applicant's high-performing application irrespective of Applicant's response. On the one hand, Sponsor alleges that the proposed school cannot be a replication if Applicant adopts any part of the Sponsor's policies, and therefore denies the application. This seems to indicate that Sponsor believes, that in the case of a replication, the policies and procedures of another School District prevail over its own. In this case, Sponsor suggests Applicant should submit a charter school application to operate a charter school in Indian River County operated under Miami-Dade County Public School Policy and Procedure. Applicant rejects this argument. On the other hand, Sponsor, highlights Applicant's replication and/or adoption of Sponsor's policies and procedures. During the Interview, Sponsor questioned Applicant regarding Applicant's ability to "replicate" or adopt Sponsor's policies and/or best practices, stating at pages 9 and 11, "Some of the things we're doing in our school system don't appear to be replicated in the application...How would you go about replicating what we're doing...?"(Interview, 9,11). Sponsor later commends Applicant for, "wanting to adopt and implement the Sponsor's policies and procedures with respect to serving students with disabilities," (Interview, 42). Sponsor further questions curriculum, "Some of the curriculum listed is no longer used in the District that you have listed in your Application. Do you plan to utilize the same curriculums as the District...?"(Interview, 29). But here, Sponsor echoes one of the underlying concepts of this replication: Both the proposed school and SoMi adopt District materials. Sponsor states, "Your application indicates that you will adopt our District's instruction materials and curriculum pacing guides. However, the school you are replicating currently integrates the curriculum developed by Miami-Dade..." (Interview, 30). The Applicant has met all aspects of the model application, and meets the statutory and legal intent of replication. It is clear that Somerset is replicating substantially the same program, modeled after its currently operating high-performing dual-language school. All elements of the App speak to

Somerset's model and how it is implemented at SoMi and how it will be implemented at the proposed school. The instant application clearly meets the requirements. A denial on these grounds is unjust, improper and without cause.

Sponsor alleges that the App does not "on its face" comply with all civil rights requirements and therefore fails to meet the statutory requirement described in section 1002.33(9)(a)-(f), Florida Statutes. Somerset is in compliance with all civil rights requirements. Sponsor alleges the App fails to address its desegregation order or otherwise offer a student/staff recruitment plan which will "achieve a racial/ethnic balance reflective of the community." Sponsors 1994 Desegregation Order requires that ***"The percentage of minority students assigned to individual schools should be consistent with the percentage of minority students represented in the school district."*** Further, the Order states that ***"The School District will allocate student populations at each school in proportion to the percentage distribution of minority students system-wide within a range of plus or minus 9%."*** Denise Sharpton et al v. The Board of Public Instruction of Indian River County, Florida, Case No.: 64-721-Civ-Atkins. At the time of the Order, Sponsor's minority percentage of students was 17%. Currently, Sponsor's racial makeup is 57.36% White, 16.31% Black, 0.25% Native American, 0.27% Asian, 2.15% from other races, and 3.30% from two or more races. 21.24% of the student populations were Hispanic/Latino of any race. By comparison, as a network, Applicant serves 84% minority students and 59% qualify for free and reduced lunch, (App,17).

Applicant is cognizant of its responsibility in this regard. In an Open Letter sent to all Charter Schools by the Office of Civil Rights, Charter schools were reminded of their civil rights obligations. "Like all public schools", the letter said "charter schools cannot discriminate in admissions on the basis of race, color, national origin, or disability status," (Ex. 6,3) The letter also pointed out the need to be mindful of the rights of children and parents in the community when publicizing the school due to the fact that students choose to attend a charter school and are not simply assigned to attend a charter school (Ex. 6, 3). In a school district subject to a desegregation plan the charter school must be operated in a manner consistent with that desegregation plan. Applicant acknowledges this obligation multiple times over throughout the Application and during the Interview. (See App, 17, 115; See Also Interview 8, 11, 12). In some instances, it may also be necessary for a charter school to seek a modification of the school district's desegregation plan or order from the court or administrative entity requiring the desegregation plan, particularly where the Charter School has little to no effect on the School District's compliance levels. (Ex. 6, 4). However, such would not be the case here, as Somerset is confident in its ability to meet or exceed the requirements of the Order and in fact is confident that Somerset's statistics would be a positive addition. Sponsor further alleges that Applicant does not address a

targeted population. At the time the App was submitted and the interview conducted, a site had not been identified, nor is there any requirement in the law that the site be identified at the time of application. Accordingly, it was impossible to provide the targeted geographic area with specificity, except that the school will openly market enrollment to the entire district as is done in all Somerset schools (App, 115). The *target population*, however, contrary to Sponsor's assertion is included in the App, as well as a detailed marketing plan, (115-117). As stated in the App, the proposed school expects its student population to be reflective of Indian River County, with a higher minority rate than the traditional public schools, (App, 116). Applicant's marketing efforts, detailed in the App, include, but are not limited to the following: a multi-media campaign (print, broadcast, online, minority and community periodicals) to inform about the school, its programs and enrollment period; promotional flyers and brochures to be distributed to community groups/churches to find hard-to-reach families; posting information in local public facilities such as post offices, community centers, libraries, grocery stores; printing materials in multiple languages; distributing press releases and/or public service announcements; running ads in local newspapers; hosting open house events; establishing partnerships with local community groups, etc., (App, 116-117). Sponsor states the Student Recruitment Plan will not recruit a population reflective of the community and will not comply with the Desegregation Order. Following Sponsor's rationale, Applicant would only comply with the Order if it states in the App that it will focus 16% of its recruitment efforts toward Blacks, 57% percent toward Whites and the remaining percentage toward the remaining ethnic groups. This misses the point of non-discriminatory practices altogether. Flawed reasoning such as this may be a contributing factor as to why the order remains in place. Nevertheless, Sponsor has determined Applicant's failure before Applicant has begun, and in doing so institutes a prior restraint on Somerset's rights to operate a charter school. With due respect to Sponsor, Applicant operates 60 charter schools in 6 Florida School Districts and has schools in Texas, DC, and Nevada. 5 of the 6 Florida Districts where Somerset operates, had Desegregation Orders at one time; all have since reached Unitary Status. Somerset has seen both sides of this process multiple times, and in varying areas of our State, and has more experience than Sponsor in this regard. Somerset enjoys a rich cultural diversity and is proud to represent this in its staff, its students, and its educational design throughout the entire Somerset system of schools. Somerset is offended by the accusatory statements suggesting it would not recruit to the demographics reflective of the county, or otherwise comply with the Order. An order to desegregate, this one in particular, is more than just student percentages. At the Interview, Sponsor hyper-focuses on just this aspect, and neglects the components of the Order with which Somerset, as an institution, already complies. It should be stated that in the Interview, Sponsor states its percentage of compliance

inaccurately, stating Sponsor is required to achieve between 9% and 27% of **African-American** students in each school. Pursuant to the Order, Sponsor is required to achieve between 9% and 27% of **minority** students in each school. As a network in Florida, Somerset serves 84% minority students and 59% qualify for free and reduced lunch, (App,16). To further address the Order, a majority of Somerset's teachers are also minorities, ensuring the ratio of Somerset's minority teachers is in line with the ratio of minority students. Applicant includes its teacher recruitment efforts at page 97, which is in line with the student marketing plan. The Applicant commits to expending considerable effort in recruitment and the interview process to hire the most qualified candidates that cumulatively represent the diverse racial/ethnic background of the community, and in line with the ration of minority students, (App, 97, 116). Moreover, the leadership in the Somerset system is a reflection of the diversity in Somerset's hiring practices: more than 55% of Principals alone throughout the Somerset system (not limited to Miami-Dade as implicated by the Sponsor) are minorities. In addition, both the President and Vice-President of Somerset, as well as 8 of the 9 seated Governing Board members and the General Counsel are all minorities. Regarding minority student achievement, Somerset has high expectations of student achievement for all of its students irrespective of minority status. All students are held to high standards of achievement. Transportation is, in fact, addressed in the application and the interview, and even though Applicant includes transportation in its Application, and budgets for it, and further discusses it with the Sponsor, Sponsor questions Applicant's veracity regarding Transportation. Of particular note, Sponsor states during the Interview, "We did make an assumption that you had no intent to provide transportation, because there's no transportation being provided at the school being replicated. You explained that's a geographic piece and you do have intent to provide transportation... And [transportation is] in the budget. Well, if it's in the budget, you don't have to spend your budget. You may put it in the budget and not spend it," (Ex. Interview, 84). This statement alone is clear and convincing evidence of Sponsor's pretext for denial. Sponsor had no intention of approving this application, irrespective of how the Applicant responded to any of Sponsors questions. Here, Applicant budgeted \$95,000 for 2 busses and explained this to Sponsor during the Interview (Ex. Interview, 68). Understanding that Transportation needs vary by region, all Sponsor needed to do was look one County over to the Somerset Charter High School currently operating in St. Lucie County where Transportation is provided. Instead, Sponsor assumed the information in the Application was incorrect; and the amounts in the Budget were false as they "did not have to be spent". This is not only an unreasonable assertion, it is inflammatory and prejudicial.

Given Applicant's ability to attract minority students, Applicant is confident that it will be able to meet or exceed the demands of the Desegregation Order. Somerset has operated in more than one county that has been under Desegregation, and these counties have since reached Unitary Status. In the event targeted efforts are required in order to meet areas of the Desegregation Order, Somerset will implement all efforts necessary in coordination with Sponsor in order to effectuate compliance on a continual basis pursuant to law. However, as an open-enrollment school, a true approach cannot be determined until initial applications are received. Notwithstanding, Applicant has consistently stated throughout this process that it will comply with the Desegregation Order. Sponsor alleges that during the Interview, Applicant stated charter schools were restricted in complying with the Desegregation Order. This is patently untrue. The discussion of Desegregation is memorialized in the transcripts at pages 7-11. Upon review, it is clear Applicant made no such comments. In fact, throughout its response, Applicant, on numerous occasions, indicated its willingness to comply with the Desegregation Order. Sponsor attempts to cite newspaper articles as evidence that Applicant will not comply with civil rights laws. Such articles are not fact and should not be considered in an application review. Sponsor's allegations are red herring and are not supported by fact. Sponsor's newspaper reference reveals its desperation to find any reason to deny this high performing application. Notwithstanding, SoMi has not violated any state or federal civil rights laws. The City of South Miami's "investigation", mentioned in the news article was the personal and political attack by the Mayor and certain commissioners in order to garner support from parents whose children did not gain admittance through the SoMi's approved lottery process. This is tangential to the Application process and had no bearing on Sponsor's review of the Application. This is not cause for denial. Again, Sponsor could have contacted the local district, M-DCPS, with any concerns. Sponsor instead makes false assumptions, and conveniently fails to provide any information of its conversations with MDCPS or the resultant findings.

Somerset can certainly understand Sponsor's sensitivity surrounding the Desegregation Order, given the Order's recent attention, (SEE EX.7). However, Somerset respectfully requests that it not be judged by the actions or inactions of others, but only by the actions of Somerset itself. In this respect, and despite the musings of one small South Florida City, Somerset has an impeccable record. Somerset operates in multiple districts who have been under desegregation and have successfully navigated same. In each instance, Somerset has complied. Given this, and Somerset's reputation, there is no reason to believe it would do anything less than comply with this Sponsor's Order as well. Given the opportunity, Somerset would foster the same model and employ the same strategies to its school in Indian River County. Sponsor institutes a prior restraint of sorts on

Somerset's enrollment practices. There is no evidence suggesting Somerset would not comply with the Order in any way. Pursuant to the attached report, all of the sponsored Charter Schools appear to be in compliance. It is Sponsor's traditional Public Schools that appear to be having difficulties with the stated percentages. System wide, Somerset does not have any concern with meeting this Order. Our Leadership Leads by Example and this starts from the top and trickles down. The top Leadership of Somerset is 90% minority; its administration is over 60% minority; and its students are 84% minority. Somerset has reached unitary status. Somerset has no concern with implementing a Desegregation Order and reaching Unitary Status once again.

Financial Management Practices: The Sponsor alleges the App "on its face" does not contain a balanced financial plan. A high-performing charter school is required to submit an annual financial plan for each year requested by the charter for operation of the school for up to 5 years, and provide anticipated fund balances based on revenue projections and a spending plan based on projected revenues and expenses. Applicant sets forth such data in the Exhibits to the App, where each year is shown in the budgets, budget narratives, and budget detail, and contains additional detail on anticipated fund balances and projected revenues and expenses, (App, Budget) A description of controls that will safeguard finances and projected enrollment trends, also required by statute, is provided (App, 85, 122.). These include procedures in which "The Governing Board shall annually adopt and maintain an operating budget, retain the services of a certified public accountant or auditor for the annual independent financial audit and review, and will approve the audit report, including audit findings and recommendations," (App,85). Applicant has submitted a budget which fully complies with the statute, and there is no good cause to deny this application.ⁱⁱⁱ

Sponsor alleges the proposed budget does not include funds to pay for the staffing and operational plan outlined in the application and that many of the educational and operational services proposed cannot be provided. However, the positions budgeted for in the Staffing Plan are found in the instructional and operational section of the budget. These positions are sufficient to provide educational and operational services proposed for the projected population. The budget detail states multiple times "Salaries in the staffing plan are for Full Time Equivalent (FTE) instruction positions. Individuals may be utilized for other functions." It is common practice for staff in a start-up school to "wear multiple hats" and hold dual roles in administrative and operational duties until FTE is sufficient to support additional staff. The budget and staffing plan is sufficient and meets the needs of school operations. The budget was created to cover basic operating costs for the school and to show viability at the most conservative budget level, without assuming grants or loans. As a replication of a High-performing school, applicant expects to

apply and receive a start-up grant. As contingency, Somerset received a letter of Commitment from BuildingHope, a non-profit lender, to assure the proposed school would have sufficient funding in the event a grant is not awarded. The Lender Commitment Letter, including a range of loans and terms, is included in the App in its Appendix. In addition, Sponsor complains about the \$14,000 allocation to the food service worker characterizing it as \$77.77 in labor per day. To put this in perspective, and as clarified in the interview, the cafeteria worker is part-time, working in this capacity only 5-hours a day, 180-days a year. This equates to \$15 an hour. (See generally Interview 72-75). This is a replication of SoMi, who operates with only one cafeteria worker, with assistants who volunteer, (Interview, 74). Sponsor says this is not a realistic assessment of the cost to provide this service to students. As stated in the interview, as a charter school, since you get less funding, you have to be more efficient and conservative, (Interview, 74). Sponsor cannot see how this is realistic, but Applicant sees anything more than this as wasteful. Applicant is unsure which aspects of the Somerset model Sponsor will allow it to replicate since Sponsor has used both replication and alleged "non-replication" as cause for denial, or whether Sponsor means to allow Applicant to replicate at all.

Sponsor alleges the budgeted cost for technology services is not realistic to acquire the products/services technology described. There are 3 separate line items in the budget for technology: \$75 per student for Supplemental instructional materials (CIRP/SIRP and Technology) for an anticipated amount of \$23,625.00; \$110 per student for Digital Education Content Materials on a Leased basis for an anticipated amount of \$34,650.00; and \$1800 per classroom for Computer/Equipment for Instruction also on a leased basis for an anticipated amount of \$ 30,600.00. These rates are seen in the appendix to the App in the Budget Detail and the Budget Monthly's, and was explained in the Interview at pg.14-16. As the budget analyst explained, on an equipment lease of \$30,000, it equates, in average to about \$90,000 worth of equipment, more than sufficient for 315 students. The cumulative fee covers laptop carts for the classrooms and instructional material and the Digital content, (ie textbooks and software). This is realistic and is modeled after SoMi's plan which is currently in operation, and is healthy, vibrant, and meets the needs of the students. Sponsor's apparent disbelief in Somerset's business model is not cause for denial. Applicant has included all required elements of the budget in the Application and has properly budgeted for these in the Budget itself with realistic projections modeled after tried-and-true methods of high-performing schools.

Sponsor alleges Applicant does not provide a description of how finances will be handled or any assurances the Governing Board will control school finances. The App details financial policies and procedures at pages 132-135 The Governing Board will annually adopt and maintain an operating budget, quarterly or monthly financial statements as required which include a

balance sheet and statement of revenue, expenditures and changes in fund balance; retain services of a certified public accountant/auditor for independent financial audit, and will review and approve the audit report, including audit findings and recommendations; report to all applicable legal agencies including Sponsor, and oversee the principal in any delegated financial matters, (App, 132, 134). In addition, internal accounting procedures to ensure financial controls are detailed at pages 133-134, and are in accordance with federal, state, and local laws and in-line with industry standards and best practices. Procedures are in place for General accounting, Internal accounting procedures, receivables, bank statements, wire transfers, Internal Revenue Collection, Capital Expenditures, Operational Checking Accounts, Authorized Check Signors. While the ESP coordinates these services and policies at the request of the Governing Board, the Governing Board retains all authority over all decisions. The ESP Agreement, attached hereto as part of the App, states that the Board must have "complete autonomy and control" and Service Provider must obtain "review and approval" of the Board. While the ESP may be assisting with checks, paying bills and serving as a liaison between the board and the accounting firm, all this is done in accordance with board policy and procedure, and with the review and approval of the board. Any action done by the ESP on behalf of the Board is subject to the ultimate control of the board. These services are included as part of the ESP fee as the ESP has an internal accounting department to service the ESP's client schools. (App, appendix c). The annual audit is paid for by the school to the auditor separately as this is an independent audit. The ESP does not approve its own payments. This was confirmed by the Governing Board in the Interview multiple times. The board also stated that the records are independently reviewed by an auditor and this is something the audit would note. Somerset does not have material findings in its audit, and its organization is in a healthy position. All schools ended the year in a positive position. Sponsor failed to demonstrate by clear and convincing evidence that Applicant would not exercise proper financial management and oversight of the School and comply with the Florida Statutes.

Somerset Academy is a highly experienced Applicant with an impressive record of success in not only its number of approved applications with similar budgets and financial plans, but continuing success in its existing schools. The budgets and financial plans were developed using statistical data collected from a decade worth of operations in Somerset's successfully operating schools, and specifically those in alignment with the proposed school's elementary school program. The methodology used to prepare the budget forecast and financial plans is reliable. Every one of the charter schools that developed budgets using this system yielded a budget surplus this past year. The proposed school will implement the same best practices and

quality standards that have proven effective throughout the Somerset system, including SoMi. There is no cause to deny this Application.

Sponsor alleges the application is generic in scope and nature did not detail how it will meet the guiding principles or defined purposes of a charter school, is not innovative, does not offer something different, and does not replicate SoMi's mission. Applicant states the guiding principles and purposes and discusses each individually and in detail, (App, 10-14). Applicant identifies each principle/ purpose individually, and for each, articulates several specific, measurable, realistic, and attainable strategies which relate directly to the school's operations and which are currently in place at the existing school. The uniform mission, vision, and purpose of the Somerset network and all its schools is detailed, and includes Somerset's core principles and beliefs, (App, 10). Somerset identifies student learning and achievement as paramount, measured by other stated core principles including data assessments to drive curriculum and educational focus; standards-based curriculum; high expectations; proven teacher training and mentoring, (App, 5). Contrary to Sponsors assertion, governing board member Diaz discusses in the Interview, individual testing of students for proficiency in foreign language. Ms. Pestana stated that there is no District testing or formal testing instrument. As Ms. Diaz explained, these instruments are provided with the textbooks and, in addition, the classroom teacher implements testing, (ex. Interview, pg 28,29). As this is an elementary school, one can imagine the students are not quite yet prepared for AP or College Board level testing. This is a distractor and is not cause for denial of a high performing application. Somerset objects to the Sponsors statement that the mission and vision do not align with the dual language of the school. SoMi is more than a foreign language class, and Sponsor's characterization of it as such is insulting to the advancements SoMi has made and the students who have worked so hard. SoMi's model is in alignment with not only the vision of the school, but the vision of Somerset Academy Inc., and it is SoMi's goal to prepare its students for a bilingual culture and its success is evidenced by the High-Performing status the school has obtained. The application does include data demonstrating effective educational programming. First, please reference the high-performing letter issued by the Commissioner of Education verifying that SoMi is a High-Performing School delivering a high-quality education. Next, please reference the list of High-performing Somerset Schools at page 1 of the Application and the Somerset Report Card at pages 5-8. These records speak for themselves regarding the effective educational programming offered by Somerset. Finally, Somerset Academy Inc was awarded SACS CASI/ AdvancED accreditation because Somerset has demonstrated that it has the proper

systems in place to ensure that its schools have the highest levels of academic rigor and the proper level of oversight in place, and was the first charter school entity to achieve this.

F.S. § 1002.33(7) applies to approved charter applications entering the contract phase and does not govern the application process. Sections, 1002.33(7)(a)(2) specifically states, "The focus of the curriculum, the instructional methods to be used, any distinctive instructional techniques to be employed, and identification and acquisition of appropriate technologies needed to improve educational and administrative performance which include a means for promoting safe, ethical, and appropriate uses of technology which comply with legal and professional standards." As a high-performing replication, these allegations are not cause for denial. Nevertheless, Applicant has provided a response which fully answers to the model application. The focus of the curriculum, its instructional methods and techniques are addressed fully in the application, the Interview, and the replication section of this appeal. The technology aspect of this concern has been previously addressed as well. Applicant has included curriculum standards in the App. Curriculum is described fully and in great detail, (App, 30-51) and instructional methods are detailed as well, (App, 13, 64,69).

Specifically referencing Somi, Applicant outlines its plan and includes a litany of methods in which the school will meet and exceed high standards of achievement, including, among other reasons: implementing a rigorous curriculum; curricula specifically designed to meet student needs through data-driven differentiated instructional model; and indicates that all of these methods are employed by Somi, (App, 30-32). In addition, Applicant, includes the following high standards for students replicated from Somi: Providing a vigorous, educational program; Delivering a dynamic school curriculum, including emphasis given to student-centered instruction towards student mastery of the Florida Standards; complement and enhance classroom studies through premium curricular and technology infused extra-curricular programs, Employing mechanisms to continuously monitor, evaluate, and improve curriculum to achieve continuous student improvement year to year; Utilizing strong technologically rich academic programs and tools to assist and increase a multisensory learning experience, (App, 22-23. Applicant lists instructional techniques, utilized with success at Somi that "will be incorporated throughout the curriculum in order to maximize learning and successful attainment of learning objectives and replicate quality" on pages 23-25. "Instructional strategies utilized at SoMi and other Somerset schools that will yield the greatest results" at the proposed school are listed on pages 27-28. Applicant details specific curriculum being used at Somi and offered at the proposed school. Methods of delivery curriculum are described on pages 30-32. Additional evidence of Applicant's understanding and implementation of curriculum

based on Somi's replicated model are the processes in place to support delivery of the curriculum and includes, but is not limited to, discussion of the following: continuous review of the curriculum to ensure a year's worth of learning; research based instructional practices, staff development through implementation of PLC; afterschool, lunch, and Saturday tutoring for remediation and acceleration; Support for Curriculum Delivery; Instructional Strategies to be utilized throughout all subject areas; Integration of Technology; etc. It is clear by the above, that Applicant meets the standard required pertaining to Florida Standards. There is no good cause to deny a charter school application where the application has met all the statutory elements^{iv}. The inclusion of this as a reason for denial, is unwarranted, and without supporting evidence. This does not constitute clear and convincing evidence of non-compliance with any statutory requirement. Application should be approved.

Somerset has developed a multi-tiered system of management, assessment, instruction, and professional development that integrates technology within curriculum to achieve increased performance over all student populations and sub-groups, (App, 22). Sponsor believes there are educational opportunities already provided within the School District and states at the School Board meeting that they just "don't need another School," (Ex. Board Meeting, 19). This demonstrates Sponsor's impetus for denial: Sponsor does want a high-performing charter school.

Exceptional Students is Section 1002.33(16)(a)(3), F.S., "a charter school shall be in compliance with...those statutes pertaining to the provision of services to students with disabilities." As a high-performing replication, these allegations are not statutory reasons for denial of a high-performing application. Moreover, allegations regarding Student Recruitment and Enrollment are not statutory cause for denial of a high-performing application. Therefore, the application may not be denied as to allegations regarding enrollment. Sponsor lacks actual evidence to support its assertion that Applicant failed to meet these standards. Sponsor failed to include concerns to which Applicant can respond. The overview includes only a generic statement that the admissions process may not be in accordance with law because of a lack of specificity as to how applications from students with disabilities will be handled and does not reference sections of law or the App. However, the application process does not take into account a potential student's disability status, and does not request a student's disability status as part of the application process, thereby allowing every student who applies an equal opportunity to enroll in the school, (App, 15). Sponsor has not articulated a basis for denial on these grounds.

Sponsor did not have clear and convincing evidence to find Applicant did not meet the standard with respect to Transportation. As a high-performing replication, the allegations regarding Transportation are not a statutory cause for denial

of a high-performing application. Consistent with Section 1002.33(20)(c), F.S. Transportation shall be provided by Applicant consistent with requirements of subpart I.E. of chapter 1006 and s. 1012.45. Applicant may provide transportation through an agreement or contract with Sponsor, a private provider, or parents. Applicant and Sponsor shall cooperate in making arrangements that ensure transportation is not a barrier to equal access for all students residing within a reasonable distance of the charter school as determined in its charter. Somerset intends to provide transportation pursuant to law, and will provide transportation necessary to ensure that it is not a barrier to access as stated in the application. Applicant will assess needs annually during application and enrollment of students through the use of enrollment surveys, registration packets, and parent transportation agreements, all in accordance with applicable law, (App, 16-17). Transportation (App, 15-17), and the procedures the proposed school intends to implement to assess transportation needs are included, (App, 181-182) Applicant states: "if the parent advises the School that there is a hardship, and he/she is unable to provide the transportation, the School will provide transportation within a defined reasonable distance (App, 17). Applicant is not suggesting that parents go to extensive lengths to "prove" a hardship; rather Applicant is requesting only that parents inform the school that transportation is needed and arrangements will then be made. In the same way that students must meet eligibility requirements for free and reduced lunch, so too must students meet eligibility requirements for transportation. The law does not require Applicant to provide transportation to all students residing within a reasonable distance, nor does the law give Sponsor authority to determine what "reasonable distance" means. The reasonable distance provision allows charter schools to establish a transportation zone that sets an outer boundary or radius beyond which a charter school is not required to provide regular transportation. In the instant case, the budget provides transportation costs in the amount of \$95,000.00, (Interview, 68). This was confirmed by the Sponsor and the Applicant in the Interview, however, Sponsor stated it didn't believe Applicant would use that budgeted amount for transportation. Applicant projected 40% of its student population will be transported, provided for 2 busses, (Interview, 68). Applicant did not object to contracting directly with the Sponsor pursuant to law (Interview, 70). This is not cause for denial. **CONCLUSION/RELIEF:** For the numerous reasons outlined above. This appeal should be granted, and Sponsors denial should be overturned and remanded with instructions that Sponsor approve the Application.

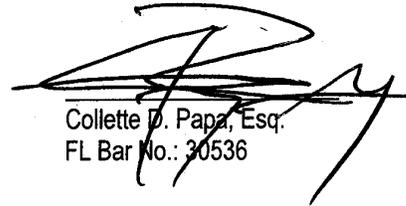
ⁱ See School Bd of Seminole County v. Renaissance Charter School, Inc., 113 So.3d 72 (Fla. 5th DCA 2013)

ⁱⁱ See School Board of Osceola County v. UCP of Central Florida, 905 So. 2d 909.

ⁱⁱⁱ See note ii above; See Also School Board of Volusia County v. Academies of Excellence, Inc., 974 So.2d 1186, 1191.

^{iv} There is no good cause to deny a charter school application where the application has met all the statutory elements. See School Board of Osceola County v. UCP of Central Florida, 905 So.2d 909 ; See Also School Board of Volusia County v. Academies of Excellence, Inc., 974 So.2d 1186, 1191.

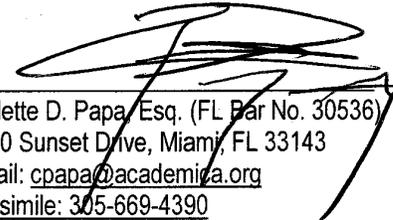
Respectfully Submitted,



Collette D. Papa, Esq.
FL Bar No.: 30536

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing instrument has been furnished this 24th day of November, 2015 by hand delivery delivery to: Cathy Schroeder, Agency Clerk, FLDOE and to Mark J. Rendell, Superintendent, and to Suzanne D'Agresta, Counsel for Sponsor.



Collette D. Papa, Esq. (FL Bar No. 30536)
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**FLORIDA DEPARTMENT OF EDUCATION
CHARTER SCHOOL APPEAL**

**Somerset Academy Inc., for the application for
Somerset Academy Vero Beach,**

Applicant/Appellant.

v.

The School Board of Indian River County, Florida

School Board/Appellee.

**SCHOOL BOARD'S RESPONSE TO NOTICE OF APPEAL OF DENIAL OF CHARTER
SCHOOL APPLICATION SUBMITTED BY SOMERSET ACADEMY, INC. FOR
SOMERSET ACADEMY VERO BEACH**

Receipt of Notice of Appeal: November 20, 2015.

I. Preliminary Statement. The School Board of Indian River County, Florida (School Board) pursuant to §1002.33, Florida Statutes, hereby responds to the Notice of Appeal from the denial of a charter school application submitted by Appellant, Somerset Academy, Inc., for the Somerset Academy Vero Beach Charter School (Somerset). References to the Record set out in the Appendix to this Response are shown by "App" followed by the tab number and page number. References to Appellant's exhibits to its Notice of Appeal are shown by "Somerset" followed by the tab number and page number.

II. Procedural Background and Jurisdiction. Somerset submitted an application to replicate a high performing charter school on July 31, 2015. In order to be considered a replication of a high performing charter school, the proposed charter school must be "substantially similar to at least one of the applicant's high performing charter schools." §1002.33(6)(b) 3.b., Florida Statutes. School Board staff immediately began its work to establish a sixty day timeline and analyze the application. (Somerset 5:1).

Dr. Michael Ferrentino, the School Board staff member responsible for the coordination of the application review, provided initial applicant interview dates to Somerset. (App 1). However, in its appeal Somerset misrepresents the initial timeline prepared by Dr. Ferrentino.

Dr. Ferrentino's initial application review timeline provides for the School Board to take action on the application on September 22, 2015, within the sixty day review period established by law. (App 2). On the eve of the scheduled Somerset interview, Somerset inquired if the meeting would be cancelled due to the possibility of Tropical Storm Erika making landfall. (App 3:4). Out of an abundance of caution, Dr. Ferrentino felt it would be safer for the Somerset representatives not to travel through tropical storm weather, and rescheduled the interviews. (App 3:4).

Somerset thereafter indicated by email it was appreciative of Dr. Ferrentino's consideration (App 3:4), and it is disingenuous for Somerset's appeal to now say such scheduling change was

“unilateral” and not agreed to by Somerset. If Somerset representatives really wanted to drive through the tropical storm weather, they should have made that desire known at the time, instead of thanking Dr. Ferrentino for his consideration. When Somerset thereafter requested a schedule change, Dr. Ferrentino was pleased to accommodate it (App 3:4), and by email dated August 31, 2015, specifically requested that Somerset approve the revised schedule which shows the School Board taking action on the application on October 6, 2015. (App 3:1). With the delay caused by the tropical storm and the schedule change requested by Somerset, it was no longer possible for School Board staff to accomplish the detailed application review work within the original sixty day window; that is why Dr. Ferrentino requested Somerset approve a revised schedule. Rather than responding to Dr. Ferrentino’s request, Somerset again requested to postpone the interview date. (App 4:1). Again, Dr. Ferrentino was accommodating, and postponed the interview to the date requested by Somerset. (App 4:1). In that same email, Dr. Ferrentino again requested Somerset “review and consent” to the revised schedule which shows the School Board taking action on the application on October 13, 2015. (App 4:1;6).

In response to Dr. Ferrentino’s request for “review and consent” to the schedule, which included School Board action on the application on October 13, 2015, Somerset’s response was “This is great. Thank you very much and we look forward to the 15th”. (App 5:1). Dr. Ferrentino then sent an email to Somerset representatives confirming the “revised schedule will work for both parties.” (App 5:1). At no time did Somerset respond to Dr. Ferrentino’s September 1, 2015 email that it objected to any of the schedules or that Dr. Ferrentino was mistaken regarding Somerset’s consent to a postponement of the School Board’s meeting until October 13, 2015. Rather, Somerset affirmatively consented to the application timeline submitted by Dr. Ferrentino, and even attended and participated in the October 13, 2015 School Board meeting without voicing any objection to the timing of the meeting.

Stating in their appeal that Somerset never agreed to postpone the School Board's decision on their application completely misrepresents the communications between the parties, and should be wholly disregarded by the State Board of Education. This fabricated argument by Somerset is not worthy of any consideration and must be immediately denied.

III. School Board's Basis for Denial of Application. School Board staff conducted a thorough review of the application and completed the state adopted Application Evaluation Instrument for high performing replications. (Somerset 2). While the Application Evaluation Instrument noted several concerns, the School Board based its denial of the application on four specific issues: replication, civil rights requirements, financial management practices, and education plan.

A. Replication. Section 1002.33(6)(b)3.b.(III), Florida Statutes, requires a replication charter application to substantially replicate the educational program of one of the applicant's high performing charter schools. The application submitted by Somerset did not substantially replicate the educational program of a Somerset high performing charter school, and therefore fails to meet the statutory requirement.

In order to be considered "substantially similar" within the meaning of the above referenced statute, a charter application "must have the same characteristics and be alike in substance or essentials to the school it is replicating." *School Board of Seminole County v. Renaissance Charter School, Inc.*, 113 So.3d 72 (Fla. 5th DCA 2013); *School Board of Polk County v. Renaissance Charter School, Inc.*, 147 So.3d 1026 (Fla. 2d DCA 2014). In the *Seminole School Board* case, a charter school was attempting to replicate a 6-8 middle school as a K-8 school. In that case, the Court agreed with the Seminole School Board that substantial differences in the curriculum, discipline, student management and teaching focus, were enough to reject the charter school replication application. *Seminole School Board*, 113

So.3d at 75. In the instant case, the School Board denial of the charter application was based on the failure of the proposed charter school to substantially replicate the educational program of Somerset Academy Elementary School South Miami (SoMi). (Somerset 2). Rather than detailing the educational program of SoMi, the application instead discusses implementing the educational program of the Indian River School Board. The application states it will implement the School Board's student progression plan, approved instructional materials, curriculum, curriculum pacing guides, code of student conduct, and digital classroom plan. (Somerset 1: 30;32). By implementing the School Board's educational plan, not SoMi's educational plan, Somerset has failed to provide a replication charter application. The application does not substantially replicate SoMi, a charter school located in south Miami, but instead proposes to replicate the curriculum, discipline, student management, and teaching focus used in the School Board's traditional public schools, which the Appellate Court in the *Seminole School Board* case indicates is not "substantially similar" as required by statute.

Somerset's appeal asserts that adopting "the local jurisdiction's policies and /or State-adopted programs in order for the school to more adequately serve the local population...IS a direct replication." This statement by Somerset contradicts the above statutory and Court definitions of replication.

Somerset's appeal declares that a replication application "is not a carbon copy, nor should it be." That argument was made unsuccessfully in the *Seminole School Board* case. *Id.* Additionally, Somerset's appeal declares it is replicating its model, core values and beliefs, common expectations, and techniques and strategies. This argument has also been made before and rejected. In the *Polk School Board* case, which also involved a charter school attempting to replicate a 6-8 middle school as a K-8 school, the charter school argued it was replicating "our method and model." *Polk School Board*, 147 So.3d at 1027. The Appellate

Court did not agree with that argument and held the replication application failed to substantially replicate the applicant's high performing charter school. *Id.* at 1028. Further, in the *Seminole School Board* case, the charter school also argued it was replicating a "substantially similar instruction model" which also did not persuade the Appellate Court that it was a substantial replication of the educational program. *Seminole School Board*, 113 So.3d at 75.

Based on the above, the School Board was presented with clear and convincing evidence that the replication application failed to replicate the educational program of SoMi, which is a statutory basis to deny the application. Accordingly, the Somerset appeal must be denied.

B. Civil Rights Requirements - Desegregation. Section 1002.33(6)(b)3.b(II), Florida Statutes, requires the replication charter application to materially comply with all applicable civil rights requirements. The application submitted by Somerset did not comply with the federal desegregation obligations governing Indian River County, and therefore fails to meet the statutory requirement.

The School Board is governed by a federal desegregation order dating from 1965. (App 6). A copy of the most recent Court order dated May 23, 1994 was provided to Somerset. (Somerset 2). The federal desegregation order requires the School Board to achieve certain African American percentages with regard to its student population as well as employees. (Somerset 2). While the application states the charter school will be open to all students in Indian River County, the application does not address all schools, only the racial/ethnic population of specific mid-county and south county schools. (Somerset 1:15). Further, no specific targeted population is identified in the application to determine whether the charter can meet the requirements of the desegregation order.

The student recruitment plan denoted in the application will not recruit a population to

the school reflective of the county's African American student population and will therefore not comply with the desegregation order. (Somerset 1:17;115). The student recruitment plan fails to address the type of student transportation needed and does not discuss affirmative recruitment of African American students. Likewise, the application fails to contain any information for recruitment of African American employees, consistent with the desegregation order requirements. These failures in the application were never addressed by Somerset during the September 15, 2015 interview or the October 13, 2015 School Board meeting. The only response from Somerset seems to be "don't worry, we'll comply." This cavalier approach to a very important issue was concerning to the School Board and School Board staff.

In its appeal, Somerset ridicules the School Board for taking its federal desegregation obligations seriously and for pointing out flaws in Somerset's application on that point. The appeal describes at length other alleged examples of Somerset's involvement in desegregation matters. If this information was pertinent to Somerset's application, it is puzzling why Somerset did not include a description of its desegregation expertise in its application. Incredulously, Somerset actually argues in its appeal the School Board has misinterpreted the desegregation order and that the percentages set out in the desegregation order apply to all minorities, not African American students and staff. Even a cursory review of this case by Somerset would show since 1964 when the matter was initially filed, the case has always been about African American students and staff. (App 6:5; 8-10 and App 7). This uninformed argument is additional clear and convincing evidence Somerset is completely ignorant of the federal desegregation obligations in Indian River County and cannot comply with these obligations.

Somerset's appeal also takes issue with the School Board identifying questionable comments made by a Somerset representative. During the September 15, 2015 interview of

the Somerset representatives, the requirements of the desegregation order were discussed. During that discussion, a Somerset representative clearly stated charter schools were restricted in complying with racial percentages. (Somerset 3:17-22). The interview discussion had to do with the investigation for racial disparity of the charter school being replicated (SoMi). A newspaper in 2015 reported 1.1% of SoMi's population was African American while the community's percentage was 17%. Rather than providing a plan for achieving a racial balance at SoMi, Somerset went into great detail why it could not comply, blaming it on the "sibling preference" for filling student seats with students who were not African American, and even questioned if the newspaper article was accurate.

First, Florida law is clear in its requirement that charter schools "achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the same school district," and allows charter schools to limit their enrollment process to target student populations to comply with federal requirements for a racial/ethnic balance. §1002.33(7)(a)8. and (10)(e)4., Florida Statutes. Second, the "sibling preference" allowed in the charter legislation is permissive not mandatory. §1002.33(10)(d), Florida Statutes. If Somerset wanted to rectify the African American student demographic disparity at SoMi, there are options available. Finally, Somerset points out in its appeal the School Board should not rely upon newspaper articles for demographic information for the charter school proposed to be replicated in Indian River. In response, a review of the Survey 2 student membership data for the 2014-2015 school year published by the Florida Department of Education is informative. (App 8). This public information reveals SoMi's student population to be 1% African American, and the student population in the Miami-Dade School District to be 22% African American, an even greater demographic disparity than reported in the newspaper. In fact, historic student membership data obtained from the Florida Department of Education PK-12 Enrollment

EDStats tool shows since the 2011-2012 school year, SoMi has never achieved a racial/ethnic balance reflective of other public schools in the same school district. (App 9).

Due to the failure of the applicant to address the federal desegregation order requirements or otherwise offer a student and employee recruitment plan to address the federal desegregation order requirements, coupled with SoMi's actual African American student demographic disparity, the School Board was presented with clear and convincing evidence that the application did not comply with the desegregation civil rights obligations governing Indian River County, which is a statutory basis to deny the application.

C. Financial Management Practices. Section 1002.33(6)(b)3.b.(I), Florida Statutes, requires a replication charter school application to contain a description of controls that will safeguard finances, as described in §1002.33(6)(a)5., Florida Statutes. The application submitted by Somerset does not contain the required safeguards and therefore fails to meet this statutory requirement.

The application reveals an inadequate separation of duties and internal controls. The application provides disbursement vouchers are reviewed and approved by the school principal and the educational service provider (ESP). (Somerset 1:133). Additionally, the application provides authorized signatures on checks are limited to "the Chair of the Governing Board, the president, the School Principal/designee, ESP representative, and others, as approved by the Governing Board." (Somerset 1:133). This structure whereby the ESP has the ability to approve the school's vouchers for payment and is also a signatory on the school's checks suggest an inadequate segregation of duties and poor internal controls, as essentially a vendor to Somerset can approve their own invoices and sign their own checks.

In its appeal, the applicant asserts the ESP does not approve its own payments. The appeal also asserts the ESP "may be assisting with" the review and approval of invoices and

signing checks. However, the application states otherwise and the applicant may not revise its application at this late date. If in fact Somerset's financial controls were structured differently, Somerset should have included such information in its application.

Due to the failure of the application to contain a description of controls that will safeguard finances as described in section 1002.33(6)(a)5., Florida Statutes, the School Board was presented with clear and convincing evidence that the application failed to provide sufficient financial safeguards, which is a statutory basis to deny the application.

D. Educational Plan. In addition to the issues of material noncompliance stated above, deficiencies in the area of the charter school's educational plan are also noted.

Dual Language. The application fails to meet the statutory requirement for describing the educational foundation of the school and the teaching and learning strategies that will be employed as required by section 1002.33(7)(a)2., Florida Statutes. The mission and vision of the School refers to a dual language program (Somerset 1:10). However, the programmatic model presented does not meet the definition of a dual language program, but rather a world languages program. As the replicated school (SoMi) is from Miami Dade School District, the Miami Dade School District's description of dual language programs is instructive. The Miami Dade dual language program description is located at the following link: (<http://bilingual.dadeschools.net/BEWL/programs.asp>), and provides in part:

The Dual Language Program is also known as two-way bilingual education instruction or bilingual immersion. It is a model that combines Developmental Bilingual Education (DBE) for language-minority students and foreign-language immersion for English-proficient students, with the added benefit of peer tutoring, seeks to enable each group to learn the other's vernacular while also meeting high academic standards.

Broadly speaking, dual language programs in Miami-Dade County Schools have developed along parallel paths, one being that of the elementary Bilingual School Organization (BISO) program, and the other being that of the Extended Foreign Language (EFL) program. Conceptually, the elementary schools following the BISO model have

tended to favor program participation by students in the school. The schools following the Extended Foreign Language have developed "school-within-a-school" variations to serve those students who are especially interested in that type of program. Both the BISO and the EFL programs have aimed toward a 60%/40% (English/Spanish) distribution of time between the two languages of instruction.

This description is also supported by research conducted by The Education Alliance out of Brown University and the National Clearinghouse for English Language Learners (NCELA).

However, contrary to the above description the application states, "All Kindergarten through fifth grade students may receive instruction in a Foreign Language for a minimum, the recommended 150 minutes a week in either Spanish or Mandarin." (Somerset 1:19). This refers to 30 minutes per day or 10% of the day, far less than the requirements of a dual language program. The application also refers to the understanding of cross-cultural issues while learning the foreign language but never refers to any content (ELA, Math, Science or Social Studies) being addressed. (Somerset 1:23). While Somerset in its appeal states it is insulted by questions about its dual language program, unfortunately Somerset misses the point. A dual language program is a specifically defined program and Somerset's application simply does not describe or meet the requirements for a dual language program. Accordingly, the application fails to accurately describe its educational model (dual language) but is actually describing a world language program.

Further, there is no clear plan of how students' acquired proficiency levels in a second language will be monitored in a school whose mission is to bilingually foster students achievement by providing a technologically innovative, and challenging environment. No information was provided in the application regarding data reflecting content specific proficiency in the dual language program. During the applicant interview, the only information shared was that students are assessed on their knowledge of their foreign language but not in relation to how proficient they were in the content area. Since the application alleges this is a

replication of a dual language program we would expect to see proficiency scores on how students did in their content subjects in their foreign language as well as in English. Without the inclusion of specific data on the rates of levels of bilingualism it was not possible to evaluate and analyze the effectiveness of the proposed replication.

Finally, the application indicates the school will provide, "A robust bilingual and culturally inquisitive curriculum aimed at the mastery of Florida Standards/NGSSS as applicable". (Somerset 1:26). However, the dual language programming does not focus on standards related to proficiency within core content courses.

Due to the failure of this charter application to accurately describe a dual language program, the School Board was presented with clear and convincing evidence that the application failed to adequately describe its proposed educational plan, which is a statutory basis to deny the application.

IV. Conclusion

The School Board was presented with clear and convincing evidence that the application failed to meet the statutory requirements for a high performing charter school replication on several issues, and the appeal should therefore be denied. Further the date the School Board took action on the application was agreed to by Somerset, and any attempt by Somerset to assert otherwise must be rejected.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 17, 2015, a true and correct copy was furnished via FedEx to: Kathy Schroeder, the Agency Clerk for the Department of Education, 325 West Gaines Street, Room 1520, Tallahassee, Florida 32399-0400; and Collette Papa, Esquire, 6340 Sunset Drive, Miami, Florida 33143.



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- 6) APPLICATION PROCESS AND REVIEW.—Charter school applications are subject to the following requirements:
- (a) A person or entity wishing to open a charter school shall prepare and submit an application on a model application form prepared by the Department of Education which:
 1. Demonstrates how the school will use the guiding principles and meet the statutorily defined purpose of a charter school.
 2. Provides a detailed curriculum plan that illustrates how students will be provided services to attain the Sunshine State Standards.
 3. Contains goals and objectives for improving student learning and measuring that improvement. These goals and objectives must indicate how much academic improvement students are expected to show each year, how success will be evaluated, and the specific results to be attained through instruction.
 4. Describes the reading curriculum and differentiated strategies that will be used for students reading at grade level or higher and a separate curriculum and strategies for students who are reading below grade level. A sponsor shall deny a charter if the school does not propose a reading curriculum that is consistent with effective teaching strategies that are grounded in scientifically based reading research.
 5. Contains an annual financial plan for each year requested by the charter for operation of the school for up to 5 years. This plan must contain anticipated fund balances based on revenue projections, a spending plan based on projected revenues and expenses, and a description of controls that will safeguard finances and projected enrollment trends.
 6. Contains additional information a sponsor may require, which shall be attached as an addendum to the charter school application described in this paragraph.
 7. For the establishment of a virtual charter school, documents that the applicant has contracted with a provider of virtual instruction services pursuant to s. 1002.45(1)(d).
 - (b) A sponsor shall receive and review all applications for a charter school using an evaluation instrument developed by the Department of Education. A sponsor shall receive and consider charter school applications received on or before August 1 of each calendar year for charter schools to be opened at the beginning of the school district's next school year, or to be opened at a time agreed to by the applicant and the sponsor. A sponsor may not refuse to receive a charter school application submitted before August 1 and may receive an application submitted later than August 1 if it chooses. In order to facilitate greater collaboration in the application process, an applicant may submit a draft charter school application on or before May 1 with an application fee of \$500. If a draft application is timely submitted, the sponsor shall review and provide feedback as to material deficiencies in the application by July 1. The applicant shall then have until August 1 to resubmit a revised and final application. The sponsor may approve the draft application. A sponsor may not charge an applicant for a charter any fee for the processing or consideration of an application, and a sponsor may not base its consideration or approval of a final application upon the promise of future payment of any kind. Before approving or denying any final application, the sponsor shall allow the applicant, upon receipt of written notification, at least 7 calendar days to make technical or nonsubstantive corrections and clarifications, including, but not limited to, corrections of grammatical, typographical, and like errors or missing signatures, if such errors are identified by the sponsor as cause to deny the final application.
 1. In order to facilitate an accurate budget projection process, a sponsor shall be held harmless for FTE students who are not included in the FTE projection due to approval of charter school applications after the FTE projection deadline. In a further effort to facilitate an accurate budget projection, within 15 calendar days after receipt of a charter school application, a sponsor shall report to the Department of Education the name of the applicant entity, the proposed charter school location, and its projected FTE.
 2. In order to ensure fiscal responsibility, an application for a charter school shall include a full accounting of expected assets, a projection of expected sources and amounts of income, including income derived from projected student enrollments and from community support, and an expense projection that includes full accounting of the costs of operation, including start-up costs.
 - 3.a. A sponsor shall by a majority vote approve or deny an application no later than 60 calendar days after the application is received, unless the sponsor and the applicant mutually agree in writing to

temporarily postpone the vote to a specific date, at which time the sponsor shall by a majority vote approve or deny the application. If the sponsor fails to act on the application, an applicant may appeal to the State Board of Education as provided in paragraph (c). If an application is denied, the sponsor shall, within 10 calendar days after such denial, articulate in writing the specific reasons, based upon good cause, supporting its denial of the charter application and shall provide the letter of denial and supporting documentation to the applicant and to the Department of Education.

b. An application submitted by a high-performing charter school identified pursuant to s. 1002.331 may be denied by the sponsor only if the sponsor demonstrates by clear and convincing evidence that:

- (I) The application does not materially comply with the requirements in paragraph (a);
- (II) The charter school proposed in the application does not materially comply with the requirements in paragraphs (9)(a)-(f);
- (III) The proposed charter school's educational program does not substantially replicate that of the applicant or one of the applicant's high-performing charter schools;
- (IV) The applicant has made a material misrepresentation or false statement or concealed an essential or material fact during the application process; or
- (V) The proposed charter school's educational program and financial management practices do not materially comply with the requirements of this section.

Material noncompliance is a failure to follow requirements or a violation of prohibitions applicable to charter school applications, which failure is quantitatively or qualitatively significant either individually or when aggregated with other noncompliance. An applicant is considered to be replicating a high-performing charter school if the proposed school is substantially similar to at least one of the applicant's high-performing charter schools and the organization or individuals involved in the establishment and operation of the proposed school are significantly involved in the operation of replicated schools.

c. If the sponsor denies an application submitted by a high-performing charter school, the sponsor must, within 10 calendar days after such denial, state in writing the specific reasons, based upon the criteria in sub-subparagraph b., supporting its denial of the application and must provide the letter of denial and supporting documentation to the applicant and to the Department of Education. The applicant may appeal the sponsor's denial of the application directly to the State Board of Education pursuant to sub-subparagraph (c)3.b.

4. For budget projection purposes, the sponsor shall report to the Department of Education the approval or denial of a charter application within 10 calendar days after such approval or denial. In the event of approval, the report to the Department of Education shall include the final projected FTE for the approved charter school.

5. Upon approval of a charter application, the initial startup shall commence with the beginning of the public school calendar for the district in which the charter is granted unless the sponsor allows a waiver of this subparagraph for good cause.

(c)1. 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 sponsor's decision or failure to act and shall notify the sponsor of its appeal. Any response of the sponsor 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 at least 7 calendar days before the date on which the appeal is to be heard. An appeal regarding the denial of an application submitted by a high-performing charter school pursuant to s. 1002.331 shall be conducted by the State Board of Education in accordance with this paragraph, except that the commission shall not convene to make recommendations regarding the appeal. However, the Commissioner of Education shall review the appeal and make a recommendation to the state board.

2. The Charter School Appeal Commission or, in the case of an appeal regarding an application submitted by a high-performing charter school, the State Board of Education 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 shall have 15 calendar days after notice of rejection in which to resubmit an appeal that meets the requirements set forth in State Board of Education rule. An appeal submitted subsequent to such rejection is considered timely if the original appeal was filed within 30 calendar days after receipt of notice of the specific reasons for the sponsor's denial of the charter application.

3.a. The State Board of Education shall by majority vote accept or reject the decision of the sponsor no later than 90 calendar days after an appeal is filed in accordance with State Board of Education rule. The State Board of Education shall remand the application to the sponsor with its written decision that the sponsor approve or deny the application. The sponsor 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.

b. If an appeal concerns an application submitted by a high-performing charter school identified pursuant to s. 1002.331, the State Board of Education shall determine whether the sponsor has shown, by clear and convincing evidence, that:

(I) The application does not materially comply with the requirements in paragraph (a);

(II) The charter school proposed in the application does not materially comply with the requirements in paragraphs (9)(a)-(f);

(III) The proposed charter school's educational program does not substantially replicate that of the applicant or one of the applicant's high-performing charter schools;

(IV) The applicant has made a material misrepresentation or false statement or concealed an essential or material fact during the application process; or

(V) The proposed charter school's educational program and financial management practices do not materially comply with the requirements of this section.

The State Board of Education shall approve or reject the sponsor's denial of an application no later than 90 calendar days after an appeal is filed in accordance with State Board of Education rule. The State Board of Education shall remand the application to the sponsor with its written decision that the sponsor approve or deny the application. The sponsor shall implement the decision of the State Board of Education. The decision of the State Board of Education is not subject to the Administrative Procedure Act, chapter 120.

(d) The sponsor shall act upon the decision of the State Board of Education within 30 calendar days after it is received. The State Board of Education's decision is a final action subject to judicial review in the district court of appeal.

(e)1. A Charter School Appeal Commission is established to assist the commissioner and the State Board of Education with a fair and impartial review of appeals by applicants whose charter applications have been denied, whose charter contracts have not been renewed, or whose charter contracts have been terminated by their sponsors.

2. The Charter School Appeal Commission may receive copies of the appeal documents forwarded to the State Board of Education, review the documents, gather other applicable information regarding the appeal, and make a written recommendation to the commissioner. The recommendation must state whether the appeal should be upheld or denied and include the reasons for the recommendation being offered. The commissioner shall forward the recommendation to the State Board of Education no later than 7 calendar days prior to the date on which the appeal is to be heard. The state board must consider the commission's recommendation in making its decision, but is not bound by the recommendation. The decision of the Charter School Appeal Commission is not subject to the provisions of the Administrative Procedure Act, chapter 120.

3. The commissioner shall appoint a number of members to the Charter School Appeal Commission sufficient to ensure that no potential conflict of interest exists for any commission appeal decision. Members shall serve without compensation but may be reimbursed for travel and per diem expenses in conjunction with their service. Of the members hearing the appeal, one-half must represent currently operating charter schools and one-half must represent sponsors. The commissioner or a named designee shall chair the Charter School Appeal Commission.

4. The chair shall convene meetings of the commission and shall ensure that the written recommendations are completed and forwarded in a timely manner. In cases where the commission cannot reach a decision, the chair shall make the written recommendation with justification, noting that the decision was rendered by the chair.

5. Commission members shall thoroughly review the materials presented to them from the appellant and the sponsor. The commission may request information to clarify the documentation presented to it. In the course of its review, the commission may facilitate the postponement of an appeal in those cases where additional time and communication may negate the need for a formal appeal and both parties agree, in writing, to postpone the appeal to the State Board of Education. A new date certain for the appeal shall then be set based upon the rules and procedures of the State Board of Education. Commission members shall provide a written recommendation to the state board as to whether the appeal should be upheld or denied. A fact-based justification for the recommendation must be included. The chair must ensure that the written recommendation is submitted to the State Board of Education members no later than 7 calendar days prior to the date on which the appeal is to be heard. Both parties in the case shall also be provided a copy of the recommendation.

(f)1. The Department of Education shall provide or arrange for training and technical assistance to charter schools in developing and adjusting business plans and accounting for costs and income. Training and technical assistance shall also address, at a minimum, state and federal grant and student performance accountability reporting requirements and provide assistance in identifying and applying for the types and amounts of state and federal financial assistance the charter school may be eligible to receive. The department may provide other technical assistance to an applicant upon written request.

2. A charter school applicant must participate in the training provided by the Department of Education after approval of an application but at least 30 calendar days before the first day of classes at the charter school. However, a sponsor may require the charter school applicant to attend training provided by the sponsor in lieu of the department's training if the sponsor's training standards meet or exceed the standards developed by the department. In such case, the sponsor may not require the charter school applicant to attend the training within 30 calendar days before the first day of classes at the charter school. The training must include instruction in accurate financial planning and good business practices. If the applicant is a management company or a nonprofit organization, the charter school principal and the chief financial officer or his or her equivalent must also participate in the training. A sponsor may not require a high-performing charter school or high-performing charter school system applicant to participate in the training described in this subparagraph more than once.

(g) In considering charter applications for a lab school, a state university shall consult with the district school board of the county in which the lab school is located. The decision of a state university may be appealed pursuant to the procedure established in this subsection.

(h) The terms and conditions for the operation of a charter school shall be set forth by the sponsor and the applicant in a written contractual agreement, called a charter. The sponsor may not impose unreasonable rules or regulations that violate the intent of giving charter schools greater flexibility to meet educational goals. The sponsor has 30 days after approval of the application to provide an initial proposed charter contract to the charter school. The applicant and the sponsor have 40 days thereafter to negotiate and notice the charter contract for final approval by the sponsor unless both parties agree to an extension. The proposed charter contract shall be provided to the charter school at least 7 calendar days prior to the date of the meeting at which the charter is scheduled to be voted upon by the sponsor. The Department of Education shall provide mediation services for any dispute regarding this section

subsequent to the approval of a charter application and for any dispute relating to the approved charter, except disputes regarding charter school application denials. If the Commissioner of Education determines that the dispute cannot be settled through mediation, the dispute may be appealed to an administrative law judge appointed by the Division of Administrative Hearings. The administrative law judge has final order authority to rule on issues of equitable treatment of the charter school as a public school, whether proposed provisions of the charter violate the intended flexibility granted charter schools by statute, or on any other matter regarding this section except a charter school application denial, a charter termination, or a charter nonrenewal and shall award the prevailing party reasonable attorney's fees and costs incurred to be paid by the losing party. The costs of the administrative hearing shall be paid by the party whom the administrative law judge rules against.

(9) CHARTER SCHOOL REQUIREMENTS.—

- (a) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.
- (b) A charter school shall admit students as provided in subsection (10).
- (c) A charter school shall be accountable to its sponsor for performance as provided in subsection (7).
- (d) A charter school shall not charge tuition or registration fees, except those fees normally charged by other public schools. However, a charter lab school may charge a student activity and service fee as authorized by s. 1002.32(5).
- (e) A charter school shall meet all applicable state and local health, safety, and civil rights requirements.
- (f) A charter school shall not violate the antidiscrimination provisions of s. 1000.05.
- (g)1. In order to provide financial information that is comparable to that reported for other public schools, charter schools are to maintain all financial records that constitute their accounting system:
 - a. In accordance with the accounts and codes prescribed in the most recent issuance of the publication titled “Financial and Program Cost Accounting and Reporting for Florida Schools”; or
 - b. At the discretion of the charter school’s governing board, a charter school may elect to follow generally accepted accounting standards for not-for-profit organizations, but must reformat this information for reporting according to this paragraph.
- 2. Charter schools shall provide annual financial report and program cost report information in the state-required formats for inclusion in district reporting in compliance with s. 1011.60(1). Charter schools that are operated by a municipality or are a component unit of a parent nonprofit organization may use the accounting system of the municipality or the parent but must reformat this information for reporting according to this paragraph.
- 3. A charter school shall provide the sponsor with a concise, uniform, monthly financial statement summary sheet that contains a balance sheet and a statement of revenue, expenditures, and changes in fund balance. The balance sheet and the statement of revenue, expenditures, and changes in fund balance shall be in the governmental funds format prescribed by the Governmental Accounting Standards Board. A high-performing charter school pursuant to s. 1002.331 may provide a quarterly financial statement in the same format and requirements as the uniform monthly financial statement summary sheet.
- 4. A charter school shall maintain and provide financial information as required in this paragraph. The financial statement required in subparagraph 3. must be in a form prescribed by the Department of Education.
- (h) The governing board of the charter school shall annually adopt and maintain an operating budget.
- (i) The governing body of the charter school shall exercise continuing oversight over charter school operations.
- (j) The governing body of the charter school shall be responsible for:
 - 1. Ensuring that the charter school has retained the services of a certified public accountant or auditor for the annual financial audit, pursuant to s. 1002.345(2), who shall submit the report to the governing body.
 - 2. Reviewing and approving the audit report, including audit findings and recommendations for the financial recovery plan.
 - 3.a. Performing the duties in s. 1002.345, including monitoring a corrective action plan.
 - b. Monitoring a financial recovery plan in order to ensure compliance.
 - 4. Participating in governance training approved by the department which must include government in the sunshine, conflicts of interest, ethics, and financial responsibility.
- (k) The governing body of the charter school shall report its progress annually to its sponsor, which shall forward the report to the Commissioner of Education at the same time as other annual school accountability reports. The Department of Education shall develop a uniform, online annual accountability report to be completed by charter schools. This report shall be easy to utilize and contain demographic information, student performance data, and financial accountability information. A charter school shall not be required to provide information and data that is duplicative and already in the possession of the department. The Department of Education shall include in its compilation a notation if a

school failed to file its report by the deadline established by the department. The report shall include at least the following components:

1. Student achievement performance data, including the information required for the annual school report and the education accountability system governed by ss. 1008.31 and 1008.345. Charter schools are subject to the same accountability requirements as other public schools, including reports of student achievement information that links baseline student data to the school's performance projections identified in the charter. The charter school shall identify reasons for any difference between projected and actual student performance.
2. Financial status of the charter school which must include revenues and expenditures at a level of detail that allows for analysis of the charter school's ability to meet financial obligations and timely repayment of debt.
3. Documentation of the facilities in current use and any planned facilities for use by the charter school for instruction of students, administrative functions, or investment purposes.
4. Descriptive information about the charter school's personnel, including salary and benefit levels of charter school employees, the proportion of instructional personnel who hold professional or temporary certificates, and the proportion of instructional personnel teaching in-field or out-of-field.
 - (l) A charter school shall not levy taxes or issue bonds secured by tax revenues.
 - (m) A charter school shall provide instruction for at least the number of days required by law for other public schools and may provide instruction for additional days.
 - (n)1. The director and a representative of the governing board of a charter school that has earned a grade of "D" or "F" pursuant to s. 1008.34 shall appear before the sponsor to present information concerning each contract component having noted deficiencies. The director and a representative of the governing board shall submit to the sponsor for approval a school improvement plan to raise student performance. Upon approval by the sponsor, the charter school shall begin implementation of the school improvement plan. The department shall offer technical assistance and training to the charter school and its governing board and establish guidelines for developing, submitting, and approving such plans.
 - 2.a. If a charter school earns three consecutive grades of "D," two consecutive grades of "D," followed by a grade of "F," or two nonconsecutive grades of "F" within a 3-year period, the charter school governing board shall choose one of the following corrective actions:
 - (I) Contract for educational services to be provided directly to students, instructional personnel, and school administrators, as prescribed in state board rule;
 - (II) Contract with an outside entity that has a demonstrated record of effectiveness to operate the school;
 - (III) Reorganize the school under a new director or principal who is authorized to hire new staff; or
 - (IV) Voluntarily close the charter school.
 - b. The charter school must implement the corrective action in the school year following receipt of a third consecutive grade of "D," a grade of "F" following two consecutive grades of "D," or a second nonconsecutive grade of "F" within a 3-year period.
 - c. The sponsor may annually waive a corrective action if it determines that the charter school is likely to improve a letter grade if additional time is provided to implement the intervention and support strategies prescribed by the school improvement plan. Notwithstanding this sub-subparagraph, a charter school that earns a second consecutive grade of "F" is subject to subparagraph 4.
 - d. A charter school is no longer required to implement a corrective action if it improves by at least one letter grade. However, the charter school must continue to implement strategies identified in the school improvement plan. The sponsor must annually review implementation of the school improvement plan to monitor the school's continued improvement pursuant to subparagraph 5.
 - e. A charter school implementing a corrective action that does not improve by at least one letter grade after 2 full school years of implementing the corrective action must select a different corrective action. Implementation of the new corrective action must begin in the school year following the implementation period of the existing corrective action, unless the sponsor determines that the charter school is likely to improve a letter grade if additional time is provided to implement the existing corrective action.

Notwithstanding this sub-subparagraph, a charter school that earns a second consecutive grade of “F” while implementing a corrective action is subject to subparagraph 4.

3. A charter school with a grade of “D” or “F” that improves by at least one letter grade must continue to implement the strategies identified in the school improvement plan. The sponsor must annually review implementation of the school improvement plan to monitor the school’s continued improvement pursuant to subparagraph 5.

4. The sponsor shall terminate a charter if the charter school earns two consecutive grades of “F” unless:

a. The charter school is established to turn around the performance of a district public school pursuant to s. 1008.33(4)(b)3. Such charter schools shall be governed by s. 1008.33;

b. The charter school serves a student population the majority of which resides in a school zone served by a district public school that earned a grade of “F” in the year before the charter school opened and the charter school earns at least a grade of “D” in its third year of operation. The exception provided under this sub-subparagraph does not apply to a charter school in its fourth year of operation and thereafter; or

c. The state board grants the charter school a waiver of termination. The charter school must request the waiver within 15 days after the department’s official release of school grades. The state board may waive termination if the charter school demonstrates that the Learning Gains of its students on statewide assessments are comparable to or better than the Learning Gains of similarly situated students enrolled in nearby district public schools. The waiver is valid for 1 year and may only be granted once. Charter schools that have been in operation for more than 5 years are not eligible for a waiver under this sub-subparagraph.

5. The director and a representative of the governing board of a graded charter school that has implemented a school improvement plan under this paragraph shall appear before the sponsor at least once a year to present information regarding the progress of intervention and support strategies implemented by the school pursuant to the school improvement plan and corrective actions, if applicable. The sponsor shall communicate at the meeting, and in writing to the director, the services provided to the school to help the school address its deficiencies.

6. Notwithstanding any provision of this paragraph except sub-subparagraphs 4.a.-c., the sponsor may terminate the charter at any time pursuant to subsection (8).

(o)1. Upon initial notification of nonrenewal, closure, or termination of its charter, a charter school may not expend more than \$10,000 per expenditure without prior written approval from the sponsor unless such expenditure was included within the annual budget submitted to the sponsor pursuant to the charter contract, is for reasonable attorney fees and costs during the pendency of any appeal, or is for reasonable fees and costs to conduct an independent audit.

2. An independent audit shall be completed within 30 days after notice of nonrenewal, closure, or termination to account for all public funds and assets.

3. A provision in a charter contract that contains an acceleration clause requiring the expenditure of funds based upon closure or upon notification of nonrenewal or termination is void and unenforceable.

4. A charter school may not enter into a contract with an employee that exceeds the term of the school’s charter contract with its sponsor.

5. A violation of this paragraph triggers a reversion or clawback power by the sponsor allowing for collection of an amount equal to or less than the accelerated amount that exceeds normal expenditures. The reversion or clawback plus legal fees and costs shall be levied against the person or entity receiving the accelerated amount.

(p) Each charter school shall maintain a website that enables the public to obtain information regarding the school; the school’s academic performance; the names of the governing board members; the programs at the school; any management companies, service providers, or education management corporations associated with the school; the school’s annual budget and its annual independent fiscal audit; the school’s grade pursuant to s. 1008.34; and, on a quarterly basis, the minutes of governing board meetings.

(q) The charter school principal or the principal’s designee shall immediately notify the parent of a student who is removed from school, school transportation, or a school-sponsored activity and taken to a receiving facility for an involuntary examination pursuant to s. 394.463. The principal or the principal’s

designee may delay notification for no more than 24 hours after the student is removed if the principal or designee deems the delay to be in the student's best interest and if a report has been submitted to the central abuse hotline, pursuant to s. 39.201, based upon knowledge or suspicion of abuse, abandonment, or neglect. Each charter school governing board shall develop a policy and procedures for notification under this paragraph.

1002.331 High-performing charter schools.—

(1) A charter school is a high-performing charter school if it:

- (a) Received at least two school grades of “A” and no school grade below “B,” pursuant to s. 1008.34, during each of the previous 3 school years.
- (b) Received an unqualified opinion on each annual financial audit required under s. 218.39 in the most recent 3 fiscal years for which such audits are available.
- (c) Did not receive a financial audit that revealed one or more of the financial emergency conditions set forth in s. 218.503(1) in the most recent 3 fiscal years for which such audits are available. However, this requirement is deemed met for a charter school-in-the-workplace if there is a finding in an audit that the school has the monetary resources available to cover any reported deficiency or that the deficiency does not result in a deteriorating financial condition pursuant to s. 1002.345(1)(a)3.

A virtual charter school established under s. 1002.33 is not eligible for designation as a high-performing charter school.

(2) A high-performing charter school is authorized to:

- (a) Increase its student enrollment once per school year to more than the capacity identified in the charter, but student enrollment may not exceed the current facility capacity.
- (b) Expand grade levels within kindergarten through grade 12 to add grade levels not already served if any annual enrollment increase resulting from grade level expansion is within the limit established in paragraph (a).
- (c) Submit a quarterly, rather than a monthly, financial statement to the sponsor pursuant to s. 1002.33(9)(g).
- (d) Consolidate under a single charter the charters of multiple high-performing charter schools operated in the same school district by the charter schools’ governing board regardless of the renewal cycle.
- (e) Receive a modification of its charter to a term of 15 years or a 15-year charter renewal. The charter may be modified or renewed for a shorter term at the option of the high-performing charter school. The charter must be consistent with s. 1002.33(7)(a)19. and (10)(h) and (i), is subject to annual review by the sponsor, and may be terminated during its term pursuant to s. 1002.33(8).

A high-performing charter school shall notify its sponsor in writing by March 1 if it intends to increase enrollment or expand grade levels the following school year. The written notice shall specify the amount of the enrollment increase and the grade levels that will be added, as applicable. If a charter school notifies the sponsor of its intent to expand, the sponsor shall modify the charter within 90 days to include the new enrollment maximum and may not make any other changes. The sponsor may deny a request to increase the enrollment of a high-performing charter school if the commissioner has declassified the charter school as high-performing. If a high-performing charter school requests to consolidate multiple charters, the sponsor shall have 40 days after receipt of that request to provide an initial draft charter to the charter school. The sponsor and charter school shall have 50 days thereafter to negotiate and notice the charter contract for final approval by the sponsor.

(3)(a) A high-performing charter school may submit an application pursuant to s. 1002.33(6) in any school district in the state to establish and operate a new charter school that will substantially replicate its educational program. An application submitted by a high-performing charter school must state that the application is being submitted pursuant to this paragraph and must include the verification letter provided by the Commissioner of Education pursuant to subsection (5). If the sponsor fails to act on the application within 60 days after receipt, the application is deemed approved and the procedure in s. 1002.33(6)(h) applies. If the sponsor denies the application, the high-performing charter school may appeal pursuant to s. 1002.33(6).

(b) A high-performing charter school may not establish more than one charter school within the state under paragraph (a) in any year. A subsequent application to establish a charter school under paragraph (a) may not be submitted unless each charter school established in this manner achieves high-performing charter school status.

(4) A high-performing charter school may not increase enrollment or expand grade levels following any school year in which it receives a school grade of “C” or below. If the charter school receives a school grade of “C” or below in any 2 years during the term of the charter awarded under subsection (2), the term of the charter may be modified by the sponsor and the charter school loses its high-performing charter school status until it regains that status under subsection (1).

(5) The Commissioner of Education, upon request by a charter school, shall verify that the charter school meets the criteria in subsection (1) and provide a letter to the charter school and the sponsor stating that the charter school is a high-performing charter school pursuant to this section. The commissioner shall annually determine whether a high-performing charter school under subsection (1) continues to meet the criteria in that subsection. Such high-performing charter school shall maintain its high-performing status unless the commissioner determines that the charter school no longer meets the criteria in subsection (1), at which time the commissioner shall send a letter providing notification of its declassification as a high-performing charter school.

(6) A high-performing charter school replicated under this section may not be replicated as a virtual charter school.

STATE BOARD OF EDUCATION

Consent Item

February 18, 2016

SUBJECT: Approval of Amendment to Rule 6A-3.0141, Employment of School Bus Operators and Repeal of Rule 6A-3.0151, School Bus Driver Physical Examination and Medical Examiners Certificate

PROPOSED BOARD ACTION

For Approval

AUTHORITY FOR STATE BOARD ACTION

Sections 316.615(3), 1001.02(1), 1006.22, 1012.45, Florida Statutes

EXECUTIVE SUMMARY

Replace the requirement that school districts use the Florida School Bus Operators Medical Examination Report for Commercial Driver Fitness Determination (Form ESE 479) with the federal Form MCSA-5875, Medical Examiner's Certificate and its associated guidelines. Florida school bus operator medical examination requirements are substantially the same as the requirements for federally regulated commercial drivers. This substitution reduces state regulations and removes the requirement to maintain a separate medical examination report form. The proposed amendment would adopt a maximum two-year requirement; however, school districts have the option of requiring more frequent medical examinations through school board policy.

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Supporting Documentation Included: Proposed Rules 6A-3.0141 and 6A-3.0151, F.A.C., Form ESE 480 Dexterity Test for School Bus Driver and Form MCSA-58765, Medical Examiner's Certificate

Facilitator: Linda Champion, Deputy Commissioner, Finance and Operations

6A-3.0141 Employment of School Bus Operators.

(1) through (2) No change.

~~(3) Form ESE 479, Florida School Bus Operators Medical Examination Report for Commercial Driver Fitness Determination is hereby incorporated by reference and made a part of this rule to become effective November 2006. This form may be obtained from the Director of the School Transportation Management Section or the Bureau of Education Information and Accountability Services, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.~~

~~(3)~~ (4) Prior to transporting students on a school bus each operator shall meet the following requirements:

(a) Hold a valid commercial driver license with a passenger endorsement and a school bus endorsement.

(b) Successfully complete forty (40) hours of preservice training consisting of at least twenty (20) hours of classroom instruction and eight (8) hours of behind-the-wheel training based upon the Department's Basic School Bus Operator Curriculum, Revised 2006, which is hereby incorporated by reference and made a part of this rule. This document may be obtained from the School Transportation Management Section ~~Bureau of Career Development~~, Department of Education, 325 West Gaines Street ~~The Florida Education Center~~, Tallahassee, Florida 32399, at a cost not to exceed actual production and distribution costs.

(c) Demonstrate the ability to prepare required written reports.

(d) Be physically capable of operating the vehicle as determined by physical examination, in accordance with 49 C.F.R. s. 391.41(b), as evidenced by the Medical Examiner's Certificate (Form MCSA-5876) and given by a certified medical examiner, registered with the National Registry of Certified Medical Examiners, pursuant to 49 CFR s. 391.43 ~~Form ESE 479, prescribed by the Commissioner and given by a physician designated by the school board~~ and as determined by a dexterity test administered by the school district. Form MCSA-5876 (effective March 2016) is incorporated by reference (DOS link) and may be obtained from the School Transportation Management Section, Florida Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399. The school district shall report dexterity results on Form ESE 480, Dexterity Test for School Bus Driver (DOS link) (effective March 2016), which is incorporated in this rule by reference. The medical examiner may not specify any waiver or exemption from the medical examination requirements, and no alternative physical qualification standards are recognized. Compliance with 49 C.F.R. Part 391 is required under section 1012.45, Florida Statutes. This document may be obtained from the School Transportation Management Section, Florida Department of Education, 325 West

Gaines Street, Tallahassee, Florida 32399.

(e) Demonstrate physical and mental capabilities required to carry out all assigned responsibilities as a school bus operator.

(4) ~~(5)~~ A certification of training provided by the Commissioner shall be issued by the district to each operator successfully completing the forty (40) hours of preservice training.

(5) ~~(6)~~ Each district school board shall obtain a driver's history record from the Department of Highway Safety and Motor Vehicles for each regular school bus operator, substitute operator, or any other individual certified to drive a school bus by the district. The schedule for reviewing these records shall be:

(a) Prior to initial employment;

(b) Prior to the first day of the fall semester.

(c) Thereafter, the district shall continuously screen operator records using the automated weekly updates, ensuring proper retrieval documentation for every week.

(6) ~~(7)~~ Driver history records shall be requested in a manner prescribed by the Department of Highway Safety and Motor Vehicles using the Automated School Bus Driver's License Record Check System through the Department's data base. All school districts shall obtain and review records for school bus operators using the automated data base system. For any operator licensed in another state, the district shall obtain and review the driver's history record from the appropriate state.

(7) ~~(8)~~ Each school district shall establish a school board policy that specifies which infractions of the traffic code deem an applicant unqualified for employment ~~hire~~ and which causes any employee to be subject to a prescribed follow-up action. At a minimum, this policy shall state that any district school bus operator or contracted operator who should have known that his or her license has expired or has been suspended or revoked shall be subject to prescribed disciplinary measures up to and including dismissal by the school board.

(8) ~~(9)~~ At least annually, the school district shall assure that the operator of a school bus meets the following requirements:

(a) The requirements of paragraph (3) ~~(4)~~(a) of this rule.

(b) Successfully complete a minimum of eight (8) hours of inservice training related to the operator's responsibilities for transporting students.

(c) Successfully pass a dexterity test administered by the school district and maintain a valid Medical Examiners

Certificate.

~~(9) (10)~~ At the time of reemployment, the school board shall assure that each school bus operator meets all of the requirements of subsections (2) ~~and (3)~~ and paragraph (3) ~~(4)(a) and (d)~~ of this rule. If not more than a twelve continuous calendar month break in service has occurred, an operator shall be required to complete eight (8) hours of inservice training related to their responsibilities for transporting students prior to driving a school bus with students. If a period exceeding twelve (12) calendar months has occurred, the operator shall be required to successfully complete all of the requirements of subsections (2) through (6) ~~(5)~~ of this rule.

(11) All school bus operators shall be subject to the Federal requirements of 49 C.F.R., Parts 382 and 391 related to the substance abuse testing and alcohol detection program.

Rulemaking Authority 316.615(3), 1001.02(1), 1006.22, 1012.45 FS. Law Implemented 316.615 412.044(3), 322.03(1), (3), 1006.22, 1012.32(2)(a), 1012.45 FS. History—New 8-1-86, Amended 7-5-89, 11-15-94, 4-18-96, 6-24-03, 11-26-06, 4-25-07.

6A-3.0151 School Bus Driver Physical Examination and Medical Examiners Certificate.

Rulemaking Authority 1001.02, 1006.21, 1006.22 FS. Law Implemented 1001.02, 1006.21, 1006.22 FS. History—New 11-15-94.
Repealed

6A-3.0151 School Bus Driver Physical Examination and Medical Examiners Certificate.

~~(1) The physical standards established by the Federal Motor Carrier Safety Administration pursuant to 49 C.F.R. sections 391.41 and 391.43 shall be applicable to all school bus drivers within the state. Any individual who has been performing as a school bus driver who is disqualified as a result of the enactment of this rule shall be afforded a priority in reemployment with the school district in another capacity as positions become available for such employment.~~

~~(2) Resolution of conflicts of medical evaluations. In the event that the approved school board medical examiner's determination of noncertification of a school bus driver is inconsistent with a second medical examination administered by a qualified medical examiner chosen by the school bus driver the conflict shall be resolved as follows:~~

~~(a) A third medical examiner will be chosen by the two (2) medical examiners in disagreement and shall be a licensed physician who is a specialist in the field of medicine related to the condition(s) in question.~~

(b) The third physician shall be given copies of both medical examiners' forms and the test results upon which the findings are based, and a complete description of the requirements of the bus driver's responsibilities.

(c) The third physician shall conduct any applicable tests as are necessary.

(d) The findings of the third physician shall be the basis of determination for certification or noncertification.

(3) Waiver of certain physical conditions. A person who is not physically qualified under 49 CFR section 391.41(b)(1) or (2) and other standards which may be included in Federal Code and who is otherwise qualified to drive a motor vehicle, may drive a school bus if granted a waiver using 49 CFR section 391.41 as a guideline for evaluation by the Deputy Commissioner for Finance and Operations or designee. Applications for waiver shall be made following the procedures and requirements contained in 49 CFR section 391.49 except that applications shall be made to and administered by the Deputy Commissioner for Finance and Operations or designee.

(4) Form ESE 479, Physical Examination for School Bus Driver and Medical Examiners Certificate, as adopted in subsection 6A-3.0141(3), F.A.C., shall be used for recording the results of the physical examination. This form may be obtained from the Administrator of School Transportation Management Section or Information Services and Accountability, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(5) The physical examination shall be performed according to the School Bus Driver Physical Standards: Medical Regulatory Criteria for Physical Examinations which is hereby incorporated by reference and made a part of this rule to become effective November 1994. This document may be obtained from the Bureau of Career Development, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399. This document is a compilation of physical evaluation criteria and guidelines which have been published in the Federal Register and which contain specific instructions for medical examiners performing examinations. The procedures for obtaining a waiver referenced in the document shall be consistent with those found in subsection (2) of this rule.

(6) The Medical Examiners Certificate shall be valid until the date of expiration on the certificate and shall be carried on the driver in person while the bus is in operation.

Rulemaking Authority 1001.02, 1006.21, 1006.22 FS. Law Implemented 1001.02, 1006.21, 1006.22 FS. History—New 11-15-94.

Dexterity Test for School Bus Driver



Driver Name: _____
 Last First Middle

Suggested performance on the dexterity test for School Bus Driver consists of successful completion of item numbers 1-5, and expires thirteen months after the date of examination.

<i>ITEM</i>	Successfully Completed	
	YES	NO
1. Applicant did climb and descend the front steps of a 65-passenger bus or larger without pausing.....	<input type="checkbox"/>	<input type="checkbox"/>
2. Applicant did open and close a manually operated 65-passenger or larger bus entrance door without difficulty while seated in the driver’s seat, or from a seated position got out of seat and manually opened air door and stepped down on ground.....	<input type="checkbox"/>	<input type="checkbox"/>
3. Applicant did activate the brake pedal with the right foot in 3/4 of a second or less after removing the right foot from the throttle pedal.....	<input type="checkbox"/>	<input type="checkbox"/>
4. Applicant did move from a seated position in the driver’s seat of a 65-passenger or larger bus to the rear of the bus, open the emergency door, or use side door on rear engine transits, and exit the bus all within 20 seconds.....	<input type="checkbox"/>	<input type="checkbox"/>
5. Applicant did operate the driving controls using both arms simultaneously and quickly. For example, activate master panel switches or shift gears while keeping one hand on the steering wheel of a 65-passenger bus traveling 25 miles per hour. (Activity #5 is to be done last, only if all prior activities are successfully completed.).....	<input type="checkbox"/>	<input type="checkbox"/>

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Signature of School District Examiner

Date of Examination

*Dexterity Test Expiration Date
 (13 months after date of examination)*

SBOE Meeting - Consent Item - Amendment to Rule 6A-3.0141 and Repeal of Rule 6A-3.0151

Form MCSA-5876 (Effective March 2016)
Rule 6A-3.0141

OMB No. 2126-0006 Expiration Date:

Public Burden Statement

A Federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2126-0006. Public reporting for this collection of information is estimated to be approximately 1 minute per response, including the time for reviewing instructions, gathering the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Motor Carrier Safety Administration, MC-RRA, 1200 New Jersey Avenue, SE, Washington, D.C. 20590.



U.S. Department of Transportation
Federal Motor Carrier
Safety Administration

Medical Examiner's Certificate
(for Commercial Driver Medical Certification)

I certify that I have examined **Last Name:** _____ **First Name:** _____ in accordance with *(please check only one):*

- the Federal Motor Carrier Safety Regulations ([49 CFR 391.41-391.49](#)) and, with knowledge of the driving duties, I find this person is qualified, and, if applicable, only when *(check all that apply)* **OR**
- the Federal Motor Carrier Safety Regulations ([49 CFR 391.41-391.49](#)) with any applicable State variances (which will only be valid for intrastate operations), and, with knowledge of the driving duties, I find this person is qualified, and, if applicable, only when *(check all that apply):*
 - Wearing corrective lenses Accompanied by a _____ waiver/exemption Driving within an exempt intracity zone ([49 CFR 391.62](#)) *(Federal)*
 - Wearing hearing aid Accompanied by a Skill Performance Evaluation (SPE) Certificate Qualified by operation of [49 CFR 391.64](#) *(Federal)*
 - Grandfathered from State requirements *(State)*

The information I have provided regarding this physical examination is true and complete.
A complete examination form with any attachment embodies my findings completely and correctly, and is on file in my office.

Medical Examiner's Certificate Expiration Date

Signature of Medical Examiner	Medical Examiner's Telephone Number	Date Certificate Signed
_____	_____	_____
Medical Examiner Name <i>(please print or type)</i>	<input type="radio"/> MD <input type="radio"/> Physician Assistant <input type="radio"/> Advanced Practice Nurse <input type="radio"/> DO <input type="radio"/> Chiropractor <input type="radio"/> Other Practitioner <i>(specify)</i> _____	

Medical Examiner's State License, Certificate, or Registration Number	Issuing State	National Registry Number
_____	_____	_____

Signature of Driver	Driver's License Number	Issuing State/Province
_____	_____	_____
Address of Driver	CLP/CDL Applicant/Holder	
Street: _____ City: _____	State/Province: _____ Zip Code: _____	<input type="radio"/> Yes <input type="radio"/> No

STATE BOARD OF EDUCATION
Consent Item
February 18, 2016

SUBJECT: Approval of Amendment to Rule 6A-3.0171, Responsibilities of School Districts for Student Transportation

PROPOSED BOARD ACTION

For Approval

AUTHORITY FOR STATE BOARD ACTION

Sections 1003.31, 1006.21, 1006.22, Florida Statutes

EXECUTIVE SUMMARY

Amendment deletes duplicative requirements for school districts to report school bus accidents and the requirement for school districts to report hazardous walking locations to the Department of Education.

Supporting Documentation Included: Proposed Rule 6A-3.0171, F.A.C.

Facilitator: Linda Champion, Deputy Commissioner, Finance and Operations

6A-3.0171 Responsibilities of School Districts for Student Transportation.

Each school district shall exercise specific powers and responsibilities, as follows:

(1) through (h) No change.

~~(i) To recommend a medical examiner or medical examiners to give physical examinations to bus operators and to ascertain and ensure that all examinations are carried out as required. A medical examiner shall be defined as a medical physician or physician assistant licensed pursuant to Chapter 458, F.S.; an osteopathic physician or physician assistant pursuant to Chapter 459, F.S.; a chiropractic physician licensed pursuant to Chapter 460, F.S.; and an Advanced Registered Nurse Practitioner licensed pursuant to Chapter 464, F.S.~~

(2) The school district shall exercise additional specific powers and responsibilities, as follows:

(a) Enforcement of law and rules and formulation of policies.

(b) To make sure that State Board of Education rules are known, understood and observed by all who have responsibility for student transportation.

(c) To assure that all transportation rules and statements of policy are in harmony with rules of the State Board of Education, and are fully observed.

(d) To assure that no state funds for transportation are used for transportation of students to schools which cannot qualify for recognition by the Department under the provisions of State Board of Education rules.

(e) through (f) No change.

(g) To adopt, after considering recommendations of the superintendent statements of policy in harmony with law and with rules of the State Board of Education necessary for maintaining the requirements of adequate transportation. Such policies shall include at least the following responsibilities of the director or supervisor of transportation, the school principal or other designated staff and the bus operator for uniform school bus operating procedures:

1. through 3.b. No change.

c. To refrain from use of tobacco while operating the bus, and to use no profane language in the presence of the students. Operators shall not use or be under the influence of alcohol, illicit drugs, or any substance which may impair the operator's alertness or performance while on duty. ~~Operators shall not carry firearms while on school board property.~~

d. through e. No change.

f. To study and observe all laws and rules of the State Board of Education and the school board relating to the service of transportation.

g. through q. No change.

~~r. To drive always at a safe speed and never in excess of the legally posted speed limit in business or residential districts or fifty five (55) miles per hour outside business or residential districts.~~

~~r. s.~~ To cooperate with duly authorized school officials, mechanics and other personnel in the mechanical maintenance and repair of bus in overcoming hazards which threaten the safety or efficiency of service.

~~s. t.~~ To inspect the bus at least daily prior to the beginning of the first daily trip or more often as required by the school district and to report any defect affecting safety or economy of operation immediately to authorized service personnel. The inspection shall include all items identified in the procedures related to the mandatory daily inspection in the Basic School Bus Operator Curriculum.

~~t. u.~~ To keep the bus clean and neat at all times and not affix any stickers or other unauthorized items to the interior or exterior of buses.

~~u. v.~~ To prepare reports, keep all records required, and otherwise assist school officials in mapping bus routes, planning schedules and in obtaining information for a continuous study of all phases of transportation service.

~~v. w.~~ To wear a seat belt at all times when the bus is in operation.

~~w. x.~~ To use roof-mounted white flashing strobe lights (if equipped) at a minimum, whenever headlights are required to be used due to reduced visibility conditions pursuant to Section 316.217(1)(b), F.S., except that insufficient light due only to the time of day or night shall not require use of the strobe light.

~~x. y.~~ To report immediately to the director or supervisor of transportation, school principal or other designated officials:

(I) through (V) No change.

~~y. z.~~ To perform a complete interior inspection of each bus after each run and trip to ensure no students are left on board.

~~z. aa.~~ To maintain as far as practicable by patient and considerate treatment of parents a feeling of security in the safety of students transported.

(3) Transportation personnel.

(a) To employ such assistants as may be recommended by the superintendent and as are necessary in the

judgment of the board to supervise operation and maintenance of school buses and to provide records and maps for a continuous study of transportation routes and needs within the district.

(b) To employ or contract only for services of school bus operators who meet the requirements of Rule 6A-3.0141, F.A.C., ~~and who possess a valid Medical Examiner's Certificate.~~

~~(c) To officially maintain, after considering recommendations of the superintendent, an approved, current list of properly licensed physicians or medical facilities staffed by licensed physicians other than members of the school board or superintendent, eligible to examine all school bus operator's and operator applicants, in accordance with Form ESE 479, Florida School Bus Operators Medical Examination Report for Commercial Driver Fitness Determination, and School Bus Driver Physical Standards: Medical Regulatory Criteria for Physical Examinations, as adopted by reference in Rule 6A-3.0151, F.A.C.~~

(4) No change.

(5) Purchases, lease and use of school buses.

(a) To provide, by purchase or contract, safe, comfortable and adequate transportation facilities and school buses which meet minimum standards of law and State Board of Education rules.

(b) To purchase transportation equipment in accordance with all provisions of law and State Board of Education rules.

(c) To assure that contracts entered into by school boards for operation of school buses are in accordance with law and rules of the State Board of Education.

(d) through (7) No change.

(8) Inspection and maintenance of school buses.

(a) To provide, after considering recommendations of the superintendent, adequate storage, maintenance and inspection procedures for all buses owned by the school board, and to assure that all contract buses in use in the district are properly inspected and maintained in accordance with law and rules of the State Board of Education.

(b) through (e) No change.

(9) Transportation records, reports and accounting.

(a) To ascertain and ensure that all prescribed records are kept and reports made which are required by law or ; ~~rules of the Commissioner.~~

(b) To assure that all records and reports ~~prescribed by the Commissioner~~ are properly completed and are

furnished on the dates due to those designated to receive them.

~~1. To file with the Deputy Commissioner for Finance and Operations school bus accident reports using the Department's Automated School Bus Accident Reporting System which may be accessed at <http://doeweb-prd.doe.state.fl.us/eds/BusAccident>. Districts shall complete a report on any school bus accident meeting the reporting requirements of the automated system. The Department's Automated School Bus Accident Reporting System (Form ESE 256) as noted above is hereby incorporated by reference to become effective November 2006. For viewing purposes only, hard copies of the reporting requirements in the Automated School Bus Accident Reporting System may be obtained by contacting the Director of the School Transportation Management Section, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.~~

~~2. To file with the Deputy Commissioner for Finance and Operations the Hazardous Walking Conditions Report for Elementary Students within 2 Miles of Assigned School (Form 422) using the Department's automated system which may be accessed at <http://data.fldoe.org/walking/>. The Hazardous Walking Conditions Report for Elementary Students within 2 Miles of Assigned School is hereby incorporated by reference to become effective November 2006. For viewing purposes only, hard copies of the Hazardous Walking Conditions Report for Elementary Students within 2 Miles of Assigned School may be obtained by contacting the Director of the School Transportation Management Section, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.~~

(c) through (10) No change.

Rulemaking Authority ~~316.615, 1003.31, 1006.21, 1006.22, 1012.45~~ FS. Law Implemented ~~316.615, 316.183(3), 316.189, 1003.31, 1006.21(3), 1006.22, 1012.45~~ FS. History—New 9-4-64, Amended 3-25-66, 1-17-72, 7-20-74, Repromulgated 12-5-74, Amended 11-24-76, 10-1-81, Formerly 6A-3.17, Amended 9-30-87, 6-26-89, 11-15-94, 8-28-95, 4-18-96, Formerly 6-3.017, Amended 6-11-00, Formerly 6-3.017, Amended 4-21-03, 11-26-08.

STATE BOARD OF EDUCATION

Consent Item

February 18, 2016

SUBJECT: Adoption of a Resolution Requesting the Issuance and Sale of Not Exceeding \$68,000,000 State of Florida, State Board of Education Lottery Revenue Refunding Bonds Series (to be determined)

PROPOSED BOARD ACTION

For Approval

AUTHORITY FOR STATE BOARD ACTION

Sections 1013.70, 1013.737 and 215.79, Florida Statutes

EXECUTIVE SUMMARY

The Division of Bond Finance of the State Board of Administration is requesting that the State Board of Education adopt a resolution authorizing the issuance and sale of not exceeding \$68,000,000 State of Florida, State Board of Education Lottery Revenue Refunding Bonds Series (to be determined), in order to effectuate debt service savings on previously issued Lottery Revenue Bonds.

The bonds are to be secured by lottery revenues, and may additionally be secured by other revenues that are determined to be necessary and legally available.

Supporting Documentation Included: Requesting Resolution

Facilitator: Linda Champion, Deputy Commissioner, Finance and Operations

A RESOLUTION REQUESTING THE DIVISION OF BOND FINANCE OF THE STATE BOARD OF ADMINISTRATION OF FLORIDA TO ISSUE AND SELL NOT EXCEEDING \$68,000,000 STATE OF FLORIDA, STATE BOARD OF EDUCATION LOTTERY REVENUE REFUNDING BONDS TO REFINANCE PREVIOUSLY ISSUED LOTTERY REVENUE BONDS; AUTHORIZING AN OPTION TO PURCHASE A DEBT SERVICE RESERVE CREDIT FACILITY TO SATISFY ANY DEBT SERVICE RESERVE ACCOUNT REQUIREMENT AND TO OBTAIN A MUNICIPAL BOND INSURANCE POLICY; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED by the State Board of Education:

Section 1. The State Board of Education (the "Board") hereby authorizes and requests the Division of Bond Finance of the State Board of Administration of Florida (the "Division") to issue and sell bonds on behalf of the Board, in an aggregate amount not exceeding \$68,000,000 (the "Bonds") to refinance previously issued Lottery Revenue Bonds and to pay the costs of issuance of the Bonds. **The Bonds are hereby authorized to be sold by competitive sale for the purpose of achieving debt service savings.** The Bonds are to be secured by lottery revenues, and may additionally be secured by other revenues that are determined to be necessary and legally available. The Division shall determine the date, amount, terms and other features of a fiscal or technical nature for the issuance of the Bonds.

Section 2. The Board will comply with all requirements of bond counsel and the Division as evidenced by a "Certificate as to Tax, Arbitrage and Other Matters" or similar certificate to be executed by the Board prior to the issuance of the Bonds and advice and directions in implementing such certificate.

Section 3. The Board will comply with all other requirements of the Division with respect to compliance with federal arbitrage law, pursuant to section 215.64(11), Florida Statutes, including the payment of fees to the Division in connection therewith.

Section 4. The Board will comply with all requirements of federal law, state law or the Division, relating to continuing secondary market disclosure of information regarding the Bonds and the Lottery revenues pledged to the Bonds. Such requirements currently provide for the continuing disclosure of information relating to the Bonds and Lottery revenues on an annual basis and upon the occurrence of certain material events.

Section 5. As provided in section 215.65, Florida Statutes, the fees charged by the Division and all expenses incurred by the Division in connection with the issuance of the Bonds (except for periodic arbitrage compliance fees, which shall be paid from other legally available funds) shall be paid and reimbursed to the Division from the proceeds of the sale of such Bonds

Section 6. The Division is hereby requested to take all actions required to issue the Bonds.

Section 7. The Board may cause to be purchased a debt service reserve credit facility and/or a municipal bond insurance policy issued by a reputable and recognized provider.

Section 8. The Chair, the Vice Chair, the Commissioner of Education or the Deputy Commissioner, or such other authorized representatives of the Board, are hereby authorized to take all actions and steps, to execute all instruments, documents, and contracts, and to take all other action as they may deem necessary or desirable, in connection with the execution and delivery of the Bonds and to obtain a debt service reserve credit facility and a municipal bond insurance policy.

Section 9. This Resolution shall take effect immediately upon its adoption.

Adopted this 18th day of February, 2016.

STATE BOARD OF EDUCATION

Consent Item

February 18, 2016

SUBJECT: Approval of Amendment to Rule 6A-20.023, Jose Marti Scholarship Challenge Grant Fund

PROPOSED BOARD ACTION

For Approval

AUTHORITY FOR STATE BOARD ACTION

Sections 1001.02(1), 1009.72(1), Florida Statutes

EXECUTIVE SUMMARY

Amendment updates the Free Application for Federal Student Aid incorporated by reference.

Supporting Documentation Included: Proposed Rule 6A-20.023, F.A.C. and Free Application for Federal Student Aid

Facilitator: Linda Champion, Deputy Commissioner, Finance and Operations

6A-20.023 Jose Marti Scholarship Challenge Grant Fund.

(1) through (a) No change.

(b) Complete and submit annually, a need analysis form known as the Free Application for Federal Student Aid or FAFSA, July 1, ~~2016~~ ~~2012~~ – June 30, ~~2017~~ ~~2013~~, and incorporated herein by reference, in time to be processed error-free by May 15. The Free Application for Federal Student Aid (http://www.flrules.org/Gateway/reference.asp?No=Ref-06466_00994) form is available at www.fafsa.gov.

(c) through (9) No change.

(10) Award distribution. The ~~d~~Department shall make awards based on the annual appropriation and the amount of contributions received by the ~~d~~Department. Priority in the distribution of funds will be as follows:

(a) through (e) No change.

(11) Institutional responsibilities. Participating institutions shall verify the continued eligibility of awarded students, provide for the disbursement of funds to students, and comply with the ~~d~~Department's reporting requirements. Within thirty (30) days of the end of the regular registration period each term, the institution shall notify the ~~d~~Department of the eligibility status of each awarded student. The institution shall remit refunds and submit accompanying documentation to the ~~d~~Department within sixty (60) days of the end of the institution's regular registration period. For supplemental awards, the institution will notify the ~~d~~Department of the eligibility status of awarded students within thirty (30) days of the date that the warrant was mailed by the ~~d~~Department. Refunds and accompanying documentation shall be received by the ~~d~~Department within sixty (60) days of the date that the warrant was mailed by the ~~d~~Department.

(12) Award procedures. The ~~d~~Department shall notify students and institutions of the students' eligibility for awards, and shall provide for the delivery of funds to students by transmitting funds each academic term to the institutions for distribution.

(13) Contributions from private sources. Scholarship contributions to the Jose Marti Scholarship Challenge Grant Fund from private sources may be accepted by the ~~d~~Department and deposited in the State Student Financial Assistance Trust Fund.

Rulemaking Authority 1001.02(1), 1009.72(1) FS. Law Implemented 1009.40, 1009.72 FS. History—New 12-28-86, Amended 5-16-90, 2-15-95, 10-15-02, 9-22-08, 3-22-12.

FAFSA®

FREE APPLICATION for FEDERAL STUDENT AID

July 1, 2016 – June 30, 2017

Federal Student Aid

PROUD SPONSOR of the AMERICAN MIND®

An OFFICE of the U.S. DEPARTMENT of EDUCATION

Use this form to apply free for federal and state student grants, work-study, and loans.

Or apply free online at www.fafsa.gov.

Check with your financial aid administrator for these states and territories:
AL, AS *, AZ, CO, FM *, GA, GU *, HI *, MH *, MP *, NE, NH *, NM, PR, PW *, SD *, UT, VA *, VI *, WI and WY *.

Pay attention to any symbols listed after your state deadline.

Applying by the Deadlines

For federal aid, submit your application as early as possible, but no earlier than January 1, 2016. We must receive your application no later than June 30, 2017. Your college must have your correct, complete information by your last day of enrollment in the 2016-2017 school year.

For state or college aid, the deadline may be as early as January 2016. See the table to the right for state deadlines. You may also need to complete additional forms.

Check with your high school guidance counselor or a financial aid administrator at your college about state and college sources of student aid and deadlines.

If you are filing close to one of these deadlines, we recommend you file online at www.fafsa.gov. This is the fastest and easiest way to apply for aid.

Using Your Tax Return

We recommend that you complete and submit your FAFSA as soon as possible on or after January 1, 2016. If you (or your parents) need to file a 2015 income tax return with the Internal Revenue Service (IRS), and have not done so yet, you can submit your FAFSA now using estimated tax information, and then you **must correct** that information **after you file** your return.

The easiest way to complete or correct your FAFSA with accurate tax information is by using the IRS Data Retrieval Tool through www.fafsa.gov. In a few simple steps, most students and parents who filed a 2015 tax return can view and transfer their tax return information directly into their FAFSA.

Note: Both parents or both the student and spouse may need to report income information on the FAFSA if they did not file a joint tax return for 2015. For assistance with answering the income information questions in this situation, call 1-800-4-FED-AID (1-800-433-3243).

Filling Out the FAFSA®

If you or your family experienced significant changes to your financial situation (such as loss of employment), or other unusual circumstances (such as high unreimbursed medical or dental expenses), complete this form to the extent you can and submit it as instructed. Consult with the financial aid office at the college(s) you applied to or plan to attend.

For help in filling out the FAFSA, go to www.studentaid.gov/completfafsa or call 1-800-433-3243. TTY users (for the hearing impaired) may call 1-800-730-8913.

Fill the answer fields directly on your screen or print the form and complete it by hand. Your answers will be read electronically; therefore if you complete the form by hand:

- use black ink and fill in circles completely:
- print clearly in CAPITAL letters and skip a box between words:
- report dollar amounts (such as \$12,356.41) like this:

Correct Incorrect

1	5		E	L	M	S	T
---	---	--	---	---	---	---	---

\$

1	2	3	5	6
---	---	---	---	---

 no cents

Orange is for student information and purple is for parent information.

Mailing Your FAFSA®

After you complete this application, make a copy of pages 3 through 8 for your records. Then mail the original of pages 3 through 8 to:

Federal Student Aid Programs, P.O. Box 7650, London, KY 40742-7650.

After your application is processed, you will receive a summary of your information in your *Student Aid Report* (SAR). If you provide an e-mail address, your SAR will be sent by e-mail within three to five days. If you do not provide an e-mail address, your SAR will be mailed to you within three weeks. If you would like to check the status of your FAFSA, go to www.fafsa.gov or call 1-800-433-3243.

Let's Get Started!

Now go to page 3 of the application form and begin filling it out. Refer to the notes on pages 9 and 10 as instructed.

State	Deadline
AK	Alaska Performance Scholarship - June 30, 2016; later applications accepted if funds available. Alaska Education Grant - As soon as possible after January 1, 2016. §
AR	Academic Challenge - June 1, 2016 (date received) Workforce Grant - Contact the financial aid office. Higher Education Opportunity Grant - June 1, 2016 (date received)
CA	For many state financial aid programs - March 2, 2016 (date postmarked) + * For additional community college Cal Grants - September 2, 2016 (date postmarked) + *
CT	February 15, 2016 (date received) # ** FAFSA completed by April 1, 2016
DC	For DCTAG, complete the DC OneApp and submit supporting documents by April 30, 2016.
DE	April 15, 2016 (date received)
FL	May 15, 2016 (date processed)
IA	July 1, 2016 (date received) Earlier priority deadlines may exist for certain programs. *
ID	Opportunity Grant - March 1, 2016 (date received) # **
IL	As soon as possible after January 1, 2016. §
IN	March 10, 2016 (date received)
KS	April 1, 2016 (date received) # **
KY	As soon as possible after January 1, 2016. §
LA	July 1, 2017 (date received) Earlier priority deadlines may exist for certain programs. *
MA	May 1, 2016 (date received) #
MD	March 1, 2016 (date received)
ME	May 1, 2016 (date received)
MI	March 1, 2016 (date received)
MN	30 days after term starts (date received)
MO	April 1, 2016 (date received)
MS	MTAG and MESG Grants - September 15, 2016 (date received) HELP Scholarship - March 31, 2016 (date received)
MT	March 1, 2016 (date received) #
NC	As soon as possible after January 1, 2016. §
ND	April 15, 2016 (date received) # Earlier priority deadlines may exist for institutional programs.
NJ	2015-2016 Tuition Aid Grant recipients - June 1, 2016 (date received) All other applicants - October 1, 2016, fall & spring terms (date received) - March 1, 2017, spring term only (date received)
NV	Silver State Opportunity Grant - As soon as possible after January 1, 2016. § All other aid - Contact your financial aid administrator. *
NY	June 30, 2017 (date received) *
OH	October 1, 2016 (date received)
OK	March 1, 2016 (date received) #
OR	OSAC Private Scholarships - March 1, 2016 Oregon Opportunity Grant - As soon as possible after January 1, 2016. §
PA	All first-time applicants enrolled in a: community college; business/trade/technical school; hospital school of nursing; designated Pennsylvania Open-Admission institution; or non-transferable two-year program - August 1, 2016 (date received) * All other applicants - May 1, 2016 (date received) *
RI	March 1, 2016 (date received) #
SC	Tuition Grants - June 30, 2016 (date received) SC Commission on Higher Education Need-based Grants - As soon as possible after January 1, 2016. §
TN	State Grant - March 1, 2016. Eligible prior-year recipients receive priority, and all other awards made to neediest applicants until funds are depleted. State Lottery - fall term, September 1, 2016 (date received); spring & summer terms, February 1, 2017 (date received) Tennessee Promise - February 15, 2016
TX	March 15, 2016 (date received)
VT	As soon as possible after January 1, 2016. § *
WA	As soon as possible after January 1, 2016. §
WV	PROMISE Scholarship - March 1, 2016. New applicants must submit additional application. Contact your financial aid administrator or your state agency. WV Higher Education Grant Program - April 15, 2016

STATE AID DEADLINES

15

What is the FAFSA®?

Why fill out a FAFSA?

The **Free Application for Federal Student Aid** (FAFSA) is the first step in the financial aid process. You use the FAFSA to apply for federal student aid, such as grants, work-study, and loans. In addition, most states and colleges use information from the FAFSA to award nonfederal aid.

Why all the questions?

The questions on the FAFSA are required to calculate your Expected Family Contribution (EFC). The EFC measures your family's financial strength and is used to determine your eligibility for federal student aid. Your state and the colleges you list may also use some of your responses. They will determine if you may be eligible for school or state aid, in addition to federal aid.

How do I find out what my Expected Family Contribution (EFC) is?

Your EFC will be listed on your *Student Aid Report* (SAR). Your SAR summarizes the information you submitted on your FAFSA. It is important to review your SAR to make sure all of your information is correct and complete. Make corrections or provide additional information, as necessary.

How much student financial aid will I receive?

Using the information on your FAFSA and your EFC, the financial aid office at your college will determine the amount of aid you will receive. The college will use your EFC to prepare a financial aid package to help you meet your financial need. Financial need is the difference between the cost of attendance (which can include living expenses) as determined by your college, and your EFC. If you or your family have unusual circumstances that should be taken into account, contact your college's financial aid office. Some examples of unusual circumstances are: unusual medical or dental expenses or a large change in income from last year to this year.

When will I receive the student financial aid?

Any financial aid you are eligible to receive will be paid to you through your college. Typically, your college will first use the aid to pay tuition, fees and room and board (if provided by the college). Any remaining aid is paid to you for your other educational expenses. If you are eligible for a Federal Pell Grant, you may receive it from only one college for the same period of enrollment.

How can I have more colleges receive my FAFSA information?

If you are completing a paper FAFSA, you can only list four colleges in the school code step. You may add more colleges by doing one of the following:

- After your FAFSA has been processed, go to *FAFSA on the Web* at www.fafsa.gov. Click the "Login" button on the home page to log in to *FAFSA on the Web*, then click "Make FAFSA Corrections."
- Use the *Student Aid Report* (SAR), which you will receive after your FAFSA is processed. Your Data Release Number (DRN) verifies your identity and will be listed on the first page of your SAR. You can call 1-800-433-3243 and provide your DRN to a customer service representative, who will add more school codes for you.
- Provide your DRN to the financial aid administrator at the college you want added, and he or she can add their school code to your FAFSA.

Note: Your FAFSA record can only list up to ten school codes. If there are ten school codes on your record, each new code will need to replace one of the school codes listed.

Where can I receive more information on student financial aid?

The best place for information about student financial aid is the financial aid office at the college you plan to attend. The financial aid administrator can tell you about student aid available from your state, the college itself and other sources.

- You can also visit our web site StudentAid.gov.
- For information by phone you can call our Federal Student Aid Information Center at 1-800-433-3243. TTY users (for the hearing impaired) may call 1-800-730-8913.
- You can also check with your high school counselor, your state aid agency or your local library's reference section.

Information about other nonfederal assistance may be available from foundations, faith-based organizations, community organizations and civic groups, as well as organizations related to your field of interest, such as the American Medical Association or American Bar Association. Check with your parents' employers or unions to see if they award scholarships or have tuition payment plans.

Information on the Privacy Act and use of your Social Security Number

We use the information that you provide on this form to determine if you are eligible to receive federal student financial aid and the amount that you are eligible to receive. Sections 483 and 484 of the Higher Education Act of 1965, as amended, give us the authority to ask you and your parents these questions, and to collect the Social Security Numbers of you and your parents. We use your Social Security Number to verify your identity and retrieve your records, and we may request your Social Security Number again for those purposes.

State and institutional student financial aid programs may also use the information that you provide on this form to determine if you are eligible to receive state and institutional aid and the need that you have for such aid. Therefore, we will disclose the information that you provide on this form to each institution you list in questions 103a - 103h, state agencies in your state of legal residence and the state agencies of the states in which the colleges that you list in questions 103a - 103h are located.

If you are applying solely for federal aid, you must answer all of the following questions that apply to you: 1-9, 14-16, 18, 21-23, 26, 28-29, 32-37, 39-59, 61-68, 70, 73-86, 88-102, 104-105. If you do not answer these questions, you will not receive federal aid.

Without your consent, we may disclose information that you provide to entities under a published "routine use." Under such a routine use, we may disclose information to third parties that we have authorized to assist us in administering the above programs; to other federal agencies under computer matching programs, such as those with the Internal Revenue Service, Social Security Administration, Selective Service System, Department of Homeland Security, Department of Justice and Veterans Affairs; to your parents or spouse; and to members of Congress if you ask them to help you with student aid questions.

If the federal government, the U.S. Department of Education, or an employee of the U.S. Department of Education is involved in litigation, we may send information to the Department of Justice, or a court or adjudicative body, if the disclosure is related to financial aid and certain conditions are met. In addition, we may send your information to a foreign, federal, state, or local enforcement agency if the information that you submitted indicates a violation or potential violation of law, for which that agency has jurisdiction for investigation or prosecution. Finally, we may send information regarding a claim that is determined to be valid and overdue to a consumer reporting agency. This information includes identifiers from the record; the amount, status and history of the claim; and the program under which the claim arose.

State Certification

By submitting this application, you are giving your state financial aid agency permission to verify any statement on this form and to obtain income tax information for all persons required to report income on this form.

The Paperwork Reduction Act of 1995

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1845-0001. Public reporting burden for this collection of information is estimated to average one and a half hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is voluntary. If you have comments or concerns regarding the status of your individual submission of this form, please contact the Federal Student Aid Information Center, P.O. Box 84, Washington, D.C. 20044 directly. [Note: Please do not return the completed form to this address.]

We may request additional information from you to process your application more efficiently. We will collect this additional information only as needed and on a voluntary basis.

FAFSA[®]

FREE APPLICATION for FEDERAL STUDENT AID

July 1, 2016 – June 30, 2017

Federal Student Aid
An OFFICE of the U.S. DEPARTMENT of EDUCATION

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Step One (Student):

 For questions 1-31, leave any questions that do not apply to you (the student) blank. OMB # 1845-0001

Your full name (exactly as it appears on your Social Security card) If your name has a suffix, such as Jr. or III, include a space between your last name and suffix.

1. Last name	<input type="text"/>	2. First name	<input type="text"/>	3. Middle initial	<input type="text"/>
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Your permanent mailing address

4. Number and street (include apt. number)

5. City (and country if not U.S.)

6. State

7. ZIP code

8. Your Social Security Number See Notes page 9. - -

9. Your date of birth MONTH DAY YEAR

10. Your telephone number () -

Your driver's license number and driver's license state (if you have one)

11. Driver's license number

12. Driver's license state

13. Your e-mail address. If you provide your e-mail address, we will communicate with you electronically. For example, when your FAFSA has been processed, you will be notified by e-mail. Your e-mail address will also be shared with your state and the colleges listed on your FAFSA to allow them to communicate with you. If you do not have an e-mail address, leave this field blank.

14. Are you a U.S. citizen? Mark only one. See Notes page 9.

Yes, I am a U.S. citizen (U.S. national). Skip to question 16. 1

No, but I am an eligible noncitizen. Fill in question 15. 2

No, I am not a citizen or eligible noncitizen. Skip to question 16. 3

15. Alien Registration Number

A

16. What is your marital status as of today? See Notes page 9.

I am single. 1

I am married/remarried 2

I am separated. 3

I am divorced or widowed 4

17. Month and year you were married, remarried, separated, divorced or widowed. See Notes page 9.

MONTH YEAR

18. What is your state of legal residence? STATE

19. Did you become a legal resident of this state before January 1, 2011? Yes 1 No 2

20. If the answer to question 19 is "No," give month and year you became a legal resident of that state. MONTH YEAR

21. Are you male or female? See Notes page 9. Male 1 Female 2

22. If female, skip to question 23. Most male students must register with the Selective Service System to receive federal aid. If you are male, age 18-25 and not registered, fill in the circle and we will register you. See Notes page 9. Register me 1

23. Have you been convicted for the possession or sale of illegal drugs for an offense that occurred while you were receiving federal student aid (such as grants, work-study, or loans)? Answer "No" if you have never received federal student aid or if you have never had a drug conviction for an offense that occurred while receiving federal student aid. If you have a drug conviction for an offense that occurred while you were receiving federal student aid, answer "Yes," but complete and submit this application, and we will mail you a worksheet to help you determine if your conviction affects your eligibility for aid. If you are unsure how to answer this question, call 1-800-433-3243 for help. No 1 Yes 3

Some states and colleges offer aid based on the level of schooling your parents completed.

24. Highest school completed by Parent 1 Middle school/Jr. high 1 High school 2 College or beyond 3 Other/unknown 4

25. Highest school completed by Parent 2 Middle school/Jr. high 1 High school 2 College or beyond 3 Other/unknown 4

26. What will your high school completion status be when you begin college in the 2016-2017 school year? High school diploma. Answer question 27. 1 Homeschooled. Skip to question 28. 3 General Educational Development (GED) certificate or state certificate. Skip to question 28. 2 None of the above. Skip to question 28. 4

15

27. What is the name of the high school where you received or will receive your high school diploma?
Enter the complete high school name, and the city and state where the high school is located.

High School Name

High School City

STATE

28. Will you have your first bachelor's degree before you begin the 2016-2017 school year?

Yes 1 No 2

29. What will your grade level be when you begin the 2016-2017 school year?

- Never attended college and 1st year undergraduate 0
- Attended college before and 1st year undergraduate 1
- 2nd year undergraduate/sophomore 2
- 3rd year undergraduate/junior 3
- 4th year undergraduate/senior 4
- 5th year/other undergraduate 5
- 1st year graduate/professional 6
- Continuing graduate/professional or beyond 7

30. What degree or certificate will you be working on when you begin the 2016-2017 school year?

- 1st bachelor's degree 1
- 2nd bachelor's degree 2
- Associate degree (occupational or technical program) 3
- Associate degree (general education or transfer program) 4
- Certificate or diploma (occupational, technical or education program of less than two years) 5
- Certificate or diploma (occupational, technical or education program of two or more years) 6
- Teaching credential (nondegree program) 7
- Graduate or professional degree 8
- Other/undecided 9

31. Are you interested in being considered for work-study?

Yes 1 No 2 Don't know 3

Step Two (Student): Answer questions 32–58 about yourself (the student). If you were never married or are separated, divorced or widowed, answer only about yourself. If you are married or remarried as of today, include information about your spouse.

32. For 2015, have you (the student) completed your IRS income tax return or another tax return listed in question 33?

- I have already completed my return 1
- I will file but have not yet completed my return 2
- I'm not going to file. **Skip to question 39.** 3

33. What income tax return did you file or will you file for 2015?

- IRS 1040 1
- IRS 1040A or 1040EZ 2
- A foreign tax return. **See Notes page 9.** 3
- A tax return with Puerto Rico, another U.S. territory, or Freely Associated State. **See Notes page 9.** 4

34. For 2015, what is or will be your tax filing status according to your tax return?

- Single 1
- Head of household 4
- Married—filed joint return 2
- Married—filed separate return 3
- Qualifying widow(er) 5
- Don't know 6

35. If you have filed or will file a 1040, were you eligible to file a 1040A or 1040EZ?
See Notes page 9.

Yes 1 No 2 Don't know 3

For questions 36–45, if the answer is zero or the question does not apply to you, enter 0. Report whole dollar amounts with no cents.

36. What was your (and spouse's) adjusted gross income for 2015? Adjusted gross income is on IRS Form 1040—line 37; 1040A—line 21; or 1040EZ—line 4.

\$

37. Enter your (and spouse's) income tax for 2015. Income tax amount is on IRS Form 1040—line 56 minus line 46; 1040A—line 28 minus line 36; or 1040EZ—line 10.

\$

38. Enter your (and spouse's) exemptions for 2015. Exemptions are on IRS Form 1040—line 6d or Form 1040A—line 6d. For Form 1040EZ, **see Notes page 9.**

Questions 39 and 40 ask about earnings (wages, salaries, tips, etc.) in 2015. Answer the questions whether or not a tax return was filed. This information may be on the W-2 forms or on the tax return selected in question 33: IRS Form 1040—lines 7 + 12 + 18 + Box 14 (Code A) of IRS Schedule K-1 (Form 1065); 1040A—line 7; or 1040EZ—line 1. If any individual earning item is negative, do not include that item in your calculation.

39. How much did you earn from working in 2015?

\$

40. How much did your spouse earn from working in 2015?

\$

41. As of today, what is your (and spouse's) total current balance of cash, savings, and checking accounts? **Don't include** student financial aid.

\$

42. As of today, what is the net worth of your (and spouse's) investments, including real estate? **Don't include** the home you live in. **See Notes page 9.**

\$

43. As of today, what is the net worth of your (and spouse's) current businesses and/or investment farms? **Don't include** a family farm or family business with 100 or fewer full-time or full-time equivalent employees. **See Notes page 9.**

\$

44. Student's 2015 Additional Financial Information (Enter the combined amounts for you and your spouse.)

- a. Education credits (American Opportunity Tax Credit and Lifetime Learning Tax Credit) from IRS Form 1040—line 50 or 1040A—line 33. \$
- b. Child support paid because of divorce or separation or as a result of a legal requirement. **Don't include** support for children in your household, as reported in question 95. \$
- c. Taxable earnings from need-based employment programs, such as Federal Work-Study and need-based employment portions of fellowships and assistantships. \$
- d. Taxable college grant and scholarship aid **reported to the IRS in your adjusted gross income**. Includes AmeriCorps benefits (awards, living allowances and interest accrual payments), as well as grant and scholarship portions of fellowships and assistantships. \$
- e. Combat pay or special combat pay. Only enter the amount that was taxable and included in your adjusted gross income. **Don't include** untaxed combat pay. \$
- f. Earnings from work under a cooperative education program offered by a college. \$

45. Student's 2015 Untaxed Income (Enter the combined amounts for you and your spouse.)

- a. Payments to tax-deferred pension and retirement savings plans (paid directly or withheld from earnings), including, but not limited to, amounts reported on the W-2 forms in Boxes 12a through 12d, codes D, E, F, G, H and S. **Don't include** amounts reported in code DD (employer contributions toward employee health benefits). \$
- b. IRA deductions and payments to self-employed SEP, SIMPLE, Keogh and other qualified plans from IRS Form 1040—line 28 + line 32 or 1040A—line 17. \$
- c. Child support received for any of your children. **Don't include** foster care or adoption payments. \$
- d. Tax exempt interest income from IRS Form 1040—line 8b or 1040A—line 8b. \$
- e. Untaxed portions of IRA distributions from IRS Form 1040—lines (15a minus 15b) or 1040A—lines (11a minus 11b). Exclude rollovers. If negative, enter a zero here. \$
- f. Untaxed portions of pensions from IRS Form 1040—lines (16a minus 16b) or 1040A—lines (12a minus 12b). Exclude rollovers. If negative, enter a zero here. \$
- g. Housing, food and other living allowances paid to members of the military, clergy and others (including cash payments and cash value of benefits). **Don't include** the value of on-base military housing or the value of a basic military allowance for housing. \$
- h. Veterans noneducation benefits, such as Disability, Death Pension, or Dependency & Indemnity Compensation (DIC) and/or VA Educational Work-Study allowances. \$
- i. Other untaxed income not reported in items 45a through 45h, such as workers' compensation, disability benefits, etc. Also include the untaxed portions of health savings accounts from IRS Form 1040—line 25. **Don't include** extended foster care benefits, student aid, earned income credit, additional child tax credit, welfare payments, untaxed Social Security benefits, Supplemental Security Income, Workforce Innovation and Opportunity Act educational benefits, on-base military housing or a military housing allowance, combat pay, benefits from flexible spending arrangements (e.g., cafeteria plans), foreign income exclusion or credit for federal tax on special fuels. \$
- j. Money received, or paid on your behalf (e.g., bills), not reported elsewhere on this form. This includes money that you received from a parent or other person whose financial information is not reported on this form and that is not part of a legal child support agreement. \$

See Notes page 9.

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Step Three (Student): Answer the questions in this step to determine if you will need to provide parental information. Once you answer **"Yes"** to any of the questions in this step, skip Step Four and go to Step Five on page 8.

- 46. Were you born before January 1, 1993? Yes 1 No 2
- 47. As of today, are you married? (Also answer "Yes" if you are separated but not divorced.) Yes 1 No 2
- 48. At the beginning of the 2016-2017 school year, will you be working on a master's or doctorate program (such as an MA, MBA, MD, JD, PhD, EdD, graduate certificate, etc.)? Yes 1 No 2
- 49. Are you currently serving on active duty in the U.S. Armed Forces for purposes other than training? **See Notes page 9.** Yes 1 No 2
- 50. Are you a veteran of the U.S. Armed Forces? **See Notes page 9.** Yes 1 No 2
- 51. Do you now have or will you have children who will receive more than half of their support from you between July 1, 2016 and June 30, 2017? Yes 1 No 2
- 52. Do you have dependents (other than your children or spouse) who live with you and who receive more than half of their support from you, now and through June 30, 2017? Yes 1 No 2
- 53. At any time since you turned age 13, were both your parents deceased, were you in foster care or were you a dependent or ward of the court? **See Notes page 10.** Yes 1 No 2
- 54. As determined by a court in your state of legal residence, are you or were you an emancipated minor? **See Notes page 10.** ... Yes 1 No 2
- 55. Does someone other than your parent or stepparent have legal guardianship of you, as determined by a court in your state of legal residence? **See Notes page 10.** Yes 1 No 2
- 56. At any time on or after July 1, 2015, did your high school or school district homeless liaison determine that you were an unaccompanied youth who was homeless or were self-supporting and at risk of being homeless? **See Notes page 10.** Yes 1 No 2
- 57. At any time on or after July 1, 2015, did the director of an emergency shelter or transitional housing program funded by the U.S. Department of Housing and Urban Development determine that you were an unaccompanied youth who was homeless or were self-supporting and at risk of being homeless? **See Notes page 10.** Yes 1 No 2
- 58. At any time on or after July 1, 2015, did the director of a runaway or homeless youth basic center or transitional living program determine that you were an unaccompanied youth who was homeless or were self-supporting and at risk of being homeless? **See Notes page 10.** Yes 1 No 2

For questions 85–94, if the answer is zero or the question does not apply, enter 0. Report whole dollar amounts with no cents.

- 85. What was your parents' adjusted gross income for 2015? Adjusted gross income is on IRS Form 1040—line 37; 1040A—line 21; or 1040EZ—line 4. \$

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- 86. Enter your parents' income tax for 2015. Income tax amount is on IRS Form 1040—line 56 minus line 46; 1040A—line 28 minus line 36; or 1040EZ—line 10. \$

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- 87. Enter your parents' exemptions for 2015. Exemptions are on IRS Form 1040—line 6d or on Form 1040A—line 6d. For Form 1040EZ, see Notes page 9.

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Questions 88 and 89 ask about earnings (wages, salaries, tips, etc.) in 2015. Answer the questions whether or not a tax return was filed. This information may be on the W-2 forms or on the tax return selected in question 81: IRS Form 1040—lines 7 + 12 + 18 + Box 14 (Code A) of IRS Schedule K-1 (Form 1065); 1040A—line 7; or 1040EZ—line 1. If any individual earning item is negative, do not include that item in your calculation. Report the information for the parent listed in questions 61-64 in question 88 and the information for the parent listed in questions 65-68 in question 89.

- 88. How much did Parent 1 (father/mother/stepparent) earn from working in 2015? \$

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- 89. How much did Parent 2 (father/mother/stepparent) earn from working in 2015? \$

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- 90. As of today, what is your parents' total current balance of cash, savings, and checking accounts? **Don't include** student financial aid. \$

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- 91. As of today, what is the net worth of your parents' investments, including real estate? **Don't include** the home in which your parents live. See Notes page 9. \$

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- 92. As of today, what is the net worth of your parents' current businesses and/or investment farms? **Don't include** a family farm or family business with 100 or fewer full-time or full-time equivalent employees. See Notes page 9. \$

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93. Parents' 2015 Additional Financial Information (Enter the amounts for your parent[s].)
- a. Education credits (American Opportunity Tax Credit and Lifetime Learning Tax Credit) from IRS Form 1040—line 50 or 1040A—line 33. \$

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 - b. Child support paid because of divorce or separation or as a result of a legal requirement. **Don't include** support for children in your parents' household, as reported in question 73. \$

--	--	--	--	--	--	--	--	--	--
 - c. Your parents' taxable earnings from need-based employment programs, such as Federal Work-Study and need-based employment portions of fellowships and assistantships. \$

--	--	--	--	--	--	--	--	--	--
 - d. Your parents' taxable college grant and scholarship aid **reported to the IRS in your parents' adjusted gross income**. Includes AmeriCorps benefits (awards, living allowances and interest accrual payments), as well as grant and scholarship portions of fellowships and assistantships. \$

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 - e. Combat pay or special combat pay. Only enter the amount that was taxable and included in your parents' adjusted gross income. Do not enter untaxed combat pay. \$

--	--	--	--	--	--	--	--	--	--
 - f. Earnings from work under a cooperative education program offered by a college. \$

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94. Parents' 2015 Untaxed Income (Enter the amounts for your parent[s].)
- a. Payments to tax-deferred pension and retirement savings plans (paid directly or withheld from earnings), including, but not limited to, amounts reported on the W-2 forms in Boxes 12a through 12d, codes D, E, F, G, H and S. **Don't include** amounts reported in code DD (employer contributions toward employee health benefits). \$

--	--	--	--	--	--	--	--	--	--
 - b. IRA deductions and payments to self-employed SEP, SIMPLE, Keogh and other qualified plans from IRS Form 1040—line 28 + line 32 or 1040A—line 17. \$

--	--	--	--	--	--	--	--	--	--
 - c. Child support received for any of your parents' children. **Don't include** foster care or adoption payments. \$

--	--	--	--	--	--	--	--	--	--
 - d. Tax exempt interest income from IRS Form 1040—line 8b or 1040A—line 8b. \$

--	--	--	--	--	--	--	--	--	--
 - e. Untaxed portions of IRA distributions from IRS Form 1040—lines (15a minus 15b) or 1040A—lines (11a minus 11b). Exclude rollovers. If negative, enter a zero here. \$

--	--	--	--	--	--	--	--	--	--
 - f. Untaxed portions of pensions from IRS Form 1040—lines (16a minus 16b) or 1040A—lines (12a minus 12b). Exclude rollovers. If negative, enter a zero here. \$

--	--	--	--	--	--	--	--	--	--
 - g. Housing, food and other living allowances paid to members of the military, clergy and others (including cash payments and cash value of benefits). **Don't include** the value of on-base military housing or the value of a basic military allowance for housing. \$

--	--	--	--	--	--	--	--	--	--
 - h. Veterans noneducation benefits, such as Disability, Death Pension, or Dependency & Indemnity Compensation (DIC) and/or VA Educational Work-Study allowances. \$

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 - i. Other untaxed income not reported in items 94a through 94h, such as workers' compensation, disability benefits, etc. Also include the untaxed portions of health savings accounts from IRS Form 1040—line 25. **Don't include** extended foster care benefits, student aid, earned income credit, additional child tax credit, welfare payments, untaxed Social Security benefits, Supplemental Security Income, Workforce Innovation and Opportunity Act educational benefits, on-base military housing or a military housing allowance, combat pay, benefits from flexible spending arrangements (e.g., cafeteria plans), foreign income exclusion or credit for federal tax on special fuels. \$

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Notes for question 8 (page 3)

Enter your Social Security Number (SSN) as it appears on your Social Security card. If you are a resident of the Freely Associated States (i.e., the Republic of Palau, the Republic of the Marshall Islands, or the Federated States of Micronesia) and were issued an identification number beginning with “666” when submitting a FAFSA previously, enter that number here. If you are a first-time applicant from the Freely Associated States, enter “666” in the first three boxes of the SSN field and leave the remaining six positions blank and we will create an identification number to be used for federal student aid purposes.

Notes for questions 14 and 15 (page 3)

If you are an eligible noncitizen, write in your eight- or nine-digit Alien Registration Number. Generally, you are an eligible noncitizen if you are (1) a permanent U.S. resident with a Permanent Resident Card (I-551); (2) a conditional permanent resident with a Conditional Green Card (I-551C); (3) the holder of an Arrival-Departure Record (I-94) from the Department of Homeland Security showing any one of the following designations: “Refugee,” “Asylum Granted,” “Parolee” (I-94 confirms that you were paroled for a minimum of one year and status has not expired), T-Visa holder (T-1, T-2, T-3, etc.) or “Cuban-Haitian Entrant;” or (4) the holder of a valid certification or eligibility letter from the Department of Health and Human Services showing a designation of “Victim of human trafficking.”

If you are in the U.S. and have been granted Deferred Action for Childhood Arrivals (DACA), an F1 or F2 student visa, a J1 or J2 exchange visitor visa, or a G series visa (pertaining to international organizations), select “No, I am not a citizen or eligible noncitizen.” You will not be eligible for federal student aid. If you have a Social Security Number but are not a citizen or an eligible noncitizen, including if you have been granted DACA, you should still complete the FAFSA because you may be eligible for state or college aid.

Notes for questions 16 and 17 (page 3)

Report your marital status as of the date you sign your FAFSA. If your marital status changes after you sign your FAFSA, check with the **financial aid office at the college.**

Notes for questions 21 and 22 (page 3)

To be eligible for federal student aid, male citizens and male immigrants residing in the U.S. aged 18 through 25 are required to register with the Selective Service System, with limited exceptions. This requirement applies to any person assigned the sex of male at birth. The Selective Service System and the registration requirement for males preserve America’s ability to provide resources in an emergency to the U.S. Armed Forces (Army, Navy, Air Force, Marines, or Coast Guard). For more information about the Selective Service System, visit www.sss.gov. Forms are available at your local U.S. Post Office.

Notes for questions 33 (page 4) and 81 (page 6)

If you filed or will file a foreign tax return, a tax return with Puerto Rico, another U.S. territory (e.g., Guam, American Samoa, the U.S. Virgin Islands, Swain’s Island or the Northern Marianas Islands) or one of the Freely Associated States, use the information from that return to fill out this form. If you filed a foreign return, convert all monetary units to U.S. dollars, using the published exchange rate in effect for the date nearest to today’s date. To view the daily exchange rates, go to www.federalreserve.gov/releases/h10/current.

Notes for questions 35 (page 4) and 83 (page 6)

In general, a person is eligible to file a 1040A or 1040EZ if he or she makes less than \$100,000, does not itemize deductions, does not receive income from his or her own business or farm and does not receive alimony. A person is not eligible to file a 1040A or 1040EZ if he or she makes \$100,000 or more, itemizes deductions, receives income from his or her own business or farm, is self-employed, receives alimony or is required to file Schedule D for capital gains. If you filed a 1040 only to claim the American Opportunity Tax Credit or Lifetime Learning Tax Credit, and you would have otherwise been eligible to file a 1040A or 1040EZ, answer “Yes” to this question. If you filed a 1040 and were not required to file a tax return, answer “Yes” to this question.

Notes for questions 38 (page 4)**and 87 (page 7) — Notes for those who filed a 1040EZ**

On the 1040EZ, if a person didn’t check either box on line 5, enter 01 if he or she is single or has never been married, or 02 if he or she is married. If a person checked either the “you” or “spouse” box on line 5, use 1040EZ worksheet line F to determine the number of exemptions (\$4,000 equals one exemption).

Notes for questions 42 and 43 (page 4), 45j (page 5), and 91 and 92 (page 7)

Net worth means the current value, as of today, of investments, businesses, and/or investment farms, minus debts related to those same investments, businesses, and/or investment farms. When calculating net worth, use 0 for investments or properties with a negative value.

Investments include real estate (do not include the home in which you live), rental property (includes a unit within a family home that has its own entrance, kitchen, and bath rented to someone other than a family member), trust funds, UGMA and UTMA accounts, money market funds, mutual funds, certificates of deposit, stocks, stock options, bonds, other securities, installment and land sale contracts (including mortgages held), commodities, etc.

Investments also include qualified educational benefits or education savings accounts (e.g., Coverdell savings accounts, 529 college savings plans and the refund value of 529 prepaid tuition plans). For a student who does not report parental information, the accounts owned by the student (and/or the student’s spouse) are reported as student investments in question 42. For a student who must report parental information, the accounts are reported as parental investments in question 91, including all accounts owned by the student and all accounts owned by the parents for any member of the household.

Money received, or paid on your behalf, also includes distributions to you (the student beneficiary) from a 529 plan that is owned by someone other than you or your parents (such as your grandparents, aunts, uncles, and non-custodial parents). You must include these distribution amounts in question 45j.

Investments do not include the home you live in, the value of life insurance, retirement plans (401[k] plans, pension funds, annuities, non-education IRAs, Keogh plans, etc.) or cash, savings and checking accounts already reported in questions 41 and 90.

Investments also do not include UGMA and UTMA accounts for which you are the custodian, but not the owner.

Investment value means the current balance or market value of these investments as of today. Investment debt means only those debts that are related to the investments.

Business and/or investment farm value includes the market value of land, buildings, machinery, equipment, inventory, etc. Business and/or investment farm debt means only those debts for which the business or investment farm was used as collateral.

Business value does not include the value of a small business if your family owns and controls more than 50 percent of the business and the business has 100 or fewer full-time or full-time equivalent employees. For small business value, your family includes (1) persons directly related to you, such as a parent, sister or cousin, or (2) persons who are or were related to you by marriage, such as a spouse, stepparent or sister-in-law.

Investment farm value does not include the value of a family farm that you (your spouse and/or your parents) live on and operate.

Notes for question 49 (page 5)

Answer “Yes” if you are currently serving in the U.S. Armed Forces or are a National Guard or Reserves enlistee who is on active duty for other than state or training purposes.

Answer “No” if you are a National Guard or Reserves enlistee who is on active duty for state or training purposes.

Notes for question 50 (page 5)

Answer “Yes” (you are a veteran) if you (1) have engaged in active duty (including basic training) in the U.S. Armed Forces, or are a National Guard or Reserves enlistee who was called to active duty for other than state or training purposes, or were a cadet or midshipman at one of the service academies, **and** (2) were released under a condition other than dishonorable. Also answer “Yes” if you are not a veteran now but will be one by June 30, 2017.

Answer “No” (you are not a veteran) if you (1) have never engaged in active duty (including basic training) in the U.S. Armed Forces, (2) are currently a ROTC student or a cadet or midshipman at a service academy, (3) are a National Guard or Reserves enlistee activated only for state or training purposes, or (4) were engaged in active duty in the U.S. Armed Forces but released under dishonorable conditions.

Also answer “No” if you are currently serving in the U.S. Armed Forces and will continue to serve through June 30, 2017.

Notes for question 53 (page 5)

Answer **"Yes"** if at any time since you turned age 13:

- You had no living parent, even if you are now adopted; or
- You were in foster care, even if you are no longer in foster care today; or
- You were a dependent or ward of the court, even if you are no longer a dependent or ward of the court today. For federal student aid purposes, someone who is incarcerated is not considered a ward of the court.

The financial aid administrator at your school may require you to provide proof that you were in foster care or a dependent or ward of the court.

Notes for questions 54 and 55 (page 5)

The definition of legal guardianship does not include your parents, even if they were appointed by a court to be your guardians. You are also not considered a legal guardian of yourself.

Answer **"Yes"** if you can provide a copy of a court's decision that as of today you are an emancipated minor or are in legal guardianship. Also answer **"Yes"** if you can provide a copy of a court's decision that you were an emancipated minor or were in legal guardianship immediately before you reached the age of being an adult in your state. The court must be located in your state of legal residence at the time the court's decision was issued.

Answer **"No"** if you are still a minor and the court decision is no longer in effect or the court decision was not in effect at the time you became an adult. Also answer **"No"** and contact your school if custody was awarded by the courts and the court papers say "custody" (not "guardianship").

The financial aid administrator at your college may require you to provide proof that you were an emancipated minor or in legal guardianship.

Notes for questions 56–58 (page 5)

Answer **"Yes"** if you received a determination at any time on or after July 1, 2015, that you were an unaccompanied youth who was homeless or at risk of being homeless.

- **"Homeless"** means lacking fixed, regular and adequate housing. You may be homeless if you are living in shelters, parks, motels or cars, or are temporarily living with other people because you have nowhere else to go. Also, if you are living in any of these situations and fleeing an abusive parent you may be considered homeless even if your parent would provide support and a place to live.
- **"Unaccompanied"** means you are not living in the physical custody of your parent or guardian.
- **"Youth"** means you are 21 years of age or younger or you are still enrolled in high school as of the day you sign this application.

Answer **"No"** if you are not homeless or at risk of being homeless, or do not have a determination. However, even if you answer **"No"** to each of questions 56, 57, and 58, you should contact your college financial aid office for assistance if you are under 24 years of age and are either (1) homeless and unaccompanied or (2) at risk of being homeless, unaccompanied, and providing for your own living expenses - as your college financial aid office can determine that you are "homeless" and are not required to provide parental information.

The financial aid administrator at your college may require you to provide a copy of the determination if you answered **"Yes"** to any of these questions.

Notes for students unable to provide parental information on pages 6 and 7

Under very limited circumstances (for example, your parents are incarcerated; you have left home due to an abusive family environment; or you do not know where your parents are and are unable to contact them), you may be able to submit your FAFSA without parental information. **If you are unable to provide parental information**, skip Steps Four and Five, and go to Step Six. Once you submit your FAFSA without parental data, **you must follow up with the financial aid office at the college you plan to attend**, in order to complete your FAFSA.

Notes for Step Four, questions 59–94 (pages 6 and 7)

Review all instructions below to determine who is considered a parent on this form:

- If your parent was never married and does not live with your other legal parent, or if your parent is widowed or not remarried, answer the questions about that parent.
- If your legal parents (biological, adoptive, or as determined by the state [for example, if the parent is listed on the birth certificate]) are not married to each other and **live together**, select "Unmarried and both parents living together" and provide information about both of them regardless of their gender. Do not include any person who is not married to your parent and who is not a legal or biological parent. Contact 1-800-433-3243 for assistance in completing questions 80-94.
- If your legal parents are married, select "Married or remarried." If your legal parents are divorced but living together, select "Unmarried and both parents living together." If your legal parents are separated but living together, select "Married or remarried," not "Divorced or separated."
- If your parents are divorced or separated, answer the questions about the parent you lived with more during the past 12 months. (If you did not live with one parent more than the other, give answers about the parent who provided more financial support during the past 12 months or during the most recent year that you actually received support from a parent.) **If this parent is remarried as of today, answer the questions about that parent and your stepparent.**
- If your widowed parent is remarried as of today, answer the questions about that parent and your stepparent.

Notes for questions 84 (page 6) and 102 (page 8)

In general, a person may be considered a dislocated worker if he or she:

- is receiving unemployment benefits due to being laid off or losing a job and is unlikely to return to a previous occupation;
- has been laid off or received a lay-off notice from a job;
- was self-employed but is now unemployed due to economic conditions or natural disaster; or
- is the spouse of an active duty member of the Armed Forces and has experienced a loss of employment because of relocating due to permanent change in duty station; or
- is the spouse of an active duty member of the Armed Forces and is unemployed or underemployed, and is experiencing difficulty in obtaining or upgrading employment; or
- is a displaced homemaker. A displaced homemaker is generally a person who previously provided unpaid services to the family (e.g., a stay-at-home mom or dad), is no longer supported by the spouse, is unemployed or underemployed, and is having trouble finding or upgrading employment.

Except for the spouse of an active duty member of the Armed Forces, if a person quits work, generally he or she is not considered a dislocated worker even if, for example, the person is receiving unemployment benefits.

Answer **"Yes"** to question 84 if your parent is a dislocated worker. Answer **"Yes"** to question 102 if you or your spouse is a dislocated worker.

Answer **"No"** to question 84 if your parent is not a dislocated worker. Answer **"No"** to question 102 if neither you nor your spouse is a dislocated worker.

Answer **"Don't know"** to question 84 if you are not sure whether your parent is a dislocated worker. Answer **"Don't know"** to question 102 if you are not sure whether you or your spouse is a dislocated worker. You can contact your financial aid office for assistance in answering these questions.

The financial aid administrator at your college may require you to provide proof that your parent is a dislocated worker, if you answered **"Yes"** to question 84, or that you or your spouse is a dislocated worker, if you answered **"Yes"** to question 102.

STATE BOARD OF EDUCATION

Consent Item

February 18, 2016

SUBJECT: Approval of Repeal of Rules 6A-1.039, Supplemental Educational Services in Title I Schools and 6A-1.0391, Evaluation of Supplemental Educational Service Providers

PROPOSED BOARD ACTION

For Approval

AUTHORITY FOR STATE BOARD ACTION

Section 1008.331, Florida Statutes

EXECUTIVE SUMMARY

Senate Bill 1226 deleted the rulemaking authority (Section 1008.331, Florida Statutes) and removed the requirement to provide Supplemental Educational Services as a result of the U.S. Department of Education's approval of Florida's Elementary and Secondary Education Act Flexibility Waiver.

Supporting Documentation Included: Rules 6A-1.039 and 6A-1.0391, F.A.C.

Facilitator: Brian Dassler, Deputy Chancellor for Educator Quality

6A-1.039 Supplemental Educational Services in Title I Schools.

Rulemaking Authority 1008.331 FS. Law Implemented 1008.331 FS. History—New 4-14-08, Amended 5-24-09, 12-15-09, 3-20-11, 12-20-11, 8-19-13, Repealed

6A-1.039 Supplemental Educational Services in Title I Schools.

(1) Purpose. This rule implements supplemental educational services in Title I schools as authorized by Section 1008.331, F. S.

(2) Definitions. For the purpose of this rule, the following definitions shall be used:

(a) “District/provider contract” means the agreement for the provision of supplemental educational services between each school district and each state-approved supplemental educational services providers in the district.

(b) “Eligible school” is a Title I school.

(c) “Eligible student” means a student enrolled in a Title I school.

(d) “Hearing Officer” means an individual employed by the Department and appointed by the Commissioner of Education to hear disputes about the denial and removal of providers as well as the award of a service designation.

(e) “School district” for the purposes of this rule, refers to all local educational agencies in the state of Florida.

(f) “State-approved supplemental educational services provider” means a provider that has been approved by the Florida Department of Education to provide supplemental educational services in one (1) or more school districts.

(g) “Student learning plan” means the document developed in consultation with the parent, school district, and state-approved provider, which is designed to improve academic achievement of a student receiving supplemental educational services.

(h) “Supplemental educational services” means additional academic instruction, such as tutoring, remediation, and other supplemental academic enrichment services, that is provided by state-approved supplemental educational services providers outside of the regular school day, on weekends, or in the summer, and that are designed to increase the academic achievement of students enrolled in Title I schools.

(i) “Service designation” means a designation of excellent, satisfactory, or unsatisfactory assigned by the Department to each state-approved supplemental educational services provider.

(3) Roles and Responsibilities.

(a) The Department shall:

1. Provide annual notice of the process for obtaining approval to provide supplemental educational services.
2. Approve supplemental educational services providers based upon the application requirements set forth in Form SES 100, Supplemental Educational Services Provider Application 2013-2014 School Year (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02987>), which is hereby incorporated by reference, Form SES 100 is effective August 2013. Form SES 100 may be obtained from the Florida Department of Education, Bureau of Federal Educational Programs, 325 West Gaines Street, Suite 348, Tallahassee, Florida 32399-0400 or on the Department's website at <http://www.fldoe.org/flbpso>.
3. Maintain a list of state-approved providers.
 - (b) School districts providing supplemental educational services shall:
 1. Identify eligible students and develop equitable procedures for prioritizing services if demand exceeds available funding.
 2. Notify eligible families prior to and after the start of the school year regarding the availability of services and the process for obtaining supplemental educational services in an understandable and uniform format. This notice shall include:
 - a. Contact information for state-approved providers serving the school district, including providers that are able to serve students with disabilities or English Language Learners and accessible through technology, such as computer assisted instruction;
 - b. A description of services, tutor qualifications, and evidence of effectiveness as determined by the Department's evaluation of academic proficiency of each provider;
 - c. A description of the procedures and timelines for selecting a provider and the commencement of services;
 - d. The enrollment form with clear instructions;
 - e. An offer to assist parents in choosing a provider; and,
 - f. An explanation of the benefits of receiving SES.
 3. Unless a waiver is granted by the State Board of Education, pursuant to Section 1008.331(3)(a), F.S., hold open student enrollment for supplemental educational services until the school district has obtained a written election to receive or reject services from the parents of at least a majority of eligible students or until the school district has expended all available funds.
4. Make available the supplemental educational services enrollment forms to the parents of eligible students and providers prior to and after the start of the school year.

5. Provide enrollment lists, parent contact information, and available student diagnostic data to supplemental educational services providers sufficiently in advance of October 15 so that eligible students may begin receiving supplemental educational services no later than October 15.

6. Ensure that services are consistent with the district/provider contract.

7. Notify the Department when a district/provider contract is terminated with cause due to a breach by the provider where the termination is based upon a failure to comply with Form SES 100 or SES district contract. Notification shall occur within fifteen (15) days of the date of the termination of the contract. Notification shall include the name of the company or organization, the date the contract was terminated, the reason for termination, and the factual basis which resulted in a breach of contract.

8. Develop in consultation with the parent and the provider a student learning plan. The plan shall be consistent with the student's individual education plan, English language learner plan, or the plan developed under Section 504 of the Rehabilitation Act. The plan shall include the following:

a. A statement of specific achievement goals for the student; these goals shall be aligned with student performance standards as incorporated by reference in Rule 6A-1.09401, F.A.C., as approved by the State Board of Education;

b. An explanation of how the student's progress will be measured;

c. A timetable for improving achievement; and,

d. An explanation describing how the student's parents and teacher(s) will be regularly informed of the student's progress.

9. Reassign students to another provider for the remainder of the students funding allocation if the providers services do not begin by the timelines established in this rule, or if the providers district/provider contract is terminated, provider withdraws or if the provider is removed from the state-approved list.

10. Display on its Web site the following information;

a. Beginning with the data from the 2007-2008 school year, and for each subsequent school year, the number of students who were eligible for and the number of students who participated in SES; and,

b. For the current year, a list of state-approved providers serving the school district and the locations where services are provided.

(c) State-approved supplemental educational services providers shall:

1. Be capable of delivering supplemental educational services in the school districts where approved by the Department.
2. Provide services that are secular, neutral, and nonideological.
3. Provide services outside of the regular school day, such as before or after school, on weekends, or in the summer.
4. Applicant shall provide professional development to tutors. Applicant shall supervise and monitor its tutors.
5. Provide supplemental educational services by tutors that are Title I paraprofessionals as provided in 20 U.S.C. § 6319, January 8, 2002, or current State of Florida certified teachers. The reference of 20 U.S.C. § 6319(c) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02988>) is hereby incorporated by reference. A copy of 20 U.S.C. § 6319(c) may be obtained by contacting the Florida Department of Education, Bureau of Federal Educational Programs, 325 West Gaines Street, Suite 348, Tallahassee, Florida 32399-0400.
6. Provide supplemental educational services that are consistent with the instructional program of the school district and aligned with State academic content and student academic achievement standards.
7. Unless a prior agreement has been made with the local school district, conduct a pre-assessment to determine student's gaps in knowledge and skills prior to beginning services.
8. Consult with the school district and the parents to develop the student learning plan.
9. Provide educational services designed to enable the student to attain achievement goals specified in the student learning plan.
10. Measure the student's progress and report progress at least monthly to the student's parents and teachers.
11. Adhere to the timetable in the student learning plan for improving the student's achievement.
12. Provide services consistent with health, safety, and civil rights laws.
13. Abide by school district policies and procedures on criminal background checks and the provisions of Section 1012.465, F.S.
14. Refrain from altering, completing or submitting enrollment forms on behalf of a parent.
15. Provide services to eligible students no later than October 15 of each school year contingent upon receipt of the district-approved student enrollment lists at least twenty (20) days prior to the start date. In the event that a contract with a state-approved provider is signed fewer than twenty (20) days prior to October 15, the provider shall have no fewer than twenty (20) days from the date the contract is executed to begin delivering services.

(4) Supplemental Educational Services Provider Approval.

(a) Application for approval by the Department for the provision of supplemental educational services shall be made on Form SES 100, Supplemental Educational Services Provider Application.

(b) All portions of the application shall be submitted online at <http://www.fldoe.org/flbpo>, if the online platform is open, or delivered to the following address: Florida Department of Education, Bureau of Federal Educational Programs, 325 West Gaines Street, Suite 348, Tallahassee, Florida 32399-0400.

(c) Applications submitted by means other than those set forth above and applications received after the deadline for submission, regardless of the cause or nature of the delay, will not be accepted or considered for approval by the Department.

1. Notice of the application deadline will be posted online at <http://www.fldoe.org/flbpo>. Applicants will be provided a minimum of thirty (30) days to submit an application.

2. Applicants who submitted a completed application, except for the Business and Financial Requirements portion of the application, will be given one opportunity to correct deficiencies associated with the Business and Financial Requirements. Any Business and Financial Requirement deficiency must be corrected within five business days of the date the notice of deficiency is sent to the applicant by electronic mail.

(d) Approval requires that the applicant attain at least eighty (80) percent of the total possible points on Form SES 100 and at least seventy (70%) percent of the possible points in the Demonstrated Record of Effectiveness and the High Quality, Research-Based Instructional Services portions of SES Form 100, meet the requirements of Form SES 100 and the following additional requirements:

1. Demonstrate that the applicant has increased the academic achievement of students for a period of one (1) or more years within the last three (3) years to a minimum of ten (10) students.

2. Provide high-quality, research-based instructional services that address student weaknesses while still addressing required grade level curriculum.

3. Provide the type of student-tutor interaction when using technology.

4. Applicant must be legally qualified to do business in Florida and shall provide the following:

a. Articles of Incorporation, Articles of Organization or Partnership Agreement, as applicable.

b. A Florida business license, Florida Certificate of Status or an Internal Revenue Services Opinion Letter under 26 U.S.C. section 501(c)3, as applicable.

c. A statement attesting that applicant will operate as a sole proprietorship under the applicant's legal name, as applicable.

d. A Fictitious Name filing, as applicable.

5. Demonstrate Financial Soundness by submitting the following:

a. Certified Public Accountant (CPA) audited balance sheet in United States dollars performed within the closing of the applicant's last fiscal year; and,

b. Six (6) month operating budget that includes expenses for insurance policies, salaries, marketing, instructional materials, facility rental fees, professional development, fingerprinting/background screening, transportation and servicing debt.; and,

c. If the applicant is unable to demonstrate financial soundness under the provision of sub-subparagraphs (4)(d)5.a.-d. of this rule, FDOE will accept a line of credit from a financial institution in the amount to increase current assets. Line of credit issued within the last calendar year demonstrating access to funds for the first six (6) months of the school year or a bank statement issued within the past three (3) months from a financial institution showing evidence of available and sufficient resources equal to or greater than the required budget to operate for six (6) months.

6. Applicant shall provide a complete list of any board of directors, managing members or chief officers of the organization and corresponding titles, as applicable.

7. Applicant assures to the following:

a. Applicant has not been disbarred. "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its members are not disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency from doing business with the federal government.

b. Applicant has not been terminated for cause in the district(s) which the applicant selects to offer SES.

c. Applicant agrees to abide by ethical business practices, as adopted by the Education Industry Association in its Code of Professional Conduct and Business Ethics for Supplemental Educational Services Providers Amended January 8, 2008 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02986>), which is hereby incorporated by reference and may be obtained at <http://www.educationindustry.org/assets/2010-eia-code-of-ethics.pdf>.

d. Applicant agrees to indemnify, defend and hold harmless FDOE, the State of Florida, and their respective agents, officers and employees from and against any and all claims, demands, suits, liabilities, injuries (personal or bodily), property damage, causes of action, losses, costs, expenses, damages or penalties, including without limitation reasonable defense costs and legal fees arising or resulting from, or occasioned by or in connection with:

(I) Any bodily injury or property damage resulting or arising from any act or omission to act (whether negligent, willful, wrongful or otherwise) by the applicant or its organization, its subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable;

(II) Failure by the applicant and its organization or its subcontractors to comply with any laws or regulations applicable to the performance of SES;

(III) The breach of any representation or assurance provided by the applicant and its organization in this application; or

(IV) Any act of infringement of any existing patent or copyright or any unauthorized use of any trade secret.

e. Applicant agrees to attend a mandatory SES meeting sponsored by FDOE. Applicant will be notified of the meeting date, time and location at least fifteen (15) business days prior to the meeting. Failure to attend meeting may result in Applicant being removed from the state-approved supplemental educational services provider list unless the applicant is able to demonstrate, in writing, unforeseen and uncontrollable circumstances that prohibited the applicant from attending the mandatory meeting.

f. Abide by Rules 6A-1.039 and 6A-1.0391, F.A.C., and Section 1008.331, F.S.

(e) Approval shall be for one (1) year. Approval is non-transferable and valid only for the person or entity named by the Department in its notice of approval.

(f) Applicant is ineligible to re-apply for approval to provide supplemental educational services for the following two (2) year period subsequent to any of the following:

1. Termination of a supplemental educational services contract with a school district with cause in fifty (50%) percent or more of the districts served in the previous school year, where the termination is based upon the provider's failure to comply with, or meet the requirements set forth in Form SES 100; or

2. The award of an unsatisfactory service designation for two (2) consecutive years, beginning with the service designation awarded in the 2010-2011 school year.

(5) Monitoring of Supplemental Educational Services. The Department is authorized to conduct announced and unannounced site visits of school districts and of approved providers to monitor compliance with the approved application, district/provider contract, student learning plan, and requirements of this rule.

(a) Monitoring shall be in compliance with Education Department General Administrative Regulation 34CFR 80.40(a) and consistent with the authority for oversight in Section 1008.32, F.S.

(b) Each district and provider shall maintain documentation to verify compliance with the requirements of law and rules applicable to supplemental educational services and comply with the Department's monitoring procedures, including on-site and desktop monitoring and self-evaluations.

(c) The Department shall annually develop a report of the results of the monitoring reviews.

(6) Evaluation of Supplemental Educational Services: The Department shall evaluate and report the quality and effectiveness of supplemental educational services provided by each state-approved provider. The evaluation shall be implemented pursuant to Section 1008.331(5), F.S.

(7) Complaint Process: The following process is established to allow for notification to the Department of a violation of the laws or rules related to supplemental educational services by providers or school districts.

(a) To initiate a complaint, a person must submit a written complaint to the Florida Department of Education using Form SES 200, Complaint Regarding Supplemental Educational Services, which is hereby incorporated by reference to become effective upon the effective date of this rule. This complaint form may be obtained by contacting the Florida Department of Education, Bureau of Federal Educational Programs at (850)245-0479, or 325 West Gaines Street, Suite 348, Tallahassee, Florida 32399-0400 or by downloading the form on the Department's web site at www.fldoe.org/flbpso.

(b) Upon receipt of a complaint, the Department shall review for sufficiency and shall close the complaint where it does not allege a violation of the laws regarding supplemental educational providers. Where the complaint alleges a violation of the laws regarding supplemental education providers, the Department shall cause the complaint to be investigated. The provider and school district shall cooperate fully in the investigation.

(c) The Department shall review the investigation and provide notice of its intended action to the provider, specifying the nature of the action, such as dismissal of the complaint, request for corrective action, referral to the district, removal from the approved provider list or enforcement under Section 1008.331, F.S. The notice shall state the grounds for the intended action. Nothing in this rule shall restrict the Department's authority to summarily suspend or remove a provider from the approved provider list where the Department finds that an immediate serious danger to the public health, safety, or welfare exists. Upon determination that there is a need for immediate action, the Commissioner or designee shall provide written notice of the immediate action.

(d) Unless the complaint is closed under the provisions of paragraph (7)(b) of this rule, or summary action is taken under the provisions of paragraph (7)(c) of this rule, the entity against whom a complaint has been made shall be provided notice of the complaint and the opportunity to respond prior to the Department's intended action.

~~(8) Removal from the State-Approved Supplemental Educational Services Provider List. A provider shall be removed from the approved list, and the provider and any related organizations shall be ineligible to re-apply during the following two (2) year period, following the process established in subsection (7) of this rule, for the following reasons:~~

~~(a) The failure to deliver services as provided in Section 1008.331(3)(b), F.S.;~~

~~(b) The award of an unsatisfactory service designation for two (2) consecutive years, beginning with the service designation awarded in the 2010-2011 school year;~~

~~(c) When the investigation reveals that a school district has been fraudulently invoiced; or~~

~~(d) When the Department determines that the matter is of such magnitude that it cannot be addressed by the school district through its enforcement mechanisms, the failure to comply with provider responsibilities and assurances, the failure to meet and maintain the eligibility application requirements found in Form SES 100, the Supplemental Educational Services Provider Application, and the failure to comply with the requirements established for providers in this rule.~~

~~(9) Reporting Requirements.~~

~~(a) School districts are required to report, through the Department's automated student information data base system, students who are served by supplemental educational services.~~

~~(b) Supplemental educational services providers must provide auditable documentation of services and contact hours provided to each student to the school district.~~

~~(c) School districts and state-approved providers shall cooperate with Department requests for information pertaining to supplemental educational services.~~

~~(10) Grievance Procedures for Providers. This subsection establishes the basis and procedures for the resolution of disputes about the denial to serve as a state-approved supplemental educational services provider and the removal from the State-Approved Educational Services Provider List, as well as disputes about the award of a service designation.~~

~~(a) Hearing Officer. The Commissioner shall appoint one or more hearing officers to hear disputes and make a recommendation to the Commissioner for resolution of the grievance.~~

~~(b) Process for Filing a Grievance.~~

~~1. Grievances shall be in written form.~~

~~2. The grievance shall be mailed or delivered to the following address: Florida Department of Education, Bureau of Federal Educational Programs, 325 West Gaines Street, Suite 348, Tallahassee, Florida 32399-0400.~~

~~3. In order to be timely, grievances shall be received no later than ten (10) days after the Department mails notice of the intended action.~~

~~4. Grievances that are not provided in written form will not be considered. Grievances received after the deadline will not be considered, absent demonstration of extraordinary circumstances beyond the control of the grievant.~~

~~(c) Contents of Grievance.~~

~~1. All grievances shall contain the following items: the name and mailing address of the organization, the name, mailing address, e-mail address, and telephone number of the grievant or representative, the provider identification number, the grounds or basis for the grievance, and any documentation the grievant intends to rely on. A grievance that requests reconsideration without identifying alleged errors or deviation from the application is insufficient.~~

~~2. Unless the Department receives an alternative address, all Departmental notices to the grievant will be provided by e-mail to the e-mail address provided by the grievant.~~

~~(d) Basis of Grievance.~~

~~Grievances must contain a statement of specific facts the grievant contends warrants reversal or modification of the Department's action and a statement of the specific rules or statutes that the grievant contends requires reversal or modification of the Department's action. A grievance that requests reconsideration without identifying the specific facts that warrant reversal or modification or that fails to include the specific rules or statutes that require reversal or modification will not be considered.~~

~~(e) Pre-review procedures.~~

~~1. Within thirty (30) days of receipt, the Department shall review the grievance and any supporting documentation identifying the specific alleged errors and deviations submitted with the grievance.~~

~~2. Where the Department determines that the grievance should be granted, the grievant shall be notified within three (3) working days of the decision and the grievance shall be dismissed with no further action by the Department.~~

~~3. Where the Department determines that the grievance should not be granted, the grievance and response shall be forwarded to the Hearing Officer.~~

~~(f) Conduct Review. Proceedings shall be as informal as fairness and principles of due process will allow. The Hearing Officer may disregard or discount evidence that is not credible, material, competent, or relevant.~~

~~1. The determination shall be based upon written submissions unless a request for a formal review is received with the grievance and the Hearing Officer determines that a formal hearing is necessary in order to resolve the grievance. Either the agency or grievant may request a formal review.~~

~~2. Reviews may be conducted telephonically.~~

~~(g) Recommendation. The Hearing Officer shall recommend findings of fact and conclusions of law to the Commissioner.~~

~~(11) Confidentiality. The identity of any student who is eligible for or receiving supplemental educational services shall not be disclosed to the public without prior written consent of the parents of the student, however, unless a student is a dependent student as defined in 26 U.S.C. s. 152 (s. 152 of the Internal Revenue Code of 1954), when a student has attained 18 years of age, prior written consent of the student is required before disclosure under this subsection occurs. Providers shall abide by the procedures of the school district and the Department for the security, privacy and retention of student records in accordance with the requirements of Section 1002.22, F.S. and 20 U.S.C. § 1232g.~~

~~*Rulemaking Authority 1008.331 FS. Law Implemented 1008.331 FS. History—New 4-14-08, Amended 5-24-09, 12-15-09, 3-20-11, 12-20-11, 8-19-13.*~~

6A-1.0391 Evaluation of Supplemental Educational Service Providers.

Rulemaking Authority 1001.02(i), 1008.331(5)(d) FS. Law Implemented 1008.331(5) FS. History—New 5-3-10, Repealed

6A-1.0391 Evaluation of Supplemental Educational Service Providers.

(1) Purpose. This rule implements an evaluation system for state-approved supplemental educational service providers, in accordance with Section 1008.331(5), F.S.

(2) Definitions. For the purpose of this rule, the following definitions will be used:

(a) “Local Educational Agency” or “LEA” means the school district responsible for the administration of supplemental educational services.

(b) “Pre-assessment” means the valid and reliable assessment instrument capable of identifying a student’s deficiencies in mastering the Sunshine State Standards Benchmarks or Access Points, as defined in Section 1003.41, F.S.

(c) “Post-assessment” means the valid and reliable assessment instrument capable of measuring a student’s achievement on the same set of Sunshine State Standards Benchmarks or Access Points as adopted in Rule 6A-1.09401, F.A.C., measured in the pre-assessment and as identified in the student learning plan.

(d) “Provider” means the individual or organization approved by the Department to provide supplemental educational services.

(e) “Supplemental Educational Services” means the services as defined in subsection 6A-1.039(2), F.A.C.

(f) “Student learning plan” means the plan as defined in subsection 6A-1.039(2), F.A.C.

(g) “Length of prescribed program” means the number of hours of services to be provided to each student based on the provider’s rate and LEA’s per pupil allocation.

(f) “Student” means a student who was enrolled, placed, or assigned to a supplemental education services provider and has a district approved student learning plan for the current year.

(g) “Attendance” means the SES student hours submitted by the provider and approved by the LEA.

(h) “Completion” means an SES student that has expended the total per-pupil allocation and has participated in the provider administered post-assessment.

(i) “Per-pupil allocation” means the maximum amount of funds that may be expended for each eligible student for supplemental educational services based on the Title I, Part A allocation.

(j) "Prior agreement" means that the provider and the LEA have an agreement that the LEA will submit the required data on behalf of the provider to the Department by May 1.

(3) Documentation of data.

(a) A provider shall thoroughly document all student data, including student learning gains and attendance and completion data, and make all student data available to the Department or LEA upon request.

(b) A false statement made by a provider in conjunction with the information required by this rule will be reported by the Department to the appropriate law enforcement agency for prosecution pursuant to Section 837.06, F.S. (false official statements).

(c) Should the Department find evidence that a provider submitted any falsified data required by this rule, the Department shall open a complaint and investigate the matter in accordance with subsection 6A-1.039(7), F.A.C.

(4) Minimum sample size for provider evaluation. In order to ensure statistical reliability and to avoid the inadvertent release of personally identifiable student data prohibited by Section 1002.22, F.S., providers that serve ten or fewer students in an academic year will not receive a service designation.

(5) Student assigned after April 1. Any student enrolled with a provider's program after April 1 shall be considered in the following year's service designation.

(6) Evaluation method. The evaluation method for a service designation is comprised of the following five factors, of which a total of 500 points may be earned:

(a) Student learning gains as demonstrated by mastery of applicable benchmarks or access points set forth in the Sunshine State Standards as adopted in Rule 6A-1.09401, F.A.C., worth 300 points;

(b) Attendance and completion data worth 75 points;

(c) Parent surveys worth 25 points;

(d) LEA surveys worth 50 points; and,

(e) Principal surveys worth 50 points.

(7) Student learning gains. Student learning gains will be determined in the following manner:

(a) The LEA, in collaboration with the provider and the parent, shall identify a maximum of five measurable goals for each student in each subject area, based on provider-administered pre-assessment data and available LEA data that identify the student's deficiencies. The goals shall be included in the student learning plan. The LEA shall have authority over the content of these goals.

(b) Upon student completion of the length of prescribed program with a provider, the provider shall administer a post-assessment to determine the number of goals that were mastered by the student. The provider shall report the outcome of the services on the final progress report and submit the final progress report to the student's parents and LEA.

(c) The LEA shall review final progress reports and maintain them for use in the verification phase outlined in subsection (15) of this rule.

(d) The provider shall use Form SES 300, Data Entry for LEAs and SES Providers, which is hereby incorporated by reference to become effective May 3, 2010, to report the number of goals identified in the student learning plan and the number of goals mastered by the student directly to the Department on its Web site at: <http://fldoe.org/flbpso> by May 1 of each school year, unless a prior agreement has been made with the LEA.

(e) Within 30 days of the May 1 deadline, the Department shall calculate for each provider:

1. The total number of goals by subject area pursuant to paragraph (7)(a) of this rule for all students completing the length of prescribed program;

2. The total number of goals by subject area that were mastered pursuant to paragraph (b) for all students receiving supplemental educational services; and,

3. The percentage of goals mastered using the data from paragraphs (a) and (b) as described in paragraph (7)(d) of this rule.

(f) The Department shall determine a raw score based upon the percentage of goals mastered multiplied by 300. The raw score constitutes the points for the total student learning gains mastered.

(8) Attendance and completion data. Attendance and completion data shall be calculated in the following manner:

(a) The LEA shall include the length of prescribed program for each student in the student learning plan based on each provider's hourly rate and the LEA's per-pupil allocation.

(b) Verified attendance rosters and invoices shall be maintained by the provider to ensure the hours of tutoring delivered to each student are correct. The attendance rosters and invoices shall be available to the district and the Department upon request.

(c) For each student enrolled with the provider at any time during the school year, the provider shall use Form SES 300 to report the length of prescribed program and the actual number of hours provided directly to the

Department on its Website at <http://fldoe.org/flbpso> by May 1 of each school year, unless a prior agreement has been made with the school LEA.

(d) The Department shall calculate for each provider:

1. The length of prescribed program pursuant to paragraph (8)(a) of this rule of all students enrolled in Supplemental Educational Services;

2. The total number of hours delivered pursuant to paragraph (8)(b) of this rule to all students enrolled before April 1 of each school year; and,

3. The percentage of hours that were completed.

(e) A raw score shall be calculated by the Department for each provider based upon the percentage determined in subparagraph (8)(d)3. of this rule multiplied by 75. The raw score constitutes the total attendance and completion points achieved.

(9) Surveys. The Department shall survey three separate populations: parents, LEAs, and principals where supplemental educational services are provided on site.

(a) All survey questions will have five response levels, to be scored as follows:

1. An answer of "strongly disagree" is worth zero points.
2. An answer of "disagree" is worth one point.
3. An answer of "neither agree nor disagree" is worth two points.
4. An answer of "agree" is worth three points.
5. An answer of "strongly agree" is worth four points.

(b) Parent survey. By May 1 of each school year, parents may submit satisfaction results of provider performance using Form SES 301, Supplementary Educational Services Survey for Parents, which is hereby incorporated by reference and made a part of this rule to become effective May 3, 2010, on the Department's Web site at <http://fldoe.org/flbpso> or in hard-copy.

1. The provider shall make Form SES 301 available to parents electronically and in hard-copy at the tutoring site. Hard-copy surveys shall be collected by the provider and submitted electronically on behalf of the parent on the Department's Web site at <http://fldoe.org/flbpso>. Hard-copy surveys shall be mailed by the provider to the Department at 325 West Gaines Street, Suite 348, Tallahassee, FL 32399-0400. Only one parent survey per child will be permitted.

2. Parent survey results shall be calculated by the Department for each provider based upon the percentage of possible points compared to earned points, multiplied by 25.

3. In the event that the Department does not receive parent survey data for a provider, the Department shall modify the calculation to account for the missing survey data by subtracting the number of possible points for the missing survey population from 500, to modify the overall number of points possible as defined in subsection (6) of this rule.

(c) LEA survey. By May 1 of each school year, each LEA shall submit a uniform online survey on the Department's Web site at <http://fldoe.org/flbpso> using Form SES 302, Supplemental Educational Services Survey for Districts, which is hereby incorporated by reference to become effective May 3, 2010, to evaluate each provider's performance. In the event that the LEA is also acting as a provider, the LEA shall not submit a survey evaluating its performance.

1. LEA survey results shall be calculated by the Department for each provider based upon the percentage of possible points compared to earned points, multiplied by 50.

2. In the event that the Department does not receive LEA survey data for a provider, the Department shall modify the calculation to account for the missing survey data by subtracting the number of possible points for the missing survey population from 500, to modify the overall number of points possible as defined in subsection (5) of this rule.

(d) Principal survey. By May 1 of each school year, each principal of a school where SES is provided on site shall submit a uniform online survey on the Department's Web site at <http://mail.fldoe.org/flbpso> using Form SES 303, Supplemental Educational Services Survey for Principals, which is hereby incorporated by reference to become effective May 3, 2010, to evaluate each provider's performance.

1. Principal survey results shall be calculated by the Department for each provider based upon the percentage of possible points compared to earned points, multiplied by 50.

2. In the event that the Department does not receive principal survey data for a provider, the Department shall modify the calculation to account for the missing survey data by subtracting the number of possible points for the missing survey population from 500, to modify the overall number of points possible as defined in subsection (5) of this rule.

(10) Calculation of service designation percentage. To calculate the services designation percentage for each provider, the Department shall:

- ~~(a) Round each raw score in subsections (7) through (9) of this rule to the nearest whole number.~~
- ~~(b) Determine the sum of all raw scores.~~
- ~~(c) Divide the sum of the raw scores by 500 points pursuant to subsection (5) of this rule to determine the total earned points.~~
- ~~(d) Multiply the total earned points by 100. The product will determine a provider's services designation percentage.~~
- ~~(11) Service Designation Scale. To assign provider service designations, the Department shall use the following scale:~~
- ~~(a) Providers receiving a score of 80% or above will be classified as "excellent."~~
- ~~(b) Providers receiving a score of at least 50% and less than 80% will be classified as "satisfactory".~~
- ~~(c) Providers receiving a score of less than 50% will be classified as "unsatisfactory."~~
- ~~(12) Reporting timeline. To facilitate timely processing of data and data verification, May 1 of each year shall serve as the deadline for all data submission from providers, LEAs, and principals. The Department shall only accept data submitted after May 1 if the provider demonstrates in writing that unforeseen and uncontrollable circumstances took place prohibiting the provider from complying with the reporting timeline.~~
- ~~(13) Incomplete data. If the Department determines that unforeseen and uncontrollable circumstances prohibited the provider from submitting data by the deadline, the Department shall assign a service designation of "incomplete" to the provider. The provider must submit the data within 45 days of the Department's determination. If the provider fails to submit the data by the deadline the service designation will be assigned pursuant to subsection (14).~~
- ~~(14) Failure to submit data. Notwithstanding subparagraphs (9)(a)3., (b)2., and (c)2., of this rule to ensure compliance with the reporting deadline by providers, in the event that a provider fails to submit any data, in whole or in part, within 14 days of the May 1 submission deadline, the Department shall assign a score of zero for any missing data based on 500 possible points.~~
- ~~(15) Verification of Data. To ensure accurate and correct data, prior to the announcement of service designations the Department will provide an opportunity to all LEAs and providers to verify the data submitted by the provider and the LEA using Form SES 300 and correct any data reporting errors. The length of verification phase will be determined at the discretion of the Department, and shall not last more than 14 days.~~
- ~~(16) Method of announcement of service designation. By July 1 of each year, service designations will be made available to providers, LEAs, parents, and the public on the Department's Web site, found at <http://fldoe.org/flbpos>.~~

~~(17) Improvement Plan.~~

~~(a) The Department shall establish an improvement plan for any provider with an “unsatisfactory” service designation. The improvement plan must include goals for improvement, and may include, but is not limited to, the following:~~

- ~~1. Improvement of the provider assessment tool;~~
- ~~2. A student attendance improvement plan;~~
- ~~3. A parent outreach action plan;~~
- ~~4. Improvement in the implementation of the assessment mechanism;~~
- ~~5. Improvement in the curriculum and instructional materials; and,~~
- ~~6. Improvement in the quality of provider staff.~~

~~(b) The provisions for removal as set forth in subsection 6A-1.039(8), F.A.C., shall apply to a provider awarded an unsatisfactory service designation for two consecutive years.~~

~~(18) Grievance procedure. A provider shall utilize the Grievance Procedures for Providers, found in Rule 6A-1.039, F.A.C., to resolve complaints about service designations.~~

~~*Rulemaking Authority 1001.02(i), 1008.331(5)(d) FS. Law Implemented 1008.331(5) FS. History—New 5-3-10.*~~

STATE BOARD OF EDUCATION
Consent Item
February 18, 2016

SUBJECT: Approval of Appointments to the Education Practices Commission (EPC)

PROPOSED BOARD ACTION

For Approval

AUTHORITY FOR STATE BOARD ACTION

Section 1012.79, Florida Statutes

EXECUTIVE SUMMARY

Section 1012.79, F.S., requires that the Education Practices Commission be comprised of 25 members appointed by the State Board of Education from nominations by the Commissioner of Education and subject to Senate confirmation. Of the 25 members, 8 must be teachers, 5 administrators (at least one of whom shall represent a private school), 7 lay citizens (5 of whom shall be parents of public school students and who are unrelated to public school employees and 2 of whom shall be former district school board members), and 5 sworn law enforcement officials.

Nominations for appointment include:

Ric Mellin, Administrator
Michelle Swint, Teacher
Celita Wilson, Parent

Supporting Documentation Included: Resumes for Ric Mellin, Michelle Swint and Celita Wilson; List of Present Education Practices Commission Members; and Section 1012.79, Florida Statutes

Facilitator: Brian Dassler, Deputy Chancellor for Educator Quality

RIC MELLIN

WESLEY CHAPEL, FL 33543

FAX (813) 794-9489

E-MAIL FMELLIN@PASCO.K12.FL.US

PROFESSIONAL MISSION

To provide strong visionary leadership so that students are capable of fulfilling the promise of college, career, and life readiness. We education, captivate and inspire.

EXPERIENCE

2011 – present **Pasco Hernando State College**
Adjunct Professor Education Preparation Institute

March, 2009 - present **Land O' Lakes High School**
Principal *An International Baccalaureate World School*
One of America's Best Public High Schools
Rated "A" five times by the Florida Department of Education

October, 2005 - March, 2009 **J.W. Mitchell High School**
Principal

1999 – October, 2005 **Wesley Chapel High School**
Assistant Principal

- Arts and Communications Learning Community
- Health and Human Services Learning Community
- Member of Inaugural Staff

1994–1999 **Pine View Middle School**
Teacher

- Team Leader
- 7th and 8th grade multi-aged looping team

Spring 1994 **Raymond B. Stewart Middle School**
Teacher

- Graduation Enhancement Team
- Social Studies and Critical Thinking 6th–8th grade

EDUCATION

- Master of Education in Educational Leadership
University of South Florida
August 8, 1998
- Bachelor of Science in Education
University of South Florida
December 14, 1993

ORGANIZATIONS

- National Association of School Administrators
- Florida Association of School Administrators
- Pasco County Association of School Administrators

REFERENCES

- Mr. Kurt Browning, Superintendent of Schools (813) 794-2651
- Dr. David Scanga, Area Superintendent (813) 794-2695
- Dr. Monica Ilse, Area Superintendent (813) 794-2753

MICHELLE SWINT

DeLand, Florida 32724

mswint@volusia.k12.fl.us

EDUCATION AND CERTIFICATIONS

- Master of Arts in English, Stetson University, May 2004
- Bachelor of Arts in Communication Studies, Stetson University, Minor Spanish Studies, May 2000
- Florida Professional Certificate, English 6-12, Validity Period: July 01, 2012-June 30, 2017

TEACHING EXPERIENCE

- Secondary Language Arts Teacher, Pine Ridge High School, Deltona, FL July 2004-Present
 - English I-III
 - AP Language and Composition
 - Student Success and Development (AVID)
- Adjunct Professor, Daytona State College, Deltona, FL August 2008-Present
 - Writing I (ENC 001)
 - College Composition (ENC 1101)
 - Literature and Composition (ENC 1102)
 - Writing with Research (ENC 1102)

PROFESSIONAL ACTIVITIES AND ACCOMPLISHMENTS

- Volusia System for Evaluating Teachers (VSET) Professional Learning Facilitator /Mentor (2012-Present)
- Teacher Certification Examination Subject Matter Expert, Florida Department of Education (2014)
- Textbook Adoption Committee Member and Curriculum Map Cadre Participant (2013-2014)
- English Department Chair, 12 member department (2012-2015)
- Volusia System for Evaluating Teachers (VSET) Pilot Team member (2012)
- Common Core curriculum map development co-chair, 11th grade (2012), 10th grade (2013-2015)
- Professional Learning Community leader (2009-2010) and co-chair (2011-2012)
- College Board AP Language and Composition exam reader (2011-Present)
- Advancement Via Individual Determination (AVID) student program leader (2006-2008)
- Advancement Via Individual Determination (AVID) site team member (2009-Present)

PROFESSIONAL DEVELOPMENT LEADERSHIP

- Volusia System for Evaluating Teachers (VSET) Deliberate Practice Plan Mentor
- Volusia County Schools Professional Learning Curriculum Map Kickoff Facilitator, Language Arts
- Model classroom demonstration site for AVID program, college interns, and designated campus visitors
- Developed and presented classroom management workshops for preplanning professional learning
- Co-presented with ESE administrator as part of the Volusia System for Evaluating Teachers (VSET) pilot

AWARDS AND HONORS

- 2015 Volusia County Schools' Teacher of the Year, Finalist
- Teacher of the Month
- Project of the Month
- Outstanding First Year Teacher Award

Celita I. Wilson
Jacksonville, Florida 32221

Professional Experience

Celita Wilson, Marketing Solutions *Jacksonville, Florida* *December 2014 – Present*
Owner

- Specialize in social media marketing techniques for small businesses and entrepreneurs.
- Provide various marketing services including social media management, creating flyers, websites, branding and more.
- Offer workshops or one on one training in order for these functions be done in house by any business.
- Create bilingual campaigns for businesses operating in markets where there is a significant Hispanic presence.

Avon Products, Inc. *Jacksonville, Florida* *April 2011 – Present*
Independent Sales Representative & National Recruiter

- Actively networked with, and recruited people and business in my community to get my business and downline growing.
- Developed a training binder to compliment the required representative trainings full of examples and out of the box ideas for all representative personality types.
- Assist District Manager with Spanish speaking leads and follow up phone calls to all Spanish speaking representatives in the district for no orders, past dues, etc.
- Achieved Unit Leader on the Fast Start program within 5 campaigns of being appointed.
- Became a President’s Club member, having Award Sales over \$10,100 within 6 campaigns.
- Achieved Honor Society with award sales of over \$20,200 in first year of being a representative.
- Received Recruiting Excellence Award and Best New Sales Performer Award in District for the 2011-2012 Sales Cycle.
- Awarded Spirit of AVON for the “A” Team, from my upline, for assisting in training my fellow team members and other duties.

Circle K Furniture *Jacksonville, Florida* *November 2011 – June 2012*
Retail Operations Manager

- Responsible for all retail operations in 2 stores totaling in over 100,000 square feet.
- Implemented new procedures to streamline operations where it pertained to customer service, including payment plans, deliveries, extra warranty services, refunds and returns.
- Reduced unsatisfied customer refunds by over 75%.
- Trained and motivated staff with incentives to increase sales and revive fallen morale.
- Structured floor space with a floor plan to increase dollar per square foot, and kept merchandise on rotation for a fresh look.

Traffic Shoes *Jacksonville, Florida* *June 2004 – January 2011*
Regional Manager (January 2007 – January 2011)

- Responsible for overseeing 44 stores in the North and Central Florida, Georgia, New York, New Jersey, Pennsylvania, Delaware and Maryland territories
- Supervised the construction of 24 stores in 5 new markets
- Had a reported sales increase of 5.5% for 2007, 7.3% for 2008, 10.1% for 2009, and 15.9% for 2010
- Actively recruited, hired, and trained talent for new and existing stores
- Drove the sales in all districts through cross-promoting, improving merchandising techniques, developing new incentive programs, etc.
- Instituted a secret shopper program, to include selecting an agency based on personal research, and developed an effective secret shopper questionnaire
- Restructured pay scale and bonus programs for all employees, and developed all corresponding paperwork
- Revised the company manual, and rewrote the majority of the company’s operational materials

District Manager (January 2005 – January 2007)

- Responsible for 4 stores and the construction of the 5th in the North Florida district, from scouting the location all the way through opening
- Boosted sales in the newest district by over 25% by implementing new techniques
- Wrote operational manual to ease the training of new employees in district, which has since been adopted company wide
- Assisted in the opening of all the stores in the Atlanta District, to include set-up, recruiting, training, follow up visits, etc.
- Was selected by the company owners to attend the World Shoe Association Convention in Las Vegas to help choose the merchandise for the Fall 2005 and Spring 2006 Season
- Created the new District Manager Weekly Store Evaluation Form

Store Manager (June 2004 – January 2005)

- Recruited and trained an entirely new staff for this new store
- Exceeded first year sales goals by more than 30%
- Developed a clientele base by creating a Customer Request system, which notified customers when selected products arrived
- Conducted customer surveys, and forwarded results to the Buying Department to improve the effectiveness of product distribution
- Generated reports detailing local demographics and area-specific fashion trends, and their correlating effects on sales

Casual Male XL

Boca Raton, Florida

March 2000 – May 2004

Assistant Store Manager

Responsible for and assisted in all aspects of store operations

- Organized and checked daily audit paperwork, assuring the store was always within compliance with all company audit standards
- Made the weekly schedules as well as processed the weekly payroll, assuring we stayed within payroll budgets
- Received new merchandise, reconciled the shipments against the packing lists, placed merchandise in the store in accordance to the visual guides.
- Recruited and trained new staff in several locations, covered whenever there was a shortage in the South Florida district
- Was accountable for monthly and weekly achievement of store goals such as sales plans, items per guest, catalog sales, custom order sales, and promoting store credit card applications
- Helped to maintain store shrink below 1% by doing weekly inventory counts, and implementing loss prevention strategies

Education

Strayer University

Jacksonville, Florida

Palm Beach Community College

Lake Worth, Florida

Associations

Thomas Jefferson Elementary Parent Teacher Association, Local Unit President

Thomas Jefferson Elementary School Advisory Council, Member

Duval County Council Parent Teacher Association, Scholarship Chair

Florida Parent Teacher Association, Vice Chair of Resource Development Committee

Girl Scouts of Gateway Council, Troop Leader and Community Mentor

Parent Academy, Parent Leader

American Red Cross, Disaster Relief and Clerical Volunteer

Special Olympics, Coach and Special Events Volunteer

EPC Commission Member List as of January 13, 2016

Name: Cristina Basso – Miami-Dade Term (2ndTerm): October 2015-September 2019 *Reappointed. Scheduled for 2016 Senate confirmation* Category: Teacher	Name: Pam Bondurant – Jackson Term (2nd Term): October 2012 – September 2016 Category: Teacher
Name: Judie Budnick – St. Lucie Term (2ndTerm): October 2015 – September 2019 *Reappointed. Scheduled for 2016 Senate confirmation* Category: Former School Board Member	Name: Ann Copenhaver – Escambia Term (1stTerm): May 2014 – September 2017 Category: Teacher
Name: Ann Cwynar – Palm Beach Term (2ndTerm): October 2009 – September 2013 *EXPIRED* Category: Teacher	Name: Marisol Diaz – Mami-Dade Term (1stTerm): November 2013 – September 2017 Category: Administrator
Name: Diane Farmer - Hillsborough Term (2nd Term): October 2013 - September 2017 Category: Administrator	Name: Christie Gold - Hillsborough Term (1st Term): October 2015- September 2019 *Reappointed. Scheduled for 2016 Senate confirmation* Category: Teacher
Name: Susan Hershey - Martin Term (1st Term): September 2014-September 2018 Category: Former School Board	Name: David Lee - Alachua Term: (2nd term) August 2012-August 2016 Category: Law Enforcement
Name: Annette Marcadis - Hillsborough Term (2nd Term): October 2013-July 2017 Category: Parent	Name: Katrina McCray - Duval Term (1st Term): October 2014 – September 2018 Category: Administrator
Name: Nicholas Pietkiewicz – Lee Term (1st Term): September 2014-September 2016 Category: Teacher	Name: Bernard Presha - Orange Term (2nd Term): August 2012-August 2016 Category: Law Enforcement
Name: Jillian Rose – Duval Term (1st Term): September 2014-September 2016 Category: Teacher	Name: C. David Schneider - Pinellas Term (2nd Term): October 2014- September 2018 Category: Teacher
Name: Mark Strauss – Broward *EXPIRED* Term (2nd Term): October 2014- September 2015 Category: Administrator	Name: David Thompson – St. Lucie Term (2nd Term): August 2012-August 2016 Category: Law Enforcement
Name: Elizabeth Trop-Roberts -Broward Term (1st Term): August 2012– July 2016 Category: Lay Citizen – Parent	Name: K. Lynn Wade - Hillsborough Term (1st Term): September 2014 – October 2018 Category: Private School Administrator
Name: Cindi Walker – Palm Beach Term (2nd Term): January 2013-January 2017 Category: Lay Citizen-Parent	Name: Troy Williamson – Seminole Term (1st Term): March 2013 – August 2016 Category: Law Enforcement

ADMINISTRATORS (5/5)

Marisol Diaz
Diane Farmer
Katrina McCray
K. Lynn Wade (private school)
Mark Strauss (expired)

LAW ENFORCEMENT (4/5)

David Lee
Bernard Presha
David Thompson
Troy Williamson
Vacant

TEACHERS (8/8)

Cristina Basso (reappointed)
Pamela Bondurant
Ann Copenhaver
Christie Gold (reappointed)
Nicholas Pietkiewicz
Jillian Rose
C. David Schneider
Ann Cwynar (expired)

FORMER SCHOOL BOARD MEMBERS (2/2)

Judie Budnick (reappointed)
Susan Hershey
PARENTS (3/5)
Annette Marcadis
Elizabeth Trop-Roberts
Cindi Walker
Vacant
Vacant

1012.79 Education Practices Commission; organization.--

(1) The Education Practices Commission consists of 25 members, including 8 teachers; 5 administrators, at least one of whom shall represent a private school; 7 lay citizens, 5 of whom shall be parents of public school students and who are unrelated to public school employees and 2 of whom shall be former district school board members; and 5 sworn law enforcement officials, appointed by the State Board of Education from nominations by the Commissioner of Education and subject to Senate confirmation. Prior to making nominations, the commissioner shall consult with teaching associations, parent organizations, law enforcement agencies, and other involved associations in the state. In making nominations, the commissioner shall attempt to achieve equal geographical representation, as closely as possible.

(a) A teacher member, in order to be qualified for appointment:

1. Must be certified to teach in the state.
2. Must be a resident of the state.
3. Must have practiced the profession in this state for at least 5 years immediately preceding the appointment.

(b) A school administrator member, in order to be qualified for appointment:

1. Must have an endorsement on the educator certificate in the area of school administration or supervision.
2. Must be a resident of the state.
3. Must have practiced the profession as an administrator for at least 5 years immediately preceding the appointment.

(c) The lay members must be residents of the state.

(d) The law enforcement official members must have served in the profession for at least 5 years immediately preceding appointment and have background expertise in child safety.

(2) Members of the commission shall serve for 4-year staggered terms. No commission member may serve more than 8 years.

(3) The State Board of Education may remove any member from the commission for misconduct or malfeasance in office, incapacity, or neglect of duty.

(4) From among its members, the commission shall elect a chair who shall preside over meetings of the commission and perform other duties directed by the commission or required by its duly adopted rules or operating procedures. School districts shall be reimbursed for substitute teachers required to replace commission members, when they are carrying out their official duties, at a rate established by the school district for substitute teachers. The department may reimburse local school districts for substitutes.

(5) The commission, by a vote of three-fourths of the membership, shall employ an executive director, who shall be exempt from career service. The executive director may be dismissed by a majority vote of the membership.

(6)(a) The commission shall be assigned to the Department of Education for administrative purposes. The commission, in the performance of its powers and duties, shall not be subject to control, supervision, or direction by the Department of Education.

(b) The property, personnel, and appropriations related to the specified authority, powers, duties, and responsibilities of the commission shall be provided to the commission by the Department of Education.

(7) The duties and responsibilities of the commission are to:

(a) Interpret and apply the standards of professional practice established by the State Board of Education.

(b) Revoke or suspend a certificate or take other appropriate action as provided in ss. [1012.795](#) and [1012.796](#).

(c) Report to and meet with the State Board of Education at least once each year.

(d) Adopt rules pursuant to ss. [120.536\(1\)](#) and [120.54](#) to implement provisions of law conferring duties upon it.

(8)(a) The commission shall, from time to time, designate members of the commission to serve on panels for the purpose of reviewing and issuing final orders upon cases presented to the commission. A case concerning a complaint against a teacher shall be reviewed and a final order entered by a panel composed of five commission members, at least one of whom must be a parent or a sworn law enforcement officer and at least three of whom must be teachers. A case concerning a complaint against an administrator shall be reviewed and a final order entered by a panel composed of five commission members, at least one of whom must be a parent or a sworn law enforcement officer and at least three of whom must be administrators.

(b) A majority of a quorum of a panel of the commission shall have final agency authority in all cases involving the revocation, suspension, or other disciplining of certificates of teachers and school administrators. A majority of the membership of the panel shall constitute a quorum. The district school board shall retain the authority to discipline teachers and administrators pursuant to law.

(9) The commission shall make such expenditures as may be necessary in exercising its authority and powers and carrying out its duties and responsibilities, including expenditures for personal services, general counsel or access to counsel, and rent at the seat of government and elsewhere; for books of reference, periodicals, furniture, equipment, and supplies; and for printing and binding. The expenditures of the commission shall be subject to the powers and duties of the Department of Financial Services as provided in s. [17.03](#).

(10) The commission shall be financed from the following: certification fees; fines, penalties, and costs collected pursuant to s. [1012.796\(9\)](#); and general revenue.

STATE BOARD OF EDUCATION

Consent Item

February 18, 2016

SUBJECT: Approval of Amendment to Rule 6A-10.081, Principles of Professional Conduct for the Education Profession in Florida and Repeal of Rule 6A-10.080, The Code of Ethics of the Education Profession in Florida

PROPOSED BOARD ACTION

For Approval

AUTHORITY FOR STATE BOARD ACTION

Sections 1001.02, 1012.795(1)(j), Florida Statutes

EXECUTIVE SUMMARY

Amend the rule to include guiding ethical principles. These ethical principles, previously promulgated as the Code of Ethics of the Education Profession, were substantially incorporated into the proposed rule. Rule 6A-10.080 would be repealed.

Supporting Documentation Included: Proposed Rules 6A-10.081 and 6A-10-080, F.A.C.

Facilitator: Brian Dassler, Deputy Chancellor, Division of Educator Quality

6A-10.081 Principles of Professional Conduct for the Education Profession in Florida.

(1) Florida educators shall be guided by the following ethical principles: The following disciplinary rule shall constitute the Principles of Professional Conduct for the Education Profession in Florida.

(a) The educator values the worth and dignity of every person, the pursuit of truth, devotion to excellence, acquisition of knowledge, and the nurture of democratic citizenship. Essential to the achievement of these standards are the freedom to learn and to teach and the guarantee of equal opportunity for all.

(b) The educator's primary professional concern will always be for the student and for the development of the student's potential. The educator will therefore strive for professional growth and will seek to exercise the best professional judgment and integrity.

(c) Aware of the importance of maintaining the respect and confidence of one's colleagues, of students, of parents, and of other members of the community, the educator strives to achieve and sustain the highest degree of ethical conduct.

(2) Florida educators shall comply with the following disciplinary principles. Violation of any of these principles shall subject the individual to revocation or suspension of the individual educator's certificate, or the other penalties as provided by law ~~Violation of any of these principles shall subject the individual to revocation or suspension of the individual educator's certificate, or the other penalties as provided by law.~~

(a)(3) Obligation to the student requires that the individual:

1. (a) Shall make reasonable effort to protect the student from conditions harmful to learning and/or to the student's mental and/or physical health and/or safety.

2. (b) Shall not unreasonably restrain a student from independent action in pursuit of learning.

3. (c) Shall not unreasonably deny a student access to diverse points of view.

4. (d) Shall not intentionally suppress or distort subject matter relevant to a student's academic program.

5. (e) Shall not intentionally expose a student to unnecessary embarrassment or disparagement.

6. (f) Shall not intentionally violate or deny a student's legal rights.

7. (g) Shall not harass or discriminate against any student on the basis of race, color, religion, sex, age, national or ethnic origin, political beliefs, marital status, handicapping condition, sexual orientation, or social and family background and shall make reasonable effort to assure that each student is protected from harassment or discrimination.

8. ~~(h)~~ Shall not exploit a relationship with a student for personal gain or advantage.

9. ~~(i)~~ Shall keep in confidence personally identifiable information obtained in the course of professional service, unless disclosure serves professional purposes or is required by law.

(b) ~~(4)~~ Obligation to the public requires that the individual:

1. ~~(a)~~ Shall take reasonable precautions to distinguish between personal views and those of any educational institution or organization with which the individual is affiliated.

2. ~~(b)~~ Shall not intentionally distort or misrepresent facts concerning an educational matter in direct or indirect public expression.

3. ~~(c)~~ Shall not use institutional privileges for personal gain or advantage.

4. ~~(d)~~ Shall accept no gratuity, gift, or favor that might influence professional judgment.

5. ~~(e)~~ Shall offer no gratuity, gift, or favor to obtain special advantages.

(c) ~~(5)~~ Obligation to the profession of education requires that the individual:

1. ~~(a)~~ Shall maintain honesty in all professional dealings.

2. ~~(b)~~ Shall not on the basis of race, color, religion, sex, age, national or ethnic origin, political beliefs, marital status, handicapping condition if otherwise qualified, or social and family background deny to a colleague professional benefits or advantages or participation in any professional organization.

3. ~~(c)~~ Shall not interfere with a colleague's exercise of political or civil rights and responsibilities.

4. ~~(d)~~ Shall not engage in harassment or discriminatory conduct which unreasonably interferes with an individual's performance of professional or work responsibilities or with the orderly processes of education or which creates a hostile, intimidating, abusive, offensive, or oppressive environment; and, further, shall make reasonable effort to assure that each individual is protected from such harassment or discrimination.

5. ~~(e)~~ Shall not make malicious or intentionally false statements about a colleague.

6. ~~(f)~~ Shall not use coercive means or promise special treatment to influence professional judgments of colleagues.

7. ~~(g)~~ Shall not misrepresent one's own professional qualifications.

8. ~~(h)~~ Shall not submit fraudulent information on any document in connection with professional activities.

9. ~~(i)~~ Shall not make any fraudulent statement or fail to disclose a material fact in one's own or another's application for a professional position.

10. ~~(j)~~ Shall not withhold information regarding a position from an applicant or misrepresent an assignment or conditions of employment.

11. ~~(k)~~ Shall provide upon the request of the certificated individual a written statement of specific reason for recommendations that lead to the denial of increments, significant changes in employment, or termination of employment.

12. ~~(l)~~ Shall not assist entry into or continuance in the profession of any person known to be unqualified in accordance with these Principles of Professional Conduct for the Education Profession in Florida and other applicable Florida Statutes and State Board of Education Rules.

13. ~~(m)~~ Shall self-report within forty-eight (48) hours to appropriate authorities (as determined by district) any arrests/charges involving the abuse of a child or the sale and/or possession of a controlled substance. Such notice shall not be considered an admission of guilt nor shall such notice be admissible for any purpose in any proceeding, civil or criminal, administrative or judicial, investigatory or adjudicatory. In addition, shall self-report any conviction, finding of guilt, withholding of adjudication, commitment to a pretrial diversion program, or entering of a plea of guilty or Nolo Contendere for any criminal offense other than a minor traffic violation within forty-eight (48) hours after the final judgment. When handling sealed and expunged records disclosed under this rule, school districts shall comply with the confidentiality provisions of Sections 943.0585(4)(c) and 943.059(4)(c), F.S.

14. ~~(n)~~ Shall report to appropriate authorities any known allegation of a violation of the Florida School Code or State Board of Education Rules as defined in Section 1012.795(1), F.S.

15. ~~(o)~~ Shall seek no reprisal against any individual who has reported any allegation of a violation of the Florida School Code or State Board of Education Rules as defined in Section 1012.795(1), F.S.

16. ~~(p)~~ Shall comply with the conditions of an order of the Education Practices Commission imposing probation, imposing a fine, or restricting the authorized scope of practice.

17. ~~(q)~~ Shall, as the supervising administrator, cooperate with the Education Practices Commission in monitoring the probation of a subordinate.

Rulemaking Authority 1001.02, 1012.795(1)(j) FS. Law Implemented 1012.795 FS. History--New 7-6-82, Amended 12-20-83, Formerly 6B-1.06, Amended 8-10-92, 12-29-98, Formerly 6B-1.006, Amended

6A-10.080 Code of Ethics of the Education Profession in Florida.

Rulemaking Authority 1001.02 FS. Law Implemented 1012.34, 1012.795, 1012.796 FS. History--New 3-24-65, Amended 8-9-69, Repealed 12-5-74, Amended 8-12-81, 7-6-82, Formerly 6B-1.01, 6B-1.001, Repealed

6A-10.080 Code of Ethics of the Education Profession in Florida.

(1) The educator values the worth and dignity of every person, the pursuit of truth, devotion to excellence, acquisition of knowledge, and the nurture of democratic citizenship. Essential to the achievement of these standards are the freedom to learn and to teach and the guarantee of equal opportunity for all.

(2) The educator's primary professional concern will always be for the student and for the development of the student's potential. The educator will therefore strive for professional growth and will seek to exercise the best professional judgment and integrity.

(3) Aware of the importance of maintaining the respect and confidence of one's colleagues, of students, of parents, and of other members of the community, the educator strives to achieve and sustain the highest degree of ethical conduct.

Rulemaking Authority 1001.02 FS. Law Implemented 1012.34, 1012.795, 1012.796 FS. History--New 3-24-65, Amended 8-9-69, Repealed 12-5-74, Amended 8-12-81, 7-6-82, Formerly 6B-1.01, 6B-1.001.

STATE BOARD OF EDUCATION
Consent Item
February 18, 2016

SUBJECT: Approval of Amendment to Rule 6A-10.024, Articulation Between and Among Universities, Florida Colleges, and School Districts

PROPOSED BOARD ACTION

For Approval

AUTHORITY FOR STATE BOARD ACTION

Section 1007.23, Florida Statutes

EXECUTIVE SUMMARY

The statewide articulation agreement facilitates the transfer of student credit among Florida's public postsecondary institutions and preserves the "2+2" system of articulation. This rule implements the provisions of the agreement by governing general education course transfer, associate in arts and associate in science degree requirements, articulation agreements, credit by examination, limited access transfer guarantees, and credit transfer under the statewide course numbering system. Revisions include clarifying admissions for students with prior misconduct and that students who earn additional credit after the associate in arts degree (pursuant to section 1007.25, Florida Statutes), as long as they maintain the 2.0 grade point average, are still protected by the 2+2 transfer guarantee; and incorporate the Articulation Coordinating Committee Credit-by-Examination Equivalencies.

Supporting Documentation Included: Proposed Rule 6A-10.024, F.A.C. and Articulation Coordinating Committee Credit-by-Examination Equivalencies

Facilitator: Matthew Bouck, Director, Office of Articulation

6A-10.024 Articulation Between and Among Universities, Florida Colleges, and School Districts.

It is the intent of the Board of Governors in regulation and the State Board of Education in rule to facilitate articulation and seamless integration of the education system by agreeing to the provisions of this articulation agreement, pursuant to Section 1007.23, F.S. The authority to adopt and amend this rule aligns with the Constitutional power given the Board of Governors for the state university system and the statutory authority given the State Board of Education for the district school boards, the Florida College System, and the Department of Education.

(1) through (3)(b) No change.

(c) Nothing herein shall prevent a postsecondary institution from denying admission or continued enrollment based on an applicant's past misconduct, both on or off campus, or when past actions have been found to disrupt or interfere with the orderly conduct, processes, functions or programs at any other postsecondary institution.

(4) No change.

(5) The award of additional credit after award of the associate in arts degree pursuant to section 1007.25(9), F.S., does not exclude a student from the provision in subsection (3). However, students must maintain a cumulative grade point average of 2.0 or higher to qualify for guaranteed admission under subsection (3) of this rule.

(6) (5) Associate in Science (A.S.) Degree. The associate in science degree is defined in subsection 6A-14.030(3), F.A.C., (The rule may be obtained from the Office of Articulation, Florida Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399) which definition is incorporated by reference herein, and for purposes of this agreement shall include:

(a) through (f) No change.

(7) (6) Applied Technology Diploma (A.T.D.). The A.T.D. consists of a course of study that is part of an associate in science (A.S.) or an associate in applied science degree (A.A.S.), is less than sixty (60) credit hours, is approximately fifty (50) percent of the technical component (non-general education), and leads to employment in a specific occupation. An A.T.D. program may consist of either clock hours or college credit.

(a) through (f) No change.

(8) (7) Credit by examination.

(a) For examination programs listed in Section 1007.27, F.S., a list of examinations, minimum scores for guaranteed transfer credit, maximum credits guaranteed to transfer, and recommended course equivalents shall be maintained

by the Articulation Coordinating Committee and reviewed annually. The list is incorporated in the document Articulation Coordinating Committee Credit-by-Examination Equivalencies, Effective March 2016 ~~December 2014~~, which is herein incorporated by reference and located at (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06465-04771>). The list may be requested from the Office of Articulation, Florida Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(b) through (e) No change.

(f) For all Advanced Placement (AP), International Baccalaureate (IB), Advanced International Certificate of Education (AICE), and College-Level Examination Program (CLEP) examinations, credit must be awarded at a minimum in accordance with the credit-by-examinations equivalencies determined by the Articulation Coordinating Committee referenced in paragraph (8) ~~(7)~~(a) of this rule. The postsecondary institution shall determine the credit awarded for examinations completed prior to November 1, 2001, or examinations not included in the Articulation Coordinating Committee Credit-by-Examination Equivalencies.

(g) through (h) No change.

(9) ~~(8)~~ Limited access programs. Florida College System institution and state university transfer students shall have the same opportunity to enroll in baccalaureate limited access programs as native students. Baccalaureate limited access program selection and enrollment criteria shall be established and published in catalogs, counseling manuals, and other appropriate publications. A list of limited access programs shall be filed annually with the Articulation Coordinating Committee.

(10) ~~(9)~~ A state university may accept non-associate in arts degree credit in transfer based on its evaluation of the applicability of the courses to the student's program at the university.

(11) ~~(10)~~ State universities and Florida College System institutions shall publish with precision and clarity in their official catalogs the admission, course, and prerequisite requirements of the institution, each unit of the institution, each program, and each specialization. Any applicable duration of requirements shall be specified. The university or college catalog in effect at the time of a student's initial collegiate enrollment shall govern upper division prerequisites in the same manner as for native students at the same institution, provided the student maintains continuous enrollment as defined in that catalog unless otherwise specified.

(12) ~~(11)~~ The Department and all public universities, Florida College System institutions, and school districts shall maintain the electronic exchange of student transcripts and associated educational records, including

acquisition of and access to test scores of students in the standard format established by the ACC.

(13) ~~(12)~~ All postsecondary courses offered for college credit, clock hours, or developmental education credit as they are defined in Rule 6A-10.033, F.A.C., (The rule may be obtained from the Office of Articulation, Florida Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399) which definitions are incorporated by reference herein, shall be entered in the statewide course numbering system. Each course shall be assigned a single prefix and a single identifying number in the course numbering system.

(14) ~~(13)~~ When a student transfers among postsecondary institutions that are fully accredited by a regional or national accrediting agency recognized by the United States Department of Education and that participate in the statewide course numbering system, the receiving institution shall award credit for courses satisfactorily completed at the previous participating institutions when the courses are judged by the appropriate common course designation and numbering system faculty task forces to be academically equivalent to courses offered at the receiving institution including equivalency of faculty credentials regardless of the public or nonpublic control of the previous institution. The award of credit may be limited to courses that are entered in the statewide course numbering system. Credit so awarded shall satisfy institutional requirements on the same basis as credits awarded to native students.

Rulemaking Authority 1001.02(2)(n), 1007.23(1), 1007.25, 1007.27 FS. Law Implemented 1007.01(2), 1001.64(8)(a), 1007.23, 1007.25, 1007.27 FS. History—New 5-5-75, Amended 10-7-75, 6-8-76, 8-22-77, 12-26-77, 3-28-78, 5-10-78, 7-2-79, 2-27-80, 5-27-81, 1-6-83, 4-5-83, 6-28-83, 1-9-85, Formerly 6A-10.24, Amended 8-4-86, 5-18-88, 5-29-90, 7-30-91, 10-4-93, 5-3-94, 1-2-95, 9-30-96, 6-15-98, 12-13-99, 8-14-00, 10-15-01, 9-22-03, 12-18-05, 12-23-14.

ARTICULATION COORDINATING COMMITTEE

CREDIT-BY-EXAM EQUIVALENCIES

Initially Adopted November 14, 2001

Section 1007.27(2), Florida Statutes, requires the Articulation Coordinating Committee (ACC) to establish passing scores and course and credit equivalents for Advanced Placement (AP), Advanced International Certificate of Education Program (AICE), International Baccalaureate (IB), and College-Level Examination Program (CLEP) exams. The DSST (DANTES) and Excelsior College exam equivalents on the list are not part of that requirement, but are authorized by State Board of Education Rule 6A-10.024.

Public community colleges and universities in Florida are required to award the minimum recommended credit for AP, AICE, IB and CLEP exams as designated.

The following are guidelines to use in applying the list of credit-by-exam equivalents:

AWARDING CREDIT FOR EXAMS

If a student achieves the score listed on an AP, AICE, IB or CLEP exam, state universities and community colleges must award the minimum recommended credit for the course or course numbers listed, **even if they do not offer the course**. Up to 45 total credit-by-exam credits may be awarded.

- Institutions must use the course number listed, unless it would be advantageous for the student to award a specific course number with equal credit that satisfies program prerequisites or other requirements.
- Institutions must award the same number of credits that are ordinarily awarded for the course or the minimum listed, whichever is greater.
- Institutions may award more credit than the minimum listed, but may not use additional course numbers that will automatically transfer. Institutions should carefully consider what is required for students' degree plans before awarding additional credit.

- Credit by examination may not duplicate credit previously earned through examination or through postsecondary courses in which a grade of “C” or higher has been earned.
- If no specific course number is listed, but a number of credits is given, institutions must award credit. They may use any appropriate course number in the subject area, or no number.
- If no minimum credit is recommended for a particular exam, award of credit is at the discretion of the institution. Institutions may not use course numbers that will automatically transfer.
- Institutions may not award credit for scores below those listed.
- If students have old scores (taken prior to November, 2001), institutions may either use the new minimum scores and course equivalents, or the institution’s policy in effect when the student took the exam.

GENERAL EDUCATION, COMMON PREREQUISITES, AND GORDON RULE

For purposes of completing the requirements for general education, Gordon Rule, or major prerequisites, credit for specific course numbers awarded by exam should be treated no differently from credit earned in the same courses at the receiving institution.

Courses designed as ^{core} in this document are also designated as a general education core course pursuant to State Board of Education Rule 6A-14.0303, F.A.C., *General Education Core Course Options* and Board of Governors Regulation 8.005 *General Education Core Course Options*.

DSST (DANTES), EXCELSIOR, AND OTHER EXAM PROGRAMS

Institutions are **not** required to initially award credit for DSST (DANTES), or Excelsior (formerly Regents or PEP) exams listed.

However, pursuant to State Board of Education Rule 6A-10.024 (adopted via resolution by the Board of Governors in November 2005) institutions **are** required to accept the credit in transfer if another institution has awarded credit based on the list of equivalents.

Institutions may award credit at their discretion for any exam not listed. All DSST (DANTES) and Excelsior exams were reviewed, but course equivalents were only recommended when there was a reasonable equivalent in the Statewide Course Numbering System. Credit awarded for exams not listed may transfer at the discretion of the receiving institution.

ADVANCED PLACEMENT (AP)

Advanced Placement exams are taken after students complete the corresponding Advanced Placement course in high school. Advanced Placement courses are challenging, college-level courses that are designed to parallel typical lower-level undergraduate courses. Exams are developed by committees of college and secondary faculty, and are given to test groups of students in actual college courses to determine appropriate passing scores. Institutions must use the course number listed, unless it would be advantageous for the student to award a specific course number with equal credit that satisfies program prerequisites. More information about Advanced Placement, including descriptions of courses and sample examination questions, is available at <http://apcentral.collegeboard.com/apc/Controller.jpf>. Page 16 of the AP Calculus Course Description, at <http://apcentral.collegeboard.com/apc/public/repository/ap-calculus-course-description.pdf> describes how to award credit for the AP Calculus BC *subscore*. The subscore description for the Music Theory exam is available in the Course Description booklet online at AP Central, http://apcentral.collegeboard.com/apc/public/repository/ap08_music_coursedesc.pdf.

Exam	AP Exam Score of 3	AP Exam Score of 4	AP Exam Score of 5	Comments
Art History	ARH X000 ^{core} (min. 3 credits)	ARH X050 and X051 (min. 6 credits)	Same as 4	
Biology	BSC X005C ^{core} or BSC X005/X005L ^{core} (min. 4 credits)	BSC X010C ^{core} or BSC X010/X010L ^{core} (min. 4 credits)	BSC X010C ^{core} or BSC X010/X010L ^{core} and BSC X011C or BSC X011/X011L (min. 8 credits)	
Calculus AB	MAC X311 ^{core} (min. 4 credits)	Same as 3	Same as 3	
Calculus BC	MAC X311 ^{core} (min. 4 credits)	MAC X311 ^{core} and X312 (min. 8 credits)	Same as 4	The BC exam includes a <i>subscore</i> for the AB portion of the exam for Calculus AB credit. Colleges should regard the subscore on the BC exam the same as an AP Calculus AB Exam score.
Chemistry	CHM X020C ^{core} or CHM X020 /X020L ^{core} (min. 4 credits)	CHM X045C ^{core} or CHM X045/X045L ^{core} or CHM X040/X045L (min. 4 credits)	CHM X045C ^{core} or CHM X045/X045L ^{core} and CHM X046 or X046/X046L (min. 8 credits)	
Chinese Language and Culture	One semester of intermediate-level language (min. 3 credits)	Two semesters of intermediate-level language (min. 6 credits)	Same as 4	No literature credit

Exam	AP Exam Score of 3	AP Exam Score of 4	AP Exam Score of 5	Comments
Computer Science A	CGS X075 (min. 3 credits)	Same as 3	Same as 3	CGS X075 is unique to this exam. Exam content changes frequently.
Computer Science AB	CGS X076 (min. 3 credits)	Same as 3	Same as 3	CGS X076 is unique to this exam. Exam content changes frequently. Exam discontinued in 2009
Economics: Macro	ECO X013 ^{core} (min. 3 credits)	Same as 3	Same as 3	
Economics: Micro	ECO X023 (min. 3 credits)	Same as 3	Same as 3	
English Language and Composition	ENC X101 ^{core} (min. 3 credits)	ENC X101 ^{core} and X102 (min. 6 credits)	Same as 4	Award min. 3 credits if ENC X101 already satisfied.
English Literature and Composition	ENC X101 ^{core} or course in AML, ENL, or LIT (min. 3 credits)	ENC X101 ^{core} and either ENC X102 or LIT X005 (min. 6 credits)	Same as 4	LIT X005 is unique to this exam. Literature content varies widely. Award min. 3 credits if ENC X101 already satisfied.
Environmental Science	ISC X051 (min. 3 credits)	Same as 3	Same as 3	ISC X051 is unique to this exam. Interdisciplinary environmental studies course
European History	EUH X009 (min. 3 credits)	EUH X000 and X001 (min. 6 credits)	Same as 4	EUH X009 is unique to this exam.
French Language and Culture	One semester of intermediate-level language (min. 3 credits)	Two semesters of intermediate-level language (min. 6 credits)	Same as 4	No literature credit French Language exam discontinued, combined exams in 2011
French Literature	One semester introductory literature (min. 3 credits)	Two semesters of introductory literature (min. 6 credits)	Same as 4	Exam discontinued in 2011
German Language and Culture	One semester of intermediate-level language (min. 3 credits)	Two semesters of intermediate-level language (min. 6 credits)	Same as 4	No literature credit German Language exam discontinued, combined exams in 2011
Government and Politics: Comparative	CPO X001 or X002 (min. 3 credits)	Same as 3	Same as 3	
Government and Politics: United States	POS X041 ^{core} (min. 3 credits)	Same as 3	Same as 3	

Exam	AP Exam Score of 3	AP Exam Score of 4	AP Exam Score of 5	Comments
Human Geography	GEO X400 or GEO X420 (min. 3 credits)	Same as 3	Same as 3	
Italian Language and Culture	One semester of intermediate-level language (min. 3 credits)	Two semesters of intermediate-level language (min. 6 credits)	Same as 4	No literature credit
Japanese Language and Culture	One semester of intermediate-level language (min. 3 credits)	Two semesters of intermediate-level language (min. 6 credits)	Same as 4	No literature credit
Latin: Latin Literature	LNW X700	Same as 3	Same as 3	LNW X700 is a unique number for this exam. Exam includes Catullus and either Horace, Ovid, or Cicero Exam discontinued, combined with Latin in 2012
Latin: Vergil	LNW X321	Same as 3	Same as 3	Exam discontinued, combined with Latin in 2012
Latin	LNW X700 or LNW X321	Same as 3	Same as 3	
Music Theory	MUT X001 if composite score is 3 or higher. MUT X111 and MUT X241 if both aural and non-aural subscores are 3 or higher. (min. 3 credits)	Same as 3	Same as 3	Subscore descriptions are available online at AP Central, http://apcentral.collegeboard.com/apc/public/repository/ap08_music_coursedesc.pdf
Physics 1	PHY X053C ^{core} or PHY X053/X053L ^{core} (min 4 credits)	same as 3	Same as 3	
Physics 2	PHY X054C or PHY X054/X054L (min 4 credits)	Same as 3	Same as 3	
Physics B	PHY X053C ^{core} or PHY X053/X053L ^{core} (min. 4 credits)	PHY X053C ^{core} or X053/X053L ^{core} and PHY X054C or X054/X054L (min. 8 credits)	Same as 4	Exam discontinued in 2014
Physics C: Electricity / Magnetism	PHY X054C or PHY X054/X054L (min. 4 credits)	PHY X049C or PHY X049/X049L (min. 4 credits)	Same as 4	
Physics C: Mechanics	PHY X053C ^{core} or PHY X053/X053L ^{core} (min. 4 credits)	PHY X048C ^{core} or PHY X048/X048L ^{core} (min. 4 credits)	Same as 4	

Exam	AP Exam Score of 3	AP Exam Score of 4	AP Exam Score of 5	Comments
Psychology	PSY X012 ^{core} (min. 3 credits)	Same as 3	Same as 3	
Research	IDS XXXX (min 3 credits)	Same as 3	Same as 3	Institutional discretion when applying equivalencies
Seminar	IDS 1350 (min of 3 credits)	Same as 3	Same as 3	
Spanish Language and Culture	One semester of intermediate-level language (min. 3 credits)	Two semesters of intermediate-level language (min. 6 credits)	Same as 4	No literature credit
Spanish Literature	One semester introductory literature (min. 3 credits)	Two semesters of introductory literature (min. 6 credits)	Same as 4	
Statistics	STA X014 or STA X023 ^{core} (min. 3 credits)	Same as 3	Same as 3	
Studio Art: Drawing Portfolio	ART X300C (min. 3 credits)	Same as 3	Same as 3	
Studio Art: 2-D Design Portfolio	ART X201C (min. 3 credits)	Same as 3	Same as 3	
Studio Art: 3-D Design Portfolio	ART X203C (min. 3 credits)	Same as 3	Same as 3	
United States History	AMH X000 (min. 3 credits)	AMH X010 and X020 (min. 6 credits)	Same as 4	
World History	WOH X022 (min. 3 credits)	Same as 3	Same as 3	

CAMBRIDGE AICE (British AS-Level and A-Level)

The AICE program is an international, advanced secondary curriculum and assessment program equivalent to the British system of “A-Levels.” The following list represents the recommendations of the Articulation Coordinating Committee. Institutions must use the course number listed, unless it would be advantageous for the student to award a specific course number with equal credit that satisfies program prerequisites. Information about the program, including course syllabi, can be found on-line at <http://www.cie.org.uk/countries/usa>.

Exam	Passing Score of “A”, ”B”, “C”, “D”, “E” (grades are not based on the American “A” – “F” grading scale)	Comments
Accounting (AS-Level)	ACG X001 (min. 3 credits)	
Accounting (A-Level)	ACG X001 and ACG XXXX (min. 6 credits)	
Art and Design (AS-Level)	No number recommendation (min. 3 credits)	
Applied ICT –Information, Communication Technology (AS- Level)	CGS x060 or CGS x100 (min. 3 credits)	
Applied ICT- Information, Communication Technology (A- Level)	Institutional discretion/ elective credit (min 6 credits)	
Art and Design (A-Level)	No number recommendation (min. 6 credits)	
Biology (AS-Level)	BSC X005C ^{core} or BSC X005/X005L ^{core} (min. 4 credits)	
Biology (A-Level)	BSC X010C ^{core} or BSC X010/X010L ^{core} and additional credit at institution’s discretion, based on optional topics studied (min 7 credits)	
Business Studies (AS-Level)	GEB X011 (min. 3 credits)	
Business Studies (A-Level)	GEB X011 and GEB XXXX (min. 6 credits)	
Chemistry (AS-Level)	CHM X020C ^{core} or CHM X020/020L ^{core} or CHM X025C or CHM X025/025L (min. 4 credits)	
Chemistry (A-Level)	CHM X020C ^{core} or CHM X020/020L ^{core} or CHM X025C or CHM X025/025L and CHM X045C ^{core} or CHM X045/045L ^{core} (min 8 credits)	
Classical Studies (AS-Level)	CLA X010 (min. 3 credits)	
Computing (AS-Level)	CGS X073 (min. 3 credits)	CGS X073 is a unique number for to this exam.

Exam	Passing Score of “A”, ”B”, “C”, “D”, “E” (grades are not based on the American “A” – “F” grading scale)	Comments
Computing (A-Level)	CGS X073 and CGS X074 (min. 6 credits)	CGS X073 and CGS X074 are unique numbers for this exam
Design and Technology (AS-Level)	ETI X482C (min. 3 credits)	
Design and Technology (A-Level)	ETI X482C or ETI X482/482L and ETI XXXX (min. 6 credits)	
Economics (AS-Level)	ECO X000 (min. 3 credits)	
Economics (A-Level)	ECO X013 ^{core} and ECO X023 (min. 6 credits)	
English (AS-Level) – English Language or Language & Literature in English	ENC X101 ^{core} (min. 3 credits)	
English (A Level)	ENC X101 ^{core} and either ENC X102 or LIT X000 ^{core} (min 6 credits)	If credit already awarded for ENC X101 or ENC X102, may award ENC X121 and ENC X122
English (AS-Level) – Literature in English	ENC X101 ^{core} or ENC X102 (min. 3 credits)	Award credit for ENC X102 if student has credit for X101.
English (A-Level) – Literature in English	ENC X101 ^{core} and X102 or ENC X102 and LIT X100 (min. 6 credits)	Award credit for ENC X102/LITX006 if student has credit for ENC X101.
Environmental Management (AS- Level)	EVR X001C ^{core} or EVR X001/X001L ^{core} or ISC XXXX (min. 3 credits)	Only offered at AS-level
French Language (AS-Level)	One semester of language credit at Intermediate I level (min. 3 credits)	
French Literature (AS-Level)	One semester of literature survey credit (min. 3 credits)	
French (A-Level)	Two semesters of language credit at Intermediate II level (min. 6 credits)	
Further Mathematics (A-Level)	MAC X311 ^{core} and MAC X312 or STA x023 (min of 6 credits)	
General Paper	IDS X110 (min. 3 credits)	
Geography (AS-Level)	GEA X000 (min. 3 credits)	
Geography (A-Level)	GEO X200 and GEO X400 (min. 6 credits)	

Exam	Passing Score of “A”, ”B”, “C”, “D”, “E” (grades are not based on the American “A” – “F” grading scale)	Comments
German Language (AS-Level)	One semester of language credit at Intermediate I level (min. 3 credits)	
German (A-Level)	Two semesters of language credit at Intermediate II level (min. 6 credits)	
Global Perspectives I (AS-Level)	ISS X011 or ISS X013 (3 credits)	
Global Perspectives Pre-U Independent Research II (A-Level)	ISS x011 and ISS x012 (6 credits)	Pre-U Level results are reported on a 9-point scale of grades: Distinction (D)1, D2, D3, Merit (M) 1, M2, M3, Pass (P) 1, P2, P3 with grade D1 being the highest and grade P3 the lowest. Pre U grade D2 = A Level exam grade A* and a P3 is > A Level grade E.
History – The History of the USA, c. 1840-1968	AMH X042 (3 credits)	Exam discontinued in 2014, revised for 2015
History – Modern European History, 1789-1939	EUH X031 or EUH X002 (3 credits)	Exams discontinued in 2014, revised for 2015
History – International History, 1945-1991	HIS X206 or WOH X040 (3 credits)	Exams discontinued in 2014, revised for 2015
US History, 1840-1941 (AS-Level)		Equivalencies are currently under review
US History, 1941-1990 (A-Level)		Equivalencies are currently under review
European History, 1789-1917 (AS- Level)		Equivalencies are currently under review
European History, 1850-1941 (A- Level)		Equivalencies are currently under review
International History, 1871-1945 (AS-Level)		Equivalencies are currently under review
International History, 1945-1991 (A-Level)		Equivalencies are currently under review

Exam	Passing Score of “A”, “B”, “C”, “D”, “E” (grades are not based on the American “A” – “F” grading scale)	Comments
Latin (AS-Level)	At least one semester of language credit up to elementary II level (min. 3 credits)	
Marine Science (AS-Level)	OCE X001 (min. 3 credits)	
Marine Science (A-Level)	OCE X001 and OCB X000 (min. 6 credits)	
Mathematics (AS-Level)	MAC X147 or MAC X140/X114 (min. 4 credits)	MAC X147 is composed of topics in both MAC X114 and MAC X140.
Mathematics (A-Level)	MAC X311 ^{core} and other Mathematics course (min. 6 credits)	
Media Studies (AS- Level)	DIG X000 (min 3 credits)	
Media Studies (A-Level)	DIG X000 and DIG X001 or DIG X030 (min 6 credits)	
Music (AS-Level)	MUH X001 (min. 3 credits)	
Music (A-Level)	MUH X001 and MUH X011 or MUH X012 (min. 6 credits)	Choice of MUH X011 or MUH X012 dependent on musical selections in Components 3, 4, and 5.
Physics (AS-Level)	PHY X020C ^{core} or PHY X020/X020L ^{core} (min. 3 credits)	
Physics (A-Level)	PHY X053C or PHY X053/X053L and PHY X054C or PHY X054/X054L (min 8 credits)	
Psychology (AS-Level)	PSY X012 ^{core} (min. 3 credits)	
Psychology (A-Level)	PSY X012 ^{core} and other Psychology course (min. 6 credits)	
Sociology (AS-Level)	SYG X000 ^{core} (3 credits)	
Sociology (A-Level)	SYG X000 ^{core} (min. 3 credits)	
Spanish Language (AS-Level)	One semester of language credit at Intermediate I level (min 3 credits)	
Spanish Literature (AS-Level)	One semester of literature survey credit (min. 3 credits)	

Exam	Passing Score of “A”, ”B”, “C”, “D”, “E” (grades are not based on the American “A” – “F” grading scale)	Comments
Spanish (A-Level)	Two semesters of language credit at Intermediate II level (min of 6 credits)	
Thinking Skills (AS-Level)	PHI X103 or PHI X401 (min. 3 credits)	
Thinking Skills (A-Level)	PHI X103 or PHI X401 and other Philosophy course (min. 6 credits)	
Travel and Tourism (AS-Level)	HFT X000 or HFT X700 (min. 3 credits)	
Travel and Tourism (A-Level)	HFT X000 or HFT X700 and other Hospitality Management related credit (min. 6 credits)	

COLLEGE-LEVEL EXAMINATION PROGRAM (CLEP)

The College-Level Examination Program, unlike Advanced Placement, is not built around a curriculum, but rather is designed to test students' knowledge on a variety of college-level subjects, regardless of where they may have learned the material. CLEP exams are developed by committees of college faculty who design questions based on what is typically covered in lower-level college courses and who set passing standards for the exams (scores are no longer based on studies of student performance in college courses). With the new computer-based tests, new questions are constantly being added, especially in rapidly-changing fields such as Computer Science. The typical passing score on computer-based CLEP exams for general education purposes is 50, although paper and pencil versions will be different. Institutions must use the course number listed, unless it would be advantageous for the student to award a specific course number with equal credit that satisfies program prerequisites. More information about CLEP, including recent test information guides, can be found online at <http://www.collegeboard.com/student/testing/clep/about.html>.

Exam	Scale Score of 50 for Passing	Comments
Accounting, Principles of	ACG X001 (min. 3 credits)	Effective July 1, 2007 this test is no longer administered—replaced by “Financial Accounting” exam
Algebra, College	MAC X105 ^{core} (min. 3 credits)	
Algebra-Trigonometry, College	MAC X147 (min. 4 credits)	MAC X147 can substitute for MAC X140 and MAC X114. Effective July 1, 2006 this test is no longer administered—replaced by “Precalculus” exam
American Government	POS X041 ^{core} (min. 3 credits)	
American Literature	AML X000 (min. 3 credits)	
Analyzing and Interpreting Literature	No direct equivalent. Recommend American or English Literature exams instead.	
Biology, General	BSC X005 ^{core} (min. 3 credits)	No lab credit
Business Law, Introduction to	BUL X241 (min. 3 credits)	
Calculus	MAC X233 (min. 3 credits)	
Chemistry, General	CHM X020 ^{core} or X025 (min. 3 credits)	No lab credit
College Composition	ENC X101 ^{core} and ENC X102 (min. 6 credits)	
College Composition Modular	ENC X101 ^{core} and ENC X102 (min. 6 credits)	No guaranteed credit for College Composition Modular without essay portion
Educational Psychology, Introduction to	EDP X002 (min. 3 credits)	
English Composition with Essay	ENC X101 ^{core} (min. 3 credits)	Replaced by College Composition
English Literature	ENL X000 (min. 3 credits)	
Financial Accounting	ACG X001 (min. 3 credits)	

Exam	Scale Score of 50 for Passing	Comments
French Language	On Level I French Language exam—one semester of Elementary Language I (min. 3 credits)	On Level 2 French Language exam—score of 59 earns a minimum of two semesters of Elementary Language I and II (min. 6 credits). No literature credit. College Board recommended score change from 62 to 59 December 2007.
Freshman Composition	No direct equivalent. Recommend English Composition with Essay instead.	Replaced by College Composition Modular
German Language	On Level I German Language exam—one semester of Elementary Language I (min. 3 credits)	On Level 2 German Language exam—score of 60 earns a minimum of two semesters of Elementary Language I and II (min. 6 credits). No literature credit. College Board recommended score change from 63 to 60 by August, 2008.
History of the United States I: Early Colonizations to 1877	AMH 010 (min. 3 credits)	
History of the United States II: 1865 to Present	AMH 020 ^{core} (min. 3 credits)	
Human Growth and Development	DEP X004 (min. 3 credits)	
Humanities	HUM X235 or HUM X250 (min. 3 credits)	Interdisciplinary exam: 50% literature and 50% fine arts
Information Systems and Computer Applications	CGS X077 (min. 3 credits)	CGS X077 is unique to this exam. Exam content updated frequently
Macroeconomics, Principles of	ECO X013 ^{core} (min. 3 credits)	
Management, Principles of	MAN X021 (min. 3 credits)	
Marketing, Principles of	MAR X011 (min. 3 credits)	
Mathematics, College	MGF X106 ^{core} or MGF X107 ^{core} (min. 3 credits)	Exam covers sets (10%), Logic (10%), Real Numbers (20%), Functions and Graphs (20%), Probability and Statistics (25%), and additional Algebra topics (15%)
Microeconomics, Principles of	ECO X023 (min. 3 credits)	
Natural Science	No direct equivalent. Recommend specific subject exams instead.	Interdisciplinary exam: 50% Biological Science and 50% Physical Science (incl. Physics, Chemistry, Astronomy, and Geology)
Precalculus	MAC X140 (min. 3 credits)	
Psychology, Introductory	PSY X012 ^{core} (min. 3 credits)	
Social Science and History	No direct equivalent. Recommend specific subject exams instead.	Interdisciplinary exam: 40% History (U.S., Western, and World) and 60% Social Sciences (Government, Sociology, Economics, Psychology, Geography, and Anthropology)
Sociology, Introductory	SYG X000 ^{core} (min. 3 credits)	

Exam	Scale Score of 50 for Passing	Comments
Spanish Language	On Level I Spanish Language exam—one semester of Elementary Language I (min. 3 credits)	On Level 2 Spanish Language exam—score of 63 earns a minimum of two semesters of Elementary Language I and II (min. 6 credits). No literature credit College Board recommended score change from 66 to 63 in spring, 2007.
Trigonometry	MAC X114 (min. 2 credits)	Effective July 1, 2006 this test is no longer administered—replaced by “Precalculus” exam
Western Civilization I: Ancient Near East to 1648	EUH X000 (min. 3 credits)	
Western Civilization II: 1648 to Present	EUH X001 (min. 3 credits)	

INTERNATIONAL BACCALAUREATE (IB)

The International Baccalaureate program is a challenging curriculum offered in high schools around the world that is designed to prepare students for advanced work in many countries' postsecondary systems. Because it is international, the curriculum is not always as closely aligned with courses in American colleges and universities as Advanced Placement courses, and students and teachers often choose topics within a fairly wide range. Students frequently conduct independent projects as part of the curriculum. Many subjects have both Standard Level and Higher Level versions, which typically require additional specialized research or independent work. International Baccalaureate assessments are conducted worldwide, so that an American student's work may be evaluated by a teacher in Singapore or vice-versa, and they often include substantial long-answer components or assessment of student research projects or portfolios. It may be helpful for institutions to talk with the student or to review the student's projects in order to assign appropriate credit.

In 2006, the Florida State Board of Education Rule 6A-10.024 and the Board of Governors established that the credit granting recommendations below award equal course credit for diploma and non-diploma holders for passing exam scores. Institutions must use the course number listed, unless it would be advantageous for the student to award a specific course number with equal credit that satisfies program prerequisites. More information about the IB program is available at <http://www.ibo.org/>.

Exam	IB Score of 4 Minimum 3 credits per exam.	IB Score of 5-7 Minimum 6 credits per exam. If courses listed do not equal 6 credits, institutions must give elective credit or assign own numbers	Comments
Biology	BSC X005C ^{core} or BSC X005/X005L ^{core}	BSC X005C ^{core} and BSC X010C ^{core} or BSC X005/X005L ^{core} and BSC X010/X010L ^{core}	
Business and Management	GEB X011 or MAN X604 or MAN X652	GEB X011 or MAN X604 or MAN X652 and General Business or Management course determined by institution	
Chemistry	CHM X020C ^{core} or CHM X020/X020L ^{core}	CHM X020C ^{core} or CHM X20/X020L ^{core} and CHM X045C ^{core} or CHM X045/045L ^{core}	
Computer Science	CGS x100 (3 credits)	COP x000 and CGS x100 (6 credits)	Exam content updated or changed frequently.
Design Technology	ETI X410 (3 credits)	ETI X410 and other Engineering Technologies course determined by institution	ETI X410 is unique to this exam. Interdisciplinary engineering technology course.
Economics	ECO X000	ECO X013 ^{core} and ECO X023	

Exam	IB Score of 4 Minimum 3 credits per exam.	IB Score of 5-7 Minimum 6 credits per exam. If courses listed do not equal 6 credits, institutions must give elective credit or assign own numbers	Comments
Ecosystems and Societies	EVR X017 or EVR X018	EVR X017 or EVR X018 and other Interdisciplinary Science or Environmental Studies course determined by institution	
English A1	ENC X101	ENC X101 ^{core} and ENC X102 or LIT X100 or LIT X110	English A1 is no longer offered, replaced by English Language A: Language and Literature & English Language A: Literature.
English Language A: Language and Literature	(min 3 credits)	(min 6 credits)	Equivalencies are currently under review
English Language A: Literature	ENC x141 or LIT x000 (3 credits)	ENC x141 and LIT x000 (6 credits)	
Environmental Systems	ISC X050 (3 credits)	ISC X050 and other Interdisciplinary Science or Environmental Science course determined by institution	ISC X050 is unique to this exam. Interdisciplinary environmental studies course.
Film Studies	FIL X000 or FIL X001	FIL X000 or FIL X001 and FIL X002 or FIL X420	
French: Language B	One semester of language credit at Elementary Language II level (min. 3 credits)	Two semesters of Elementary Language II and Intermediate Language I level (min. 6 credits)	No literature credit
Further Mathematics (Advanced Mathematics)	MHF X202	MHF X202 and MHF X209	MHF X209 is unique number for this exam.
Geography	GEA X000	GEO X200 and GEO X400	
German: Language B	One semester of language credit at Elementary Language II level (min. 3 credits)	Two semesters of Elementary Language II and Intermediate Language I level (min. 6 credits)	No literature credit
History	WOH X030	WOH X030 and one semester (min. 3 credits) of lower-level History elective depending on student's choice of specialized subject.	All students study 20 th -Century World History. Higher Level students also study a 100-year period between 1750 and the present in one of several regions. Standard Level students do a project in any History subject.

Exam	IB Score of 4 Minimum 3 credits per exam.	IB Score of 5-7 Minimum 6 credits per exam. If courses listed do not equal 6 credits, institutions must give elective credit or assign own numbers	Comments
Information and Technology for a Global Society	No direct equivalent (min. 3 credits)	No direct equivalent (min. 6 credits)	
Islamic History	No direct equivalent (min. 3 credits)	No direct equivalent (min. 6 credits)	
Italian: Language B	One semester of language credit at Elementary Language II level (min 3 credits)	Two semesters of Elementary Language II and Intermediate Language I level (min 6 credits)	
Latin	LAT X230 or LAT XXXX	LAT X230 and LAT XXXX or LNW XXXX	
Marine Science	BSC X311C (BSC X311/X311L) or OCB X000C (OCB X000/X000L) or OCB X010C (OCB X010/X010L) (min of 3 credits)	Course selection same as score of 4 (min of 6 credits)	
Math Methods	MAC X105 ^{core}	MAC X105 ^{core} and MAC X140 or MAC X140 and MAC X233	
Math Studies	MAT X033	MAT X033 and MGF X106 ^{core}	
Mathematics	MAC X147	MAC X147 and MAC X233 or MAC X233 and MAC X311 ^{core}	MAC X147 can substitute for MAC X140 and MAC X114
Music	MUL X010 (3 credits)	MUL X010 and additional course determined by institution (6 credits)	Exam has music theory, history, and literature aspects. Emphasis is on post-Renaissance European music with significant additional coverage of alternating world music topics.
Philosophy	PHI X010 ^{core} (min. 3 credits)	PHI X010 ^{core} and additional Philosophy course (min. 6 credits)	
Physics	PHY X020C ^{core} or PHY X020/X020L ^{core}	PHY X020C ^{core} or PHY X020/X020 ^{core} and PHY X009 or PHY X053C or PHY X053/X053L and PHY X054C or PHY X054/X054L	PHY X009 is a unique number for this exam.
Psychology	PSY X012 ^{core}	PSY X012 ^{core} and additional course determined by institution.	

Exam	IB Score of 4 Minimum 3 credits per exam.	IB Score of 5-7 Minimum 6 credits per exam. If courses listed do not equal 6 credits, institutions must give elective credit or assign own numbers	Comments
Social and Cultural Anthropology	ANT X410	ANT X410 and additional ANT course determined by institution.	
Spanish: Language B	One semester of language credit at Elementary Language II level (min. 3 credits)	Two semesters of Elementary Language II and Intermediate Language I level (min. 6 credits)	No literature credit
Theatre Arts	THE X000 ^{core} or THE X020	THE X000 ^{core} or THE X020 and one semester (min. 3 credits) credit in theater history, performance, stagecraft, theory or literature depending on student's strengths	All students study core topics in dramatic literature, performance and stagecraft. Higher Level students do an independent project in a Theater Arts subject of their choice.
Visual Arts	ART X012 or ART X014 (3 credits)	ART X012 or ART X014 and additional Art course determined by institution.	Content will vary widely for each student. All students do both studio work and research notebooks. Standard Level students choose to emphasize one or the other. Higher Level students emphasize studio work. Courses in ART and/or ARH prefix may be appropriate.

DSST EXAMINATION PROGRAM

Florida Statute does not require the ACC to establish minimum course and credit equivalents for the DSST Examination Program (formerly DANTES Subject Standardized Tests). However, pursuant to Florida State Board Rule 6A-10.024, transfer of credit must be accepted based on the following recommendations. Institutions must use the course number listed, unless it would be advantageous for the student to award a specific course number with equal credit that satisfies program prerequisites. The DSST exams, unlike Advanced Placement, are not built around curriculum, but rather are designed to test students' knowledge on a variety of college-level subjects, regardless of where they may have learned the material. Exams are developed by committees of college faculty. More information about DSSTs, including descriptions of test content and sample examination questions, is available at <http://www.getcollegecredit.com/>.

Exam	Suggested Course Number (3 credits per exam)	Passing Score	Passing Score 2008 Revised Exams	Comments
A History of the Vietnam War	AMH X059	44	400	
Art of the Western World	ARH X000 ^{core} or ARH X010	48	400	
Astronomy	AST X002	48	400	
Business Ethics and Society	GEB X441	400	400	
Business Law II	BUL X242	44		Discontinued 12/31/2014
Business Math	QMB X001	48	400	
Criminal Justice	CCJ X000 or CCJ X020	49	400	
Drug and Alcohol Abuse	No course or credit recommendation	49		2008: See <i>Substance Abuse</i>
Environment and Humanity	EVR X017 or ISC X003 or ISC X143 or ISC X147	46	400	
Ethics in America	PHI X630	46	400	
Foundations of Education	EDF X002	46		
Fundamentals of College Algebra	MAT X033	47	400	
Fundamentals of Counseling	PCO X202	45		
Fundamentals of Cyber Security	CIS x350 or CIS x354		400	
General Anthropology	ANT X000	47		
Here's to Your Health	HSC X100 or HSC X101	48	400	
Human Resources Management	MAN X300	46	400	
Human/Cultural Geography	GEO X400	48		
Introduction to Business	GEB X011	46	400	
Introduction to Computing	CGS X000 or CGS X060	45	400	
Introduction to Law Enforcement	CCJ X100 or CJE X000	45	400	
Introduction to the Modern Middle East	ASH X044	47		Discontinued 12/31/2014
Introduction to World Religions	REL X300	48	400	

Exam	Suggested Course Number (3 credits per exam)	Passing Score	Passing Score 2008 Revised Exams	Comments
Lifespan Developmental Psychology	DEP X004	46	400	
Management Information Systems	ISM X000 or ISM X004	46	400	
Money and Banking	BAN X501	48		
Organizational Behavior	INP X002	48	400	
Personal Finance	FIN X100	46	400	
Physical Geology	GLY X000	46		
Principles of Finance	FIN X000	46	400	
Principles of Financial Accounting	ACG X001	47		Discontinued 12/31/2014
Principles of Physical Science I	PSC X121 or PSC X341	47	400	
Principles of Public Speaking	SPC X600	47	400	
Principles of Statistics	STA X014	48	400	
Principles of Supervision	MNA X345	46	400	
Rise and Fall of the Soviet Union	EUH X066	45		
Substance Abuse	HSC X140 or HSC X150	49	400	
Technical Writing	ENC X210	46	400	
The Civil War and Reconstruction	AMH X056	47	400	
Western Europe Since 1945	No course or credit recommendation	45		Discontinued 12/31/2014

EXCELSIOR COLLEGE EXAMINATIONS

Florida Statute does not require the ACC to establish minimum course and credit equivalents for the Excelsior College Examination. However, pursuant to Florida State Board Rule 6A-10.024, transfer of credit must be accepted based on the following recommendations. Institutions must use the course number listed, unless it would be advantageous for the student to award a specific course number with equal credit that satisfies program prerequisites. Excelsior College Examinations (formerly known as Regents College Exams or the Proficiency Examination Program), are developed by Excelsior College using national committees of faculty consultants and national studies to assess how well the tests measure the performance of students in actual college courses. Excelsior College Examinations are approved by the American Council on Education and Excelsior College itself is accredited by the Middle States Association of Colleges and Schools (MSACS). More detailed information about Excelsior College Examinations can be found on-line at https://www.excelsior.edu/Excelsior_College/Excelsior_College_Examinations.

Exam	Suggested Course Number (3 credits per exam)	Passing Score	Comments
Abnormal Psychology	CLP X140	C	
Earth Science	ESC x000 ^{core} or GLY x000	C	

Exam	Suggested Course Number (3 credits per exam)	Passing Score	Comments
English Composition	ENC X101 ^{core} or ENC X102	C	
Ethics: Theory and Practice	PHI X630	C	
Foundations of Gerontology	GEY X000	C	
Human Resources Management	MAN X300	C	
Introduction to Music	MUH X011	C	
Labor Relations	MAN X400	C	
Life Span Developmental Psychology	DEP X004	C	
Managerial Accounting	ACG X071	C	
Microbiology	MCB X000 (lecture only)	C	
Principles of Marketing	MAR X011	C	
Psychology of Adulthood and Aging	DEP X401 or DEP X402	C	
Workplace Communication with Computers	OST X335	C	
World Conflicts since 1900	WOH X040	C	

UExcel Examinations

UExcel Credit-by-Examination program is developed jointly by Excelsior College and Pearson. Exams can be found online at: <http://www.uexceltest.com/about-uexcel>

Exam	Suggested Course Number (3 credits per exam unless otherwise noted)	Passing Score	Comments
Calculus	MAC X311 ^{core} (4 credits)	C	
College Writing	ENC X101 ^{core}	C	
Spanish Language	One semester of language credit at Elementary Language I level (min of 4 credits)	C	

FOR MORE INFORMATION

You can find more information about the different exam programs, including detailed descriptions of exams, current and historical grading scales and score information, at the following web sites:

Advanced Placement Program: <http://apcentral.collegeboard.com/apc/Controller.jspf>

Cambridge AICE: <http://www.cie.org.uk/countries/usa>

College-Level Examination Program: <http://www.collegeboard.com/student/testing/clep/about.html>

DANTES/DSST Examinations: <http://www.getcollegecredit.com/>

International Baccalaureate Program: <http://www.ibo.org/>

Excelsior Examination Program: https://www.excelsior.edu/Excelsior_College/Excelsior_College_Examinations

UExcel - <http://www.uexceltest.com/exams-and-preparation/exams/>

For further information about implementation of the credit-by-exam equivalencies, please contact:

Mr. Matthew Bouck
Office of Articulation
850-245-9544
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850-245-04073
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Please address any general questions or comments to:
Articulation Coordinating Committee
Florida Department of Education
325 West Gaines Street, Suite 1401
Tallahassee, Florida 32399

STATE BOARD OF EDUCATION

Consent Item

February 18, 2016

SUBJECT: Approval of Amendment to Rules 6M-8.603, 6M-8.700, and 6M-8.701 related to the Voluntary Prekindergarten Education Program

PROPOSED BOARD ACTION

For Approval

AUTHORITY FOR STATE BOARD ACTION

Section 1001.213(2), Florida Statutes

EXECUTIVE SUMMARY

The Office of Early Learning (OEL) administers federal and state child care funds and partners with 30 local early learning coalitions to deliver comprehensive early learning services statewide. The office oversees three programs—the School Readiness Program, the Voluntary Prekindergarten (VPK) Education Program, and Child Care Resource and Referral services. OEL is required to submit its proposed rules to the State Board of Education for approval.

The rules implement the accountability requirements of the VPK program. The proposed revisions update the Provider Acknowledgement; shortening and simplifying this part of the process. The form is adopted in Rule 6M-8.700, F.A.C. and referenced in rules 6M-8.603 and 6M-8.701, F.A.C.

Supporting Documentation Included: Proposed Rules 6M-8.603, Voluntary Prekindergarten (VPK) Provider Placed on Probation and Required to Apply for a Good Cause Exemption; 6M-8.700, Provider on Probation; Voluntary Prekindergarten Education Program Improvement Plan and Implementation; First Year Probation; 6M-8.701, Provider on Probation; Voluntary Prekindergarten Education Program Annual Probation Progress Report; Second and Subsequent Year Probations; and Forms OEL-VPK 05A (January 2016) and OEL-VPK 30 (January 2016)

Facilitator: Rodney Mackinnon, Executive Director, Office of Early Learning

6M-8.603 Voluntary Prekindergarten (VPK) Provider Placed on Probation and Required to Apply for a Good Cause Exemption.

Pursuant to Section 1002.69, F.S., the Office of Early Learning, upon request of a private prekindergarten provider or public school that remains on probation for two (2) consecutive years or more and subsequently fails to meet the minimum rate adopted under Section 1002.69(6), F.S., and for good cause shown may grant to the provider or school an exemption from being determined ineligible to deliver the Voluntary Prekindergarten Education Program and receive state funds for the program.

~~(1) Provider on Probation.~~

~~(a) A provider on probation is defined as a VPK provider or public school whose readiness rate is at or below the minimum level established by the Office of Early Learning and incorporated in Rule 6M-8.601, F.A.C.~~

~~(b) A provider on probation remains on probation until it meets the minimum rate adopted by the Office as satisfactory under Section 1002.69(6), F.S., and is subject to all requirements of probationary status.~~

~~(1)(2) Good Cause Exemption Application Requirements. A provider must meet the following criteria to apply for a good cause exemption:~~

~~(a) The provider must acknowledge on Provider Acknowledgement, Form OEL-VPK 05A (January 2016-Feb. 2015), Provider Acknowledgement, being placed on probation in accordance with Rule 6M-8.700, F.A.C. and that the provider will, if it remains on probation for two (2) consecutive years or more and subsequently fail to meet the minimum rate, be required to apply for a good cause exemption. The provider must complete the acknowledgement within twenty one (21) days of posting of the final VPK readiness rates by the Office of Early Learning on the VPK readiness rate website, <http://vpk.flde.org>. Form OEL-VPK 05A (Feb. 2015) is incorporated by reference. A copy of the form may be obtained as provided in Rule 6M-8.900, F.A.C. or at INSERT FAR LINK <http://www.flrules.org/Gateway/reference.asp?No=Ref 05183>.~~

~~(b) The provider must adhere to all requirements of probation associated with having not met the readiness rate.~~

~~(c) The provider must assess each child enrolled in their program in accordance with paragraph (2)(3)(a) of this rule.~~

~~(2)(3) Criteria for Granting Good Cause Exemptions. Each of the following criteria must be met to be granted a good cause exemption:~~

~~(a) Learning Gains. The private prekindergarten provider or public school must demonstrate learning gains meeting the following criteria:~~

1. Providers must utilize the pre- and post- assessment, the Florida VPK Assessment, approved by the State Board of Education in Rule 6A-1.09433, F.A.C. (March 2015), and administered consistent with the requirements of Rules 6M-8.620 and 6A-1.09433, F.A.C., is incorporated by reference and a copy of the rule may be obtained as provided in Rule 6M-8.900, F.A.C. or at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-05178>. Data submitted for VPK program year 2010-2011 may be an assessment other than referenced here.

2. Data must be provided for the three most recent years of being placed on probation. Assessment results for all program completers who were assessed shall be included.

3. The results of the assessment shall demonstrate substantial and appropriate learning gains by program completers. Learning gains are substantial and appropriate if the ratio of students making learning gains to the total number of students assessed is seventy (70) percent or greater.

(b) Health and Safety Requirements. Pursuant to Section 1002.69(7)(d), F.S., a good cause exemption may not be granted to any private prekindergarten provider that has any Class I violations or two or more Class II violations within the two (2) years preceding the provider's or school's application for the exemption. For purposes of this rule, Class I violations and Class II violations have the same meaning as provided in subsection 65C-22.010(1) (August 2013) and Rule 65C-22.010, F.A.C., is incorporated by reference and a copy of the rule may be obtained as provided in Rule 6M-8.900, F.A.C. or at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-05179>.

(c) Individual Circumstances. Extraordinary or unique circumstances under which the provider should be allowed to continue to deliver the Voluntary Prekindergarten Education Program after remaining on probation for two (2) consecutive years and failing to meet the minimum readiness rate adopted by the Office under Section 1002.69, F.S.

(d) Adherence to the Improvement Plan. Following all steps under Section 1002.67(4)(c), F.S., towards improvement specified in the plan including the use of an Office-approved curriculum or the staff development plan approved by the Office.

~~(3)~~(4)-Application. A provider seeking a good cause exemption shall complete the Office's VPK Good Cause Exemption Application Form OEL-VPK 30VPK-GCE-02, January 2016 ~~November 2014~~ found at: ~~[insert FAR link]~~ <http://www.flrules.org/Gateway/reference.asp?No=Ref-05177>, which is incorporated by reference herein. The sole method of submitting this form will be through the Office's ~~web~~ website at: <https://vpk.fldoe.org>. The submission of an application for a good cause exemption must adhere to the following:

(a) The provider may submit additional documentation in support of its application. The Office may request additional documentation for verification of eligibility.

(b) A provider who fails to meet the minimum readiness rate after having been placed on probation for two (2) consecutive years may submit a good cause exemption application after the release of the final VPK readiness rate. Supporting documentation submitted with the application must include a review of adherence to the provider improvement plan, fidelity of implementation of the required curriculum or staff development plan as explained in paragraph ~~(2)(3)~~(d) above. The good cause exemption application and all supporting documentation must be received by the Office no later than fourteen (14) days after the deadline for filing the provider acknowledgment of failing to achieve the minimum readiness rate submitted pursuant to Rule 6M-8.601, F.A.C.

(c) The Office may grant an extension of time for submitting the good cause exemption application or supporting documentation for good cause shown. Good cause includes unavoidable circumstances such as illness or natural disaster, or excusable neglect.

~~(4)(5)~~ Office Review and Recommendation.

(a) Eligibility. The Office shall review each application for a good cause exemption to verify that the provider is eligible to apply. The Office shall deny any application that is submitted by a provider who does not meet the criteria described in paragraphs ~~(1)(2)~~(b) or ~~(1)(2)~~(c) of this rule, without further review.

(b) The Office will review each application for a good cause exemption filed by an eligible provider. The Office may include outside consultants in the review process. The Office may request additional information from providers to supplement provider applications to address deficiencies identified by the Office with respect to demonstrated learning gains, health and safety requirements, extraordinary or unique circumstances or adherence to the provider's improvement plan and may consider additional relevant documentation gathered or received by the Office from any source. The Office shall allow the provider an opportunity to rebut any evidence considered that was not submitted by the provider.

(c) The Office will consider each application individually and shall include in its review:

1. Whether the provider met the criteria described in subsection ~~(1)(2)~~ of this rule;
2. Whether the provider was previously granted a good cause exemption;
3. The readiness rates of other providers in comparable circumstances, if such information is available and relevant;

4. Whether the circumstances warrant granting the request for a good cause exemption; and

5. Whether any conditions should be imposed upon the grant of a good cause exemption.

(d)1. The Office shall issue a preliminary recommendation and provide a copy of it to the provider.

2. The provider may submit a written response to the Office's preliminary recommendation and report within fourteen (14) days of receipt.

3. The Office shall consider any timely response and revise the recommendation if appropriate.

~~(5)~~(6) Final Determination.

(a) The Office will make its final determination regarding each application submitted and notify the applicant and the coalition or school district.

(b) Any provider granted a good cause exemption shall continue to implement its improvement plan and ~~continue the corrective actions~~ required under Section 1002.67(4)(c)2., F.S. Any exemption granted is valid for one (1) year and may be renewed through the same application process.

(6) In the event that the Office is unable to calculate an annual statewide readiness rate as described in Section 1002.69(5), F.S., notwithstanding sections (1) through (5) of this rule, the following shall apply to a provider who had received a good cause exemption in the immediately prior year:

(a) The provider shall not be required to submit an application for a good cause exemption for the year for which no rate was calculated:

(b) The provider shall continue to be eligible to participate as a VPK program provider, except for those providers that, pursuant to Section 1002.69(7)(d), F.S., have had any Class I violations or two or more Class II violations within the two (2) years preceding the initiation of the school year or summer program; and

(c) Upon resumption of statewide kindergarten screening and calculation of the kindergarten readiness rate the provider's number of years of consecutive probation and good cause exemption status immediately prior to the suspension of those activities shall be considered when calculating whether the provider shall continue to be required to comply with the requirements of this rule.

Rulemaking Authority 1001.213(2), 1002.79, 1002.69(7) FS. Law Implemented 1002.67(4), 1002.69(7) FS. History—New 3-24-11, Amended 5-10-12, Formerly 6A-1.099824, Amended 4-12-15 Amended _____.

6M-8.700 Provider on Probation; Voluntary Prekindergarten Education Program Improvement Plan and Implementation; First Year Probation.

(1) Probation. A provider remains on probation until ~~they~~ it meets the minimum rate adopted by the Office as satisfactory under Section 1002.69(6), F.S. An early learning coalition or school district, as applicable, shall place on first year probation any Voluntary Prekindergarten Education (VPK) provider which fails to meet the minimum kindergarten readiness rate for a program type (school-year or summer) adopted by the Office of Early Learning as satisfactory under Section 1002.69(6), F.S, and require such provider to submit and implement an approved improvement plan designed to improve the provider's kindergarten readiness rate. An improvement plan shall include:

(a) Use of Approved Curriculum or Staff Development Plan. A VPK provider on probation must select either an approved curriculum from the list of approved curricula for providers on probation on the Office's website per Rule 6M-8.604, F.A.C., or a staff development plan available from the Office of Early Learning per Rule 6M-8.605, F.A.C., as a target area in its improvement plan. An early learning coalition or school district, as applicable, shall require a VPK provider on probation to use an approved curriculum or staff development plan in accordance with Section 1002.67(4)(c), F.S. The Office's website is: http://www.floridaearlylearning.com/providers/provider_resources/vpk_curriculum.aspx.

(b) Additional Target Areas. A VPK provider on probation must select a minimum of one of the following additional areas in its improvement plan:

1. Administrative and management practices, including training, educational level, and retention of prekindergarten instructors;
2. Classroom learning environment;
3. Child developmental screenings and assessments;
4. Social-emotional interactions among prekindergarten instructors and students;
5. Students' ability to make age appropriate progress in the development of language and cognitive capabilities and emotional, social, regulatory and moral capacities;
6. Percentage of students attending seventy (70) percent or more of the instructional hours offered by the VPK provider; or
7. Family involvement in the early childhood program.

(c) Strategies for Improvement. A description of strategies for improvement of the provider's VPK program which includes the following and, at the discretion of the provider, any other additional areas:

1. A list of target areas for the VPK provider's improvement identified under paragraphs (1)(a) and (b) and any additional areas a provider deems important to its improvement;

2. A list of specific actions already taken, and proposed to be taken, by the VPK provider for improvement of target areas; and

3. An implementation schedule or timeline for the VPK provider to implement the proposed actions.

(2) Submission and Approval of Improvement Plan.

(a) A VPK provider on probation must submit its improvement plan electronically through the website <https://vpk.fldoe.org/>. The provider must have an approved improvement plan in place for at least 30 days prior to receiving an advance payment and for at least 30 days prior to offering VPK instruction for the program type for which the provider must submit an improvement plan, as applicable. A VPK provider on probation may submit an improvement plan any time after the Office posts the final readiness rates.

(b) An early learning coalition or school district, as applicable, shall approve a VPK provider's improvement plan within 14 days following receipt of the improvement plan if the plan is submitted with a list of target areas and specific actions for improvement as described in this rule.

(c) If the improvement plan does not address the criteria established in paragraphs (1)(a)-(c), the early learning coalition or school district, as applicable, shall disapprove the improvement plan with suggestions for revision. The VPK provider on probation shall submit an amended improvement plan within 14 days following the receipt of notification of disapproval of its improvement plan with suggestions for revision. The early learning coalition or school district, as applicable, shall offer to work with the VPK provider on probation to revise a the initial disapproved improvement plan to address the criteria in paragraphs (1)(a)-(c).

(3) Prior to offering the VPK program, a provider on probation must demonstrate that it is implementing its improvement plan by using an approved curriculum or a staff development plan in accordance with Section 1002.67(4)(c), F.S., including all program materials and professional development elements associated with the approved curriculum or staff development plan, and by submitting the following to the early learning coalition or school district, as applicable:

(a) For use of an approved curriculum:

1. A receipt or invoice demonstrating that the VPK provider has purchased an approved curriculum and has scheduled instructor trainings developed by the curriculum publisher on use of the curriculum; or

2. An acknowledgement that the VPK provider has received the complete approved curriculum through a donation and has scheduled instructor trainings developed by the curriculum publisher on use of the curriculum.

(b) For use of a staff development plan:

1. Copy of Department of Children and Families (DCF) transcripts evidencing successful training completion for VPK staff consistent with the staff development plan in accordance with Section 1002.67(4)(c), F.S; and

2. An acknowledgement that the VPK provider has implemented its staff development plan.

(4) On Form OEL-VPK 05A (January 2016), Provider Acknowledgement, the provider must acknowledge being placed on probation and that if the provider remains on probation for two (2) consecutive years or more and subsequently fails to meet the minimum readiness rate, the provider will be required to apply for a good cause exemption. The provider must complete the acknowledgement within twenty-one (21) days of the posting of the final VPK readiness rates by the Office of Early Learning on the VPK readiness rate website, <http://vpk.fldoe.org>. Form OEL-VPK 05A (January 2016) is hereby incorporated by reference. A copy of the form may be obtained as provided in Rule 6M-8.900, F.A.C. or at [INSERT FAR LINK].

(5) In the event that the Office is unable to calculate an annual statewide readiness rate as described in Section 1002.69(5), F.S., notwithstanding subsections (1) through (2) of this rule, the following shall apply to a provider who has completed one year of probation:

(a) The provider may suspend its improvement plan provided the plan was approved and implemented as required by subsections (2) and (3) of this rule;

(b) The provider shall not be required to submit an annual probation progress report; and

(c) Upon resumption of statewide kindergarten screening and calculation of the kindergarten readiness rate the provider's number of years of consecutive probation immediately prior to the suspension of those activities shall be considered when calculating whether the provider shall continue to be required to comply with the requirements of this rule.

Rulemaking Authority 1001.213, 1002.79 FS. Law Implemented 1002.67(4)(c), 1002.75(3)(a)-(b) FS. History--New 3-26-13, Amended 2-2-15.

6M-8.701 Provider on Probation; Voluntary Prekindergarten Education Program Annual Probation Progress Report; Second and Subsequent Year Probation.

(1) Probation. A provider remains on probation until they it meets the minimum rate adopted by the Office as satisfactory under Section 1002.69(6), F.S. An early learning coalition or school district, as applicable, shall place on second or subsequent year probation any Voluntary Prekindergarten Education (VPK) provider which receives kindergarten readiness rates for the same program type (school-year or summer) which fail to meet the minimum readiness rates adopted by the Office of Early Learning as satisfactory under Section 1002.69(6), F.S., for two or more consecutive years. For the purpose of this rule, consecutive years means years in which a VPK provider receives kindergarten readiness rates for the same program type (school-year or summer).

(2) Second or Subsequent Year Probation Corrective Action. A VPK provider that remains on probation under this rule must submit an annual probation progress report electronically through the website <https://vpk.fldoe.org/>. The annual probation progress report must demonstrate progress toward meeting the specific actions for improvement in the target areas identified in the provider's approved improvement plan. The provider must have an approved probation progress report in place for at least 30 days prior to receiving an advance payment and for at least 30 days prior to offering VPK instruction for the program type for which the provider must submit a probation progress report, as applicable. A VPK provider may submit a probation progress report any time after the Office of Early Learning posts the final readiness rates. The probation progress report shall provide information regarding the provider's progress in implementing its improvement plan approved under Rule 6M-8.700, F.A.C. The second or subsequent year probation progress report shall contain a description of strategies for improvement of the VPK program that includes the following:

(a) A list of target areas for the VPK provider's improvement per Rule 6M-8.700, F.A.C., and any additional areas a provider deems important to its improvement, including specifically;

1. Identification and description of the provider's use of an approved curriculum or a staff development plan in accordance with Section 1002.67(4)(c)2.-3., F.S., including all associated program materials and professional development elements associated with the approved curriculum or staff development plan as described in paragraph 6M-8.700(1)(a) and subsection (4), F.A.C.; and

2. Identification and description of the provider's action steps in the additional target area(s) as described in paragraph 6M-8.700(1)(b), F.A.C.

(b) A list of specific actions the VPK provider will take in the future for improvement of the target areas; and

(c) An implementation schedule or timeline for the VPK provider to implement any proposed actions.

(3) The provider must complete the provider acknowledgement on Form OEL-VPK 05A (January 2016) in accordance with Rule 6M-8.700, F.A.C. A copy of the form may be obtained as provided in Rule 6M-8.900, F.A.C. or at [INSERT FAR LINK]

(4) In the event that the Office is unable to calculate an annual statewide readiness rate as described in Section 1002.69(5), F.S., notwithstanding subsections (1) through (2) of this rule, the following shall apply to a provider who has completed two or more years of probation:

(a) The provider may suspend its improvement plan provided the plan was approved and implemented as required by Rule 6M-8.700(2) and (3), F.A.C.:

(b) The provider shall not be required to submit an annual probation progress report; and

(c) Upon resumption of statewide kindergarten screening and calculation of the kindergarten readiness rate the provider's number of years of consecutive probation immediately prior to the suspension of those activities shall be considered when calculating whether the provider shall continue to be required to comply with the requirements of this rule.

Rulemaking Authority 1001.213, 1002.79 FS. Law Implemented 1002.67(4)(c)2., 1002.75(3)(b) FS. History—New 3-26-13, Amended 2-2-15, _____

Low Performing Provider Year 1
Provider Acknowledgement - [REDACTED] 0% complete

Provider Name: [REDACTED]
County of Program: [REDACTED]
Provider Address: [REDACTED]
Program Year: [REDACTED]
Program Type: [REDACTED]

- VPK providers who fall below the minimum readiness rate shall acknowledge their designation as a low performing VPK provider within 21 days of posting of the Final VPK Readiness Rates.
- Please complete the contact information below for the person who is submitting the Provider Acknowledgement. Then click [Next].

[REDACTED]

- After you have completed the Provider Acknowledgement, click the [Submit] button.
- Once you have submitted your Provider Acknowledgement, you may begin creating your Improvement Plan.

All the fields marked with asterisk (*) are mandatory

* Name (of person submitting the Provider Acknowledgement):
* Position:
* Contact Email Address:

I hereby acknowledge that the center noted above has been identified as a VPK Low Performing Provider based on the 2013-14 VPK Provider Kindergarten Readiness Rates. If I remain on probation for two consecutive years and fail to meet the minimum rate established by the State Board of Education, I intend to apply for a good cause exemption.

[REDACTED]

Provider Readiness Rate Good Cause Exemption Form

Go back
Clear Form
Save Form
Submit

FLORIDA DEPARTMENT OF EDUCATION

VPK PROVIDER KINDERGARTEN READINESS RATE GOOD CAUSE EXEMPTION FORM

Please provide the following information regarding your application for review through the VPK Good Cause Exemption Application Process. Please type responses into the boxes below.

All the fields marked with asterisk (*) are mandatory

VPK Provider Information:

Program Type:

Provider Type:

Coalition:

*Name of Owner/Director/Principal:

*Title (Position):

*Name of Provider/School:

*County of Provider:

*Mailing Address:

Program Year:

*Work Phone Number (xxx-xxx-xxxx): Extension:

Cell Phone Number (xxx-xxx-xxxx):

*E-mail Address:

*Confirm E-mail Address:

Type of Good Exemption Form: New Application

Please check only one of the following and provide any required supporting documentation

Licensed private provider:

Child care facility Family day care home Large family child care home Private school

Non-licensed private provider:

Faith-based child care (claims exemption under s. 402.316, F.S.)

Faith-based private school (claims exemption under s. 402.3025, F.S., or s. 402.316, F.S.)

Nonreligious private school (claims exemption under s. 402.3025, F.S.)

Public School:

Public school (licensed or uses contractors)

Public school (exempt from licensure under s. 402.3025, F.S.)

Public/Charter school (exempt from licensure under s. 402.3025, F.S.)

Accreditation Information (for non-licensed providers):

Name of Accrediting Agency:

Accrediting agency is a member of:

Commission on International and Trans-Regional Accreditation

Florida Association of Academic Nonpublic Schools

National Council for Private School Accreditation

None of the above (Using Gold Seal: specify Florida Approved Gold Seal Accreditation Program)

[Go back](#) [Next](#)

GCE Application -Step 2 of 6

33% complete

Provider Name: [REDACTED] Provider ID: [REDACTED] Number Year LPP: [REDACTED] Type of Good Exemption Form: [REDACTED]

Health and Safety Requirements

In order to continue in the Voluntary Pre-kindergarten Program, your provider center cannot have any Class I violations, or more than one Class II violations in the two years prior to the Good Cause Exemption application deadline.

Number of Class I Violations: [REDACTED]

Number of Class II Violations: [REDACTED]

[Go back](#) [Next](#)

GCE Application - Step 3 of 6 50% complete

Provider Name: [REDACTED] Provider ID: [REDACTED] Number Year LPP: [REDACTED] Type of Good Exemption Form: [REDACTED]

Compliance with Improvement Plan

Enter narratives which explain how your provider center implemented the agreed upon Improvement Plans for the low performing program years shown below. Your Good Cause Exemption application will be denied if you do not explain how your provider center implemented the Improvement Plans for both program years shown below.

[What's the Best Way to Draft an Explanation?](#) | [Can I View a Sample Explanation?](#)

Program Year [REDACTED]

Explain how you faithfully adhered to and implemented the Improvement Plan (submitted under authority of s. 1002.67, F.S.) for program year [REDACTED]

Enter your explanation here...

Program Year [REDACTED]

Explain how you faithfully adhered to and implemented the Improvement Plan (submitted under authority of s. 1002.67, F.S.) for program year [REDACTED]

Enter your explanation here...

[Save Explanation\(s\)](#)

[Go back](#) [Next](#)

GCE Application - Step 4 of 6

67% complete

Provider Name: [REDACTED] Provider ID: [REDACTED] Number Year LPP: [REDACTED] Type of Good Exemption Form: [REDACTED]

Evidence of Substantial and Appropriate Gains

Please use the tools below to upload data to show learning gains made by the children attending your program. For each year you will upload a file that represents that data in an organized manner.

Was the VPK Assessment Tool used for the last three program years? Yes No

Program Year [REDACTED]	Choose File No file chosen
Program Year [REDACTED]	Choose File No file chosen
Program Year [REDACTED]	Choose File No file chosen

[Save](#)

Go back Next

GCE Application -Step 5 of 6 83% complete

Provider Name: [REDACTED] Provider ID: [REDACTED] Number Year LPP: [REDACTED] Type of Good Exemption Form: [REDACTED]

Individual Circumstances

Enter three narratives which explain your provider center's unique or extraordinary circumstances which led to your low performance for each program year shown below. Unique or extraordinary circumstances which can cause low performance may include a large number of English language learners and/or students with disabilities in your classrooms.

[What's the Best Way to Draft an Explanation?](#) | [Can I View a Sample Explanation?](#)

Program Year [REDACTED]

Cite any extraordinary or unique circumstances under which your provider center should be allowed to continue to deliver the Voluntary Prekindergarten Education Program.

Enter your explanation here...

Program Year [REDACTED]

Cite any extraordinary or unique circumstances under which your provider center should be allowed to continue to deliver the Voluntary Prekindergarten Education Program.

Enter your explanation here...

[Go back](#)

GCE Application -Step 6 of 6

100% complete

Provider Name: [REDACTED] Provider ID: [REDACTED] Number Year LPP: [REDACTED] Type of Good Exemption Form: [REDACTED]

Certification Statement

By submitting this form, I certify that the information I have furnished is true and correct to the best of my knowledge and belief. Please note that Section 837.06, Florida Statutes, provides that [w]hoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 755.083.

[Submit Application](#)

Curriculum/Staff Development Information:

Curriculum Name:

Purchase Date: (MM/DD/YYYY)

Implementation Date: (MM/DD/YYYY)

Did you Participate in Staff Development Plan Yes No

Development Plan Implementation Date (MM/DD/YYYY)

Assessment:

Did you administer the VPK assessment: Yes No

If No What Assessment was Administered:

Certification Statement

By submitting this form, I certify that the information I have furnished is true and correct to the best of my knowledge and belief.

Please note that Section 837.06, Florida Statutes, provides that [w]hoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 755.083.

[Go back](#) [Clear Form](#) [Save Form](#) [Submit](#)

Northeast Florida Regional STEM² Hub

‘If you want to go fast, go alone. If you want to go far, go together.’

— African Proverb

We convene, inspire, and invest in the STEM² field by providing the essential missing elements to accelerate the growth of STEM² education and careers.

— STEM² Hub

STEM² Hub Board of Directors Leading Regional Company CEOs/CIOs

Acosta
Adecco
Alluvion Staffing
Auditmacs
Black Knight
CSX
FIS
Florida Blue

Greenshades
Haskell
JAXUSA
Moneta Partners
Scratch Werks
Vistakon
Web.com
Wolfson's Hospital

Education Advisory Board composed of all regional superintendents & presidents

Why STEM, Why Now?

STEM Jobs Key to Better Economy, USA Today, January 10th 2014.²

- Over the past decade, jobs in science, technology, engineering and mathematics (STEM²) have grown at a rate three times faster than non-STEM² jobs.
- Momentum will continue over the next decade as STEM² jobs will grow at a rate of 17% , 19% in Florida!
- Minorities and women are underrepresented in STEM² fields, leaving a staggering amount of economic potential on the table.
- By 2018 1 million computer science jobs will go unfilled by US workers.

² STEM Jobs Key to Better Economy, USA Today, January 10th 2014

Why STEM, Why Now?

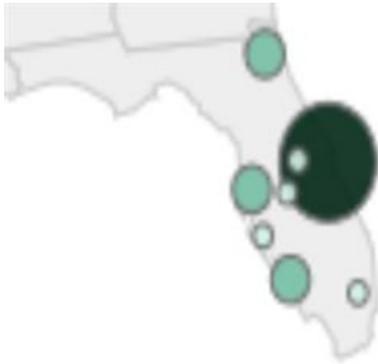
- The World Economic Forum ranks the United States 48th in the quality of mathematics and science education.
- Based on 2014 results from the Florida Department of Education in order to be college ready in math and science a 22 score on the Act test is necessary. In the seven counties of Northeast Florida only 33% scored 22 on math and only 28 % scored 22 on science.
- The Consumer Electronics Association's 2015 Innovation Scorecard ranked all 50 states on ten key economic indicators. Florida ranked highly on tax friendliness, regulations, right to work, fast Internet, and entrepreneurialism. Florida was rated poorly on tech workforce development, grants in the stem fields, and investment in stem.

Why STEM, Why Now?

- STEM Workers Play Key Roles in Driving Economy's Growth¹
 - 26 million U.S. jobs—20 percent of all jobs—require a high level of knowledge in any one STEM field.
 - Half of all STEM jobs are available to workers without a four-year college degree.
 - These jobs pay \$53,000 on average—a wage 10 percent higher than jobs with similar educational requirements.
 - More STEM-oriented metropolitan economies perform strongly on a wide variety of economic indicators, from innovation to employment.

¹Rothwell, Jonathan, The Hidden STEM Economy, Metropolitan Policy Program at The Brookings Institute

Northeast Florida's share of workers in STEM occupations compared to 100 largest metro areas



- 19% of Northeast Florida workers in STEM occupations compared to as many as 33.2% in other larger metropolitan regions.³
- Jacksonville ranks 80th out of 100 top metro areas.
- Significant economic potential left untapped in Northeast Florida.
- Goal to increase STEM workforce by 1% (9,000 workers) to compete effectively with national large Metropolitan areas nationally.

○ 11.1% - 17.9% ● 18.0% - 19.5% ● 19.6% - 20.4% ● 20.5% - 21.4% ● 21.5% - 33.2%

³Rothwell. Jonathan, The Hidden STEM Economy, Metropolitan Policy Program at The Brookings Institute

STEM occupations requiring the most knowledge

Occupation	# of jobs	avg. wages
Biomedical Engineers	16,590	\$88,360
Chemical Engineers	27,860	\$99,440
Biochemists and Biophysicists	25,160	\$87,640
Engineers, All Other	125,590	\$92,260
Nuclear Engineers	18,430	\$105,160
Agricultural Engineers	2,650	\$78,400
Materials Scientists	7,900	\$86,600
Engineering Teachers	33,660	\$97,260
Hydrologists	6,960	\$79,070
Materials Engineers	22,160	\$86,790

Most common STEM occupations requiring an Associate's Degree or less

Occupation	# of jobs	avg. wages
Registered Nurses	2,724,570	\$69,110
Auto Techs and Mechanics	589,570	\$38,560
Carpenters	578,910	\$44,330
Supervisors of Prod. & Ops. Workers	559,350	\$56,890
Electricians	512,290	\$52,910
Computer Systems Analysts	487,740	\$82,320
Supervisors of Mechanics, etc.	418,530	\$62,190
Machinists	368,510	\$40,520
Plumbers, Pipefitters, Steamfitters	349,320	\$51,830
Welders, Cutters, Solderers, Brazers	316,290	\$37,920

Wage premium, bachelor's or higher STEM jobs vs. non-STEM jobs with similar educational requirements:

+14%

Wage premium, sub-bachelor's STEM jobs vs. non-STEM jobs with similar educational requirements:

+10%

STEM² Initial Priorities

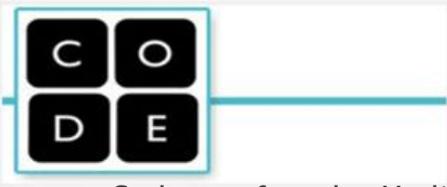
▶ Education Priorities

- ▶ Support the strategy of Early College High Schools.
- ▶ Establish STEM² after-school clubs in every school in our region. Math counts, Robotics, Coding
- ▶ Computer Science curriculum in every High School

▶ Business Priorities

- ▶ Support the development of a vibrant start-up regional community.
- ▶ Support and partner to coordinate the development of a on-sourcing (technology) entity.

Work To Do: *The Role of STEM² Education in Improving the Tri-State Region's Workforce*. Carnegie Science Center, November 2014²



Computer science

- Code.org founder Hadi Partovi predicts that 2016 "will be the tipping-point year for computer science and computer programming in grades K-12. By the end of 2016, states or school districts that don't take actions to add computer science to their curriculum will be in the minority," he said.
- Roughly 90 percent of schools in the United States do not teach computer science despite the fact that more than half of projected jobs in STEM fields are in computing occupations
- Only 115 schools in FL (17% of FL schools with AP programs) offered the AP Computer Science course in 2013-2014. There are fewer AP exams taken in computer science than in any other STEM subject area.
- The Hour of Code takes place each year during Computer Science Education Week (December 7-13 2015). *Every student* should have the opportunity to learn computer science. It helps nurture problem-solving skills, logic and creativity. By starting early, students will have a foundation for success in any 21st-century career path. STEM2 was able to more than double the number of Hour of Code events held throughout Northeast Florida in 2015.
- Goal: computer science curriculum available to every school and every child in our region. Code.org is a leading provider of computer science curriculum
- Coding offered in all Duval elementary schools and all schools in other counties next school year.
- Supporting legislation at a which will allow computer science to be included as a credit for graduation.



Priority:STEM² Clubs



- Presently Girl Scouts supports over 7,000 students in Northeast Florida. Girl Scouts wants to include after-school STEM2 clubs as part of their programming. Next steps is to coordinate training for all Girl Scouts part-time employees and certain of their full-time employees.
- Jaguar’s Foundation (supported by their community partner Florida Blue) to coordinate a STEM² parent night, Teen Talk STEM programming and related social media blitz.
- Met with the Lastinger Center for Learning and agreed to work on a proposal for complementary after-school Math Nation and Math Algebra programming, competition, and community events to create a spirit of math excellence in Northeast Florida.
- Requested to lead the STEM Connector Million Women Mentors (MWM) program in Northern Florida (presently only one lead in Florida located in Tampa region MWM supports the engagement of one million Science, Technology, Engineering and Math (STEM) mentors (male and female) to increase the interest and confidence of girls and women to persist and succeed in STEM programs and careers. Adecco, CSX and web.com are working with STEM2 to discuss next step alternatives.

County	STEM2 Prior STEM2	STEM2 Present
Clay	20	17
Duval	0	75
Nassau & Flagler	0	15
St. Johns	0	11
Total Clubs	20	118
Present Total		138
Total Projected		~ 400

Approximate 75% of the clubs are robotics, 20% MATHCOUNTS, 5% other