

Re: Suspension of Selected Requirements of School Code and Related Regulations of the State Board of Education to Improve the School District's Financial Condition through Operational Efficiencies, Flexibility, Controlling Expenses and the Ability to Manage its Budget

Background

WHEREAS, The School District of Philadelphia (“the School District”) is in the midst of an untenable, ongoing financial crisis, and while significant and historic cost-reduction measures have been taken – including the closure of 30 schools over 18 months, the reduction of central administrative costs by 48% in 2012 and an additional 30% in 2013, the recent elimination of over 5,000 positions, the unprecedented freeze on charter school expansion, the negotiation of wage concessions from the blue collar union, and the proposals to the teacher, principal, and school police unions of significant reform contracts - the School District continues in extreme financial distress with an operating budget that does not adequately resource schools; and

WHEREAS, on December 21, 2001, the Secretary of Education of the Commonwealth of Pennsylvania declared the School District distressed pursuant to Section 691(c) of the School Code of 1949, as amended (“School Code”), effective December 22, 2001; and

WHEREAS, effective January 14, 2002, the School Reform Commission was established; and

WHEREAS, pursuant to the School Code, Section 696(e) and 696(i)(3), in order to fulfill its responsibilities for the financial matters, operation, management and educational program of the School District, the School Reform Commission has the power to suspend requirements of the School Code and regulations of the State Board of Education; and

WHEREAS, the School Reform Commission has determined that suspension of selected School Code requirements and related regulations of the State Board of Education is necessary to provide the School District additional ways and means to reduce and control costs, mitigate future financial risk, and allow flexibility in managing through the School District's ongoing financial crisis, all with the overarching goal of making additional resources available to improve student academic outcomes in this period of financial distress, the School Reform Commission hereby approves the following School Code suspensions recommended by the Superintendent in order to achieve the purposes set forth above.

**Superintendent Flexibility to Return Professional Employees to Service
Based on Matching Staff to Education Need**

WHEREAS, section 11-1124 of the School Code limits the permissible reasons for suspension of professional employees, defined as “those who are certificated as teachers, supervisors, supervising principals, principals, assistant principals, vice-principals, directors of vocational

education, dental hygienists, visiting teachers, home and school visitors, school counselors, child nutrition program specialists, school librarians, school secretaries the selection of whom is on the basis of merit as determined by eligibility lists and school nurses”; and

WHEREAS, section 1125.1 of the School Code provides that professional employees – defined above – shall be suspended in inverse order of length-of-service within the school entity of current employment, and further provides that professional employees suspended for the reasons set forth in Section 1124 shall be reinstated on the basis of their length-of-service within the school entity; and

WHEREAS, suspension of the requirements of this provision will allow the School District to reinstate employees based on specific needs rather than on the length-of-service of the employees. For example, suspension of this provision will enable the School District - when recalling counselors - to match the needs of the schools and students with the skill set of the counselor being recalled (e.g., placing counselors with skills and experience in meeting the needs of IEPs in schools that need those services vs. counselors who have been focusing on college application support); and

WHEREAS, section 6-696(i)(7) of the School Code provides that the School Reform Commission has the power to suspend professional employees without regard to the provisions of section 1125.1; and

WHEREAS, the School Reform Commission, by Resolution No. SRC-5 approved on May 31, 2011, authorized the School District, through the Chief Executive Officer, pursuant to section 6-696(i)(7) of the School Code, to suspend professional employees under section 11-1124 as a result of the substantial decrease in pupil enrollment, curtailment or alteration of educational programs and/or consolidation of schools, and to suspend professional employees of the School District without regard to inverse order of length-of-service (as would have been required under section 11-1125.1), limited to the fiscal year 2011-2012 and to the assignment of teachers to the School District’s Promise Academies; now be it

RESOLVED, that the School Reform Commission, in order to maintain a thorough and efficient public school system and to provide additional flexibility to deal effectively and quickly with issues facing the School District, as a distressed school district of the first class, pursuant to Section 6-696(i)(3) of the School Code, hereby suspends the requirements of section 11-1124 of the School Code and any applicable regulations, relating to the reasons for suspension of professional employees, and the requirements of section 11-1125.1 and any applicable regulations, relating to persons to be suspended and the procedure to be followed for suspensions, for the period commencing September 1, 2013 through August 31, 2014, with consideration of the need for continued suspension in future school years; and be it

FURTHER RESOLVED, that the School Reform Commission authorizes the School District, through the Superintendent or his designee, pursuant to section 6-696(i)(7) of the School Code, to suspend and reinstate/recall professional employees, including school counselors, without regard to length-of-service, for the period commencing September 1, 2013 through August 31, 2014, with consideration of the need for continued suspension in future school years.

**Financial and Operational Flexibility in Contracting for
Establishing of Independent Schools**

WHEREAS, section 5-502.1(a) of the Public School Code provides that “A school district may...designate any school of the district as an independent school operating under an agreement...that grants operational control to the governing body of the independent school” and section 5-502.1(b)(8) provides that “Employees assigned to an independent school shall be employees of the school district...”; and

WHEREAS, suspension of the requirements of these provisions will allow the School District flexibility when considering future Renaissance School models with non-profit schools, other than the Renaissance Charter model, by contracting with the governing body to operate an independent school, to treat employees assigned to the independent school as non-School District employees, and to structure such agreements with financial and operational flexibility; now be it

RESOLVED, that the School Reform Commission, in order to maintain a thorough and efficient public school system and to provide additional flexibility as a distressed school district of the first class, pursuant to section 6-696(i)(3) of the Public School Code, hereby suspends the requirements of sections 5-502.1(a) and 5-502.1(b)(8) of the Public School Code and any applicable regulations, relating to the relating to the status of employees if independent schools established by the School District, for the period commencing September 1, 2013 through August 31, 2014, with consideration of the need for continued suspension in future school years, but solely with respect to individual “Renaissance-eligible” schools that are identified and included in a comprehensive annual plan for the School District’s Renaissance program, which plan: (a) includes a proportional number of Promise Academies run by District personnel; (b) requires a process for selection of a non-profit operator or management or governing body of the independent school that is at least of equal rigor (and with similar participation by school-based School Advisory Councils) as applied to the selection of operators of Renaissance charters; and (c) has been specifically approved by the School Reform Commission by at least four votes. All other requirements of section 5-502.1(a) not suspended by this Resolution shall remain in full force and effect.

**Flexibility in Non-Performance-Based
Compensation of Professional Employees**

WHEREAS, section 11-1141 through 11-1153 of the School Code provide definitions and requirements for minimum salaries and increments, additional increments for college certificate or Master’s degree, teachers of applied arts and vocational subjects, minimum salaries for teachers with emergency certificates, part-time teachers, increase or decrease of usual number of periods per day, substitute teachers, increments when employed by other districts, schedules for teachers not provided for, salary increases, demotions, compensation in excess of schedule, temporary or emergency increases, payment of salaries of teachers when prevented from rendering services; and

WHEREAS, suspension of the requirements of these provisions will allow the School District needed flexibility in compensation of professional employees, particularly where compensation increases are tied strictly to length-of service; now be it

RESOLVED, that the School Reform Commission, in order to maintain a thorough and efficient public school system and to provide additional flexibility as a distressed school district of the first class, pursuant to section 6-696(i)(3) of the School Code, hereby suspends the requirements of sections 11-1141 through 11-1153 of the School Code and any applicable regulations, relating to compensation of professional employees with whom the School District has not reached an acceptable collective bargaining agreement, for the period commencing September 1, 2013 through August 31, 2014, with consideration of the need for continued suspension in future school years; and be it

FURTHER RESOLVED, that the Superintendent shall specify the classifications of professional employees with whom the School District has not reached acceptable collective bargaining agreements.

**Flexibility of SRC as Charter School Authorizer to Suspend,
Non-Renew, or Revoke Charters**

WHEREAS, section 17-1729-A(a) of the School Code, which provides the causes and grounds for nonrenewal or revocation of charters of charter schools, limits the School Reform Commission's flexibility to deal effectively and efficiently with the suspension, nonrenewal or revocation of charter schools, and the School Reform Commission desires to remove this limitation on its powers and its ability to operate as a high quality authorizer; and

WHEREAS, section 17-1729-A(c) of the School Code, which provides that the School Reform Commission shall conduct hearings for nonrenewal or revocation of charter schools, limits the School Reform Commission's flexibility to deal effectively and efficiently with the suspension, nonrenewal or revocation of charter schools, and the School Reform Commission desires to remove this limitation on its powers; now be it

WHEREAS, the School Reform Commission is empowered pursuant to section 6-696(i)(2)(ii) of the School Code to suspend a charter, in order to deal effectively and efficiently with suspension of charter schools, the School Reform Commission desires to remove limitations on its power to suspend charters; and

RESOLVED, that the School Reform Commission, in order to deal effectively and efficiently with suspension, nonrenewal or revocation of charter schools, hereby suspends, pursuant to section 6-696(i)(3) of the School Code, effective for any future matters, proceedings and hearings (from the date of this Resolution forward) related to suspension, non-renewal or revocation, the requirements of section 17-1729-A(a) of the School Code and any applicable regulations to the extent the School Reform Commission is required under the School Code to base a suspension, non-renewal or revocation only on the causes and grounds set forth in section

17-1729-A(a) and is required to permit a charter school to continue to operate or to be renewed even though it fails to comply with additional requirements that should be justifiable causes or grounds for suspension, non-renewal or revocation; and be it

FURTHER RESOLVED, that the School Reform Commission, in order to deal effectively and efficiently with nonrenewal or revocation of charter schools, hereby suspends, pursuant to section 6-696(i)(3) of the School Code, effective for any future matters, proceedings and hearings (from the date of this Resolution forward) related to suspension, non-renewal or revocation, the requirements of section 17-1729-A(c) of the School Code that the School Reform Commission shall conduct such nonrenewal or revocation hearings, and any requirement in section 17-1729-A(c) that would prohibit the School Reform Commission from delegating its authority to conduct such public hearings either to a single Commissioner, to a committee of two or more Commissioners or to a Hearing Officer to be appointed by the Chairman of the School Reform Commission; and be it

FURTHER RESOLVED, that the School Reform Commission, in order to deal effectively and efficiently with suspension of charter schools, hereby suspends, pursuant to section 6-696(i)(3) of the School Code, effective for any future matters, proceedings and hearings (from the date of this Resolution forward) related to suspension, the requirements of sections 17-1729(A)(d) and 17-1729(A)(f) of the School Code to the extent sections 17-1729 (A)(d) and/or 17-1729(A)(f) of the School Code apply to the suspension of charter schools.

FURTHER RESOLVED, that all other provisions of section 17-1729-A not suspended by this Resolution shall remain in force and effect.

FURTHER RESOLVED, that the School District, through the Superintendent or his designee, shall develop and recommend for the School Reform Commission's approval, policies, procedures and standards related to the causes and grounds for suspension, nonrenewal, revocation or other termination of charter schools and procedures to apply to such proceedings for such a suspension, non-renewal or revocation. The suspension of the above requirements of section 17-1729-A shall not be effective until a policy containing a set of standards and procedures is adopted by the School Reform Commission; and be it

**Flexibility of SRC as Charter School Authorizer to
Set Student Performance Targets as a Condition in Charters**

WHEREAS, Section 17-1729-A(a.1) of the School Code provides that when a charter school in Philadelphia is in corrective action status and seeks renewal of its charter, if the School Reform Commission renews the charter, "it may place specific conditions in the charter that require the charter school to meet specific student performance targets within stated periods of time," subject to certain conditions; and

WHEREAS, the School Reform Commission needs more flexibility in declining to renew a poor-performing charter school and desires to require all charter schools to meet specific reasonable student performance targets; now be it

RESOLVED, that the School Reform Commission hereby suspends, pursuant to Section 6-696(i)(3) of the School Code, effective immediately, the requirement of Section 17-1729-A(a.1) of the School Code and any applicable regulations that the School Reform Commission may require only charter schools in corrective action status to meet specific performance targets, so that the School Reform Commission, when any charter school seeks renewal of its charter, may require the charter school to meet specific student performance targets; and be it

FURTHER RESOLVED, that all other provisions of Section 17-1729-A (a.1) not suspended by this Resolution shall remain in force and effect.

**Ability of SRC as Charter School Authorizer to Manage
Its Budget and Charter School Enrollment Growth Responsibility**

WHEREAS, section 17-1723-A(d)(1) and (2) of the School Code, dealing with enrollment in charter schools by providing that charter schools are not subject to limits on enrollment unless the charter school agrees to such limits in a written charter, prevent the School District from responsibly managing charter school enrollment growth and managing the School District's budget, and the School Reform Commission desires to remove the limitation on its powers and its ability to control costs of unmanaged charter school enrollment growth; and

WHEREAS, suspension of the requirements of these provisions will allow the School District to require charter schools to sign written charters with agreed-upon or reasonably-imposed enrollment limits and will enable the School District to predict what its per pupil costs will be for charter school enrollment; now be it

RESOLVED, that the School Reform Commission, in order to provide additional flexibility to deal effectively and quickly with issues facing the School District, pursuant to section 6-696(i)(3) of the School Code, hereby suspends, effective immediately, the requirements of section 17-1723-A(d)(1) and (2) and any other provisions of the School Code that restrict in any way the power of the School Reform Commission to impose limits on charter school enrollment, along with any applicable regulations on that subject; and be it

FURTHER RESOLVED, that Resolution SRC-11a, approved by the School Reform Commission on November 14, 2012, is clarified to be consistent with the terms of this resolution.

**Ability of SRC to Manage
Authorization of Charter School Enrollment Growth Payments**

WHEREAS, section 17-1725-A(a)(5) and (6) of the School Code, dealing with funding for charter schools, allows charter schools to seek and receive payment from the Secretary of Education, if the School District does not pay the charter school, and

WHEREAS, suspension of the requirements of these provisions will eliminate the Secretary's duty to withhold money from the School District's basic subsidies and to pay the amount to charter schools solely on the unilateral request from the charter school and will allow the School District to responsibly manage its budget by controlling charter school enrollment growth; and

WHEREAS, the School District has no intention to use the suspension retroactively to seek refunds or restoration of subsidies that have already been withheld and paid to charter schools, and the School District intends to honor current enrollment limits with signed written charter agreements; now be it

RESOLVED, that the School Reform Commission, in order to provide additional flexibility to deal effectively and quickly with issues facing the School District, pursuant to section 6-696(i)(3) of the School Code, hereby suspends the requirements of section 17-1725-A(a)(5) and (6) and any applicable regulations, relating to funding for charter schools, effective immediately only as to requests for withholding of subsidies made after the date of this Resolution.

Flexibility in Selling unused and unnecessary land and buildings

WHEREAS, section 7-707(3) of the School Code, dealing with sale of unused and unnecessary lands and buildings, vests the School Reform Commission with the power and authority to sell unused and unnecessary lands and buildings by private sale, subject to the approval of the court of common pleas after public notice and a hearing; and

WHEREAS, suspension of the requirements of this provision will make it quicker and easier for the School District to dispose of vacant buildings, primarily those related to school closings, reducing the carrying cost of vacant buildings, avoiding the blighting influence of vacant buildings in residential areas, and maximizing market interest in properties by streamlining a protracted process of Court approval; now be it

RESOLVED, that the School Reform Commission, in order to provide additional flexibility to deal effectively and quickly with issues facing the School District, pursuant to Section 6-696(i)(3) of the School Code, hereby suspends the requirements of Section 7-707(3) of the School Code and any applicable regulations, requiring court approval, after notice and a hearing, of the private sale by the School District of unused and unnecessary lands and buildings; all other provisions of section 7-707 not suspended by this Resolution shall remain in full force and effect.

Flexibility and Efficiency in Approval of lease agreements

WHEREAS, section 7-731.1 of the School Code, dealing with the approval of lease agreements, provides that “No building facilities for school use...shall be leased by any school district until such lease agreement has been approved by the Department of Education”; and

WHEREAS, suspension of the requirements of this provision will give the School District latitude to lease buildings more quickly and, potentially, to a wider variety of occupants; now be it

RESOLVED, that the School Reform Commission, in order to provide additional flexibility to deal effectively and quickly with issues facing the School District, pursuant to Section 6-696(i)(3) of the School Code, hereby suspends the requirements of Section 7-731.1 of the School Code and any applicable regulations, requiring approval by the Department of Education of any lease of building facilities by the School District for school use.

Flexibility in Leasing of unused and unnecessary lands and buildings

WHEREAS, section 7-709 of the School Code, dealing with Lease of unused and unnecessary lands and buildings, provides that the School Reform Commission “may lease for any lawful purpose, other than educational use, unused and unnecessary lands and buildings of the [School] District pending the sale thereof or until such time as the [SRC] shall decide again to make use thereof for school purposes;” and

WHEREAS, suspension of the requirements of this provision will give the School District latitude to lease unwanted buildings more quickly and, potentially, to a wider variety of occupants, and will provide the School District with more flexibility to cover its building maintenance costs through the lengthy process of disposing of the properties that are now vacant due to the recent school closures; now be it

RESOLVED, that the School Reform Commission, in order to provide additional flexibility to deal effectively and quickly with issues facing the School District, pursuant to Section 6-696(i)(3) of the School Code, hereby suspends the requirements of Section 7-709 of the School Code and any applicable regulations, requiring that the School District may lease unused and unnecessary land and buildings for any lawful purpose, other than educational use. All other provisions of section 7-709 not suspended by this Resolution shall remain in full force and effect.