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STATE OF FLORIDA  
DEPARTMENT OF EDUCATION  
CHARTER SCHOOL APPEAL COMMISSION HEARING  
DISCOVERY HIGH SCHOOL  
VS.  
SCHOOL BOARD OF POLK COUNTY, FLORIDA

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LOCATION: 325 W. GAINES STREET  
CONFERENCE ROOM 1721  
TALLAHASSEE, FLORIDA

DATE: FRIDAY, JANUARY 30, 2015  
COMMENCED: 9:40 A.M.

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TRANSCRIBED BY:  
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MEMBERS PRESENT :

LOIS TEPPER, CHAIR

CHRISTOPHER BERNIER

CATHY BRUBAKER

SONIA ESPOSITO

OSVALDO GARCIA

JENNA HODGENS

RICHARD MORENO

OTHER PARTICIPANTS :

JACQUELINE HITCHCOCK

DAVID L. JORDAN

\* \* \*

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

2 CHAIR TEPPER: So we are ready to begin the  
3 second appeal, which is Discovery High School  
4 versus the School Board of Polk County. The first  
5 issue that we have on this appeal is that the  
6 charter school applicant has filed a motion to  
7 strike, so we will deal with that issue first.

8 The rule provides that on motions such as  
9 these filed before the appeal is heard, I can rule  
10 on those. So I'll give the charter school three  
11 minutes, then I'll give the district three  
12 minutes, and then I'll make my decision before we  
13 begin the appeal.

14 For the charter school.

15 MR. ARNOLD: Thank you. Good morning. Shawn  
16 Arnold on behalf of Discovery High School. And  
17 thank you for entertaining this motion.

18 What we have before you is a motion to  
19 strike. I conferred with counsel about this  
20 matter. On December 30th, the school -- I'm  
21 sorry -- School Board filed its brief in the  
22 appeal -- of our seeking of an appeal in this  
23 matter. And under -- on page 8, as well as  
24 page 16 of the appeal, they reference item SPAR  
25 report, which we contend was not -- and it's also

1 listed as Exhibit 6 in their appeal -- we contend  
2 that that was not part of the record below.

3 I asked Mr. Bridges for -- in a conversation  
4 I had with him in early January for proof of the  
5 fact that it had been in the record. I left an  
6 additional message for him. I've heard no  
7 evidence of the fact that it is part of the  
8 report.

9 Madam Chair, Florida Administration Code  
10 6A-6.0781 provides in Subsection (2)(b) what is  
11 part of the record, and it's available transcripts  
12 of all meetings before the School District Board,  
13 the decision was considered, all documents  
14 considered by the School Board in making its  
15 decision shall constitute the record on appeal.

16 And, of course, the reason why this would be  
17 important is that the school would have had an  
18 opportunity to be confronted with it and had an  
19 opportunity to respond to it. We had no -- in  
20 polling the team, looking at the transcript,  
21 looking at the record below, we find absolutely no  
22 evidence the fact that these reports were ever set  
23 forth.

24 Also providing case law to the Court -- I'm  
25 sorry, Your Honor, Ms. Tepper -- the appellate

1 review is listed to the record on appeal, and I  
2 listed one of numerous cases that set that forth.  
3 There was no opportunity for the school to respond  
4 to this. There's no evidence of the fact the  
5 instrument -- the evaluation instrument or  
6 anything else absent any evidence of it. It's our  
7 contention that evidence should not be considered  
8 by the Appeals Commission this morning.  
9 Therefore, we -- after hearing nothing from  
10 Mr. Bridges where it was considered in the report  
11 below, having no opportunity to respond to it, we  
12 would ask that it be stricken from any  
13 consideration today before this Commission.

14 CHAIR TEPPER: Thank you.

15 Mr. Bridges.

16 MR. BRIDGES: Thank you, Madam Chair. Wes  
17 Bridges, General Counsel of the School Board of  
18 Polk County. Again, I appreciate the opportunity  
19 to respond. We saw the -- I saw the motion on the  
20 screen of my iPhone I guess about three o'clock  
21 yesterday afternoon. And I understand where  
22 Mr. Arnold is coming from.

23 Unfortunately, the applicant in this case,  
24 Discovery High School, put this matter at issue  
25 not in their application but in their interview

1            questions. And you'll see in the record the  
2            interview questions where the district asked for  
3            clarification regarding how they were going to  
4            meet their staffing plan, and they indicated that  
5            they were going to do it by sharing staff with the  
6            Discovery Academy of Lake Alfred below. As our  
7            part of our due diligence, our consultants who ran  
8            the process, logically went and reviewed this  
9            report, the SPAR report, to discover whether or  
10           not they had adequate staff to do that. She is  
11           here to address questions you may have about the  
12           process.

13           But the school, the applicant, put that into  
14           issue themselves. And I think in the theory of  
15           law and public policy to suggest that if they wish  
16           to raise that as something that was not in their  
17           application and was not considered by the School  
18           Board to start with, that it's only appropriate to  
19           allow the district the opportunity to respond to  
20           that. And I think once again, that it is in the  
21           nature of appeal and not a trial proceeding with  
22           sworn testimony, but it is clearly within the  
23           purview of the Commission to make inference --  
24           reasonable inferences from the facts as deduced  
25           and I don't think there's any dispute as to the

1 accuracy of the information that was provided to  
2 you.

3 We also have Ms. Mace here, who will be able  
4 to talk to you about specific problems with the  
5 staffing plan and to discuss with you those  
6 figures. But I think that fairness would require,  
7 to the extent that the applicant is allowed to  
8 discuss things that were not in their application  
9 and were added after the fact, that the district  
10 should have the opportunity to review those.

11 CHAIR TEPPER: Thank you.

12 Mr. Arnold.

13 MR. ARNOLD: Thank you, Ms. Tepper.

14 If the SPAR report was -- if there was some  
15 research that was done, it was never presented to  
16 the Board. There's no indication of it being in  
17 the Board backup, the transcript of the hearing or  
18 anything like that and, therefore, we would say  
19 that that's not -- that's true.

20 In addition, this is not uncontroverted  
21 evidence. We would have a response. We would  
22 deny the conclusions that are in it. So this  
23 isn't uncontroverted evidence that can just simply  
24 slip through. This is evidence that's being added  
25 after the fact, after the consideration of the

1 vote by the Board and has been put into the  
2 appeal. That is why it's objectionable. That's  
3 why due process would be violated if it was  
4 considered by the Appeals Commission this morning.

5 CHAIR TEPPER: Thank you.

6 So I'm prepared to rule on the motion to  
7 strike. The motion to strike is granted. The  
8 Members of the Charter School Appeal Commission  
9 should not consider those documents contained as  
10 Exhibit 6 in the response of the School District  
11 in their response to the appeal.

12 So that brings us to Issue 1 -- pardon me --  
13 that brings us to opening statements. So each  
14 side will have ten minutes. I'll let you know  
15 when you have a minute left and then I'll let you  
16 know when your time is up. We always start with  
17 the charter school.

18 Please identify yourself at the microphone  
19 the first time. Please don't talk over each  
20 other, the court reporter is trying to take  
21 everything down. If you talk over each other,  
22 I'll stop you and ask you to begin again.

23 So the charter school has ten minutes.

24 MS. GROSS-ARNOLD: Thank you, Ms. Tepper. My  
25 name is Melissa Gross-Arnold with the Arnold Law

1 Firm. Madam Chair, Members of the Appeals  
2 Commission, I'm here on behalf of Discovery High  
3 School. With me today also, as you just heard, is  
4 my co-counsel, Shawn Arnold. But we also brought  
5 a team of the folks who were involved with  
6 drafting the charter application for Discovery  
7 High School. One of those is Cara Fulks. She's  
8 the Executive Director of the Discovery Academic  
9 of Lake Alfred.

10 And you'll hear a lot about this school.  
11 It's an existing conversion charter school in Polk  
12 County. Ms. Fulks has been the Executive Director  
13 and was formerly the principal there for nearly 20  
14 years. She was the principal there before it was  
15 converted to a charter school in 2001.

16 In addition to Ms. Fulks, we have George  
17 Miarecki. He's a CPA. He started out in 2001 as  
18 an auditor for charter schools, primarily in Polk  
19 County. He then opened a practice working  
20 specifically with charter schools and so some of  
21 you might be familiar with his work in Osceola and  
22 Orange, Polk, as well as Duval working for charter  
23 schools.

24 Two additional people on the team are Mark  
25 Hastings and Beth Fontaine. Mark Hastings is the

1 Math Teacher Coach at DALA. That's the other name  
2 you'll hear. You'll hear Discovery Academy of  
3 Lake Alfred and you'll hear DALA, one in the same.

4 DALA is a middle school. And as you know,  
5 some middle school students learn high school  
6 classes. So as the Math Teacher Coach,  
7 Mr. Hastings also works in training teachers in  
8 grade levels six through ten. And then Beth  
9 Fontaine is the Literacy Coach for DALA.

10 Mr. Hastings and Ms. Fontaine were the  
11 co-SACS Accreditation Chair for DALA when they got  
12 their SACS Accreditation renewed just recently.

13 Just as a factual background, as I said, the  
14 team that put together this application for  
15 Discovery High School is from DALA. It's an  
16 existing middle school. It's been around for 14  
17 years in Polk County. It was a natural extension  
18 of this middle school to increase to a high  
19 school. There have been requests about it for  
20 years.

21 They originally sought to amend their charter  
22 application just to add grades. That would be a  
23 logical extension. But Polk does have a policy  
24 that they look for a new charter application for  
25 high school grades, and that's what this is. This

1 is the new high school application. They wanted  
2 to put together an application that was specific  
3 to Polk, and you will see that here.

4 While they meet the legal requirements, you  
5 will see a lot of differences here in this  
6 application from applications you might see in  
7 your own districts. Polk, just as any district,  
8 is unique and they have unique ways of doing  
9 things, and that has to be taken into context when  
10 you look at budgeting and a way that the school is  
11 organized.

12 They chose to organize as a separate  
13 corporation. This is very common in the charter  
14 school world. It is done to protect from  
15 liability, to make it more clear what is one  
16 corporation and what is the other. But the same  
17 Board Members are going to serve on both Boards.  
18 And that is very typical as well, especially when  
19 you have an existing school with experienced Board  
20 Members who know the charter school world, they  
21 know their rights and their responsibilities as  
22 Board Members.

23 The other thing to remember is that in Polk,  
24 there are other schools that are organized this  
25 way. The McKeel Schools come to mind. They were

1 originally organized as separate corporations with  
2 same Board Members, although, they're not the same  
3 legal entities. Very conservative start, 50  
4 students to start, very small start, 50 to 125,  
5 and then going to 400 after five full years.

6 They did go to an applicant interview and  
7 were asked questions, as you heard Mr. Bridges  
8 refer to. They were provided -- they provided  
9 clarification and answers to those questions. And  
10 when they saw the evaluation instrument from the  
11 Review Committee, they were disappointed. They  
12 thought that their clarifications that they  
13 provided hadn't been considered by the Review  
14 Committee and so they provided a response to the  
15 initial evaluation instrument.

16 And you'll see in Exhibit 8 to our appeal the  
17 transmittal email from district staff member Brian  
18 Warren to the School Board Members with that  
19 evaluation instrument response that the school  
20 provided.

21 Now, the evaluation instrument response  
22 wasn't additional application material. It was  
23 clarification, it was explanation. But it was  
24 absolutely provided to the School Board Members.  
25 It was copied to their attorney, Mr. Bridges,

1           you'll see that on the email that we provided as  
2           part of the record. There was no response to that  
3           saying that it wasn't considered. And you have  
4           the transcripts for all the meetings before the  
5           School Board, and nowhere in the transcripts is it  
6           stated that the response to the evaluation  
7           instrument was not considered.

8                        So the standard on appeal, you all have heard  
9           appeals before, you're very familiar with it, and  
10          it requires that there be a demonstration that  
11          there was no competent and substantial evidence or  
12          a good cause basis for denial and good cause -- is  
13          that good cause statutory basis?

14                      Now, you'll hear some things today that we  
15          would claim are not statutory. One of them has to  
16          do with an MSID number. We have verified, as you  
17          can see in our appeal, that there is a new MSID  
18          rule and it was effective last year. But MSID  
19          numbers have been issued to co-located schools  
20          since the effective date of that rule.

21                      We have checked with the Department of  
22          Education about their interpretation of their own  
23          rule. And when there is a charter school with a  
24          separate charter contract, a separate MSID is  
25          given. So we would contend it is not a matter for

1 your determination this morning, but wanted to let  
2 you know that that is something that has been  
3 verified and would not be an issue for this  
4 charter school getting a separate MSID.

5 So the district has discussed in their  
6 response the ability to correct, the ability to  
7 make additions to a charter application. And this  
8 is an issue that all districts face. First, you  
9 don't want the applicant to keep adding and adding  
10 and adding, but you want to ask them questions  
11 about the application so you can further explore  
12 what they meant, their capacity, but then their  
13 answers. Is it a substantial change when they  
14 answer or is it just a clarification? I would say  
15 that in this instance, what was provided back to  
16 the School District was clarifications and  
17 corrections of editorial and non-substantive  
18 issues that are allowed by law.

19 The district does have a policy that says  
20 they won't consider additional information. But  
21 as you can see, they did accept something, whether  
22 it's additional information or not, they accepted  
23 it, it was before the School Board at the time of  
24 their decision.

25 There are several reasons in the denial as to

1 education plan. As to education plan, the  
2 district says that it does not believe this  
3 charter applicant will comply with the ESE  
4 requirements because it doesn't have enough ESE  
5 teacher, ESE coordinator or ESE services.  
6 However, again, this is where you have to remember  
7 that in Polk, there are different ways of  
8 presenting budgets. And in Polk, the IDEA money  
9 comes directly to the school per student. The  
10 IDEA funds are not part of the operational budget  
11 because the ESE facilitator and the ESE services  
12 are provided through those IDEA funds. You will  
13 see in the assumptions to the budget a reference  
14 to those IDEA funds.

15 The district also talks about expulsion and  
16 dismissal. The school clearly did not say that it  
17 would expel students. There is clearly an  
18 allowance for charter school to dismiss as long as  
19 they have the procedures. This school based its  
20 dismissal policy on the existing DALA policy  
21 that's been approved by the district.

22 The organizational plan we'll be covering in  
23 detail. And as I said, the organizational plan is  
24 one that is used in the district and is used by  
25 charter schools across the state. Again, not

1 competent and substantial evidence to support a  
2 denial.

3 There's a lot of discussion about lack of an  
4 adequate staffing plan. And that's where  
5 Ms. Fontaine and Mr. Hastings will give you  
6 additional information on how the two teacher  
7 units can be used to support this school. In  
8 full, our contention is that there was not  
9 competent and substantial evidence or a good cause  
10 basis to support this denial and we respectfully  
11 ask for you to recommend that the appeal be  
12 granted.

13 CHAIR TEPPER: Thank you.

14 Mr. Bridges, you have ten minutes.

15 MR. BRIDGES: Thank you.

16 Greetings from Superintendent Kathryn LeRoy.  
17 She was not able to be here today because of prior  
18 commitments. But she did send as her envoy our  
19 Deputy Superintendent Jackie Byrd. With her we  
20 have Assistant Superintendent John Small. His  
21 title is 12 or 15 lines long, but it falls under  
22 the heading of multiple pathways. And he is now  
23 the Assistant Superintendent with oversight of our  
24 Choice Program.

25 We have our Budget Director Pennie Zuercher,

1 who is prepared to talk about the money issues  
2 that we have with the application. We have our  
3 Charter School Director I would like to introduce  
4 to you, Melissa Brady.

5 Melissa is new to -- well, she is returning  
6 to our district. She had her start in charter  
7 schools in Polk County with McKeel Academy. She  
8 has spent a number of years with Lockheed-Martin  
9 and recently returned to us and has hit the ground  
10 running and is doing a bang-up job for us. But  
11 because she is a recent addition to the district  
12 and because about the time we had charter  
13 applications set to come in, our former Charter  
14 School Director was, I guess, promoted, he was  
15 transferred to be our Director of Human Resources,  
16 and we did not have staff in-house.

17 We were able -- we were fortunate enough to  
18 contract with Vicki Mace, who you may recall has a  
19 history in public charter schools with Brevard  
20 County, Florida, and I think most of you may have  
21 met Vicki before. And Vicki came and helped us  
22 with our application review process and is  
23 shepherding us through the appellate process as  
24 well. So we are very grateful to have her here.

25 I am sorry to be here today, but I'm very

1 happy to see you. Anytime we're up here, that  
2 means that we have reached a point in our district  
3 with a charter applicant where we're not seeing  
4 eye to eye anymore and we need your assistance in  
5 helping to resolve our issues.

6 Polk County has a bunch of charter schools  
7 for its size. We're a rural county, but we have  
8 25 charter schools up and running, and many of  
9 them are doing very, very well. I think that  
10 we've got a pretty good reputation for having a  
11 rigorous application process and a good track  
12 record of approving good applications and  
13 disapproving applications that were perhaps not as  
14 strong as they needed to be in order to open as  
15 public charter schools in Florida.

16 We have had -- we've had a few charter  
17 schools that we've closed and a few that we had to  
18 close. Those are largely within schools that were  
19 initially denied by the district but were  
20 subsequently ordered to open. And we believe that  
21 lends credence to the idea that the local School  
22 District should be given some weight and  
23 discretion in reviewing charter school  
24 applications.

25 What this application is is an application

1 for a start-up charter school, a standalone  
2 school. And as such, the application has to stand  
3 on its own legs. It has to sink or swim on its  
4 own merits. And it has to demonstrate the  
5 proposed school has the appropriate facilities,  
6 staff, programs and operational capabilities and  
7 that it can pay for itself.

8 What this application is not is a replication  
9 of a high-performing charter school and it is not  
10 an application to create a statutory charter  
11 school system, which we do have in Polk County,  
12 but this application is not presented that way.  
13 And it is not a roll-up amendment to add  
14 additional grades to an existing charter school.

15 Ms. Arnold indicated, in Polk County, the  
16 process for that, if you're adding a completely  
17 different grade structure, is to apply for a new  
18 charter school. And it makes sense because that  
19 also gives you the opportunity to compete for  
20 start-up funds. And we know that when schools  
21 start up, the revenue stream is always a big  
22 issue.

23 Unfortunately, when you read the application  
24 in conjunction with the appeal, it is apparent  
25 that while the application was submitted under the

1           guise of a start-up charter school, it really is a  
2           roll-up charter school application that relies  
3           heavily on the resources, the facilities, the  
4           staff and the revenues of an existing charter  
5           school. Really when you -- do you remember the  
6           old one about, you know, walking like a duck and  
7           quacking like a duck? This application, while the  
8           applicant would like for it to be considered as a  
9           standalone, the problem is when you read the  
10          application in conjunction with the appeal, it  
11          doesn't. It really is -- when you strip away the  
12          trappings, it is an effort to roll up from the  
13          existing conversion charter school. This would be  
14          a start-up charter school using facilities and  
15          staff, capital resources and operational resources  
16          of an existing conversion charter school.

17                 In 2015, all that's required to obtain an  
18                 example of high quality charter school application  
19                 is by a request. So it's a little bit of a  
20                 surprise when we get an application that is as  
21                 thin as this one appeared to be to us,  
22                 substantively speaking.

23                 Each charter school application needs to be  
24                 individualized, it needs to be customized, it  
25                 needs to be unique to the particular application.

1 But we know what a budget looks like. We know  
2 what an application looks like. We have a model  
3 application and it sets out things that you're  
4 looking for.

5 So with that said, I would like to walk you  
6 through some of the high points of what we saw  
7 when we reviewed this and hopefully we'll do that  
8 without getting all the way through our ten  
9 minutes. How far am I into that?

10 CHAIR TEPPER: You have three minutes.

11 MR. BRIDGES: Oh, well, in that case, I will  
12 speed up.

13 We did have issues with the staffing plan and  
14 we have folks who will be happy to talk to you  
15 about that. Money-wise, we don't have food for --  
16 we don't have money for food service, it's not  
17 budgeted, it's not there. When it comes to  
18 exceptional student education, the indication is  
19 that they're going to serve -- provide services  
20 for three ESE students. There is no budget for  
21 it.

22 And I would respectfully disagree with  
23 Ms. Arnold concerning different ways of budgeting,  
24 and I think Ms. Mace and Ms. Byrd will be prepared  
25 to talk about what was in the budget and talking

1 about the ESE funds were not going to be  
2 considered. But it is not budgeted and they don't  
3 have the resources below if they wanted to share  
4 that with the school.

5 They want to have two teachers to serve 50  
6 high school students. The obvious way you get  
7 there is by dividing the number of students by the  
8 number of students that are allowed in a high  
9 school class, which is 25, and you come up with  
10 two. The problem is in high school, those  
11 teachers have to be certified and qualified in  
12 core subjects to teach high school.

13 Further, their staffing model indicated --  
14 their application indicates that they're going to  
15 provide advanced placement and advanced courses  
16 and STEM courses and very expensive programs.  
17 They've got a long litany of elective courses.  
18 They don't have the teachers to do that. Two  
19 teachers -- two teacher units will not do it.

20 Their ESE piece says that they want to --  
21 they were going to rely on guidance counselors and  
22 ESE teachers. They don't have any. They don't  
23 budget for them at all in the first two years.  
24 And when we get into the budget, you'll see as we  
25 get down the road they budget for .125 of a unit

1 for ESE. We don't have the budget for the  
2 counselor. They plan on sharing administrators.  
3 They talk about having a separate director. The  
4 budget doesn't allow for it.

5 We'll get into the issues about dismissal.  
6 We will get deeply into the issues about budgeting  
7 and staffing. But at end of the day, the money  
8 doesn't work here. And we understand there's a  
9 lot of flexibility in getting the school up and  
10 running, but if you don't have the money and you  
11 can't pay for what you are proposing in the  
12 application, you can't succeed.

13 CHAIR TEPPER: Thank you.

14 So that brings us to Issue 1, which is  
15 whether the applicant's educational plan failed to  
16 meet any of the following standards: Exceptional  
17 students and school climate and discipline.

18 So the charter school has three minutes on  
19 Issue 1.

20 MR. HASTINGS: Good morning. My name is Mark  
21 Hastings. I'm here on behalf of Discovery High  
22 School.

23 In the educational plan section of our  
24 application, the Polk County School Board denied  
25 us on a basis of our guidance and ESE departments,

1 as well as our dismissal procedures. The first  
2 issue I will speak on is the lack of a sufficient  
3 guidance department.

4 As noted in our budget on pages 209 through  
5 212 and on page 234, the maximum guidance to  
6 student ratio occurs in year one. However, this  
7 ratio is in line with the ratios found at the  
8 county high schools. As enrollment expands, DHS  
9 intends to gradually increase the guidance  
10 department and intends to have a guidance to  
11 student ratio of one to 300 at capacity. This  
12 ratio is significantly lower than most Polk County  
13 high schools and will account for the additional  
14 guidance services needed.

15 The next area of concern was our ESE program.  
16 DHS, intends to share ESE staff with our partner,  
17 Discovery Academy. This is not a violation of  
18 statute to share staff and resources.

19 In the first two years, we will allot a  
20 contingency found within the teacher salaries  
21 portion of the budget to support any ESE classroom  
22 teachers. This is found on page 210 of the  
23 budget.

24 In the years following, we allot specific  
25 funds because we anticipate our ESE population to

1 grow. In both cases, we will rely on Discovery  
2 for the first two years. After the first two  
3 years, we will be able to operate independently  
4 and with our own budget. Our budget does show  
5 fund balances in all years and it does not require  
6 funds from Discovery to operate our program.

7 For our ESE facilitator and contracted  
8 services, we will use IDEA funds. In our  
9 experience, IDEA funds have been sufficient to  
10 support these services because Polk County  
11 provides a per student allowance. It is also  
12 common practice in Polk County to account for IDEA  
13 funds on a separate budget, which is why they were  
14 not accounted for in the operating budget  
15 submitted.

16 The final allegation was related to our  
17 dismissal policy. The county alleges that we  
18 intend to expel students from the public school  
19 system. Throughout our charter, we reference our  
20 potential dismissal procedures, specifically in  
21 Appendix G. An attempt to develop expulsion  
22 procedures was never made and we would like it  
23 noted for the record that we recognize the  
24 district as the only body capable of expelling a  
25 student from the public school system.

1           The county also indicated the lack of a  
2           separate dismissal policy for ESE students. In  
3           our experience, a separate contract for ESE  
4           students is not customary.

5           We also explain in our charter on page 57  
6           that DHS will follow all federal, state and local  
7           policies and procedures regarding students with  
8           disabilities. Through this statement, DHS is  
9           bound to follow all ESE procedures.

10          CHAIR TEPPER: Your time is up.

11          MR. HASTINGS: Perfect.

12          CHAIR TEPPER: Mr. Bridges, three minutes on  
13          the first issue.

14          MR. BRIDGES: Yes, ma'am. I think I'm going  
15          to invite Ms. Mace to come up and speak to that.

16          MS. MACE: Good morning. My name is Vicki  
17          Mace.

18                 When we look at the ESE, the applicant  
19                 obviously on page 61 says that we will hire or  
20                 contract an ESE facilitator to handle all student  
21                 IEPs. They also state they will provide contact  
22                 services.

23                 If you look at the budget, there's absolutely  
24                 no budget for an ESE teacher. There's no budget  
25                 for ESE services. Actually, when they do start

1 budgeting for ESE services in year three \$87, year  
2 four \$133, year five \$180. When you have children  
3 who need speech services, PT, OT, those kind of  
4 budgeted amounts, even when they do budget, are  
5 not sufficient to cover ESE services.

6 They talk on Exhibit 7 we provide examples of  
7 all the places that they say they're going to have  
8 a guidance counselor. It's a really important  
9 component of their educational plan, yet there is  
10 no allocation. There's a supplement. But when  
11 you look at the budget, they're only budgeted  
12 \$90,000, and that's for two core teachers. It  
13 doesn't include any of your electives and it  
14 doesn't include any of their ESE teacher. So it  
15 doesn't tell us -- when you look at IDEA funding,  
16 they talk about IDEA funding in the appeal. But  
17 if you look in the application, they don't address  
18 how they're going to use IDEA funding to look at  
19 any of their deficits.

20 They say they have fund balances and it's not  
21 an issue and that everything will be okay because  
22 they have plenty of money in the end. But if you  
23 look at the things that they promise in the  
24 application, ESE services, an ESE facilitator, a  
25 guidance counselor, if you look at those things

1 and you make them whole -- and I can give you the  
2 figures -- they're not going to have a balanced  
3 budget. They're actually going to be in the hole.

4 And when we look at the dismissal issues,  
5 it's obvious from their family contract that  
6 they're going -- they state that they can  
7 immediately dismiss a child. I know that they do  
8 have provisions, but they say they're going to go  
9 through a process, that they are going to give due  
10 process to the parents. But it states in many  
11 cases -- and I can get into more detail -- that  
12 they're going -- they have the capability to  
13 immediately dismiss. They don't even  
14 differentiate whether or not this would even be  
15 for an ESE student, which we know have procedural  
16 rights and cannot be immediately dismissed.

17 So to me when you look at their contract,  
18 they say they're going to dismiss children for  
19 excessive tardies, for behavior, for policy,  
20 uniforms, things that we should embrace for our  
21 children if we're going to have a charter school  
22 with all of those things that they're going to  
23 have, the STEM and the exceptional programs that  
24 they're going to offer, then it seems like to  
25 immediately dismiss someone for academics is just

1 not something that we can tolerate.

2 How many minutes left?

3 CHAIR TEPPER: None.

4 MS. MACE: Thank you.

5 CHAIR TEPPER: So that brings us to questions  
6 by Commission Members on Issue 1 regarding the  
7 school's educational plan. Are there questions?

8 MS. BRUBAKER: I have one.

9 CHAIR TEPPER: Cathy.

10 MS. BRUBAKER: They had stated that you had  
11 already accepted the dismissal policy for the  
12 middle school. Has that been accepted as part of  
13 the other contract with the district?

14 CHAIR TEPPER: For the school or for the  
15 district?

16 MS. BRUBAKER: I guess for the district.

17 CHAIR TEPPER: Okay.

18 MS. BRUBAKER: I'm sorry.

19 MR. BRIDGES: I cannot speak concretely to  
20 the dismissal procedures at the lower school. I  
21 believe that if that is in fact happening, that's  
22 something that we need to address with Discovery  
23 Academy of Lake Alfred, that they should not be  
24 dismissing students on that basis.

25 CHAIR TEPPER: Ms. Fulks.

1 MS. FULKS: I think the issue probably is the  
2 word "immediate dismissal" because all through our  
3 application, we talk about probation for students  
4 who violate any of the areas of concern and as  
5 part of our guidelines in the student section.

6 And to answer your direct question, our  
7 contract did specify the same wording for the  
8 middle school, and it's been in effect for several  
9 years.

10 CHAIR TEPPER: Does that answer your  
11 question?

12 MS. BRUBAKER: Yes.

13 CHAIR TEPPER: Okay. Go ahead, Jenna.

14 MS. HODGENS: So the question is for the  
15 district. Has the district had problems with  
16 students being dismissed from the middle school  
17 based on the dismissal policy they're currently  
18 using? I mean, has there been kids dismissed, has  
19 this been an issue in this school that's already  
20 running?

21 MR. BRIDGES: I don't know and I don't know  
22 that we would know. We would know if they sent a  
23 recommendation for an expulsion to the School  
24 District. But if they are dismissing students and  
25 the students simply come and enroll in a regular

1 public school, we would have no way of knowing  
2 that they have been dismissed from the charter  
3 school.

4 CHAIR TEPPER: Ms. Fulks.

5 MS. FULKS: For clarity, our only immediate  
6 dismissals are for serious breach of conduct, and  
7 that is listed in our policy for the student  
8 expectation. Otherwise, we put students on  
9 probation and work with them and their family to  
10 resolve their issues. It might be either for  
11 academics, attendance or behavior.

12 MS. HODGENS: May I?

13 CHAIR TEPPER: Yes.

14 She has another question.

15 MS. HODGENS: Okay. Can I ask you, since you  
16 run the middle school, how many students you've  
17 dismissed currently this school year? It doesn't  
18 have to be exact, but give me an approximate.

19 MS. FULKS: Maybe one for a serious breach.  
20 But no recommendations for expulsion. And we do  
21 have some students on probation who are starting  
22 to make progress.

23 MS. HODGENS: So one student was dismissed  
24 this school year?

25 MS. FULKS: That's an estimate.

1 MS. HODGENS: Okay.

2 CHAIR TEPPER: Other questions by Commission  
3 Members?

4 Richard.

5 MR. MORENO: Yeah, I have one here for the  
6 district. One of the things that's being  
7 mentioned is that there's enough resources in the  
8 budget to justify the ESE. Now, you have right  
9 here basically a first year projection of 50  
10 students, which I find extremely conservative  
11 since you have 300 eighth-graders. I mean, I  
12 guess if you add 250 to those somewhere else.

13 But looking at that, let's say your  
14 average -- I don't know the exact average of ESE  
15 students in Polk, but let's say it's a state  
16 average around 10 percent. So that means you  
17 would have five ESE students. So what the  
18 district is saying is that to service five ESE  
19 students, that means you're going to need to have  
20 one full-time professional.

21 And I look at the budget, and I know you  
22 mention that there was nothing, there's \$5,600 for  
23 guidance counselor in the first year. Wouldn't  
24 that be enough to service those five kids?

25 MS. MACE: I guess addressing the first

1 concern is that when you read an application and  
2 you look at all the things they say they're going  
3 to do, immediately we create a list. They say  
4 they're going to have a director, that their  
5 Governing Board is going to have a director. They  
6 say they're going to have an ESE teacher. They  
7 say they're going to have contracted services.  
8 Even if they were to share with DALA ESE, they  
9 don't have any contracted services for the first  
10 two years, so that means there's an additional  
11 burden to the finances for the existing school.

12 So when you read their application, you have  
13 to take it on the merit of the fact that they say  
14 they're going to do these things. When they say  
15 they're going to do them, you go through their  
16 budget and you look to see if it's feasible.

17 The supplementary thing on the Governing  
18 Board -- I'm sorry -- you said the guidance  
19 counselor?

20 MR. MORENO: Yeah. \$5,600 there is set up  
21 for salaries for guidance.

22 MS. MACE: Okay. But they say in several  
23 places, and if you look on Exhibit 7, all the  
24 places and all the responsibilities of a guidance  
25 counselor. So for 50, they say they're going to

1 have a guidance counselor. I'm just saying what  
2 the application says. But when you look at their  
3 budget, they only list it as a supplement.

4 So we're looking -- if they tell us they're  
5 going to have a guidance counselor to do all of  
6 the things that they're going to do on Exhibit 7,  
7 then we're looking for a guidance counselor in  
8 their budget.

9 And in response to the IDEA, if you look back  
10 through the application, they don't talk about  
11 adding money to the IDEA later to make this right.

12 And also the point I want to bring up, too,  
13 if you look at the revenue sheets, they include  
14 money for exceptional education services in their  
15 revenue sheets, but yet they're not providing any  
16 budget for their ESE teacher or contracted  
17 services. So they're using it as a revenue  
18 source, but they don't have any expenses for that  
19 money.

20 MR. MORENO: But I've seen in schools  
21 where -- we've worked with several schools of that  
22 size in different counties that have -- let's say  
23 they're starting up with one or maybe two grades  
24 of high school in very similar situations. And  
25 what you do is your teachers are cross-certified,

1 I think that probably you would encounter because,  
2 I mean, the level -- you're not going to have one  
3 full-time teacher for five kids, that's just a  
4 waste of taxpayer dollars, going back to what you  
5 say in the application.

6 And I think, you know, this is a very  
7 conservative number of enrollment based on the  
8 demand of the middle school because you have that  
9 number, so I think it becomes an election to  
10 support the kids going forward. So I think it --  
11 you know, we're looking -- I know we have to look  
12 at this as a vacuum, try to do that as a vacuum,  
13 but I think you have pretty significant resources  
14 from the middle school.

15 MS. MACE: If you want to ask DALA -- I don't  
16 know, I'm just going by public record, looking up  
17 their website page -- but I think they only have  
18 one ESE teacher, and they have a lot of students.  
19 So they're going to now have that one ESE teacher  
20 and go ahead and share it with an additional  
21 school, additional students. They don't go to a  
22 full-time guidance counselor until, I think, year  
23 five.

24 CHAIR TEPPER: Would the school like to  
25 address this? We would like to hear from the

1 school and then Jenna.

2 MR. HASTINGS: I'll first address the  
3 guidance counselor issue. You know, we basically  
4 came up with these projections based on ratios.  
5 It is true right now that in the first year, we  
6 have a supplement allotted for guidance counselor.

7 You mentioned \$5,600. That equates to .125  
8 of a teacher per guidance counselor unit, and that  
9 would be for 50 kids. If you do the math on that,  
10 that comes out to a ratio of one to 400. And a  
11 one to 400 guidance ratio, especially in grade  
12 nine, we feel is very reasonable.

13 Currently right now at Discovery, we have  
14 three guidance counselors, all of whom have a  
15 guidance ratio of under one to 400, so they would  
16 easily be able to assume the initial Discovery  
17 High School students until such time we have a  
18 student population that can support full-time  
19 guidance counselors.

20 If you follow the line items on the budget --  
21 and we can turn to page 234 if you would like to  
22 see the line items. That's actually the salary  
23 matrix that we use, and that's Exhibit 3,  
24 page 234.

25 CHAIR TEPPER: We'll get deeper into the

1 budget as we go through this.

2 MR. HASTINGS: Okay. Just as you can see as  
3 it goes across, we gradually increase the number  
4 of guidance counselors. And in year five when we  
5 have 400 students, we're allotting two full-time  
6 paid guidance counselors as paid for by the high  
7 school. That's a one to 200 ratio.

8 I know the county has alleged that we're not  
9 going to be able to provide the additional  
10 services that we're offering, but that is about  
11 half the ratio that the county currently uses.  
12 They usually run about one to 400. We're looking  
13 at between one to 200 and one to 300. So we feel  
14 that the lower student count will help us provide  
15 those services.

16 As for the ESE population, we base our high  
17 school ESE population on Discovery Academy, and  
18 that is noted in Section 6 of our application.  
19 Currently if you do look at the FEFP worksheets,  
20 we have three ESE students allotted the first  
21 year. Now, obviously that could potentially  
22 fluctuate. We do have sufficient reserve funds  
23 allotted in our teacher salaries, as well as our  
24 bottom line, to support any ESE teachers that we  
25 may need to hire.

1           As for the ESE facilitator and the ESE  
2           contracted services, it is customary that the IDEA  
3           budget would be used to pay for those services.  
4           And, again, as I stated, at Discovery, the IDEA  
5           funds have always been sufficient to cover those  
6           two specific services.

7           CHAIR TEPPER: We're going to go to another  
8           question.

9           MR. HASTINGS: Okay.

10          MS. HODGENS: So that's my question, how many  
11          students do you have that are ESE at DALA and how  
12          many ESE teachers and ESE facilitators do you have  
13          at DALA?

14          MR. HASTINGS: Currently right now, our rate  
15          runs at about 5 percent. And that is noted in our  
16          application, Section 6. Right now the population  
17          of DALA is around 1,040. So doing the math,  
18          between 50 and 53.

19          Currently we do have services for math and  
20          language arts, as well as an ESE -- full-time ESE  
21          facilitator. So it is well within the capability  
22          for that staff to be able to handle three to ten  
23          additional students in the first few years.

24          And then obviously, as we stated, as our  
25          enrollment expands, we do a lot more funds for ESE

1 teachers and we would expect our IDEA budget to  
2 grow as well, which would account for the  
3 additional facilitator and contracted services.

4 MS. HODGENS: Okay. So I still didn't get  
5 the answer to my question. You said you think you  
6 have 53 students, which I would expect you would  
7 know how many, but could you tell me how many  
8 teachers you have, ESE teachers?

9 MR. HASTINGS: Correct. We have an ESE math  
10 teacher.

11 MS. HODGENS: Okay.

12 MR. HASTINGS: Which is specifically designed  
13 for the ESE math students.

14 MS. HODGENS: Full-time?

15 MR. HASTINGS: Full-time.

16 MS. HODGENS: Okay.

17 MR. HASTINGS: She also serves as our  
18 facilitator.

19 MS. HODGENS: Okay. So she does two jobs?

20 (Multiple speakers.)

21 CHAIR TEPPER: Just a second.

22 DR. BERNIER: I'm just thinking out loud,  
23 sorry.

24 CHAIR TEPPER: Mr. Hastings.

25 MR. HASTINGS: Yes.

1 CHAIR TEPPER: If they're speaking to you,  
2 the court reporter can't hear that.

3 MR. HASTINGS: Okay.

4 CHAIR TEPPER: So either don't ask questions  
5 or when they answer, they need to say it at the  
6 microphone so we can all hear.

7 MR. HASTINGS: Okay. We also have inclusion  
8 services for our language arts ESE students.

9 MS. HODGENS: So is that one teacher that  
10 does the inclusion services or how many teachers?

11 MR. HASTINGS: She does come in and works  
12 with the regular education teacher in the regular  
13 education section. So essentially there's two  
14 people servicing the students at one time.

15 CHAIR TEPPER: And you have two ESE teachers,  
16 two full-time ESE teachers or one?

17 MR. HASTINGS: The math teacher is the math  
18 ESE teacher as well as the ESE facilitator, so she  
19 serves in a dual role at the school. As the  
20 facilitator, she would serve all 53 students for  
21 their IEP needs. She specifically works with the  
22 math students for their IEP needs within the  
23 classroom setting.

24 CHAIR TEPPER: So one?

25 MR. HASTINGS: Correct.

1 CHAIR TEPPER: And what about language arts?

2 MR. HASTINGS: Language arts we do have one  
3 person that does come in on a half-time basis to  
4 work with those students that are specifically  
5 served in language arts. She does not work with  
6 any of the math students. But she does not have  
7 any role within the facilitator role. That's  
8 specifically the math ESE teacher.

9 CHAIR TEPPER: Okay.

10 MS. HODGENS: So 1.5?

11 CHAIR TEPPER: 1.5?

12 MR. HASTINGS: Yeah, that would be a good  
13 number to draw from.

14 MS. HODGENS: That's all I wanted to know.

15 CHAIR TEPPER: Chris.

16 MS. HODGENS: Thanks.

17 DR. BERNIER: Of that person who is the .5,  
18 what are their credentials? I didn't hear us call  
19 him or her a teacher. What are the credentials?  
20 I understand the math person and the facilitator.  
21 What's the .5 person's credentials?

22 MR. HASTINGS: Would you like to answer that?

23 CHAIR TEPPER: Ms. Fulks.

24 MS. FULKS: ESE certification and language  
25 arts.

1 DR. BERNIER: ESE and language arts  
2 certification?

3 MS. FULKS: Correct.

4 And just to clarify your other point, I  
5 believe we have a total of -- I'm just trying to  
6 recall from memory -- 78 ESE students, some of  
7 those ESOL. So the direct services for those, the  
8 difference in the two.

9 CHAIR TEPPER: Chris.

10 DR. BERNIER: I had a follow-up question of  
11 the other position now then. So the math person  
12 who is certified in math is working full-time and  
13 then consulting on the IEPs? Is a cooperative  
14 consultation model? How are those students not  
15 serviced in math -- or how does she service all  
16 the kids in math and then service the kids in  
17 their other subjects?

18 Because just thinking of a specific learning  
19 disabled child, it would be very, very specific  
20 needs within the IEP. I'm interested in how that  
21 process and the services are rendered to those  
22 children?

23 MS. FULKS: Well, it's based on the IEP  
24 whether they need service in that subject or not.

25 CHAIR TEPPER: Can you speak just a little

1 bit louder, Ms. Fulks.

2 MS. FULKS: Okay.

3 CHAIR TEPPER: Thanks.

4 Go ahead, Chris.

5 DR. BERNIER: I understand that. I guess  
6 it's a bad question. My question is how often do  
7 those students and families meet, I guess in a  
8 consultative model, so that progress is checked  
9 related to those IEPs since she's teaching  
10 full-time?

11 MS. FULKS: Well, I think we probably misled  
12 you a little bit. It's the other way around. The  
13 full-time is English language arts, the half-time  
14 is the math and the ESE facilitator, so it's kind  
15 of a switch. So we do have one and a half ESE  
16 certified teachers serving in both math and  
17 language arts. And that need is based on their  
18 IEP on how we serve those.

19 And we do check the consultatives every four  
20 and a half weeks and we meet with those teachers,  
21 you know, not always face to face but certainly  
22 back and forth on progress on the students. So it  
23 is every four and a half weeks, so the mid-grading  
24 period and then at the end.

25 DR. BERNIER: Thank you.

1 CHAIR TEPPER: Osvaldo.

2 MR. GARCIA: To follow up on the same topic.  
3 Out of the 78 students that you have in ESE, how  
4 many of them get direct service and what  
5 percentage then get consultation services?

6 MS. FULKS: I didn't have them divide it by  
7 percentages, but it was, you know, as we laid out  
8 in our plan, 58 are getting served in the  
9 inclusion model in the classroom.

10 MR. GARCIA: So that's consultation?

11 MS. FULKS: And the others are consults,  
12 strictly consults. They are not having classroom  
13 services.

14 MR. GARCIA: The 58 are serviced by an ESE  
15 teacher in direct service or in the inclusion  
16 model which staff makes at the consultation?

17 MS. FULKS: Inclusion model where they're in  
18 the classroom with the other teacher.

19 CHAIR TEPPER: And your plan is to continue  
20 with those two entities for the ESE students that  
21 would be within this 50 new students in ninth  
22 grade?

23 MS. FULKS: Yes. And we predict maybe three  
24 to five students would need to have services.

25 CHAIR TEPPER: Okay. Further questions on

1 the educational plan?

2 MS. BRUBAKER: Yes.

3 CHAIR TEPPER: Cathy.

4 MS. BRUBAKER: There were questions raised  
5 about the level of services offered at the high  
6 school and if you could not offer a certain level  
7 of service at the high school and then if you  
8 didn't, do you work with the district to determine  
9 the best placement for that student, if it would  
10 be a different school or a different environment.  
11 I just wanted to make sure that was legal and  
12 appropriate.

13 CHAIR TEPPER: Ms. Fulks.

14 MS. FULKS: We do have a staffing specialist  
15 assigned to our school. And when those issues  
16 arise, we have a meeting with the staffing  
17 specialist and the IEP team and find the best  
18 placement for those students.

19 MS. BRUBAKER: Has that ever been outside of  
20 your school?

21 MS. FULKS: Yes.

22 MS. BRUBAKER: You place them in another  
23 school?

24 MS. FULKS: Yes.

25 CHAIR TEPPER: I'm going to give the district

1 the last word on this. If you have anything else,  
2 we've been with the school for quite a few  
3 questions. If not, that's fine too.

4 MS. MACE: I was trying to look for it, so I  
5 apologize, but it's either in their application --  
6 I think it's their student application. We had  
7 some concerns what kind of services they were  
8 going to provide because they talk about inclusion  
9 services in the narrative. But in the  
10 application, it actually says consultant program  
11 only.

12 So I just want to raise the question that we  
13 did have concerns because they state that they're  
14 providing two different models. And so that and  
15 the fact that we don't think they have appropriate  
16 services, contracted services, as well as  
17 appropriate staff is our concern that we bring to  
18 you this morning.

19 CHAIR TEPPER: Okay.

20 MS. HODGENS: May I make one more comment?

21 CHAIR TEPPER: Certainly.

22 MS. HODGENS: I guess -- and I have to say  
23 this just because ESE is my background -- but I  
24 saw those things also, Ms. Mace. But I think that  
25 you have to almost look at what was happening at

1 the school already since it is the same group. It  
2 would defy my logic to pretend that this was an  
3 application with people I didn't know and people I  
4 didn't work with within my district.

5 So because I also have situations like this  
6 in Hillsborough where a school applies for a  
7 second school, I guess I just -- I have to ask  
8 those questions about what's already happening,  
9 because if it's appropriate for the kids and they  
10 are being served, then I have to think that some  
11 of the conflicts could be worked out. So I just  
12 have to say that. I'm sorry for the record.

13 CHAIR TEPPER: That's fine.

14 MS. HODGENS: Thank you.

15 CHAIR TEPPER: So further questions or are we  
16 ready for a motion?

17 (No response.)

18 CHAIR TEPPER: Jenna, would you like to make  
19 the motion on Issue 1 and choose did or did not?

20 MS. HODGENS: Yes. I move that the  
21 Commission find that the School Board did not have  
22 competent substantial evidence to support its  
23 denial of the application based on the applicant's  
24 failure to meet the standards for the educational  
25 plan.

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

5 Is there a second?

6 MS. BRUBAKER: I'll second it.

7 CHAIR TEPPER: Cathy.

8 So the motion is the Commission find the  
9 School Board did not have competent substantial  
10 evidence to support its denial of the application  
11 based on the educational plan. If you vote yes,  
12 you are voting for the charter school. If you  
13 vote no, you are voting for the School District.

14 Jackie.

15 MS. HITCHCOCK: Jenna Hodgens.

16 MS. HODGENS: Yes.

17 MS. HITCHCOCK: Cathy Brubaker.

18 MS. BRUBAKER: Yes.

19 MS. HITCHCOCK: Sonia.

20 MS. ESPOSITO: Yes.

21 MS. HITCHCOCK: Osvaldo.

22 MR. GARCIA: Yes.

23 MS. HITCHCOCK: Chris.

24 DR. BERNIER: No.

25 MS. HITCHCOCK: And Richard.

1 MR. MORENO: Yes.

2 CHAIR TEPPER: So you have found that the  
3 School Board did not have competent substantial  
4 evidence to support its denial on this issue,  
5 which means we do not need to do the second part,  
6 and that means that the charter school has  
7 prevailed on Issue 1.

8 That takes us to Issue 2. And I'll give each  
9 side three minutes. But before we do that, I  
10 would like to introduce the Department's new  
11 General Counsel, Matt Mears is in the room.  
12 Matt's been here two whole weeks. We're thrilled  
13 to have him so we invited him this morning to see  
14 what a charter school appeal looks like.

15 MR. MEARS: Thank you. Welcome everyone.

16 CHAIR TEPPER: So Issue 2 is whether the  
17 organizational plan failed to meet any of the  
18 following standards: Governance and management.

19 The charter school has three minutes on  
20 governance and management. Mr. Arnold.

21 MR. ARNOLD: Good morning again. I'll be  
22 providing a brief overview of why there was no  
23 competent substantial evidence for Polk County's  
24 denial of Discovery's organizational plan.

25 The plan was clear, coherent and met the

1 statutory requirements for governance and  
2 staffing. In essence, it's the same as what they  
3 have been dealing with for the past 14 years. The  
4 plan presented DHS as its own separate corporation  
5 which was sharing the same Board and people that  
6 they have been dealing with, as with DALA. This  
7 is not unusual, particularly when you're dealing  
8 with a not-for-profit Board, and certainly  
9 something that is not foreign to charter schools.

10 It is important to remember that the genesis  
11 of the two separate organizations in this was  
12 because of Polk County's policy, which is not  
13 unusual, but it said that it had to be -- could  
14 not amend the existing charter but rather had to  
15 submit a new one.

16 Charter schools in middle and high school  
17 face different issues. Any assertion regarding  
18 Discovery not mentioning that its Board would have  
19 a parent liaison should not be considered as a  
20 statutory reason for denial. Again, there's a  
21 long history with DHS having such with their  
22 middle school. And DHS contends that mentioning  
23 this in their application was not a requirement  
24 under the model evaluation.

25 Further, DHS, again, has the expertise in

1 running the charter school. There has been a  
2 parent liaison on the DALA Board. And finally,  
3 and most important on this issue, is that when  
4 asked about this, they said, well, of course we'll  
5 have one. So, therefore, there really should not  
6 be any further assurances that are needed on this.  
7 And Polk County's assertion that this represents  
8 competent and substantial evidence for a denial is  
9 simply nonexistent.

10 Finally, DHS asserts that its staffing plan  
11 as presented is sufficient. It's similar issues  
12 as the Commission just dealt with a few moments  
13 ago. Members of the team will explain in full  
14 detail and will answer any questions that you may  
15 have on this issue.

16 In conclusion, DHS's organizational plan, we  
17 ask that you find does meet the statutory  
18 requirements and that there was in fact in the  
19 record below no competent substantial evidence to  
20 support the denial of the application based on  
21 this issue. Thank you.

22 CHAIR TEPPER: Thank you.

23 Mr. Bridges, you have three minutes on the  
24 organizational plan.

25 MR. BRIDGES: We're in a difficult position

1 of having to prove the negative here asserting  
2 that there was no evidence to -- that it wasn't  
3 there. And, of course, our assertion is that it  
4 is there.

5 And I would like to just place on the record  
6 that we are here on this application, not on what  
7 the school below, the Discovery Academy of Lake  
8 Alfred can provide. This has nothing to do with  
9 their capabilities. It has everything to do with  
10 Discovery High School's capabilities and their  
11 budget and their ability to pay for it. You still  
12 have to pay for it.

13 The fact that the services and facilities and  
14 capital and facility assets may be available  
15 doesn't mean you get them for free. You still  
16 have to pay for them. It still has to be in the  
17 budget. This is a separate entity.

18 DHS failed to provide a cohesive description  
19 of the legal structure. Their application says on  
20 page 67 and 68 that upon approval of the charter,  
21 the Governing Board of Discovery Academy will also  
22 serve as the Governing Board of Discovery High  
23 School. It's the same Board. A planning team  
24 will be established to maintain oversight.

25 If they plan to use the existing DALA

1           Governing Board, we don't know why a planning team  
2           would have to be established. Furthermore, the  
3           application -- or the applicant stipulates that  
4           the Governing Board will appoint a director who  
5           will oversee the planning process and then does  
6           not budget for a director. It's obvious from all  
7           aspects of the application that Discovery does not  
8           provide adequate funding to hire a director.

9           They provide conflicting information in  
10          describing Board policies and procedures. They  
11          say the Board will focus on formulating sound  
12          financial policies and monitoring all major  
13          financial decisions. The Board will establish  
14          when a Board Membership grows a financial audit  
15          committee to assist in selecting an auditor.  
16          Since the application -- the applicant articulates  
17          it will utilize a valid Board, an established  
18          Board. It's unclear why they would need to  
19          formulate sound financial policies and procedures.  
20          It can't be both, it's one or the other.

21          The conflicting previous two statements.  
22          Discovery specifies on page 88 that they will  
23          utilize established procedures on disbursements of  
24          record keeping.

25          With regard to the facilitator for parental

1 involvement, it's a requirement. We pointed out  
2 that they didn't meet it. But our bottom line is  
3 that, especially to the extent that they don't --  
4 that they're not planning to hire a director and  
5 we can't distinguish between the Governing Boards  
6 whether it's the same one where they're trying to  
7 assist in the charter schools under one Board or  
8 whether they have a separate overhead entity.  
9 It's confusing.

10 CHAIR TEPPER: Thank you.

11 So questions from Commission Members on the  
12 organizational plan of the charter school?

13 MS. ESPOSITO: I have a question.

14 CHAIR TEPPER: Go ahead.

15 MS. ESPOSITO: To the district.

16 Do you have this kind of situation with  
17 another school or other schools where you have the  
18 same Board but they hold different charters that  
19 probably are feeder schools?

20 MR. BRIDGES: The Lake Wales Schools and the  
21 McKeel Schools are both systems of charter schools  
22 and they fall under that statute, so those I'm  
23 aware of. Those fall under the statute that  
24 specifically requires them to have the same Board.  
25 This is not an application for a system in charter

1 schools. This is a system, this is an application  
2 for a standalone charter school.

3 DR. BERNIER: Can I follow up to that last  
4 comment?

5 CHAIR TEPPER: Yes.

6 DR. BERNIER: But that application for a  
7 standalone charter school is a Polk County  
8 requirement, correct?

9 MR. BRIDGES: They have applied -- if the  
10 question is could they apply for roll-ups, the  
11 answer is not in Polk County. It's a separate  
12 grade structure, it would be a separate  
13 application.

14 But if you're applying for a separate charter  
15 school and you're telling us you got the same  
16 Governing Board, it may be that there will be a  
17 separate corporate entity.

18 But the problem is they have identity of  
19 everything else. They've got identity of the  
20 director, identity of the staff, identity of the  
21 facility. It's the same thing. But in their  
22 application over and over and over, they say we're  
23 going to hire a director who will administer this  
24 school, and then they don't budget for it. So  
25 when we get down to management and governance, it

1 still keeps going back to money. There's no  
2 budget for this.

3 DR. BERNIER: And I appreciate that answer  
4 and that's helpful, but I guess I'm not doing a  
5 very good job asking my questions.

6 It seems to me that this -- even though I  
7 agree with you this is a separate application and  
8 needs to be treated that way -- my question is, is  
9 this a separate -- maybe this is for the school  
10 too, I would like to hear from them -- is this a  
11 separate application for a standalone because they  
12 can't apply to roll-up?

13 MR. BRIDGES: Yeah, they're applying for a  
14 stand -- in Polk County, we have always taken the  
15 position that if you are a middle school charter  
16 school, you would need to file a separate  
17 application if you want to open a high school.

18 DR. BERNIER: Okay.

19 MR. BRIDGES: Absolutely.

20 DR. BERNIER: Thank you.

21 MS. GROSS-ARNOLD: Does the Board want to  
22 hear from us?

23 CHAIR TEPPER: Can we hear from the charter  
24 school on the governance?

25 MS. GROSS-ARNOLD: And I think you got the

1 answer that, yes, there is a specific policy that  
2 Polk School Board has adopted that says if you're  
3 going to add a different set of grades, like high  
4 school to middle school, that you must have a  
5 separate charter application.

6 And so this applicant had a choice, they  
7 could be a separate corporation, Discovery High  
8 School, Inc., which is what they chose to do, or  
9 they could have applied as DALA just for another  
10 charter. And they chose to have a separate  
11 corporation.

12 The Board Members will be on both Boards.  
13 They're separate legal entities. And it makes it  
14 more clear, the finances are separate, the audit  
15 is separate, the bank accounts are separate. And  
16 then the director in the beginning years has two  
17 titles. They're the director of Discovery High  
18 School and director of DALA.

19 And you see that in a lot of these schools  
20 that start off as a middle school or an elementary  
21 and then they add a middle school, the sharing of  
22 staff happens, but they're two separate titles.  
23 And I think that's where I hear the district  
24 saying, well, you said you would have separate  
25 directors. Well, yes, they are separate because

1           it's a separate title, they have separate  
2           responsibilities.

3           CHAIR TEPPER:   But it's the same person?

4           MS. GROSS-ARNOLD:   It's the same person in  
5           the beginning, and that's what is reflected in the  
6           budget.

7           CHAIR TEPPER:   And will there be two salaries  
8           for the person that's the director of both  
9           entities or just maintain the salary that they  
10          have now as director?

11          One of the things that the district said was  
12          it's not reflected in the budget.   But is that  
13          because you'll continue as the director for both  
14          entities under your salary now?

15          MS. FULKS:   Yes.

16          CHAIR TEPPER:   Okay.   She said yes.

17          More questions?

18          MS. BRUBAKER:   I know you talked about a  
19          planning committee.   Is there a plan to eventually  
20          have a different Board for this school?

21          MS. GROSS-ARNOLD:   I think the planning  
22          committee that was referenced is as to policies  
23          for Discovery High School.   And Discovery High  
24          School, Inc. will have its own policies.   Some of  
25          them might be similar to DALA's like dealing with

1           financials.

2                   But it will also be a start-up school. It  
3 will have facilities to deal with. It will have  
4 some different issues. So you're going to have  
5 different committees for Discovery High School to  
6 deal with those different issues.

7           MS. ESPOSITO: And I will also assume,  
8 because it's a high school, that you have to add  
9 other policies that a middle school doesn't have,  
10 that's what I'm thinking?

11           MS. GROSS-ARNOLD: Absolutely. So it will be  
12 a whole set of policies for that corporation.  
13 That new corporation has to adopt its own  
14 policies. It may look like an existing  
15 corporation, but they are Discovery High School.

16           MS. ESPOSITO: And the way I see it is when  
17 you explain about the principal is that principal  
18 is going to be funded from DALA first but he would  
19 have a dual role and it will be helping the high  
20 school, once the high school becomes independent,  
21 then they will have different principals?

22           MS. GROSS-ARNOLD: And that's how the budget  
23 does that. It allocates a portion in the  
24 beginning and then has the standalone position in  
25 the future.

1 CHAIR TEPPER: Further questions from  
2 Commission Members?

3 (No response.)

4 CHAIR TEPPER: Then I think we're ready for a  
5 motion on Issue 2.

6 Cathy, would you like to make the motion?

7 MS. BRUBAKER: I move that the Commission  
8 find that the School Board did not have competent  
9 substantial evidence to support the denial of the  
10 application based on the applicant's failure to  
11 meet the standards for the organizational plan.

12 CHAIR TEPPER: You have heard the motion that  
13 the Commission find that the School Board did not  
14 have competent substantial evidence to support its  
15 denial on this issue.

16 Is there a second?

17 MS. ESPOSITO: I second.

18 MR. GARCIA: I second.

19 MR. MORENO: I'll second.

20 MS. HITCHCOCK: Whoa.

21 CHAIR TEPPER: Sonia.

22 Okay. So the motion is the Commission find  
23 the School Board did not have competent  
24 substantial evidence to support its denial of the  
25 application based on the organizational plan. If

1           you vote yes, you are voting for the charter  
2           school. If you vote no, you are voting for the  
3           School District.

4           Jackie.

5           MS. HITCHCOCK: Cathy.

6           MS. BRUBAKER: Yes.

7           MS. HITCHCOCK: Sonia.

8           MS. ESPOSITO: Yes.

9           MS. HITCHCOCK: Chris.

10          DR. BERNIER: Yes.

11          MS. HITCHCOCK: Osvaldo.

12          MR. GARCIA: Yes.

13          MS. HITCHCOCK: Jenna.

14          MS. HODGENS: Yes.

15          MS. HITCHCOCK: And Richard.

16          MR. MORENO: Yes.

17          CHAIR TEPPER: So you have found that the  
18          School Board did not have competent substantial  
19          evidence to support its denial on this issue. We  
20          don't need to do the second section. The school  
21          has prevailed on Issue 2, and that brings us to  
22          Issue 3, whether the applicant's business plan  
23          failed to meet any of the following standards:  
24          Food service and budget.

25          So the charter school, three minutes on

1 Issue 3.

2 MS. FULKS: For the record, my name is Cara  
3 Fulks, and I'll be presenting the opening on the  
4 business plan. In the business section, the Polk  
5 County School Board's main objections to our  
6 charter were our budget and food service.

7 For ten years, the district was the sponsor  
8 of the food service at DALA at no expense to us  
9 and they received the revenue to offset their  
10 expenditures. DALA will now provide that same  
11 service to Discovery High School following the  
12 National School Lunch Program Guidelines.

13 Additionally, the district claims that we did  
14 not allot enough money for various line items in  
15 our budget, including staff, professional  
16 development, occurring expenses, classroom  
17 materials needed, specifically in the first two  
18 years of operation.

19 Our plan is to start cautiously, ensure a  
20 stable student population, physical responsibility  
21 in making our school successful in later years.  
22 In order to do this, Discovery High School is  
23 being supported by its partner, Discovery Academy  
24 of Lake Alfred through staff sharing and financial  
25 assistance, as noted in our agreement in the

1 application, Appendix B -- or P, I'm sorry.

2 However, the county fails to consider the  
3 relationship between DALA and DHS even though it  
4 is referenced many times throughout the  
5 application. Discovery Academy has operated a  
6 successful charter school since 2001,  
7 demonstrating the ability to maintain a budget  
8 yielding a strong fund balance.

9 DALA has many sources at its disposal,  
10 including qualified staff and sizable fund balance  
11 to help the high school get its start. As our  
12 staffing plan and budget show, as our enrollment  
13 expands at the high school, we will begin to  
14 assume full responsibility on its expenditures.

15 We are well aware of the concern of both the  
16 State Board of Education and the local School  
17 District of opening a charter school only to have  
18 it fail. However, we feel that we have an  
19 advantage in this area because we are supported by  
20 and have the guidance of a successful charter  
21 school.

22 The relationship is also something huge  
23 start-up charters have when opening their sites.  
24 As a result, this relationship should be  
25 considered a strength and not a weakness as the

1 county has alleged.

2 CHAIR TEPPER: Thank you.

3 Mr. Bridges, three minutes on the business  
4 plan.

5 MR. BRIDGES: Thank you, ma'am. I'm going to  
6 invite Pennie Zuercher, our Budget Director, to  
7 speak to that.

8 CHAIR TEPPER: Okay.

9 MS. ZUERCHER: Good morning. Just for  
10 clarification, at Polk County I'm the Director of  
11 Accounting. I served as the Budget Director at  
12 two other School Districts, Pinellas and Manatee  
13 (inaudible.)

14 MR. BRIDGES: I lied. Pennie and I worked  
15 together in Pinellas and I still think of her as  
16 my Budget Director.

17 MS. ZUERCHER: When an application is turned  
18 in, it's supposed to contain revenue projections  
19 and expense projections, fund balance, pro forma  
20 financial statements, and all of the budgeting  
21 should be consistent with the application.

22 In budgeting, there is Redbook or DOE  
23 requires us to do accounting by Redbook and we do  
24 budget by Redbook, you look at Redbook by detail.  
25 Then we're required to look at certain funds such

1 as IDEA, separate from general operations. But  
2 DOE, as well as statute, requires that our total  
3 budget, which includes all funds, be considered.  
4 And that's what the application is looking for.

5 When we see our other applicants, they put  
6 their federal grants, any capital, everything  
7 mixed in right together. So we would need to see  
8 the IDEA they are expecting to receive and how  
9 they're going to expend it to know that they have  
10 it.

11 Also, we're talking here about separate  
12 entities, corporate entities but sisters. In both  
13 governmental and corporate, those two entities are  
14 required by GASB, Generally Accounting Accepted  
15 Principles, GASB being the Governmental Accounting  
16 Standard Board, and the Federal Accounting  
17 Standard Board to pay each other, to give  
18 services, to receive revenue and pay expenses.

19 Many of the things that they're saying DALA  
20 is going to cover still needs to be seen in the  
21 budget as expenditures to DALA under contracted  
22 services. Food service is an example of this.  
23 The National Lunch Program requires that DHS get  
24 their own school number with them, do their own  
25 reporting and receive the revenue. DALA can do

1           that for them under contracted services, but the  
2           budget needs to show that the receipt of the  
3           revenue comes in and the contracted services go  
4           out.

5           They failed to adequately budget for many  
6           normal expenses. And when I look at the fact that  
7           we are talking about people who work with DALA, an  
8           existing charter school, there are many normal  
9           expenses I know that they're aware of that I do  
10          not see included in this budget. In fact, their  
11          line items exist, but they're blank.

12          Many of these include, as we mentioned, ESE  
13          staff, which while they do have the 5,600 for a  
14          supplement, there is no benefits. And we are  
15          required at minimum to pay FICA and Medicare, and  
16          that should be there. Teachers to cover the AP,  
17          the guidance benefits, instructional training.  
18          Textbooks are not adequate in their budget, the  
19          director, sports club, and normal operating  
20          expenses such as supplies, postage, so forth.

21                 CHAIR TEPPER: Your time is up.

22                 MS. ZUERCHER: Thank you.

23                 CHAIR TEPPER: Okay. Questions from

24                 Commission Members on the business plan?

25                 Richard.

1 MR. MORENO: I just had just one little note  
2 as one of the things they just mentioned was that  
3 the textbooks, instructional is \$3,000, but I  
4 notice on the budget you have 207,000 for  
5 instructional equipment. I'm assuming that's to  
6 capitalize your books sufficient for the students.

7 MR. MIARECKI: George Miarecki, I'm the CPA  
8 for the school. Yes, we would capitalize the  
9 books, and that's part of it, also for desks,  
10 smart boards and things like that.

11 CHAIR TEPPER: Can you speak up? We can't  
12 hear you. I don't think that's working today.

13 MS. HITCHCOCK: Is it turned on?

14 CHAIR TEPPER: Yes.

15 Speak as loud as you can.

16 MR. MIARECKI: I'm sorry. To answer your  
17 question, yes.

18 MR. MORENO: So that would be sufficient  
19 enough for 50 students?

20 MR. MIARECKI: For 50 students, \$207,000  
21 would be sufficient.

22 CHAIR TEPPER: District, go ahead.

23 MS. ZUERCHER: The Redbook requires  
24 capitalization of textbooks, instruction materials  
25 under a different accounting term. We can never

1 look at that budget and see the term "equipment"  
2 and anticipate that to be textbooks and  
3 instructional materials.

4 It may include digital devices or computers  
5 to handle digital technology, but the term  
6 "equipment" does not properly reference, nor could  
7 we make that assumption that they're referring to  
8 the instructional materials.

9 CHAIR TEPPER: Charter school.

10 MR. HASTINGS: As noted in our charter, we  
11 are going to be a 21st Century learning school of  
12 technology. If we go to the district's argument,  
13 they allege that we haven't budgeted enough to buy  
14 textbooks. Our intent is to move away from  
15 printed materials and move more towards online  
16 textbooks, iPad applications, things like that.

17 Currently per student, 99 cents you can allot  
18 for iPad applications. Currently at Discovery we  
19 already use eBooks. Right now the maximum cost  
20 per student for an eBook that we have is just  
21 under \$20 a student.

22 If you add the textbook line as well as the  
23 supply line in the budget, for every year it still  
24 comes out to \$150 per student, roughly. It  
25 fluctuates a little bit, but it's between 150 and

1 160 per student. So between the eBooks, the iPad  
2 applications, the two line items, we will have  
3 plenty of money to purchase instruction supplies  
4 for the students.

5 CHAIR TEPPER: Okay. Other questions on the  
6 business plan, Commission Members?

7 Chris.

8 DR. BERNIER: I have a question for the  
9 school. I am interested in the aspect of -- food  
10 service is very, very clear in the application as  
11 to who is going to be providing it. But I am  
12 interested in the transferring of expense and why  
13 that isn't in the budget, because the other  
14 corporation owes the school money. Why is that  
15 empty, George?

16 MR. MIARECKI: Well, in fact, I don't owe  
17 them money. In fact, it's the other way around.  
18 If you look at our audit that was referenced in  
19 the response to the appeal, you'll see that on  
20 page 11 actually we made money on food service in  
21 our audit. We actually have for the past two  
22 years.

23 DR. BERNIER: Okay. I'm O-for-three so I'm  
24 going to rephrase.

25 MR. MIARECKI: Okay.

1 DR. BERNIER: My question is when you have  
2 teachers teaching from DALA at the high school,  
3 there is a percentage of that salary, percentage  
4 of that benefit that should be paid for by DHS.  
5 When you have food service being rendered to  
6 students at DHS, a percentage of that food service  
7 cost should be charged to DHS and we should see in  
8 the budget how DHS is going to pay DALA for those  
9 services. Why are those not in the budget?

10 MR. MIARECKI: The assumption is that DHS  
11 would be receiving the revenue for the food  
12 service as well. In the past when the district  
13 has provided food service to the middle school,  
14 from 2001 to 2011, our audits reflect during that  
15 time that no revenue nor expenditures were in the  
16 audit, in our financial statements for that food  
17 service during that time because the employees  
18 were the employees of the School District and the  
19 revenue was collected directly by the School  
20 District, so it was a separate somewhat enterprise  
21 fund on the district level.

22 DR. BERNIER: May I follow up?

23 CHAIR TEPPER: Certainly. Go ahead.

24 DR. BERNIER: So to take the other issue, you  
25 got a media center and there's no expenses under

1 the media specialist's costs, there's no costs  
2 under the teacher costs that DHS has got to pay  
3 for. Why is that not reflected?

4 MR. MIARECKI: Well, under the teacher  
5 salaries, that is the amount that is going to be  
6 repaid to DALA for those salaries. Everything in  
7 the first two years is basically on a  
8 reimbursement basis to DALA and that's stated in  
9 (inaudible.)

10 DR. BERNIER: Okay. Can I hear from the  
11 School District on the same issue?

12 CHAIR TEPPER: Certainly.

13 From the district.

14 MS. ZUERCHER: On the food service, when the  
15 district did provide that, that was through a  
16 different agreement. Ours is through the National  
17 Lunch Program. Now when we checked in with the  
18 National Lunch Program, these are separate  
19 entities, the district already had the program,  
20 they would have to have a separate.

21 On the staffing plan, when you look at the  
22 budget, the information, it's only two teachers.  
23 Many times they say we should know what they're  
24 planning to do. And that's really difficult to  
25 make assumptions on what someone is planning to

1 do. That could get them in trouble and the  
2 district as well.

3 In addition, we've looked at capital outlay  
4 they've got in their budget, and they won't even  
5 be eligible for that probably until towards the  
6 end of the second year once they get accreditation  
7 through that.

8 CHAIR TEPPER: Other questions from  
9 Commission Members?

10 MS. BRUBAKER: Can you guys address this  
11 capital outlay?

12 CHAIR TEPPER: Okay.

13 MS. GROSS-ARNOLD: Actually, the CPA and I  
14 can both address the capital outlay. The school  
15 did check in with Advanced Ed. to find out if they  
16 could get capital -- if they could get the SACS  
17 accreditation in the first year. We're not here  
18 to argue back and forth whether that timing could  
19 happen or not. The school believes that it could.  
20 The district doubts that.

21 What we do want to point out to you and what  
22 our CPA will point out to you is that even if  
23 there is no capital outlay in that first year, you  
24 zero out the capital outlay line, you'll see it's  
25 a very low capital outlay compared to what you

1 see -- it's only 50 students -- that the fund  
2 balance of the school can handle not having  
3 capital outlay in that year or in the second year  
4 even though second year SACS accreditation is  
5 possible.

6 CHAIR TEPPER: Okay.

7 MS. GROSS-ARNOLD: He'll point out the  
8 specific line that we're talking about in the  
9 budget, the specific line in the budget.

10 CHAIR TEPPER: I think we're good.

11 MR. MORENO: Yeah, we're good.

12 MS. GROSS-ARNOLD: You're good?

13 CHAIR TEPPER: Yes.

14 MS. GROSS-ARNOLD: Thank you. I'm sorry.

15 CHAIR TEPPER: So further questions?

16 MS. ZUERCHER: Can we respond?

17 CHAIR TEPPER: No, we've gone back and forth.

18 Thank you.

19 Chris, go ahead.

20 DR. BERNIER: I have one last question. I  
21 promise this is my last one.

22 CHAIR TEPPER: No, ask them all.

23 DR. BERNIER: I need to hear from the school  
24 regarding those two teachers that are going to be  
25 teaching those 50 students. What will those

1 teachers be teaching so that -- pretend I'm a  
2 prospective parent bringing my 15-year-old to your  
3 ninth grade, 14-year-old, sorry.

4 MR. HASTINGS: Okay. The two teachers  
5 allotted in the budget is an equivalency number.  
6 If you look at our staffing plan, the staffing  
7 plan is Appendix Q, if you would like to take a  
8 look. For core teachers, we listed in the first  
9 year as .25 times four. That is our indication  
10 that we intend on having four core academic  
11 teachers, one for language arts, one for math, one  
12 for social studies and one for science. That .25  
13 is based on the amount of time that they will be  
14 spending with DHS students. The remaining time  
15 would be the DALA students, and that would be paid  
16 for through the DALA budget. So that .25 is  
17 essentially a supplement that is paid to the  
18 shared staff of DALA.

19 The same thing for the elective teachers. If  
20 you look, it says .125 times four, so we intend on  
21 having at least four electives. And, again, we  
22 have a sample student schedule listed in our  
23 educational and curriculum plans that outline some  
24 of the potential elective offerings that we would  
25 have the first couple of years.

1 DR. BERNIER: Okay. So I live in Orange but  
2 I'm coming to Polk, I'm moving to Bartow. My  
3 son's completed algebra 1 as an eighth grader, as  
4 some of your kids do at DALA. Are we moving to  
5 geometry? Are we moving to algebra 2? I'm asking  
6 for not a complete core schedule for every kid,  
7 but some idea of specifically what you would be  
8 offering, to get a certification picture in my  
9 mind as it relates to your budget.

10 MR. HASTINGS: Okay. Right now, just to give  
11 you some -- I'll give you some background on  
12 Discovery Academy and then as well as the high  
13 school for how this would work for a student  
14 coming in.

15 Right now at Discovery Academy, we offer  
16 algebra 1 and geometry honors to our seventh and  
17 eighth grade students. So a lot of those students  
18 coming in will have already completed those  
19 requirements.

20 At DHS, we're intending on having two  
21 programs of study. One would be towards more of a  
22 collegiate atmosphere where they would be in a  
23 pre-collegiate program. They would move into Polk  
24 State College to get their Associate's Degree in  
25 their 11th and 12th years. So they would be

1 taking more along the lines of geometry honors,  
2 algebra 2, just to use math as an example.

3 The regular students we would have algebra,  
4 obviously algebra offering first year, geometry,  
5 algebra 2, going along the standard course of  
6 work. So our intent is to offer all of the  
7 courses needed obviously for, you know, high  
8 school graduation.

9 DR. BERNIER: So there could be multiple  
10 grade levels serviced in the same classroom? If  
11 I'm a ninth grader looking to take algebra 1 and  
12 an eighth grader is taking algebra 1, I could be  
13 sitting in the same course because it's algebra 1?  
14 Is that part of the plan?

15 MR. HASTINGS: Our intent -- and, now, it may  
16 not work exactly like this -- Polk Collegiate  
17 designated 25 priority admissions from our  
18 program. So the idea would be that 25 of those  
19 initial 50 would be part of this pre-collegiate  
20 program, meaning they would most likely be taking  
21 algebra 2. Those second 25 would be just general  
22 students that plan on being with us for those four  
23 years, they would be enrolled in standard  
24 coursework, which would be algebra 1.

25 DR. BERNIER: Okay.

1 MR. HASTINGS: Currently at Discovery, we  
2 have teachers that are certified in math 6-12 that  
3 have taught algebra and geometry currently, so  
4 we -- in a roundabout way, I think I finally got  
5 it.

6 MS. ESPOSITO: I believe that was the answer  
7 we were looking for, the answer we needed.

8 DR. BERNIER: Thank you.

9 MS. ZUERCHER: May I respond?

10 CHAIR TEPPER: Briefly from the district.

11 MS. ZUERCHER: Let's keep in mind is they  
12 keep saying DALA will provide, DALA will provide,  
13 DALA will provide, the separate entity. They  
14 still have to pay DALA. They still have to get  
15 costs transferred over there. They can't just --  
16 we'll only pay the supplement, DALA can pay the  
17 benefits. There is actual costs in the accounting  
18 rules, the GASB and FASB all require that.

19 When we start putting these expenses down  
20 that are being covered by DALA that they need to  
21 pay for, we're going to end up in a negative fund  
22 balance situation because they are required to  
23 cover those situations.

24 When we're looking at the courses that  
25 they're offering, we're not hearing or seeing any

1 electives. And students in high school come in  
2 and take their basics and two electives every  
3 year, one or two electives, and we're not seeing  
4 that offered yet by current staff.

5 CHAIR TEPPER: Thank you.

6 Okay. Osvaldo, would you like to make the  
7 motion on Issue 3?

8 MR. GARCIA: Sure. I move that the  
9 Commission find that the School Board did not have  
10 competent substantial evidence to support its  
11 denial of the application based on the applicant's  
12 failure to meet the standard for the business  
13 plan.

14 CHAIR TEPPER: You've heard the motion that  
15 the Commission find that the School Board did not  
16 have competent substantial evidence to support its  
17 denial on this issue.

18 Is there a second?

19 MR. MORENO: I'll second it.

20 CHAIR TEPPER: Richard.

21 And so the motion is the Commission find the  
22 School Board did not have competent substantial  
23 evidence to support its denial of the application  
24 based on the applicant's failure to meet the  
25 standards for the business plan. If you vote yes,

1           you are voting for the charter school.  If you  
2           vote no, you are voting for the School District.

3           Jackie.

4           MS. HITCHCOCK:  Osvaldo.

5           MR. GARCIA:  Yes.

6           MS. HITCHCOCK:  Richard.

7           MR. MORENO:  Yes.

8           MS. HITCHCOCK:  Chris.

9           DR. BERNIER:  No.

10          MS. HITCHCOCK:  Cathy.

11          MS. BRUBAKER:  Yes.

12          MS. HITCHCOCK:  Sonia.

13          MS. ESPOSITO:  Yes.

14          MS. HITCHCOCK:  Jenna.

15          MS. HODGENS:  No.

16          CHAIR TEPPER:  So the School District has  
17          prevailed on this issue and you have found that  
18          the School Board did not have competent  
19          substantial evidence on this issue.  We do not  
20          need to do the second part.

21                 The charter school has prevailed on all  
22          issues so now we must take the final vote to grant  
23          the appeal and make that recommendation to the  
24          State Board.

25                 Jenna, would you like to make the motion?

1 MS. HODGENS: Sure. I move the Commission  
2 recommend that the State Board of Education deny  
3 the appeal. Is that right?

4 CHAIR TEPPER: No, ma'am.

5 MS. HODGENS: Did I not pay attention?

6 CHAIR TEPPER: The charter school has  
7 prevailed on all three issues.

8 MS. HODGENS: I'm sorry. Grant the appeal.

9 CHAIR TEPPER: You've heard the motion that  
10 our recommendation would be to grant the appeal.  
11 Is there a second?

12 MR. MORENO: I'll second.

13 CHAIR TEPPER: Richard.

14 Jackie.

15 MS. HITCHCOCK: Jenna.

16 MS. HODGENS: Yes.

17 MS. HITCHCOCK: Richard.

18 MR. MORENO: Yes.

19 MS. HITCHCOCK: Chris.

20 DR. BERNIER: Yes.

21 MS. HITCHCOCK: Cathy.

22 MS. BRUBAKER: Yes.

23 MS. HITCHCOCK: Sonia.

24 MS. ESPOSITO: Yes.

25 MS. HITCHCOCK: Osvaldo.

1 MR. GARCIA: Yes.

2 CHAIR TEPPER: So the recommendation of the  
3 Charter School Commission to the State Board will  
4 be to grant the appeal. Each side will be given  
5 five minutes. The State Board may or may not ask  
6 you questions. You should be prepared for that.

7 The State Board meeting is February 25th at  
8 2:15, which is an unusual start time for them,  
9 here in Tallahassee, it's at the Capitol. Jackie  
10 will send each side a letter giving you all of the  
11 details. The agenda comes out seven days before  
12 and you'll be able to judge your time by where you  
13 fall on the agenda. These will not be consent  
14 items because you'll have an opportunity to speak  
15 so they will be in the action item section.

16 Any questions before we end?

17 (No response.)

18 CHAIR TEPPER: Then we're adjourned.

19 (Whereupon, proceedings were concluded at  
20 11:05 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
COUNTY OF LEON )

I, MICHELLE SUBIA, Registered Professional Reporter, certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages are a true and correct record of the aforesaid proceedings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 10th day of February, 2015.

*Michelle Subia*

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



DISCOVERY HIGH SCHOOL

v.

SCHOOL BOARD OF POLK COUNTY, FLORIDA

Issue One

Whether the Applicant's Educational Plan failed to meet any of the following standards:

- **Exceptional Students:**
  - Clear description of the levels of service the school will provide to students with disabilities.
  - A clear description of how the school will ensure that students with disabilities (SWD) will have an equal opportunity of being selected for enrollment.
  - An understanding and commitment to collaborating with the sponsor to ensure that placement decisions for students with disabilities will be made based on each student's unique needs.
  - An appropriate plan for evaluating the school's effectiveness in serving exceptional students, including gifted.
  - A realistic enrollment projection (SWD) and a staffing plan that aligns with the projection.

Statutory Reference(s): s. 1002.33(16)(a)3., Florida Statutes

- **School Climate and Discipline:**
  - A sound approach to classroom management and student discipline.
  - Legally sound policies for student discipline, suspension, and dismissal.

Statutory Reference(s): s. 1002.33(7)(a)7.; s. 1002.33(7)(a)11.; s. 1002.33(9), Florida Statutes

I move that the Commission find that the School Board **did** or **did not** [pick one] have competent substantial evidence to support its denial of the application based on the Applicant's failure to meet the standards for the Educational Plan.

Motion:

Seconded:

Vote

Yes \_\_\_\_\_

No \_\_\_\_\_

If the Commission finds that the School Board did have competent substantial evidence to support its finding, a vote must be taken on whether that finding constitutes good cause for denial.

I move that the Applicant's failure to meet the standards for the Educational Plan, **was** or **was not** [pick one] statutory good cause for denial.

Motion:

Seconded:

Vote

Yes \_\_\_\_\_

No \_\_\_\_\_

**Issue Two**

Whether the Organizational Plan failed to meet any of the following standards:

- Governance:
  - Documentation of proper legal structure of the governing board, or a plan to organize in conformity with the laws of Florida.
  - A clear understanding and description of the governing board’s responsibilities.
  - Evidence that the proposed governing board will contribute to the wide range of knowledge and skill needed to oversee a charter school.
  - A clear, sensible delineation of roles and responsibilities in relation to governance and school management.
  - A sensible method for resolving disputes between parents and the school.

Statutory Reference(s): s. 1002.33(7)(a)15.; s. 1002.33(9), Florida Statutes

- Management:
  - A management structure that includes clear delineation of the roles and responsibilities for administering the day-to-day activities of the school.
  - A sound plan for the recruitment and selection of the school leader.
  - A viable and adequate staffing plan aligned with the projected student enrollment.
  - A sound plan for recruiting and retaining qualified and capable staff.

Statutory Reference(s): s. 1002.33(7)(a)9.; s. 1002.33(7)(a)14., Florida Statutes

I move that the Commission find that the School Board **did** or **did not** [pick one] have competent substantial evidence to support its denial of the application based on the Applicant’s failure to meet the standards for the Organizational Plan.

Motion:

Seconded:

Vote

Yes \_\_\_\_\_

No \_\_\_\_\_

If the Commission finds that the School Board did have competent substantial evidence to support its finding, a vote must be taken on whether that finding constitutes good cause for denial.

I move that the Applicant’s failure to meet the standards for the Organizational Plan, **was** or **was not** [pick one] statutory good cause for denial.

Motion:

Seconded:

Vote

Yes \_\_\_\_\_

No \_\_\_\_\_

**Issue Three**

Whether the Applicant’s Business Plan failed to meet any of the following standards:

- Food Service:
  - A food service plan that will serve all students.

Statutory Reference(s): s. 1002.33(20)(a)1., Florida Statutes

- Budget:
  - Budgetary projections which are consistent with all parts of the application, including the school’s mission, educational program, staffing plan and facility.

- A realistic assessment of the projected sources of revenue and expenses that ensure the financial viability of the school.
- A sound plan to monitor the budget and make adjustments as necessary.

Statutory Reference(s): s. 1002.33(6)(a)5.; s. 1002.33(6)(b)2., Florida Statutes

I move that the Commission find that the School Board **did** or **did not** [pick one] have competent substantial evidence to support its denial of the application based on the Applicant's failure to meet the standards for the Business Plan.

Motion:

Seconded:

Vote

Yes \_\_\_\_\_

No \_\_\_\_\_

If the Commission finds that the School Board did have competent substantial evidence to support its finding, a vote must be taken on whether that finding constitutes good cause for denial.

I move that the Applicant's failure to meet the standards for the Business Plan, **was** or **was not** [pick one] statutory good cause for denial.

Motion:

Seconded:

Vote

Yes \_\_\_\_\_

No \_\_\_\_\_

**FINAL MOTION:**

I move the Commission recommend that the State Board of Education **grant** or **deny** [pick one] the appeal.

Motion:

Seconded:

Vote

Yes \_\_\_\_\_

No \_\_\_\_\_