

**BOARD OF EDUCATION
THE SCHOOL DISTRICT OF PHILADELPHIA**

In the Matter of:

Charter Nonrenewal Proceeding Regarding
John B. Stetson Charter School

HEARING OFFICER'S REPORT

The Hearing Officer submits this report regarding the hearing conducted in this matter, together with the attached findings of fact, conclusions of law, proposed adjudication and certification of the record.



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Date: September 19, 2019

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Charter Nonrenewal Proceeding Regarding
John B. Stetson Charter School

HEARING OFFICER’S REPORT

The Hearing Officer submits the following report regarding this nonrenewal proceeding by the School District of Philadelphia (“School District”) against John B. Stetson Charter School, also known as John B. Stetson School; an ASPIRA, Inc. of Pennsylvania School (“Stetson”).

I. PROCEDURAL POSTURE

On December 14, 2017, the School Reform Commission of the School District of Philadelphia (“SRC”)¹ adopted Resolution SRC-9 (“SRC-9”),² which resolved to conduct a public hearing regarding a recommendation by the School District’s Charter Schools Office (“CSO”) not to renew Stetson’s charter.

Resolution SRC-9 listed 32 grounds for the proposed nonrenewal (not including numerous subparagraphs), including low proficiency rates on PSSA exams, poor School Performance Profile scores, failure to meet academic growth standards, failure to meet Annual Measureable Objectives, poor federal accountability designations, failure to meet commitments in its charter, failure to meet certification requirements for special education staff and English as a Second Language (“ESL”) instructional staff, noncompliant student admission policies, failure

¹ On July 1, 2018, the Board of Education (“BOE”) replaced the SRC and became its successor with respect to this proceeding. *See* 24 P.S. § 6-696(n) (“after dissolution the board of school directors shall have the powers and duties of the School Reform Commission”).

² *See* Ex. JE[S] 1. (See footnote 8 below for an explanation of how the exhibits are cited in this report.)

to comply with student expulsion requirements, failure to operate in accordance with its bylaws, failure to meet Highly Qualified Teacher requirements, untimely issuance of audited financial statements, failure to make required payments to the Public School Employees' Retirement System ("PSERS"), and failure to meet generally accepted standards of fiscal management and audit requirements.³

Resolution SRC-9 also authorized the appointment of a hearing officer for this proceeding, pursuant to which I was appointed by the BOE on December 5, 2018.⁴

After a series of pre-hearing delays,⁵ the hearings in this matter and a separate matter regarding Olney Charter High School ("Olney") were interspersed on March 12, 13, 15, 18, 19, 20, 25, 26, 27 and 29, and April 2, 8, 9, 10, 12 and 15, 2019 (because the witnesses and testimony substantially overlapped).⁶ In addition, the parties agreed that relevant portions of the Olney and Stetson records could be incorporated and relied upon in either proceeding.⁷

The School District called the following witnesses in its cases against Olney and Stetson (collectively, the "Charter Schools"): Peng Chao (the CSO's senior director), Roger Kligerman (the CSO's director of quality and accountability), Nicholas Spiva (the CSO's assistant director

³ See Ex. JE[S] 1.

⁴ See Ex. HO[S] 1.

⁵ On December 19, 2018, the hearing was scheduled for February 12, 2019 (and subsequent dates) by agreement of the School District and Stetson. Then on February 4, the start date was postponed until February 19 to accommodate conflicting court appearances by Stetson's previous Counsel. Stetson then terminated its previous Counsel on February 7. To accommodate Stetson's current Counsel, the hearing was rescheduled on February 11 to start on March 11, 2019. Then on March 8, the start date was changed by agreement of Counsel to March 12, 2019, to allow time for review of additional exhibits.

⁶ Because there was substantial overlap between the witnesses called in this hearing and those called in the Olney hearing, and because some of the witnesses were called out of order to accommodate their schedules, the parties agreed to include all of the testimony for both hearings in a single set of transcripts, which are cited here as "Tr. vol. [#], at [page(s):lines(s)]." (See Tr. vol. 13, at 4:3-5:1.)

⁷ See Tr. vol. 4, at 305:6-308:8; Tr. vol. 5, at 32:23-33:23; Tr. vol. 10, at 4:17-23.

of accountability), Timothy Hanser (the CSO's assistant director of finance and operations), and Mayer Krain (an auditor two in the School District's Office of Auditing Services ("OAS")).

Olney called the following witnesses in its defense: Lillian English-Hentz (an Olney board member and a student's grandparent), Sheila Rodriguez (a student's parent), Carmen Camacho (a student's parent), James Thompson (Olney's principal), Ellen Green (Olney's vice principal), Thomas Darden (the chief operating and innovations officer of Olney's management company, ASPIRA, Inc. ("ASPIRA")), Daniel LaSalle (Olney's 9th grade assistant principal), Yeslli Ann Hernandez (a Spanish teacher at Olney), Xin Yi (ASPIRA's controller), Gary Samms (a partner at the law firm of Obermayer, Rebmann, Maxwell & Hippel, LLP), Alexander Schuh (the founder and executive director of School Frontiers LLC), Natalie Hoffa (a paralegal at the law firm of Latsha, Davis & McKenna), and all of the witnesses previously called by the School District (as on cross-examination).

Stetson called the following witnesses in its defense: Gary Samms, Thomas Darden, Thomas E. Mullin (Stetson's principal), Joanne Esquilin (Stetson's community outreach coordinator), Hedyanne Vallines (a student's parent), Yubelkis Soto (a student's parent), Debra Williams (a student's parent), Joely Sanchez (three students' parent), Maria Sanchez Ortiz (three students' grandparent and five former students' parent), Alexander Schuh, Glenda Marrero (Stetson's assistant principal), Jeanette Rodriguez (Stetson's lead administrative assistant), Xin Yi, Natalie Hoffa, and all of the witnesses previously called by the School District (as on cross-examination).

The following exhibits⁸ were admitted into evidence: Ex. JE[O] 1-108; Ex. SD[O] 3, 4, 6, 8-19, 22-26, and 29-33; Ex. Olney 19-23, 28, 32-34, 37-39, 41-44, 47, 49-50, 53-55, 57-59,

⁸ Some of these exhibits were admitted in part or only for certain purposes, and other exhibits that the parties exchanged were not offered into evidence or were excluded based on

61-68, 70-71, 73-88, 90-92, 94-97, 100-101, 108-118, 122-125, 153-155, 166, 175-178, 184-187, 190, 205, 207, 209, 214-215, 217-220, 227-230, 233-234, 237-238, 248-253, 255, 258, 269, 281-282, 284-290, 292, 294-296, and 300; Ex. JE[S] 1-92; Ex. SD[S] 5-12, 15, 17-19, and 21-27; and Ex. Stetson 4-5, 15, 22-23, 26, 27, 29, 31, 33-37, 41, 43-44, 46-51, 55, 57-73, 76-88, 91-92, 94, 96-100, 102-107, 111-114, 131, 135, 138, 145, 151-153, 165, 172-175, 186, 197-202, 208-211, 214-215, 218-219, 230-234, 236, 239, 255, 257, 258 259-264, 266, 268-273 and 277.

Public comments were then solicited by the BOE from April 22, 2019 through May 21, 2019,⁹ in response to which 140 individuals submitted 141 comments in the Olney matter, and 88 individuals submitted 114 comments in the Stetson matter (approximately half of which were part of an electronic petition).¹⁰

On June 11, 2019, the parties submitted their proposed findings of fact and conclusions of law, and supporting memoranda of law.¹¹

After preparing drafts of this report and its attachments, I was asked to defer their finalization, submission and service pending the outcome of attempts to negotiate an amicable resolution.¹² On September 18, 2019, I was advised that the negotiations were unsuccessful.

well-founded objections, as specified in the Certification of the Record submitted in both matters. The exhibits were numbered separately in each case, so to avoid confusion, it is necessary to distinguish the exhibits from different exhibits with the same numbers in the other case. Accordingly, with respect to the exhibits submitted in the Olney matter, joint exhibits are cited here as Ex. JE[O] 1-108, School District exhibits are cited as Ex. SD[O] 1-33 and Olney exhibits are cited as Ex. Olney 1-300. Similarly, with respect to exhibits submitted in the Stetson matter, joint exhibits are cited as “Ex. JE[S] 1-92, School District exhibits are cited as Ex. SD[S] 1-28 and Stetson exhibits are cited as Ex. Stetson 1-277. Additional Hearing Officer exhibits are also included to complete the record, which are cited as Ex. HO[O] 1-125 and Ex. HO[S] 1-131.

⁹ See Ex. HO[O] 104; Ex. HO[S] 106.

¹⁰ See Ex. PC[O] 1-143; Ex. PC[S] 1-58.

¹¹ See Ex. HO[O] 112-115; Ex. HO[S] 118-121. Olney and Stetson also submitted three new motions, which were responded to and ruled on separately, but are also summarized in Sections III.H.6 and III.H.7 below. See Ex. HO[O] 116-123; Ex. HO[S] 122-129.

Accordingly, this matter is ripe for decision.

After carefully considering the evidence submitted, the positions of the parties and the public comments received, I recommend that Stetson’s charter *not* be renewed, because Stetson failed to comply with material provisions of its charter, failed to meet applicable requirements for student performance, failed to comply with generally accepted standards of fiscal management and audit requirements, and violated applicable laws from which it has not been exempted. *See* 24 P.S. § 17-1729-A(a).

My reasons for this recommendation are further explained below, and are based upon the Findings of Fact and Conclusions of Law submitted with this report.

II. GROUNDS FOR NONRENEWAL OF STETSON’S CHARTER

Pennsylvania’s Charter School Law (“CSL”) provides the following pertinent grounds for nonrenewal or revocation of a charter:

(1) One or more material violations of any of the conditions, standards or procedures contained in the written charter signed pursuant to section 1720-A.

(2) Failure to meet the requirements for student performance set forth in 22 Pa. Code Ch. 5 (relating to curriculum) or subsequent regulations promulgated to replace 22 Pa. Code Ch. 5 or failure to meet any performance standard set forth in the written charter signed pursuant to section 1716-A.

(3) Failure to meet generally accepted standards of fiscal management or audit requirements.

* * *

(5) Violation of any provision of law from which the charter school has not been exempted, including Federal laws and regulations governing children with disabilities.

¹² I did not disclose any information to either party regarding my drafts, and the only information disclosed to me regarding the negotiations was the fact that they were occurring.

24 P.S. § 17-1729-A(a); *see also*, *Discovery Charter Sch. v. School Dist. of Phila.*, 166 A.3d 304, 317-18 (Pa. 2017).¹³

The BOE “may” choose not to renew a charter on any of the listed grounds. *See* 24 P.S. § 17-1729-A(a).

“When the words of a statute are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit.” *Discovery Charter Sch.*, at 316.

To support such a nonrenewal, the School District has the burden to prove the asserted grounds by “a preponderance of the evidence.” *See Delaware Valley Charter High Sch. v. School Dist. of Phila.*, CAB No. 2016-06, at 27 (June 8, 2017); *Imani Educ. Circle Charter Sch. v. School Dist. of Phila.*, CAB No. 2014-08 at 25 (May 11, 2016) ; *Graystone Acad. Charter Sch. v. Coatesville Area Sch. Dist.*, CAB No. 2012-01, at 38 (Aug. 2, 2013) (“*Graystone (CAB)*”).¹⁴ This burden is satisfied if “the evidence demonstrates a fact is more likely to be true than not to be true, or if the burden were viewed as a balance scale, the evidence in support of the proponent’s case must weigh slightly more than the opposing evidence.” *Id.* In addition, “the reasons for terminating a charter must be compelling in the sense that a charter school’s violations of the terms of its charter or the CSL are significant, material and fundamental.” *See Renaissance Charter Sch.*, CAB No. 2008-07, at 3 n.3 (Apr. 14, 2009).

As set forth more fully below, the School District has met these requirements with respect to each of the asserted grounds for nonrenewal, because Stetson has failed to comply

¹³ The grounds are the same for both nonrenewal and revocation, as are the procedural requirements. 24 P.S. § 17-1729-A. Thus cases involving one or the other apply to both.

¹⁴ Decisions of the Pennsylvania Department of Education’s Charter School Appeal Board (“CAB”) are cited here as “CAB No. [docket number] ([date])” and are available at http://www.education.pa.gov/K-12/Charter_Schools/Pages/CAB-Decisions.aspx. When both CAB and appellate court decisions are cited for the same case, short citations will specify the tribunal to avoid confusion (i.e., “*Graystone (CAB)*” or “*Graystone (Cmwlth.)*”).

with material provisions of its charter, failed to meet applicable requirements for student performance, failed to comply with generally accepted standards of fiscal management and audit requirements and violated applicable laws from which it has not been exempted; and because these violations were sufficiently significant, material and fundamental to warrant nonrenewal.

A. Material Violations of Charter Standards and Conditions

The CSL makes clear that a “written charter . . . shall be legally binding on both the local board of school directors of a school district and the charter school’s board of trustees.” 24 P.S. § 17-1720-A(a); *Discovery Charter Sch.*, at 319 (quoting 24 P.S. § 17-1720-A(a)). Moreover, “the information in the charter school application is intrinsic to the charter and is essentially the heart of the charter school” because “the charter school application is required by the Charter School Law to be extremely detailed and specifically identify the manner in which the charter school will operate (*see* 24 P.S. § 17-1719-A) and because the information contained in the charter school application eventually becomes part of the charter itself” *Thurgood Marshall Acad. Charter Sch.*, CAB No. 2001-5, at 11 (Jan. 15, 2002). Accordingly, “the charter school is required to comply with the terms and conditions of the charter, as well as the information contained in the charter school application, which is incorporated into the charter.” *Truebright Science Acad. Charter Sch. v. School Dist. of Phila.*, CAB No. 2013-11, at 15 (Jan. 8, 2015) (“*Truebright (CAB)*”) (citing 24 P.S. §§ 17-1720-A, 17-1729-A(a)(1)).

For these reasons, a charter school’s failure to meet a performance requirement in its charter is a valid ground for nonrenewal under 24 P.S. § 17-1729-A(a)(2). *Truebright Science Acad. Charter Sch. v. School Dist. of Phila.*, 115 A.3d 919, 922 (Pa. Cmwlth. Ct. 2015) (“*Truebright (Cmwlth.)*”); *Graystone Charter Sch. v. Coatesville Area Sch. Dist.*, 99 A.3d 125, 139 (Pa. Cmwlth. Ct. 2014) (“*Graystone (Cmwlth.)*”).

1. Stetson failed to meet charter conditions for Renaissance Schools.

Stetson is not a traditional charter school. It received a charter only because ASPIRA (a) applied to be a turnaround team as part of the School District's Renaissance Schools Initiative, and (b) promised to comply with the Renaissance Schools Policy, the expectations in the School District's request for proposals, and the CSL. A Renaissance charter was then executed by the parties reflecting those conditions. But for the School District's decision to seek out operators to take over its own schools, Stetson would have no right to exist, or to operate out of a building that the School District owns and previously used to house the former John B. Stetson Middle School.

The "minimum" expected outcomes included "[i]mprovement in student academic achievement for all students, including English Language Learners and special education students . . ." and "[i]mplementation of instructional practices that will transform schools into high achieving learning environments."¹⁵ ASPIRA knowingly and voluntarily applied to turn around low-performing schools that had not met Adequate Yearly Progress standards for more than six years. The schools that were sought by ASPIRA were neighborhood schools with high numbers of English Language Learners ("ELLs"), special education students and economically disadvantaged students. As the management company for two other charter schools, Antonia Pantoja Charter School ("Pantoja") and Eugenio de Hostos Charter School ("Hostos"), ASPIRA had a history of successfully serving Latino students in North Philadelphia, including significant percentages of ELLs and special education students. By virtue of ASPIRA's submissions to the School District, ASPIRA knew that under the Imagine2014 plan, it had to act "with an urgency to dramatically improve the learning environment," produce "dramatic gains in student

¹⁵ See Ex. Olney 258, at 4; Ex. Stetson 239, at 4.

achievement” and “demonstrate marked improvement in . . . [s]tudent attendance” for all of the students who would be attending the Renaissance charter school, including ELLs and special education students.¹⁶

As noted in the various Renaissance documents and the charter, one anticipated measure of such dramatic gains would be an accountability system developed by the School District that included student academic performance and related school quality measures. Renaissance charter schools were expected to reach a performance level in the first four years of the charter term “that is equivalent to the median performance of District schools.”¹⁷ At that time, the School District’s accountability system was called the School Performance Index (“SPI”). The charter recognized that the SPI might be modified or replaced in the future, however, so it also required participation in any other accountability systems applicable to all School District schools.¹⁸

The Charter Application submitted by ASPIRA, which was incorporated into the charter, also included a number of “goals” that were shared with the Imagine 2014 strategic plan, including that (a) all children will enter every grade on level; (b) all students are excited to attend school every day; and (c) the opportunity and achievement gap is closed for all students.¹⁹ The Charter Application further states: “Our curriculum goals are consistent with both the federal No Child Left Behind Law and with the goals of Imagine 2014—that every student will be proficient and performing on grade level in the core subjects of Reading, Mathematics and Science.”²⁰

¹⁶ See Ex. Olney 76, at 5, 7, 13; Ex. Stetson 63, at 5, 7, 13.

¹⁷ See Ex. JE[S] 2, at 51.

¹⁸ See Ex. JE[S] 2, at 23 (“The Charter School agrees to participate in the School District’s annual city-wide academic accountability systems . . .”).

¹⁹ See Ex. JE[S] 2, at 364-365.

²⁰ *Id.* at 371.

Approximately nine years of data is now available for review to determine if Stetson has met the requirements and expectations of the Renaissance Initiative, in addition to meeting expectations that apply to all charter schools in the Commonwealth of Pennsylvania. Based upon the totality of the evidence in the record, Stetson has failed to meet those requirements and expectations.

2. Stetson has not achieved the performance expected of Renaissance Schools.

The School District replaced the SPI with an improved system called the School Performance Report (“SPR”) beginning in the 2013-14 school year.²¹ Like the SPI, the SPR measured achievement on the Pennsylvania System of School Assessments (“PSSA”) and Keystone Exams, growth on standardized assessments, climate factors, and post-secondary readiness information for high schools. The SPR places schools into performance tiers based upon the number of points scored in each domain, and also ranks schools with similar grade configurations, and schools within smaller peer groups.

The SPR’s citywide rank establishes that Stetson did not improve to at least the median performance of all School District schools in the first 4 years of its charter as required, or at any time thereafter. Stetson’s citywide rank has improved, but only from 22 out of 33 in the 2013-14 school year to 18 out of 33 in the 2017-18 school year. Moreover, in every year, Stetson has ranked in one of the lowest possible tiers (Watch or Intervene). Stetson has never been in the top half of the schools, and most recently ranked in only the 45th percentile (18th out of 33).²²

²¹ See Ex. JE[S] 20 (2013-14), JE[S] 21 (2014-15), JE[S] 22 (2015-16), JE[S] 23 (2016-17), SD[S] 7 (2017-18).

²² See Ex. SD[S] 8, at 5 (table 8).

In the Achievement domain, Stetson's most recent three-year average was 0.0%.²³ This was the lowest achievement possible.

Renaissance charter schools were also required to demonstrate "marked improvement" in student attendance. To this end, Stetson promised in its Charter Application that all students would be "excited to attend school every day."²⁴ Attendance has been measured in various ways by the School District and PDE. The School District's SPR considers the percentage of students attending at least 95% of their school days.²⁵ PDE's SPP previously considered average daily attendance, but its Future Ready Index ("FRI") now considers the percentage of students attending at least 90% of the school days.²⁶ None of these metrics reflect the type of attendance improvement that Stetson promised.

Based on Stetson's own data, the average daily attendance reported in the SPPs has never been more than 92.79%, and fell to 90.63% in 2016-17.²⁷ Under PDE's new metric, only 61.3% of Stetson's students attended at least 90% of their 2017-18 school days, compared to the statewide goal of 94.1%.²⁸ Under the SPR's metric, only 31% of Stetson's students attended at least 95% of their 2017-18 school days, which was only the 12th percentile among all middle schools in Philadelphia.²⁹ The various subgroups at Stetson are also attending school less

²³ See Ex. SD[S] 7, at 1.

²⁴ See Ex. JE[S] 2, at 364-365.

²⁵ See Tr. vol. 1, at 169:11-17.

²⁶ See Ex. JE[S] 19, at 8; Tr. vol. 1, at 170:15-171:5.

²⁷ See Ex. JE[S] 14 at 2, 4; Ex. JE[S] 17, at 12; Ex. JE[S] 30, at 3; Ex. JE[S] 31.

²⁸ See Ex. JE[S] 18, at 7.

²⁹ See Ex. SD[S] 8, at 5 (table 9); Ex. JE[S] 20-23; Ex. SD[S] 7.

frequently than at other schools throughout the City.³⁰ Students at Stetson are also chronically absent at higher rates than other middle schools, and also habitually truant in high percentages.³¹

Stetson seeks to avoid all responsibility for its failure to meet the objectives of its charter by stressing that the School District changed its accountability report from the SPI to the SPR. This is unpersuasive because both measured the same criteria and Stetson made no attempt to prove that it would have fared any better under the SPI's methodology, let alone better enough to meet the objectives of its charter. The core intent was to reach the median performance of School District schools, and Stetson has not come anywhere close to that level of performance.

Stetson also relies on Measures of Academic Progress ("MAP") assessments as evidence that gains actually are occurring, but Stetson has only used this system since the 2015-16 school year and it has not yielded corresponding improvements in academic achievement on State assessments, which are the only appropriate measures of achievement under the Renaissance Initiative.³²

Stetson has good reason to be proud of the substantial climate improvements it has made in the last nine years, but these improvements have not resulted in the "dramatic gains in student achievement" that were expected, either within the first four years of the charter term or at any time thereafter. These achievement gains were the fundamental purpose of the Renaissance program.

For all of these reasons, Stetson has not met the Renaissance Initiative requirements in its charter.

³⁰ See Ex. SD[S] 19, at 9; Tr. vol. 12, at 118-119.

³¹ See Ex. SD[S] 19, at 10; Ex. Stetson 172-175; Tr. vol. 2, at 87-88.

³² See Ex. JE[S] 84-87; Ex. Stetson 15; Tr. vol. 6, at 137-139; Tr. vol. 14, at 109-111, 114:10-18, 205:16-23, 207-211, 125:23-126:1.)

3. Stetson failed to meet charter requirements for Statements of Financial Interest.

The CSL provides that administrators of charter schools are public officials who must comply with the Public Officials and Employees Ethics Law (“Ethics Act”). 24 P.S. § 17-1715-A(12); 65 Pa. C.S. § 1104(a). The Ethics Act requires each of Stetson’s Trustees to file a Statement of Financial Interest (“SOFI”) by May 1st of each year. 65 Pa. C.S. § 1104(a).

A failure to comply with this requirement may not be deemed a violation of law by Stetson itself, because the filing is an individual responsibility. *See School Dist. of York v. Lincoln Charter Sch.*, 889 A.2d 1286, 1289, n.7 (Pa. Cmwlth. Ct. 2006).

Nevertheless, such a failure may be a charter violation if the charter also requires the SOFIs to be filed. *See Khepera Charter Sch. v. School Dist. of Phila.*, CAB No. 2018-01 (Dec. 17, 2018). Here, Stetson’s charter provides as follows:³³

Public Official and Employee Ethics Act. The Charter School acknowledges that all Charter School trustees and administrators must comply with the Public Official and Employee Ethics Act and that all Charter School trustees and administrators shall submit their completed Statement of Financial Interests forms by May 1st to the Charter School, with copies to the School District.

Thus, Stetson was obligated to ensure that its board members filed their SOFIs on time, and was obligated to provide copies to the School District when they did. This was not just a formality, because “[n]o public official is permitted to continue his/her duties unless and until the statement has been filed. 65 Pa. C.S. § 1104(d).” *Thurgood Marshall*, at 16.

Here, 19 of Stetson’s Trustees failed to comply with the SOFI requirement, and many failed to file SOFIs for multiple years.³⁴ Thus Stetson violated a charter condition by not ensuring that those filings were made and submitting copies to the School District.

³³ See Ex. JE[S] 2, at 33 § XVIII.F.

³⁴ See Findings of Fact, at A-87 ¶ 331.

Because these violations are so numerous and blatant, they are sufficiently material to warrant nonrenewal on their own, and even if they were not, they would clearly lend further support to an exercise of the BOE's discretion to deny a renewal when considered in the aggregate with all the other deficiencies described in this report. *See Khepera*, at 48-49.

4. Stetson failed to meet charter requirements for Highly Qualified Teachers.

Stetson's charter also required it to comply with the Highly Qualified Teacher ("HQT") requirements which were in place through the 2015-16 school year under the No Child Left Behind Act.³⁵ All teachers teaching core academic subjects were required to be highly qualified by the end of the 2005-06 school year. 20 U.S.C. § 6319(a)(2). To be highly qualified, a teacher must hold a bachelor's degree, demonstrate competence in the core content areas taught and meet the CSL's certification requirements.³⁶ Based upon its Required Federal Reporting Measures ("RFRM") reports and Stetson's own calculations of HQT status, Stetson failed to have 100% of its core subject area teachers highly qualified in the 2010-11, 2011-12, 2012-13, 2013-14, 2014-15 and 2015-16 school years, in violation of both applicable law and its charter.³⁷

Whether or not these violations would be sufficiently material to warrant nonrenewal on their own, they lend further support to an exercise of the BOE's discretion to deny a renewal when considered in the aggregate with all the other deficiencies described in this report. *See Khepera*, at 48-49.

³⁵ See Ex. JE[S] 2, at 21 § VII.B.1.

³⁶ See, e.g. Ex. JE[S] 10, at 16.

³⁷ See Ex. JE[S] 10-13, at the last page of each document; Ex. JE[S] 28, at 17; Ex. Olney 88.

5. Stetson failed to meet charter requirements for certification of special education staff.

Stetson's charter requires all special education staff to be appropriately certified.³⁸

Nevertheless, the vast majority of Stetson's special education teachers were not appropriately certified in 2014-15, 2016-17 and 2017-18.³⁹ This is especially troubling because Stetson had an unusually high population of special education students in all of those years.⁴⁰

Whether or not these violations would be sufficiently material to warrant nonrenewal on their own, they lend further support to an exercise of the BOE's discretion to deny a renewal when considered in the aggregate with all the other deficiencies described in this report. *See Khepera*, at 48-49.

6. Stetson violated its own Bylaws.

Stetson's charter included its bylaws and required any amendments to be submitted to the School District within 30 days.⁴¹

Since at least 2017, Stetson's Bylaws have required its Board to consist of 5-9 members, including the president of the Parents Association as an *ex officio* voting member.⁴² Stetson has not always met these requirements.

First, Stetson's Board has had only four members since August 20, 2018.⁴³

Second, the Board's meeting minutes sometimes show one or more parent representatives in attendance, but they do not show the election of any parent representatives to the Board.⁴⁴

³⁸ See Ex. JE[S] 2, at 22 § VII.B.2.

³⁹ See Ex. JE[S] 46-47, at 4; Ex. SD[S] 11, at 4; Tr. vol. 10, at 58:18-63:15.

⁴⁰ See Section III.A below.

⁴¹ See Ex. JE[S] 2, at 386-403.

⁴² See Ex. JE[O] 51, at 2-3; Tr. vol. 10, at 102:1-24.

⁴³ See Ex. Stetson 272, at 66-70, 109-118.

Moreover, at least until February 2019, the meeting minutes do not reflect who voted on any matter, so the record does not reflect any parent member actually voting on anything.⁴⁵

Third, the Board created the office of vice chair on July 1, 2016, but no one has filled that position since Carmen Paris stopped attending meetings after October 16, 2017.⁴⁶

Thus, Stetson has violated its own Bylaws.

B. Failure to Meet Student Performance Requirements

In addition to its failure to meet charter standards and conditions, Stetson has failed to attain the levels of student achievement and growth required of all charter schools. The CSL authorizes a chartering school district not to renew the charter of a school if it does not meet the standards set forth in Chapter 4 of the State Board of Education's regulations (the re-codified version of Chapter 5). *See* 24 P.S. § 17-1729-A(a)(2); *New Hope Acad. Charter Sch. v. School Dist. of York*, 89 A.3d 731 (Pa. Cmwlth. Ct. 2014); *Career Connections Charter High Sch. v. School Dist. of Pittsburgh*, 91 A.3d 736 (Pa. Cmwlth. Ct. 2014); *Graystone (Cmwlth.)*, at 139; *Delaware Valley*, at 27; *Khepera*. As explained below, Stetson has failed to meet these standards.

When it enacted the CSL, the General Assembly expressly stated that its intent was to “improve pupil learning,” “increase learning opportunities for all pupils,” and “hold the schools established under this act accountable for meeting measurable academic standards and provide the school with a method to establish accountability systems.” 24 P.S. § 17-1702-A. Consistent with this intent, the General Assembly required charter schools to participate in the PSSA, Keystone Exams and other accountability systems established in Chapter 4. 24 P.S. § 17-1715-A(8); 22 Pa. Code §§ 4.1-4.83. The purpose of Chapter 4 is “to establish rigorous academic

⁴⁴ See Ex. JE[O] 3, 65-67; Ex. JE[S] 38-44.

⁴⁵ See Ex. JE[S] 38-44; Ex. SD[S] 25; Ex. Stetson 272.Ex. JE[S] 38-44.

⁴⁶ See Ex. JE[S] 43-44.

standards and assessments to facilitate the improvement of student achievement and to provide parents and communities a measure by which school performance can be determined.” 22 Pa. Code § 4.2; *see also* 24 P.S. § 17-1702-A(6).

Moreover, the CSL authorizes a school district not to renew the charter of a school that does not meet the standards for student achievement set forth in Chapter 4. *See* 24 P.S. § 17-1729-A(a)(2); *see also*, *Graystone (Cmwlth.)*, 139; *Career Connections*; *New Hope*; *Delaware Valley*, at 27.

As explained below, Stetson has failed to meet the standards for student achievement set forth in Chapter 4, as a result of which nonrenewal of its charter is authorized by the CSL.

1. Stetson’s PSSA results have not met the Chapter 4 and *New Hope* standards

When analyzing a charter school’s performance against the Chapter 4 standards, the Commonwealth Court has held: “A consistently low percentage of students scoring proficient or better on the PSSA constitutes a failure to satisfy Chapter 4 student performance requirements and is a valid ground for nonrenewal of a school’s charter under Section 1729-A(a)(2) of the [CSL] where the charter schools’ proficiency rates are lower than those of its school district’s schools as a whole and no clear pattern of significant improvement in its PSSA results is shown.” *New Hope*, at 737. “A holding that the [CSL] requires that charter schools remain open despite student academic performance that is consistently far below state standards would violate the overriding purpose of the Public School Code to provide ‘a thorough and efficient system of public education,’ and could raise issues of unconstitutionality under Article III, Section 14 of the Pennsylvania Constitution.” *New Hope (Cmwlth.)*, at 739-740.

Here, not only did Stetson’s PSSA scores not exhibit a “clear pattern of significant improvement,” but they also fell below the proficiency rates of the schools operated by the

School District and the charter schools serving Philadelphia students with similar grades,⁴⁷ both of which are proper comparator groups according to CAB. *Delaware Valley*, at 29.

Comparing a charter school's academic performance to the academic performance of the schools within the local school district is appropriate when applying 24 P.S. § 17-1729-A(2). *Id.*; *see also Truebright (CAB)*, at 18; *Community Academy of Phila. Charter Sch.*, CAB No. 2013-02 (June 1, 2015), at 45. CAB has affirmed the comparison of a charter school's scores to the average of the scores of both the School District operated schools and the other charter schools operating within the School District. *Delaware Valley*, at 29.⁴⁸

As a Renaissance charter school, Stetson was required to enroll students from the neighborhood catchment area. Although Stetson is doing so, it has also recruited 5-10% of its students from outside the neighborhood.⁴⁹

A significant portion of the School District's students are enrolled in charter schools. The School District is unique compared to all other school districts in Pennsylvania, due to its tremendous size and its large number of brick and mortar charter schools. As noted in a 2017 study by the PEW Charitable Trusts, approximately 30% of all ninth graders in Philadelphia public schools attended charter schools during the 2014-15 school year.⁵⁰ Because charter schools are such a large portion of the public schools in Philadelphia, CAB has held that it is appropriate to compare a charter school's performance to the performance of charter schools as a whole. *See Delaware Valley; Khepera*.

⁴⁷ See Ex. SD[S] 8, at 1-3 (tables 1-3).

⁴⁸ In its Renewal Recommendation Report, the CSO also compared Stetson's performance to a "peer group" of demographically similar schools, but that comparison was not relied upon at the hearing, because Stetson's students might not enroll in those schools if the charter is not renewed.

⁴⁹ See Ex. Stetson Ex. 186, at 1.

⁵⁰ See Ex. Stetson 236, at 7-8

Stetson's charter reflected an expectation that the PSSA would be used to analyze its performance. During the first three years of its charter, Stetson successfully increased its proficiency scores in math and reading. However, that success was short-lived and further declined once the PSSA was re-aligned to PA Core standards.⁵¹ In the 2015-2016 school year, Stetson's proficiency levels dropped in all three tested areas (ELA, math and science). Percentages have not substantially improved in those subject areas since the 2015-2016 school year. In 2017-2018, Stetson's students achieved only the following proficiency rates: 4% in math, 17% in ELA and 10% in science.

Moreover, Stetson's proficiency rates were significantly lower in math and ELA since the 2014-2015 school year and in science since the 2010-2011 school year than the proficiency rates of students in the same grade levels at School District schools and in Philadelphia brick and mortar charter schools, including other Renaissance charter schools.

In math, a higher percentage of Stetson's students scored below basic in 2017-18 than in 2014-15, 2015-16 and 2016-17. In fact, the percentage in 2017-18 (82.8%) was almost 20 points higher than in 2014-2015 (63.6%). In science, between 66.4% and 78.6% of Stetson eight graders scored below basic in each of the last four school years, even though Stetson's students had four years of science instruction before taking the exam.

2. Stetson's SPP and Future Ready Index data falls below the standards set by the State's accountability systems.

The assessment system in Pennsylvania has undergone changes in the last several school years. As noted by CAB:

⁵¹ See Ex. SD[S] 8; Ex. JE[S] 10-13, 65-69; Ex. Stetson 55, at 5. Because the PSSA underwent changes when realigned to PA Core, one must be cautious when comparing scores prior to the 2014-2015 school year to scores thereafter.

Prior to 2013, Section 4.51 of Ch. 4 regulations required schools to demonstrate that their students were proficient or better on the PSSA tests every year, pursuant to the mandates of the NCLB, utilizing AYP. 22 Pa. Code § 4.51(a)(1). However, in 2013, PDE sought and received a waiver from the United States Department of Education from NCLB, and as a result, PDE abolished AYP as a school's accountability measure and created the SPP as a new metric for measuring academic achievement

The SPP has replaced AYP as the Commonwealth's accountability measure for public schools. Further, the SPP is to be utilized to inform the public of the academic performance measures of each school, to offer a resource for LEAS, to communicate and compare the school's performance to local schools or schools with similar demographics, to analyze performance indicators as related to achievement and to encourage best practices. [<http://paschoolperformance.org>.] Accordingly, under this new metric, achievement results (PSSA/Keystone Exams) and growth results (PVAAS) must be used together to get a complete picture of student learning.

Delaware Valley, at 32-33.

Beginning in the 2017-18 school year, the State accountability system has changed to the FRI. Despite this change, SPP scores are still calculated by the State, because such scores are a required for Multiple Charter School Organization applications, 24 P.S. § 17-1729.1-A(b)(1)(iii), and for Pennsylvania's teacher evaluation framework.

Under the SPP accountability system, Stetson's academic performance has been below standards, with a building level score in the lowest category of performance in each year: 57.3 in 2012-13; 48.8 in 2013-14; no score in 2014-15; 37.7 in 2015-16; 46.5 in 2016-17; and 51.4 in 2017-18. Stetson's SPP score also fell below the average SPP score for School District schools and the charter sector in every year since 2012-13. Stetson's 2016-17 SPP score of 46.5 was lower than 73% of all School District and charter schools operating in the City that received an SPP score.

The SPP score calculation includes not only proficiency data, but also growth data, using the Pennsylvania Value Added Assessment System ("PVAAS"). "PVAAS utilizes the Average Growth Index ("AGI") to assess growth at different levels." *Delaware Valley*, at 34. "Evaluating

AGI may help to determine if the school is meeting its growth standards even if its SPP score or proficiency scores may not be as high as School District schools.” *Id.* Stetson has consistently not shown evidence of growth in ELA and, for the last two years, in math, and did not meet the growth standard in science in any year but 2017-2018. This evidence of growth is what is driving the increase in Stetson’s SPP score in later years and also the increase in the SPR score, not achievement or proficiency improvements.

As a result of Stetson’s performance on the accountability systems as a Title I school, the State identified Stetson as a Focus school from 2013-2014 through 2016-2017. This required Stetson to engage in improvement activities, including the filing of improvement plans. Unfortunately, the additional assistance that Stetson received has not helped improve its academic outcomes, and did not meet the achievement goals set forth in the improvement plans.

C. Failure to Meet Generally Accepted Standards of Fiscal Management and Audit Requirements

A chartering school district is authorized to revoke a charter if the charter school fails to meet generally accepted standards of fiscal management or audit requirements. 24 P.S. § 17-1729-A(a)(3). Case law from CAB and the appellate courts has provided guidance regarding the standards of fiscal management applicable to charter schools on which a revocation or nonrenewal decision can be premised. Examples of violations of generally accepted standards of fiscal management include overspending a school’s budget, operating with budget deficits, failing to conduct timely audits, having a negative fund balance, and having unhealthy financial metrics during the charter term. *See, e.g., Renaissance Charter* (nonrenewal upheld where charter school failed to complete timely audits); *Renaissance Acad. of Pittsburgh Alternative of Hope (“RAPAH”) Charter School*, CAB No. 2007-03 (June 29, 2007) (non-renewal upheld where charter school had a deficit of several hundred thousand dollars for multiple years and had

entered into a 30-year debt); *Ronald H. Brown Charter Sch.*, CAB No. 2005-08 (Jul. 19, 2006) (“*Ronald H. Brown (CAB)*”), *aff’d.*, 928 A.2d 1145 (Pa. Cmwlth. Ct. 2007) (“*Ronald H. Brown (Cmwlth.)*”), (upholding revocation where charter school had multiple years of negative fund balances and overspent its budget); *Thurgood Marshal* (fiscal mismanagement sufficient to support revocation where charter school overspent its budget by over \$140,000; failed to make employer contributions to PSERS; failed to timely pay creditors; placed itself in a budget deficit of over \$50,000; and failed to ensure timely audits were performed); *Creative Educ. Concepts Charter Sch.*, CAB No. 1999-15 (Mar. 15, 2000) (revocation upheld where charter school operated at a loss); *Delaware Valley* (nonrenewal upheld due to missed PSERS payments, unhealthy financial metrics and overbilling the district).

A charter school’s failure to appropriately manage its finances is a proper ground for nonrenewal. In *Delaware Valley*, the School District’s nonrenewal was upheld based upon financial mismanagement where the charter school had unhealthy financial metrics, including a current ratio of less than 1.0 and only 6-10 days of cash on hand. *Id.* at 39.

1. Stetson has had poor fiscal management.

For fiscal years ending June 30, 2015 and June 30, 2016, Stetson engaged in deficit spending, with its total margin, net position and fund balance on a downward trend. Since the nonrenewal resolution was approved, additional information indicates that Stetson’s financial health has improved and is currently meeting standards.⁵² Nevertheless, even with its current metrics, Stetson would be unable to satisfy substantial guarantees⁵³ that it provided to PNC Bank and Provident Bank, which jeopardizes the education of Stetson’s students.

⁵² See Ex. SD[S] 6, at 1; Ex. JE[S] 6-9; Ex. JE[S] 25, at 14; Ex. SD[S] 19.

⁵³ See Section II.C.4 below.

Moreover, Stetson's current assets include any receivables due from ASPIRA and/or its managed entities.⁵⁴ Such amounts may be included as assets for financial statement purposes without actually being available to spend. For example, the "loans"⁵⁵ that Stetson made to ASPIRA in the 2017-18 school year that continue to be unpaid in the 2018-19 school year are a Stetson receivable and an ASPIRA payable, but Stetson cannot spend those funds to educate its students. Stetson's own witnesses testified that they would be using certain instructional software in additional grades if they had the laptops needed to support it.⁵⁶ If the intercompany loans had not been made to ASPIRA, Stetson could have used those funds for educational enhancements.

The evidence established that the ASPIRA-provided financial team engaged in poor accounting practices and weak internal controls from the inception of the charter until the 2016-17 school year, which contributed to the intercompany loans described in Section II.C.5 below and the failure to properly document transactions.⁵⁷ Even after Thomas Darden and Xin Yi came on board at ASPIRA, Stetson has been slow to rectify the issues identified in the CSO's renewal recommendation reports. It was not until the SRC voted to commence nonrenewal proceedings that steps were taken to adopt a Financial Policy Manual and a Position Control Policy to better control position hiring.⁵⁸ Despite concerns raised by the CSO and OAS over the lack of school-based financial personnel going back to 2015 and 2016, James Parsons and Karen Willis were not hired until the summer of 2018, and they were not given access to Stetson's bank accounts

⁵⁴ See Tr. vol. 16, at 28:18-29:10, 58:10-15.

⁵⁵ See Section II.C.5 below.

⁵⁶ See Tr. vol. 14 at 134:21-135:7, 236-237.

⁵⁷ See Tr. vol. 7, at 139:15-140:15.

⁵⁸ See Ex. Stetson 86, JE[S] 50, JE[S] 44, at 39; Tr. vol. 8, at 91:12-21, 97:18-21; Tr. vol. 16, at 162:10-164:13.

until the January 28, 2019 meeting of Stetson's Board.⁵⁹ Neither of those individuals testified at the hearing.

Mr. Darden testified about the Finance Committee that was allegedly established by the Board, but the establishment of a Finance Committee is not reflected in the Board's minutes.⁶⁰ According to Stetson's Bylaws, all committees need to be approved by the Board along with the identification of their members and their functions.⁶¹ According to the minutes, that never happened. Nor do the minutes reflect the Finance Committee ever reporting any information to the full Board and the Finance Committee does not meet publicly.⁶²

Another problem that has been permitted to continuously occur throughout Stetson's existence is the failure of ASPIRA to present monthly invoices to the Board for review and approval pursuant to its Management Service Level Agreements ("MSLAs"). Every version of the MSLA has required such submission and approval of monthly invoices.⁶³ With only one exception, such submissions and approvals do not appear in any of the Board's minutes.⁶⁴ The sole exception was after the nonrenewal resolution, at a meeting on February 26, 2018, in which a motion was made to approve ten ASPIRA invoices dated January 31, 2018.⁶⁵ Although the Board minutes do not reflect an actual vote on the motion, ASPIRA invoices were presented for approval and listed for each school. This was the first and last time any minutes addressed the presentation to and approval by the Board of any ASPIRA invoices. The failure to require

⁵⁹ See Tr. vol. 7, at 145:14-24; Ex. SD[S] 25, at 33.

⁶⁰ See Tr. vol. 7, at 149:2-150:16.

⁶¹ See Ex. Stetson 1, at 4; Ex. JE[S]2, at 391; Ex. JE[S] 37, at 5.

⁶² See Tr. vol. 7, at 150-152.

⁶³ See Ex. JE[S] 71, at 3; Ex. SD[S] 9, at 2; Ex. JE[O] 44, at 3; Ex. JE[O] 45, at 3; Ex. JE[O] 46, at 2.

⁶⁴ See Tr. vol. 7, at 153:10-154:5.

⁶⁵ See Ex. JE[S] 44, at 41.

presentation of invoices under the MSLAs and the failure of approve such invoices in public, are violations of both generally accepted standards of fiscal management and the Sunshine Act.

Another area of concern relates to the employment of the Superintendent and other Central Office staff. Those individuals had been employed by ASPIRA since February 2015. However, at the February 26, 2018 meeting, the Board entertained a resolution to move the employment of the Superintendent and a Senior Director of Curriculum and Instruction to Stetson.⁶⁶ The minutes do not reflect an actual vote on this resolution. If a vote occurred that is not reflected in the meeting minutes, then these two individuals have been paid by Stetson since February 26, 2018, and performing services for the other charter schools, including Olney, since that date.⁶⁷ Such services include supervising the Principals of each school. The minutes never mention the Board taking action on a contract regarding those individuals, Stetson or any other Central Office employee, or how payment would be made for their services. This deficiency was later compounded by a Staffing Agreement approved on April 8, 2019 between Olney and ASPIRA and between Stetson and ASPIRA, which continued to identify the Superintendent and the Senior Director of Curriculum and Instruction as ASPIRA employees for whom payment is required to be made to ASPIRA.⁶⁸ These discrepancies in the basic contractual documents and Board governance materials reflect failures to comply with generally accepted standards of fiscal management. They also reflect poorly on the Board members' fulfillment of their fiduciary duties to the respective non-profit entities, to ensure that charter school funds are paid to the proper entities in accordance with contractual requirements.

⁶⁶ See Ex. JE[O] 44, at 33.

⁶⁷ See Tr. vol. 16, at 242-243, 250.

⁶⁸ See Ex. Olney 295, at 27; Ex. Stetson 272, at 27.

Moreover, charter schools are required to make payments into the Public School Employees' Retirement System ("PSERS") on a quarterly basis. 24 P.S. § 8327(a). If a charter school fails to make the required contributions to PSERS, PDE is authorized to deduct the unpaid amounts from the chartering school district's appropriation, with the expectation that the chartering school district will then deduct an equivalent sum from any amount due to the charter school. 24 P.S. § 8327(b)(2). Stetson failed to make these required payments to PSERS in a timely manner on a few occasions.⁶⁹ This might not be material on its own, but it further evidences Stetson's pervasive lack of responsible fiscal management.

2. Stetson has failed to complete timely financial audits.

Failing to conduct a timely financial audit is also a proper ground for revocation under 24 P.S. § 17-1729-A(a)(3).

Stetson's audits for the following school years were issued after the December 31 deadline: the 2011-12 audit was issued on April 19, 2013; the 2012-13 audit was issued on January 20, 2014; the 2013-14 audit was issued on February 6, 2015; and the 2015-16 audit was issued on January 23, 2017.⁷⁰

As in *Graystone (CAB)*, *Renaissance Charter* and *Thurgood Marshall*, nonrenewal is appropriate here due to Stetson's failure to conduct timely audits, especially when coupled with the other issues described above. As explained in *Graystone (CAB)*, the receipt of timely financial audits is necessary to the charter school review process.

First, the reason for requiring the regular filing of financial audits by a charter school is to promote accountability and to enable the chartering school district, which has oversight of the charter schools it authorizes, to identify possible financial mismanagement before it becomes a serious problems, as the financial mismanagement did in *Renaissance Charter School* and the other cases cited

⁶⁹ See Ex. SD[S] 27, ¶ 7-8.

⁷⁰ See Ex. JE[S] 3-7; Tr. vol. 15, at 5:10-6-8:1.

above. The audit fulfills a statutory obligation, generates financial statements for a school, and requires the school to do a number of tests regarding its fiscal health and sustainability. To refuse to hold the charter school to the requirement of timely filed audits in the absence of evidence of financial mismanagement only encourages charter schools to file untimely audits in cases of actual financial mismanagement. Secondly, an untimely filed audit is unquestionably a violation of generally accepted standards of fiscal management and audit requirements and cannot be minimized in a case like this, where numerous other violations exist, without rejecting the intrinsic value of the audit to both the school and to the chartering district. Therefore, this violation was a material one and, particularly when aggregated with the other violations found above, justifies the termination of Graystone's charter.

Id., at 60. The Commonwealth Court agreed with CAB's analysis and also concluded that the failure to file timely financial audits was a violation of generally-accepted standards of fiscal management. *Graystone (Cmwlth.)*, at 140-141. Thus, Stetson's failure to provide timely audits is a violation of both applicable law and generally accepted standards of fiscal management.

3. Stetson's Board provided insufficient oversight of ASPIRA's fiscal management.

A charter school is "an independent public school established and operated under a charter from the local board of school directors and in which students are enrolled or attend. A charter school must be organized as a public, nonprofit corporation." 24 P.S. § 17-1703-A. Nonprofit corporations are entities created under the Nonprofit Corporation Law ("NCL"), and operated by boards of directors. 15 Pa. C.S.A. §§ 5310, 5712. In the charter school context, the CSL refers to such boards as boards of trustees. The General Assembly outlines the powers that the board of trustees of a charter school has to operate the school:

The board of trustees of a charter school shall have the authority to decide matters related to the operation of the school, including, but not limited to, budgeting, curriculum and operating procedures, subject to the school's charter. The board shall have the authority to employ, discharge and contract with necessary professional and nonprofessional employees subject to the school's charter and the provisions of this article.

24 P.S. § 17-1716-A(a).

Unlike the role of the charter school's board of trustees, which is clearly outlined in the CSL, the CSL does not address or provide for the role of a management company in the operation of a charter school. "A prerequisite to the grant of a charter is the organization of the school as a nonprofit corporation governed by a board of trustees that possesses authority to decide matters relating to the operation of the school, subject to the school's charter." *Mosaica Acad. Charter Sch. v. Department of Educ.*, 813 A.2d 813, 818 (Pa. 2002). Thus, when a board of trustees decides to turn over some functions to a management company, the trustees of the charter school must maintain ultimate control. *West Chester Area Sch. Dist. v. Collegium Charter Sch.*, 812 A.2d 1172, 1177 (Pa. 2002).

As explained below, Stetson's Board abdicated its responsibility to ensure that ASPIRA used Stetson's finances only for Stetson's benefit.

4. Stetson guaranteed financing for ASPIRA and other ASPIRA-managed schools.

Under every version of Stetson's Bylaws, the Board is responsible for approving or creating any indebtedness of Stetson, and the manner in which such indebtedness would be incurred. Soon after Stetson received its charter, ASPIRA-appointed individuals on the Board took steps to pledge Stetson's assets and revenues as collateral for a bond financing, loan and various lines of credit that ASPIRA, ACE/Dougherty, LLC ("ACE/Dougherty") and other entities obtained through PNC Bank. The total amount of the PNC Bank financing for which Stetson pledged its assets as collateral was over \$18 million.⁷¹

Stetson did not inform the School District about its role in the PNC financing.⁷² Stetson did not discuss these matters at a public meeting, at least not as reflected in the minutes, and the

⁷¹ See Findings of Fact, ¶¶ 353-418.

⁷² See Ex. JE[S] 2.

Board did not vote to approve Stetson's role in the transaction. Nor did Stetson's auditors report on Stetson's role in the transaction until the audited financial statements were issued for the year ending June 30, 2014, more than three years after the transactions had occurred.⁷³

With Stetson's agreement to serve as a guarantor of the PNC financing, the Philadelphia Authority for Industrial Development and PNC Bank agreed to finance \$12,750,000 in Revenue Bonds for ACE/Dougherty's purchase of the Cardinal Dougherty facility so that Hostos could operate out of that facility; PNC Bank agreed to make a \$5 million loan to Aspira Community Enterprises; PNC Bank agreed to give a \$900,000 line of credit and a \$629,554.66 term loan to ASPIRA; PNC Bank provided a \$50,000 line of credit to Hostos; and PNC Bank committed to a \$50,000 line of credit to ASPIRA and Stetson (collectively, the "PNC Obligations").⁷⁴ All of these transactions came with obligations for the Borrowers, and for Stetson as a guarantor under the lending documents. By signing a Security Agreement, Stetson pledged as collateral all of its gross revenues, tuition, grants, net assets, etc. to act as security for all of the PNC Obligations noted above.⁷⁵ The Security Agreement permits PNC Bank to declare all of the PNC Obligations immediately due and payable in the event of a default.

In 2014, when the School District learned of the Charter Schools' roles as guarantors in the PNC transactions, Mr. Chao informed Stetson, through its management company, of the problems associated with these transactions and directed ASPIRA to renegotiate the bank loans to remove the Charter School's guarantees.⁷⁶ Unfortunately, that did not happen.

⁷³ See Ex. JE[S] 5, at 19-20.

⁷⁴ See Ex. Stetson 91-92.

⁷⁵ See Ex. Stetson 263, at 41.

⁷⁶ See Ex. SD[S] 17, at 1-2.

Instead, Stetson did it again about a year and a half later, after the CSO had already recommended nonrenewal, in part as a result of the guarantees. On April 22, 2016, the Board permitted Stetson's assets and revenues to be used as collateral again, this time for the procurement of a \$3.3 million term loan and revolving line of credit for ASPIRA, issued by Provident Bank.⁷⁷ The Security Agreement signed by five members of the Board permitted Provident Bank to execute against Stetson's assets in the event of a default. Instead of requiring ASPIRA and ACE/Dougherty to obtain refinancing to remove the guarantees that Stetson had pledged to PNC Bank, the Board now permitted Stetson's assets to be used for two multi-million dollar financings that benefited ASPIRA, ACE/Dougherty and Hostos.

The PNC financing and the Provident financing are both in default, because the Borrowers could not make the balloon payments due and have not been able to obtain refinancing, despite years of trying. While Forbearance Agreements have been entered into, Stetson remains subject to the guarantee obligations in those lending agreements.⁷⁸

Mr. Samms contended that Stetson benefited from the availability of a \$50,000 line of credit, but admitted on cross-examination that the line of credit was also available to ASPIRA so he did not know if Stetson actually received any of those funds.⁷⁹ In any event, the "benefit" of a \$50,000 line of credit cannot be reasonably viewed as sufficient to justify exposure to liability for more than \$21 million in debt that was borrowed by other entities.

Mr. Samms also contended that Stetson's obligations are unenforceable because the agreements were not approved at public meetings, as required by the Sunshine Act.⁸⁰ However,

⁷⁷ See Ex. JE[S] 57-60.

⁷⁸ See Ex. Stetson 97-99, 102-105.

⁷⁹ See Tr. vol. 11, at 42:17-47:11.

⁸⁰ See Tr. vol. 10, at 225:13-19.

there has been no court ruling or agreement to that effect. Whether Stetson might be permitted to rely upon its own violations of law as a defense to liability for the contracts it knowingly signed remains to be seen. Either way, signing the guarantees was both reckless and fiscally irresponsible.

5. Stetson shifted funds to ASPIRA and other ASPIRA-managed schools.

Throughout the charter term, substantial amounts of Stetson's funds were transferred to ASPIRA and other ASPIRA-managed schools, without any documentation or Board approval. This began immediately in the first year of Stetson's operations (2010-11) and continued into the 2014-15 school year.⁸¹ By the end of the 2012-2013 school year, ASPIRA owed Stetson \$1,877,802 for these transfers, and the remaining balance was \$807,744 at the end of the 2013-2014 school year.⁸² According to the Board minutes, none of the transfers were authorized by the Board.⁸³

After these unsecured, non-interest bearing "loans" were discovered, the CSO attempted to address them with ASPIRA. In December 2014, an attorney for ASPIRA responded that there would be no such intercompany loans in the future and that the previous loans had all been repaid.⁸⁴

Neither of those representations turned out to be true. With respect to Olney, the past intercompany transfers were not fully repaid until the 2017-18 school year.⁸⁵ With respect to

⁸¹ See Ex. JE[S] 3-9 (notes); Tr. vol. 3, at 18:15-19 Ex. SD[S] 6, at 3.

⁸² See Ex. SD[S] 6, at 3; Ex. JE[S] 4, at 19 (note 11); Ex. JE[S] 5, at 19-20 (note 11).

⁸³ See Ex. JE[O] 3; Ex. JE[S] 38-42.

⁸⁴ See Ex. SD[S] 18.

⁸⁵ See Tr. vol. 7, at 173:4-174:9; Ex. JE[O] 9, at 25.

Stetson, the past intercompany transfers were not fully repaid until the 2015-2016 school year, and then an additional \$233,844 was transferred to ASPIRA in the following year.⁸⁶

The Board again permitted Stetson's funds to be used as cash flow for ASPIRA (and possibly other charter schools) on February 26, 2018. On that date, the Board authorized a transfer of \$1,189,536 in Stetson's funds to ASPIRA and authorized the use up to \$1.9 million of Stetson's funds to help ASPIRA's cash flow.⁸⁷ ASPIRA took the full \$1.9 million from Stetson and that amount remains due and owing to Stetson as of April, 2019, over a full year later.⁸⁸ This "loan" was again unsecured and without any interest.

Given Stetson's financial situation, all of the "loaned" amounts were funds that Stetson needed and should have been using to educate its students in order to achieve the promised "dramatic gains in academic achievement."

D. Violation of Applicable Laws

Stetson's Board took actions that raised conflicts of interest, failed to address those conflicts through an open and public process, breached their fiduciary duties, and violated various applicable laws.

1. Stetson used charter school funds for non-charter school purposes

Charter schools are funded through taxpayer dollars, primarily through the local per pupil payments by school districts. 24 P.S. § 17-1725-A. Charter schools are also eligible to receive certain federal grants to public schools under Title I, the Individuals with Disabilities Education Act and other programs, and reimbursements through various State-initiated subsidy

⁸⁶ See Ex. SD[S] 6, at 3; Ex. JE[S] 6; Ex. JE[S] 8, at 25.

⁸⁷ See Ex. SD[S] 15; Tr. vol. 7, at 179:19-180:22.

⁸⁸ See Tr. vol. 7, at 180:23-181:19.

opportunities like lease reimbursements, if they meet the qualifications. All of these revenue streams are taxpayer-funded, and a charter school is entitled to receive them because it is a public entity educating students under the public education system established by the General Assembly. Accordingly, the CSL provides that a charter school shall: “[r]eceive and disburse funds for charter school purposes only” 24 P.S. § 17-1714-A(a)(4).

Stetson used substantial amounts of its charter school funds for the guarantees and transfers discussed above, instead of for its own charter school purposes.⁸⁹ This violated the CSL. 24 P.S. § 17-1714-A(4); *Pocono Mountain Charter Sch. v. Pocono Mountain Sch. Dist.*, CAB No. 2010-06-A (June 5, 2014), at 25-28 (charter school violated section 1714-A(4) by paying for the car lease payments of the church’s pastor who was also the CEO of the charter school; paying the church rent for a building that was not yet usable; paying for improvements to the property for which it did not receive a rent abatement; allowing non-charter school entities to receive a benefit from use of the charter school’s gymnasium at no cost; and paying for a sign that partly benefited the church).

The transfers of funds described in Section II.C.5 above were clearly violations because they were actual “disbursements” of charter school funds. However, the guarantees described in Section II.C.4 above were commitments to spend funds in the future if the loans were not repaid. This use of Stetson’s assets as collateral should also be considered a disbursement for purposes of Section 17-1714-A, because otherwise, charter schools could evade the restriction entirely by pledging their charter school funds as collateral for a loan and using the loan proceeds for non-charter school purposes, instead of using the funds directly.

⁸⁹ Notably, Gary Samms, the Charter School’s expert witness, did not address whether Stetson’s transfers of funds to ASPIRA and other ASPIRA-managed schools violated section 1714-A(4) of the CSL.

Although ASPIRA was selected as the turnaround team, the charter clearly required Stetson to be controlled by an independent board of trustees. In other words, ASPIRA was expected to help the board, not supplant it. In that sense, Stetson should have viewed ASPIRA as a contractor providing turnaround services. A charter school's board of trustees is required by law to exercise this ultimate control over a management company. *Collegium*, at 1177.

Stetson is its own non-profit corporation, operating under a single charter issued by the School District. Yet it has been operated as if it is part of a larger entity that includes ASPIRA and the other ASPIRA-managed schools. Charter schools can share the same management company, call themselves a "network," and share certain expenses, but they cannot permit their own funds to be used for the benefit of their management company or other schools in the same "network."

2. Stetson's Board took actions that raised conflicts of interest, failed to address those conflicts through an open and public process, and breached their fiduciary duties.

The transactions noted above violated the CSL, but those are not Stetson's only violations of law. Violations of the Ethics Act, the NCL and the Sunshine Act were also established at the hearings.

All of the trustees on Stetson's Board except the parent representative (when there was one) also served on the Boards of all the other ASPIRA-managed schools. There is nothing inherently wrong with this arrangement. *See McKeesport Area Sch. Dist. v. Propel Charter Sch. McKeesport*, 888 A.2d 912, 921 (Pa. Cmwlth. Ct. 2005) ("CSL does not prohibit cross-membership of the charter school's Board of Trustees or ban one group of persons from applying for a charter for more than one charter school.").

However, the Ethics Act provides that, "no public official or public employee shall engage in conduct that constitutes a conflict of interest." 65 Pa. C.S. § 1103. This includes

trustees of a charter school. 24 P.S. § 17-1715-A(11). For this purpose, a “conflict of interest” is defined as “[u]se by a public official or public employee of the authority of his office or employment . . . for the private pecuniary benefit of . . . a business with which he or a member of his immediate family is associated” 65 Pa. C.S. § 1102.

The Ethics Act also provides as follows:

No public official or public employee . . . or any business in which the person . . . is associated shall enter into any contract valued at \$500 or more with the governmental body with which the public official or public employee is associated . . . unless the contract has been awarded through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded. In such a case, the public official or public employee shall not have any supervisory or overall responsibility for the implementation or administration of the contract.

* * *

Any public official or public employee who in the discharge of his official duties would be required to vote on a matter that would result in a conflict of interest shall abstain from voting and, prior to the vote being taken, publicly announce and disclose the nature of his interest as a public record in a written memorandum filed with the person responsible for recording the minutes of the meeting at which the vote is taken, provided that whenever a governing body would be unable to take any action on a matter before it because the number of members of the body required to abstain from voting under the provisions of this section makes the majority or other legally required vote of approval unattainable, then such members shall be permitted to vote if disclosure are made as otherwise provided herein.

65 Pa. C.S. § 1103(f), (j).

Under the NCL, an interested director of a nonprofit corporation is a director who has a contract or has engaged in a transaction with the nonprofit corporation or is a director who has a financial or other interest in a domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust or other association with which the nonprofit corporation has a contract or has engaged in a transaction. *See* 15 Pa. C.S.A. § 5728. The NCL permits a board to authorize a contract or transaction by the affirmative votes of a majority of the disinterested directors even though the disinterested directors are less than a quorum. 15 Pa. C.S.A.

§ 5728(a)(1). A contract or transaction in which an interested director has voted is not void or voidable, as long as:

- (1) the material facts as to the relationship or interest and as to the contract or transaction are disclosed or are known to the board of directors and the board authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors even though the disinterested directors are less than a quorum;
- (2) the material facts as to the director's or officer's relationship or interest and as to the contract or transaction are disclosed or are known to the members entitled to vote thereon, if any, and the contract or transaction is specifically approved in good faith by vote of those members; or
- (3) the contract or transaction is fair as to the corporation as of the time it is authorized, approved or ratified by the board of directors or the members.

Id.

Under these laws, Stetson's transactions with ASPIRA and the other ASPIRA-managed schools raised conflicts of interest that needed to be disclosed and appropriately addressed under the Ethics Act, and all Board members except the parent representatives needed to recuse themselves as "interested directors." According to the meeting minutes, none of this happened.

In addition, the NCL states as follows:

(a) Directors.--A director of a nonprofit corporation shall stand in a fiduciary relation to the corporation and shall perform his duties as a director, including his duties as a member of any committee of the board upon which he may serve, in good faith, in a manner he reasonably believes to be in the best interests of the corporation and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. In performing his duties, a director shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

- (1) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented.
- (2) Counsel, public accountants or other persons as to matters which the director reasonably believes to be within the professional or expert competence of such person.
- (3) A committee of the board upon which he does not serve, duly designated

in accordance with law, as to matters within its designated authority, which committee the director reasonably believes to merit confidence.

(b) Effect of actual knowledge.—A director shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that would cause his reliance to be unwarranted.

15 Pa. C.S.A. § 5712.

Directors can breach their duty of care to the nonprofit corporation by ignoring reports about serious mismanagement and failing to take appropriate action. *See, e.g. In re Lemington Home for Aged*, 777 F.3d 620, 629 (3d Cir. 2015) (“*Lemington (3d Cir.)*”) (duty of care was breached where the directors ignored reports about serious mismanagement by the nonprofit’s senior administrator and failed to fire the individual).

Directors or trustees of a nonprofit corporation must consider the best interests of the nonprofit corporation when discharging their duties. In considering the best interests of the corporation, directors or trustees may consider the following: (1) the effects of any action on any or all groups affected by such action, including creditors; (2) the short-term and long-term interests of the corporation; and (3) all other pertinent factors. 15 Pa. C.S.A. § 5715(a).

In the charter school context, a board’s failure to discuss or consider the terms of management agreements, leases or contracts with the charter school’s management company through an open and public process violates the Ethics Act and the NCL. *New Hope*, at 741. Contracts or transactions between the management company and the charter school are subject to the Ethics Act requirements. *Id.*

Here, Stetson’s Board members also cannot be said to have acted in good faith in the exercise of their fiduciary duties. Even if they were without knowledge of the problems associated with the PNC Bank transaction in 2011, they have certainly been on notice of the questionable legality of their actions since 2014. The CSO began taking steps in 2014 to demand

that Stetson's guarantees be removed and the intercompany loans end and be repaid, and then raised those issues in its renewal recommendation.⁹⁰ In complete disregard of those concerns, Stetson went ahead with the Provident Bank guarantees in 2016 and then the Promissory Demand Notes in 2018.

All of the overlapping Board members had conflicts of interest and competing fiduciary duties with respect to the various transactions between Stetson and the other entities. Yet none of them recused themselves from decisions regarding those transactions.

Because board members are entitled to rely on the advice of counsel and other professionals, Mr. Samms opined that Stetson's Board did so regarding the transactions at issue here. However, this opinion was not credible because, although attorneys attended some board meetings, there was no evidence that they provided any advice regarding the transactions, and no Board member testified that he or she relied on any such advice.

3. Stetson violated the Sunshine Act.

Compliance with the Sunshine Act is required by the CSL. 24 P.S. § 17-1716-A(c). It is also required by Stetson's charter.⁹¹

The Sunshine Act provides as follows:

The General Assembly finds that the right of the public to be present at all meetings of agencies and to witness the deliberation, policy formulation and decision making of agencies is vital to the enhancement and proper functioning of the democratic process and that secrecy in public affairs undermines the faith of the public in government and the public's effectiveness in fulfilling its role in a democratic society.

* * *

Official action and deliberations by a quorum of the members of any agency shall take place at a meeting open to the public unless closed under section 707

⁹⁰ See Ex. SD[S] 17, at 1-2; Ex. JE[S] 16.

⁹¹ See Ex. JE[S] 2 at 25, 122, 386, 390, 403.

(relating to exceptions to open meetings), 708 (relating to executive sessions) or 712 (relating to General Assembly meetings covered).

* * *

In all meetings of agencies, the vote of each member who actually votes on any resolution, rule, order, regulation, ordinance or setting of official policy must be publicly cast and, in the case of roll call votes, recorded.

65 Pa. C.S. §§ 702(a), 704, 705.

The Sunshine Act also requires written minutes to be kept of all open meetings, which must include: (1) the date, time and place of the meeting; (2) the names of members present; (3) the substance of all official actions and a record by individual member of the roll call votes taken; and (4) the names of all citizens who appeared officially and the subject of their testimony. 65 Pa. C.S. § 706. Official actions that must be voted on in public include decisions on agency business, which include “the creation of liability by contract or otherwise.” 65 Pa. C.S. § 703.

To determine whether Stetson violated the Sunshine Act, one need look no further than the testimony of Stetson’s own legal expert, Mr. Samms. In order to reach his conclusion that the PNC Bank and Provident Bank transactions are unenforceable, Mr. Samms opined that the Board failed to comply with the Sunshine Act when the majority of the board members signed the various security agreements, guarantees and other financial instruments exposing Stetson to indebtedness of over \$18 million for the PNC Bank transaction and over \$3 million for the Provident Bank transaction.⁹²

Those transactions should never have happened to begin with, for the reasons discussed above, but since they did, they should have been approved by the Board at advertised public meetings and memorialized in publicly available board meeting minutes. None of the transactions are reflected in the board meeting minutes, and not a single witness testified that the

⁹² See Tr. vol. 10, at 225:13-19; Tr. vol. 11, at 14:7-20.

Board took any action in public to approve the transactions. Moreover, the representations that Stetson's Board members made to Provident Bank in the executed Written Consents and the Secretaries Certificates that the Board duly adopted the resolutions on April 21, 2016 in accordance with applicable laws and all procedural rules specified in Stetson's bylaws are false, because those resolutions were not adopted at public board meetings.

In addition, the Board never approved any of the Forbearance Agreements at a public meeting, even though they continued to commit Stetson to the indebtedness associated with those transactions. The public would have no idea that these enormous obligations existed or that they are in default.

These were not Stetson's only Sunshine Act violations. The Boards of the ASPIRA-managed charter schools have common members, but not all of the members are voting members of each board. The Boards have parent representatives who are only members with respect to their particular school. The Boards hold simultaneous meetings for all of the ASPIRA-managed schools but until February 2019, never conducted roll call votes to determine who was voting on which action for which charter school. This also violated the Sunshine Act, which requires a record by individual member of the roll call votes taken. 65 Pa. C.S. § 706(3). On other occasions, the outcome of votes is not reflected at all in the meeting minutes, other than the fact that someone put forward a motion and a second. This also violates the Sunshine Act.

Other violations of the Sunshine Act also occurred regarding executive sessions for approximately five years, until the end of the 2015-16 school year. "The reason for holding the executive session must be announced at the open meeting occurring immediately prior or subsequent to the executive session." 65 Pa. C.S. § 708(b). Moreover, executive sessions may only be held to discuss personnel, matters related to collective bargaining, real estate matters, litigation strategy or consultation, or matters protected by confidentiality or privilege. 65 Pa. C.S.

§ 708(a). Stetson’s Board regularly violated these restrictions by failing to announce the purpose of executive sessions or by holding them for reasons prohibited by the Sunshine Act.⁹³

The Board also has delegated some of its functions to committees, including an Executive Committee and a Finance Committee. Neither of these committees met publicly. Further, as reflected in the various meeting minutes, the Board has also taken other actions in private that must occur in public, such as election of officers and appointment of members.

A charter school’s failure to comply with the Sunshine Act is a sufficient basis for nonrenewal of its charter. *Thurgood Marshall*, at 16.

4. Stetson violated Highly Qualified Teacher requirements.

As also noted in Section II.A.4 above, Stetson also violated HQT requirements that were in place through the 2015-16 school year under the No Child Left Behind Act. All teachers teaching core academic subjects were required to be highly qualified by the end of the 2005-06 school year. 20 U.S.C. § 6319(a)(2). To be highly qualified, a teacher must hold a bachelor’s degree, demonstrate competence in the core content areas taught and meet the CSL’s certification requirements.⁹⁴ Based upon its RFRM reports and Stetson’s own calculations of HQT status, Stetson failed to have 100% of its core subject area teachers highly qualified in the 2010-11, 2011-12, 2012-13, 2013-14, 2014-15 and 2015-16 school years, in violation of both applicable law and its charter.⁹⁵

In one of its most recent opinions, CAB has declared that “HQT violations should be considered, but only if they constitute a part of a wider pattern of significant violations of law,”

⁹³ See Ex. JE[O] 3; Ex. JE[O] 65, at 1-31; Ex. JE[S] 38-43.

⁹⁴ See, e.g. Ex. JE[S] 10, at 16.

⁹⁵ See Ex. JE[S] 10-13, at the last page of each document; Ex. JE[S] 28, at 17; Ex. Olney 88.

when considering whether to renew a charter. *I-LEAD Charter School*, CAB Docket No. 2016-05 (Dec. 20, 2017) (“*I-LEAD CAB*”), at 29. In this case, there is such a wider pattern of significant violations of law.

5. Stetson violated certification requirements.

As also noted in Section II.A.5 above, Stetson violated certification requirements for special education staff. “Persons who provide special education and related services to children with disabilities in charter schools and cyber charter schools shall have appropriate certification, notwithstanding section 1724-A of the [CSL].” 22 Pa. Code § 711.5.

Nevertheless, the vast majority of Stetson’s special education teachers were not appropriately certified in 2014-15, 2016-17 and 2017-18.⁹⁶ This violation of the CSL is especially troubling because Stetson had an unusually high population of special education students in all of those years.⁹⁷

6. Stetson violated requirements regarding student enrollment materials.

Public schools, including charter schools, are required to obtain five types of documentation from parents of new enrollees, consistent with various legal requirements. *See* 24 P.S. §§ 13-1302 (residency and school age), 13-1303a (immunizations), 13-1304-A (a) (sworn statement about suspension/expulsion); 22 Pa. Code § 11.11(e) (home language survey). However, they are not permitted to require any other enrollment documentation.

Stetson’s enrollment materials asked parents and prospective students for far more information than is legally permitted. The application form for the 2015-16 school year informs parents that admission is tentative pending receipt of all required documents and a placement

⁹⁶ See Ex. JE[S] 46-47, at 4; Ex. SD[S] 11, at 4; Tr. vol. 10, at 58:18-63:15.

⁹⁷ See Section III.A below.

test.⁹⁸ These enrollment requirements are improper for an ordinary charter school, and are even more inappropriate for a Renaissance charter school that has replaced a neighborhood catchment school. Stetson's application packet requested transcripts, special education records, health assessments, social security numbers and race and ethnicity disclosures.

When Stetson finally attempted to address these violations in its enrollment materials for 2016-17, it also removed the five documents that it is required to obtain, and continued to ask for information regarding the prospective students' citizenship status, race/ethnicity and social security number.⁹⁹

Beginning with the 2017-18 enrollment materials, these issues have been corrected. Nevertheless, they were persistent violations during the charter term.

7. Stetson violated student discipline requirements.

Charter schools are subject to the Chapter 12 regulations governing student discipline. 24 P.S. § 17-1732-A(b). Due process requirements for all students to be suspended or expelled from school are found in 22 Pa. Code §§ 12.6 and 12.8, and those requirements are made applicable to charter schools by 24 P.S. § 17-1732-A(b).

Section 12.6 of the State Board of Education's regulations provides in pertinent part that: "Expulsion is exclusion from school by the governing board for a period exceeding 10 school days and may be permanent expulsion from the school rolls. Expulsions require a prior formal hearing under Section 12.8." 22 Pa. Code § 12.6."

Section 12.8 provides in pertinent part:

A formal hearing is required in all expulsions actions. This hearing may be held before the governing board or an authorized committee of the board, or a qualified hearing examiner appointed by the board. When a committee of the board or a

⁹⁸ See Ex. JE[S] 33.

⁹⁹ See JE[S] 33.

hearing examiner conducts the hearing, a majority vote of the entire governing board is required to expel a student.

22 Pa. Code § 12.8(b). In the context of charter schools, “governing board” means “the board of trustees of a charter school.” 22 Pa. Code § 12.16.

According to Stetson’s representations in its Renewal Application, at least one student was expelled in each of the 2010-11, 2012-13 and 2013-14 school years.¹⁰⁰ However, according to the meeting minutes provided, Stetson’s Board did not take any action on any expulsions in the 2012-13 school year.¹⁰¹ Thus, at least one expulsion was not approved by Stetson’s Board.

III. OTHER ASSERTED DEFENSES

Stetson has also raised various additional non-meritorious defenses.

A. Student Demographics

First, Stetson seeks to blame its poor academic performance on the demographics of its student population, stressing that it has always had high percentages of historically underperforming students, including economically disadvantaged students, Hispanic/Latino students, English language learners, and special education students. However, Stetson’s expert made no attempt to quantify the impact of these or any other any demographic differences.¹⁰² Thus, no evidence was presented to establish that Stetson would have matched the School District’s performance if it had the same demographics.

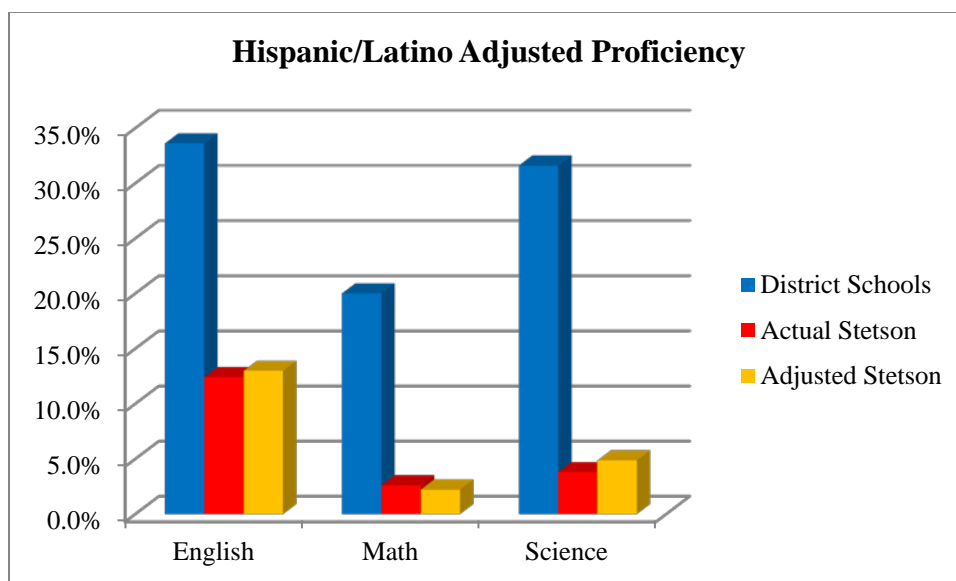
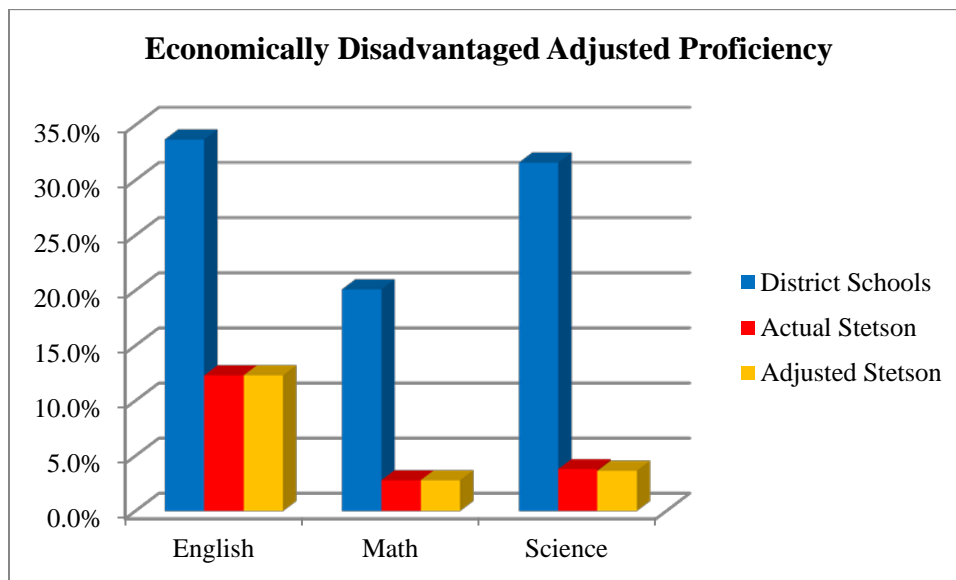
It is not surprising that Stetson’s expert made no effort to quantify the impact of demographic differences, because if such an analysis had been done, it is likely to have shown that having the same percentages of economically disadvantaged students, Hispanic/Latino

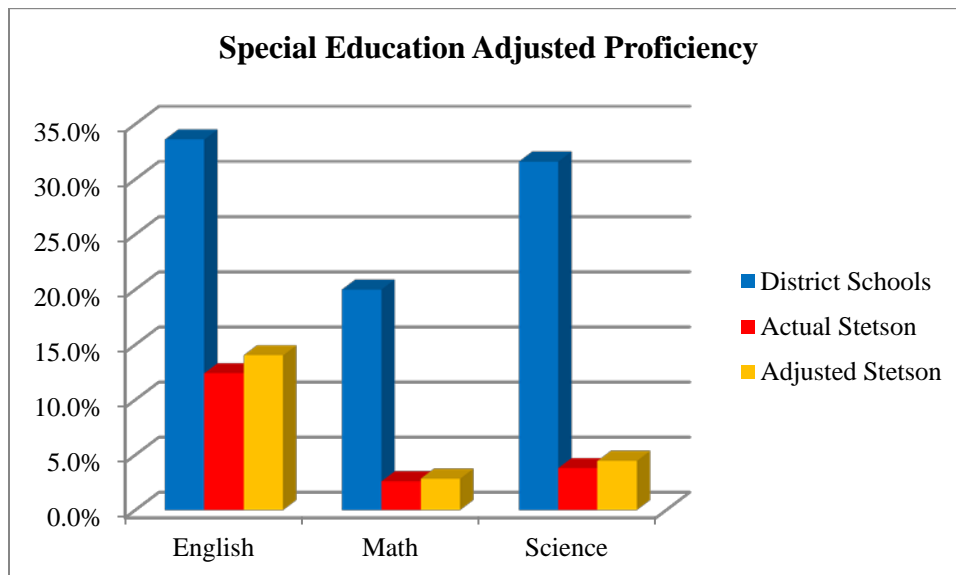
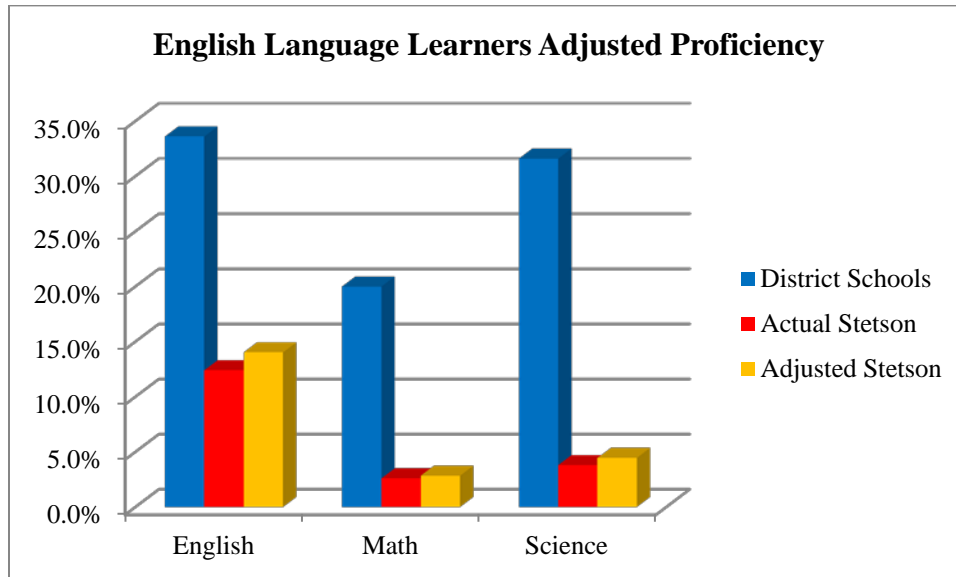
¹⁰⁰ See Ex. JE[S] 28, at 17.

¹⁰¹ See Ex. JE[S] 39.

¹⁰² See Tr. vol. 13, at 235:23-239:17.

students, ELLs, and special education students as the School District would have improved Stetson's overall proficiency rates only slightly, to levels still far below the School District's rates in all three subjects. This is illustrated by the following charts:





The data in these charts is based on the most recent RFRM reports for Stetson and the School District.¹⁰³ The adjustments were calculated by reducing the number of Stetson's tested students in each category to the percentage of all of its tested students that equaled the percentage of the School District's tested students in the same category. The adjusted proficiency

¹⁰³ See Ex. JE[S] 13, HO[S] 130. The School District's RFRM report was not submitted by either party as an exhibit, but its data may be judicially noticed, because it is not subject to reasonable dispute and can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned. See Pa. R. Evid. 201.

rates were then determined based on these revised numbers of tested students in each group and Stetson’s average rates for each group, to approximate the overall results that Stetson might have attained if it had the same percentages of Hispanic/Latino, English language learner, and special education students as the School District.¹⁰⁴

This analysis is necessarily imprecise, but it clearly illustrates that it would not be reasonable to simply presume that Stetson’s performance would have matched the School District’s performance if their demographics had been the same.

The impact of the demographic differences on Stetson’s overall results is slight because (a) Stetson’s also has many students who are not in the subgroups, and (b) the performance of the subgroups at Stetson is significantly worse than their performance at the School District’s schools.

The School District’s Annual Charter Evaluation (“ACE”) reports show that Stetson has not done nearly as well as the School District with Hispanic/Latino (H/L), ELLs and special education students with Individualized Education Plans (“IEPs”),¹⁰⁵ and has been consistently falling further behind in ELA and Math:¹⁰⁶

2015-16 Proficiency	ELA			Math			Science		
	H/L	ELL	IEP	H/L	ELL	IEP	H/L	ELL	IEP
Stetson	15%	2%	3%	3%	0%	1%	7%	6%	7%
School District	26%	7%	12%	10%	5%	8%	22%	7%	14%
Difference	-11%	-5%	-9%	-7%	-5%	-7%	-15%	-1%	-7%

¹⁰⁴ See Ex. HO[S] 131 (detailing the calculations).

¹⁰⁵ In the headings for this table, H/L refers to Hispanic/Latino students, ELL refers to English language learners and IEP refers to special education students. The ACE reports do not contain this type of breakdown for economically disadvantaged students, so they are not included.

¹⁰⁶ See Ex. JE[S] 24; Ex. JE[S] 25; Ex. SD[S] 19.

2016-17	ELA			Math			Science		
	H/L	ELL	IEP	H/L	ELL	IEP	H/L	ELL	IEP
Stetson	17%	1%	3%	3%	1%	1%	3%	0%	0%
School District	27%	9%	17%	11%	6%	12%	14%	5%	11%
Difference	-10%	-8%	-14%	-8%	-5%	-11%	-11%	-5%	-11%

2017-18	ELA			Math			Science		
	H/L	ELL	IEP	H/L	ELL	IEP	H/L	ELL	IEP
Stetson	17%	9%	4%	4%	2%	3%	10%	3%	8%
School District	29%	15%	21%	13%	9%	15%	17%	8%	15%
Difference	-12%	-6%	-17%	-9%	-7%	-12%	-7%	-5%	-7%

The substantial differences for ELL students are especially troubling given Stetson's large concentration of Hispanic/Latino students.

Moreover, Stetson's argument disregards that the central purpose of Renaissance Initiative was to close the achievement gap for these underperforming student populations. Stetson is not increasing achievement in those student groups as expected by its charter and the accountability systems.

The SPP collapses the various subgroups into one subgroup called historically underperforming students.¹⁰⁷ Stetson has not shown any success in closing the achievement gap for all of its students or for its historically underperforming students:¹⁰⁸

Stetson's Indicators of Closing the Achievement Gap (All Students)			
Year	Math	ELA	Science
2013-14	NA	NA	20.81
2014-15	Not reported	Not reported	Not reported
2015-16	0	0	0
2016-17	0	0	0

¹⁰⁷ See Tr. vol. 9, at 119:2-13.

¹⁰⁸ See Ex. JE[S] 14 at 2 -4.

Stetson's Indicators of Closing the Achievement Gap (Historically Underperforming Students)			
Year	Math	ELA	Science
2013-14	NA	NA	30.30
2014-15	Not reported	Not reported	Not reported
2015-16	0	0	0
2016-17	0	0	0

A zero “is the lowest score a school could obtain.”¹⁰⁹ Stetson did not lower the achievement gap in any subject area since 2013-14. In that year, there was some gap closure for science, but the amount was insufficient to meet the expected standard and fell within the lowest performing tier.¹¹⁰

For all of these reasons, Stetson's contention that its poor academic performance is merely a reflection of demographic differences is simply not credible.

B. Special Admission Schools.

Stetson also contends that data for special admission schools should be excluded from all comparisons of its performance to the School District as a whole. This may seem logical on the surface, but it does not withstand reasoned analysis, because excluding students at the best performing schools would be no less fair to the School District than excluding students at the worst performing schools would be to Stetson. Neither would accurately reflect the actual population of students at School District schools.

The students at special admission schools are residents of Philadelphia who are entitled to attend School District schools. The fact that students can choose from more than one type of school in Philadelphia does not change the fact that they are all within the School District as a whole. Thus, the percentage of School District students who scored proficient or advanced on a test cannot be calculated by including some of the students and excluding others.

¹⁰⁹ See Tr. vol. 1, at 146:14-18.

¹¹⁰ See Ex. JE[S] 14, at 4; Tr. vol. 12, at 146:4-148:19.

In other school districts that have only one high school, all of the students are included in the districts' proficiency rate, including those with the highest and lowest scores. The School District should not be treated differently merely because its students are distributed among many different schools.

Moreover, Stetson did not present any evidence of what the District's proficiency rates would be without the special admission schools, or with any other schools removed.

Many previous decisions have approved comparisons to the School District as a whole (without excluding special admission schools), including CAB's recent opinion affirming the SRC's nonrenewal decision regarding Delaware Valley Charter High School. *See Delaware Valley Charter High Sch.*, CAB No. No. 2016-06 (June 8, 2017).

Accordingly, special admission schools should not be removed from comparisons of Stetson to School District schools.

C. Alleged Racial Inequities

After the hearings ended, the Charter Schools requested and were granted admission of a PowerPoint presentation dated March 29, 2019 entitled Minority-Led Charter Schools Briefing ("Presentation").¹¹¹ The Charter Schools contend that this Presentation proves that the School District is targeting minority-led charter schools for closure. However, the Presentation does not support this conclusion.

The Presentation provides information about the number of charter schools that have operated in the School District since 2007-08, including the number of schools that have been opened and closed, and the number of Renaissance charter schools.¹¹² The Presentation also provides some information from a third-party entity, the Center for Education Reform,

¹¹¹ See Ex. Olney 300; Ex. HO[O] 109; Ex. Stetson 277; Ex. HO[S] 115.

¹¹² See Ex. Olney 300, at 4; Ex. Stetson 277, at 4.

containing national data from 2011 regarding the primary reasons why charter schools close. That same slide states: “All charter schools that have closed in Philadelphia were independently operated. Many charter schools led by Black and Latino CEOs are independently operated.”¹¹³

The Presentation notes that there is not a dedicated non-profit charter support organization in Philadelphia, unlike in other major cities, to provide technical assistance and guidance to charter schools.¹¹⁴

The Presentation states that “The CSO has been committed to taking steps to address inequities in our systems”¹¹⁵ However, rather than evidencing a discriminatory purpose, this shows a commitment to help independently managed minority-led charter schools overcome the additional challenges they face.

Moreover, unlike the schools described in the Presentation, the Charter Schools in these proceedings are not independently operated. To the contrary, they are managed by ASPIRA. As such, they have access to ASPIRA and its resources, along with the Central Office team now employed by Stetson.

The Presentation also provides data about the charter schools in Philadelphia that have closed since the 2014-15 school year, whether they were minority-led schools, and the primary reason for the closure. Out of the ten charter schools that closed since 2014-15, 60% were “minority-led.”¹¹⁶ The Presentation does not state how that percentage compares to the overall percentage of charter schools that are minority-led in Philadelphia.

¹¹³ See Ex. Olney 300, at 5; Ex. Stetson 277, at 5.

¹¹⁴ See Ex. Olney 300, at 9; Ex. Stetson 277, at 9.

¹¹⁵ See Ex. Olney 300, at 10; Ex. Stetson 277, at 10.

¹¹⁶ See Ex. Olney 300, at 6; Ex. Stetson 277, at 6.

Additional charter schools have entered into surrender agreements following nonrenewal recommendations. A surrender agreement reflects the charter school's ability to remain in operation but with specific targets that must be met. Of the four charter schools that have done so, 75% were minority-led.¹¹⁷ The Presentation also does not state how that percentage compares to the overall percentage of charter schools that are minority-led in Philadelphia.

Five charter schools are in the midst of nonrenewal proceedings, including Olney and Stetson. Of those five charter schools, 80% are minority-led.¹¹⁸ The Presentation also does not state how that percentage compares to the overall percentage of charter schools that are minority-led in Philadelphia.

The Equal Protection Clause prohibits "selective enforcement" of a law based on an unjustifiable standard. *See PG Publishing Co. v. Aichele*, 705 F.3d 91, 115 (3rd Cir. 2013). To establish such selective-enforcement, a charter school is required to prove that the CSL was applied unequally to those who are entitled to be treated alike, with a discriminatory purpose.

The Charter Schools have not presented any evidence that a higher percentage of minority-led charter schools were closed than the overall percentage of minority-led charter schools in Philadelphia. They also have not presented any evidence that they were treated differently than non-minority-led charter schools with sufficiently similar deficiencies. They also have not presented any evidence that their nonrenewal recommendations were made for a discriminatory purpose.

Accordingly, the Charter Schools have not carried their burden to prove selective enforcement or any other unlawful discrimination.

¹¹⁷ See Ex. Olney 300, at 7; Ex. Stetson 277, at 7.

¹¹⁸ See Ex. Olney 300, at 8; Ex. Stetson 277, at 8.

D. School Advisory Council

The Charter Schools also contend that the BOE is required to renew their charters because the School Advisory Councils (“SACs”) contemplated by the Renaissance Initiative are no longer operational. This has no support in the charters.

The SACs were conceived by the School District specifically for the Renaissance Initiative. The Renaissance documents refer to the SAC as an integral part of the identification of Renaissance schools and the matching of turnaround teams for those schools. While there was also an anticipated monitoring role for the SACs once the charters were issued, the SACs had no veto power over a decision to renew or not renew a charter.

The SAC was entitled to *recommend* nonrenewal or revocation if it became dissatisfied with a school’s performance. However, such a recommendation was not required for nonrenewal or revocation of a Renaissance charter. To the contrary, the charter stated as follows: “The School District reserves the right to not renew this Charter at the end of the Term or to revoke this Charter at any time during the Term in accordance with 24 P.S. § 17-1729-A and Applicable Laws.”¹¹⁹

At the time of Stetson’s initial renewal review, Stetson’s SAC remained in existence but had “collapsed to only one member because of the relocation of the remaining members.”¹²⁰ However, the School District cannot compel or require parents to sit on a SAC or remain active in a SAC.¹²¹ Stetson did not present any evidence that it was harmed or placed at a disadvantage as a result of the SAC not being active when it was considered for renewal or at any other time. Nor did Stetson present any evidence that it or ASPIRA: (a) complained to the School District

¹¹⁹ See Ex. JE[O] 2, at 24; Ex. JE[S] 2, at 30.

¹²⁰ See Ex. JE[S] 28, at 43.

¹²¹ See Tr. vol. 5, at 192:3-5, 259:10-13.

about the lack of a SAC; (b) asked the School District to take any steps to reconstitute the SAC; or (c) took any steps themselves to reconstitute or maintain the SAC.

The BOE is entitled to decide whether or not to renew Stetson's charter notwithstanding the absence of a currently operational SAC and the lack of a nonrenewal recommendation from such a SAC.

E. Comparison to Hostos and Pantoja.

Stetson also contends that its assumption of liabilities and transfer of funds for the benefit of other ASPIRA managed schools should be disregarded because Hostos and Pantoja did the same things and the CSO recommended renewal of their charters with conditions. This is wrong for several reasons.

First, the BOE's decision regarding Stetson will be based on the evidence presented at this hearing, not on the CSO's recommendation.

Second, the financial irregularities were not the only issues considered for Stetson and were not the only issues considered for Hostos and Pantoja. For example, Stetson is a Renaissance school but Hostos and Pantoja are not. In addition, Stetson is operating in a School-District-owned building but Hostos and Pantoja are not. And the academic outcomes at Hostos and Pantoja are better than they are at Stetson.

Third, the CSO recommended more than 13 conditions for renewal of the Hostos and Pantoja charters, and the record does not reflect that any of those conditions have been accepted or satisfied. As a result, it is entirely possible they also might be recommended for nonrenewal.

F. Comparison to Mastery Charter Schools

Stetson also attempts to legitimize the intertwined structure and practices of the ASPIRA-managed schools, by asserting that they are similar to the structure and practices of Mastery Charter Schools, which have not been recommended for nonrenewal.

Mastery Charter High School (“MCHS”) serves as the management company for several other Mastery charter schools and receives a management fee from them for its services.¹²² This is somewhat analogous to ASPIRA serving as the Charter Schools’ management company, but there are significant differences.

MCHS’ board is distinct from the unified board that operates the other Mastery charter schools.¹²³ This separates the control of MCHS from the control of the MCHS-managed schools. The MCHS-managed schools also do not have any contractual obligations with each other and are not operating in the same manner as the charter schools in the ASPIRA-managed network.¹²⁴

Messrs. Chao and Krain testified that to the best of their knowledge, the Mastery charter schools are not transferring funds to each other, and have not pledged security interests in debt or other financing transactions entered into by another one of the charter schools.¹²⁵

According to Mr. Chao, whether or not it would be problematic for charter schools within the same management system to purchase services from one another would depend on the details

¹²² See Tr. vol. 1, at 61:13-16, 89:16-23; Tr. vol. 16, at 337:19-23.

¹²³ See Tr. vol. 1, at 61:13-62:1.

¹²⁴ See Tr. vol. 1, at 61:13-62:6, 81.

¹²⁵ See Tr. vol. 1, at 81:8-82:2, 89:16-90:5; Tr. vol. 3, at 210:11-212:8; Tr. vol. 16, at 72:11-74:1.

of the arrangement.¹²⁶ If the Mastery schools' arrangements or actions had been similar to those of the ASPIRA-managed charter schools, the CSO would have flagged those issues.¹²⁷

Mr. Krain reviewed the general ledger, 990s and other financial documents of the Mastery schools as part of the OAS's review for each charter school's renewal. He conducted this review with the same expectations and standards as when he reviewed the ASPIRA schools' transactions, and he did not identify any concerns with Mastery's structure or any financial transactions between the schools.¹²⁸ In contrast to the ASPIRA-managed schools:

- There were no deposits going from one Mastery-operated charter school to another;¹²⁹
- When joint purchasing or other cost sharing occurred, it was done through properly documented transactions;¹³⁰
- The flow-through items listed on MCHS' 990s were grants passing through MCHS to the various MCHS-managed schools;¹³¹ and
- MCHS charges a flat percentage as its management fee, without adding any additional direct service costs or staffing costs.¹³²

Given these distinctions, the School District's criticisms of the ASPIRA-managed schools' structure, operations and financial transactions are not undermined by or inconsistent with the absence of similar criticisms regarding the MCHS-managed schools.

¹²⁶ See Tr. vol. 1, at 62:8-63:7.

¹²⁷ See Tr. vol. 1, at 82:10-14.

¹²⁸ See Tr. vol. 16, at 81:22-82:23, 94:8-12.

¹²⁹ See Tr. vol. 16, at 94:23-95:1.

¹³⁰ See Tr. vol. 16, at 71:19-74:1.

¹³¹ See Ex. Olney 153-155; Ex. Stetson 151-153; Tr. vol. 16, at 78:9-81:11.

¹³² See Tr. vol. 15, at 279:10282:23; Tr. vol. 16, at 87:19-88:7.

G. Comparison to Richard Allen Charter School.

The Charter Schools also sought to compare the charter status of Richard Allen Preparatory Charter School (“Richard Allen”) to their own, presumably because the School District has settled its nonrenewal proceedings against Richard Allen.

The Charter Schools were unable to articulate any reason why what happened in the Richard Allen proceeding is relevant to the facts at issue here. The most they could say is that Richard Allen was in the same renewal cohort, meaning that the CSO conducted its evaluations of all three schools in the same time frame.¹³³ But the issues here concern whether there are sufficient grounds for nonrenewal of the Charter Schools’ charters, not whether there were sufficient grounds for nonrenewal of Richard Allen’s charter.

Accordingly, evidence of what happened in the Richard Allen proceedings is not relevant, because it has no identified tendency to make a fact of consequence here more or less probable than it would be without the evidence. *See* Pa. R. Evid. 401.

H. Hearing Process Issues

Stetson has also made numerous arguments attacking this nonrenewal process, in an attempt to prevent the BOE from reaching a decision on the merits. None of these process arguments are well founded.

1. The Charter’s Notice Provision

Stetson’s charter identifies persons to whom notices must be sent “when notices are required under this Charter.”¹³⁴ The person identified for notices to Stetson was Alfredo Calderon (ASPIRA’s CEO). Stetson contends that this entire proceeding is invalid because the School District failed to prove that it served Resolution SRC-9 upon Mr. Calderon.

¹³³ *See* Tr. vol. 15, at 279:10-282:3-20.

¹³⁴ *See* Ex. JE[O] 2, at 34-35.

This is incorrect, because Resolution SRC-9 was not a notice required by the charter.¹³⁵ To the contrary, the charter said nothing at all about notice of nonrenewal proceedings. That was left to the CSL, which requires notice to Stetson's Board, not the CEO of Stetson's management company. *See* 24 P.S. § 17-1729-A(c).

Moreover, Stetson has not established that it was prejudiced in any way by this purported noncompliance with the charter's notice provision. Nor has Stetson provided any legal authority for its position that such noncompliance would render this entire proceeding void.

2. Evidence Regarding the CSO's Analysis

Stetson spent much of the hearing attacking the CSO's methodology and the conclusions it reached in its Renewal Recommendation Report.

These criticisms reveal a fundamental misunderstanding of this hearing process. The CSO used its internal protocols to evaluate all charter schools that were up for renewal and made its recommendations to the SRC. At a public meeting, the SRC decided that a nonrenewal hearing was warranted for the reasons specified in Resolution SRC-9. However, whether Stetson's charter will actually be renewed or not is a decision that remains to be made by the BOE *based on the evidence presented at the hearing*, not based on the CSO's Renewal Recommendation Report. Thus, the CSO's analysis is immaterial at this stage.

3. Previously Unavailable Evidence

At various times during the hearing process, Stetson's Counsel objected to the admissibility of performance data that did not exist until after Resolution SRC-9 was adopted,

¹³⁵ The Charter required a variety of notices, such as notice of Stetson's Board members' names and contact information (Ex. JE[S] 2, at 15, § IV.K.1), notice of the Board's meetings (*Id.* at 15, § IV.K.2), notice of requests for student records (*Id.* at 22, § VIII.A), notice of payments made for ineligible students (*Id.* at 26, § X.C.4.e), notice of insurance coverage changes (*Id.* at 26, § XIV.A.1), notice of claims (*Id.* at 31, § XVI.A.4), and notice regarding certifications (*Id.* at 32, § XVII.B), but it contained no provision requiring notice of nonrenewal proceedings.

arguing that it was beyond the scope of the asserted charges. At the same time, however, he repeatedly relied upon subsequent information that he considered favorable to Stetson's position.¹³⁶ He even offered one such exhibit after the hearing was concluded.¹³⁷

The CSL requires a nonrenewal notice to state the asserted grounds with "reasonable specificity," but not with *absolute* specificity. 24 P.S. § 17-1729-A(c). Resolution SRC-9¹³⁸ provided fair notice to Stetson that poor student performance would be a principal component of the School District's case. Moreover, the CSL does not restrict consideration of student performance to whatever data is specifically cited in a hearing notice. *See* 24 P.S. § 17-1729-A(d) (permitting supplementation of the record even in an appeal to CAB "if the supplemental information was previously unavailable" and allowing consideration of "student performance . . . *in addition to the record.*") (emphasis added); *see also Delaware Valley*, at 22-23 (relying on such supplemental information). Accordingly, Stetson should have anticipated that updated student performance data would be presented if and when it became available.

In addition, Stetson actually knew well in advance of the hearing that subsequent information would be used. In fact, Stetson *agreed* to *joint exhibits* that included such information 41 days before the hearing began.¹³⁹ Stetson also submitted numerous exhibits of its own that included such information.¹⁴⁰ Thus, Stetson was provided with a reasonable opportunity to prepare and present a defense to the updated information.

Under these circumstances, Stetson was not deprived of due process regarding the previously unavailable evidence. *See Pocono Mountain Charter Sch., Inc. v. Pocono Mountain*

¹³⁶ *See* Tr. vol. 2, at 234:9-13; Tr. vol. 8, at 69:1-16.

¹³⁷ *See* Ex. Stetson 277.

¹³⁸ *See* Ex. JE[S] 1.

¹³⁹ *See* Ex. HO[S] 18; Ex. JE[S] 4, 9, 15, 18, 31, 44, 67, 68, 73, 77, 79, 87, 90, 91, 92.

¹⁴⁰ *See* Ex. Stetson 1-3, 12, 16, 86, 95, 107, 130, 162, 174, 183.

Sch. Dist., 88 A.3d 275, 285-86 (Pa. Cmwlth. Ct. 2014) (“*Pocono Mountain (Cmwlth.)*”); *Barasch v. Pennsylvania Pub. Util. Comm’n*, 546 A.2d 1296, 1305 (Pa. Cmwlth. Ct. 1988).

Moreover, when exercising its discretion, the BOE is required to consider whether nonrenewal would serve the fundamental purpose of the CSL to improve student learning. *See New Hope*, at 739. This includes consideration of whether Stetson’s students would be likely to receive a better education elsewhere or at the same school under different management. For this analysis, it is important to weigh most current information.

4. Hearsay

The Charter Schools also repeatedly contended that hearsay is admissible in charter nonrenewal hearings. However, the law says otherwise.

The Local Agency Law applies to charter nonrenewal hearings under the CSL. *See* 24 P.S. § 17-1729-A(c); 2 Pa. C.S.A. §§ 551, *et seq.* Accordingly, the local board of school directors is not “bound by technical rules of evidence” at such hearings. *See* 2 Pa. C.S.A. § 554.

However, because the parties have a right to cross-examine adverse witnesses, the general prohibition against admission of hearsay is not just a “technical” rule of evidence and must be followed. *See Walker v. Unemployment Comp. Bd. of Review*, 367 A.2d 366, 370 (Pa. Cmwlth. Ct. 1976); *accord, Cambria v. Board of Sch. Dirs.*, 88 A.3d 1100 (Pa. Cmwlth. Ct. 2014) (unpublished); *see also* 2 Pa. C.S.A. § 554 (“Reasonable examination and cross-examination shall be permitted.”).

Accordingly, in an administrative hearing such as this:

(1) hearsay evidence, properly objected to, is not competent evidence to support a finding of fact; (2) hearsay evidence admitted without objection will be given its natural probative effect and may support a finding of fact if it is corroborated by any competent evidence in the record, but a finding of fact based solely on hearsay will not stand.

Walker, at 370.

Here, the School District objected to certain testimony and exhibits as hearsay, and when the Charter Schools could not establish that an exception applied, the objections were properly sustained.

5. Expert Sources and Reports

a. Inadmissible evidence does not become admissible merely because an expert relies upon it.

The Charter Schools moved for admission of numerous documents relied upon by their experts, Dr. Schuh and Mr. Samms.¹⁴¹ The School District objected to the documents as hearsay, and the objection was sustained, subject to reconsideration based on the parties' post-hearing submissions.¹⁴²

The Charter Schools contend that such documents relied upon by an expert are admissible if experts in the particular field would reasonably rely on them. However, this misconstrues the applicable law.

The Pennsylvania Rules of Evidence provide that:

An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible *for the opinion to be admitted*.

Pa. R. Evid. 703 (emphasis added). In appropriate circumstances, this allows an expert's *opinion* to be admitted even if it is based on inadmissible evidence. But it does not convert whatever the expert relied upon into admissible evidence. To the contrary,

When an expert testifies about the underlying facts and data that support the expert's opinion and the evidence would be otherwise inadmissible, the trial judge upon request must, or on the judge's own initiative may, instruct the jury to consider the facts and data only to explain the basis for the expert's opinion, and

¹⁴¹ See Ex. Olney 25, 30-31, 69, 72, 144, 148, 210-211, 254, 276-277; Ex. Stetson 18, 24, 25, 54, 142, 146, 101, 194, 235, 248, 249.

¹⁴² See Tr. vol. 15, at 256:22-266:16; Tr. vol. 16, at 372:5-374:8.

not as substantive evidence.

Id. cmt. (emphasis added) (also repeated verbatim in Pa. R. Evid. 705 cmt.).

The cases the Charter Schools cited in their post-hearing memoranda do not support their argument that the underlying evidence becomes admissible when relied upon by an expert. Instead, they held only that an expert may rely on inadmissible facts or data if they are a type reasonably relied upon by experts in the particular field. *See Commonwealth v. Thomas*, 282 A.2d 693, 698 (Pa. 1971); *Primavera v. Celotex Corp.*, 608 A.2d 515 (Pa. Super. Ct. 1992). This is the same principle that Rule 703 codifies, as quoted above. In other words, these cases held only that the expert's *opinion* is admissible, not the evidence upon which the expert relied.¹⁴³

Although one recent case that the Charter Schools did not cite loosely referred to hearsay relied upon by an expert as “admissible,” it made clear that such hearsay could be used only to explain the basis for the expert's opinion, not as substantive evidence. *See Condemnation by Pa. Tpk. Comm'n v. Tarlini*, 185 A.3d 1177, 1183-84 (Pa. Cmwlth. Ct. 2018) (“the trial judge upon request must, or on the judge's own initiative may, instruct the jury to consider the facts and data only to explain the basis for the expert's opinion, and not as substantive evidence.”) (quoting Pa. R. Evid. 705 cmt.)

Thus, the documents relied upon Dr. Schuh and Mr. Samms were correctly made part of the record but not admitted as substantive evidence.

¹⁴³ The Charter Schools also cited additional cases at the hearing that were not included in their post-hearing memoranda. *See Lower Makefield Tp. v. Lands of Dalgewicz*, 4 A.3d 1114 (Pa. Cmwlth. Ct. 2010); *In re Glosser Bros., Inc.*, 555 A.2d 129 (Pa. Super. Ct. 1989); *Kearns by Kearns v. DeHaas*, 546 A.2d 1226 (Pa. Super. Ct. 1988); *Bolus v. United Penn Bank*, 525 A.2d 1215 (Pa. Super. Ct. 1987); *Steinhauer v. Wilson*, 485 A.2d 477 (Pa. Super. Ct. 1984). However, these cases also go no further than Rule 703.

b. An expert report is inadmissible hearsay.

The reports of the Charter Schools' experts are also clearly hearsay, because they were offered to prove the truth of their assertions and were not statements made while testifying at the hearing. *See* Pa. R. Evid. 801(c). Under certain exceptions, such hearsay is admissible if the declarant testifies and is available for cross-examination. *See* Pa. R. Evid. 803.1. However, none of those exceptions apply here, because none of the reports was offered as a prior inconsistent statement, a statement that identified a person or thing, or content that the expert was unable to remember at the hearing. *Id.*

Because the reports were prepared for litigation, they also are not admissible under the business records exception to the hearsay rule. *Pompa v. Hojancki*, 281 A.2d 886, 888 (Pa. 1971); *accord*, *Commonwealth v. May*, 898 A.2d 559, 565 n.12 (Pa. 2006).

Nevertheless, the Charter Schools contend that the reports are admissible because the experts were subject to cross-examination at the hearing. In their attempt to support this assertion, the Charter Schools overgeneralized case law that does not apply to their expert reports. For example, they cited *dicta* in an eminent domain case stating that “[t]raditionally, an expert report constitutes inadmissible hearsay unless the expert who prepared the report is available for cross-examination regarding the accuracy and reliability of his opinion.” *Lower Makefield*, at 1122. As its sole basis for this proposition, *Lower Makefield* cited a previous case that does not support the Charter Schools' position.¹⁴⁴ *See Columbia Gas Transmission Corp. v. Piper*, 615 A.2d 979 (Pa. Cmwlth. Ct. 1992). To the contrary, *Columbia Gas* held that expert reports were not admissible under the business records exception to the hearsay rule, thereby confirming by implication that they are inadmissible hearsay unless an exception applies.

¹⁴⁴ *Lower Makefield* also cited “Pa.R.E. 810(c),” which does not exist and never has. It probably meant to cite Rule 801(c), which merely provides the definition of hearsay described above.

Essentially, the Charter Schools are relying upon case law regarding certain types of business records that contain both recorded facts and expert opinions, such as hospital records. The courts have developed a different, hybrid approach for those. For example, a hospital report that qualifies as a business record is admissible to show the facts of hospitalization, symptoms, and treatment, but not for any medical opinions it contains unless the doctor who prepared the report is available for in-court cross-examination regarding the accuracy, reliability, and veracity of his or her opinions. *See Commonwealth v. McNaughton*, 381 A.2d 929, 931 (Pa. Super. Ct. 1977). This adds an additional *hurdle* for records which would otherwise be admissible under the business records exception to the hearsay rule, because it would be unfair for the exception to include expert opinions without any opportunity for cross-examination. It does not create an additional *exception* for reports that are not business records in the first place, such as expert reports prepared for litigation. *See Pompa*, at 888.

Accordingly, the Charter Schools' expert reports were correctly made part of the record but not admitted as substantive evidence.

6. Post Hearing Attacks on the Validity of this Proceeding

The Charter Schools also raised several arguments in post-hearing motions, and repeated them in their post-hearing memoranda of law, in an effort to invalidate this entire proceeding and start all over again.¹⁴⁵ All of these arguments were also without merit.¹⁴⁶

a. Transition from SRC to BOE

The Charter Schools first contended that these proceedings are invalid because the SRC adopted the resolutions pursuant to which the hearings were commenced and the SRC no longer

¹⁴⁵ See Ex. HO[O] 115, 118; Ex. HO[S] 121, 124.

¹⁴⁶ The rulings on the Charter Schools' arguments are summarized below, but in some cases, more detail is provided in the actual rulings. *See* Ex. HO[O] 121; Ex. HO[S] 127.

exists. This contention was correctly rejected because the BOE is the SRC's successor in these proceedings. *See* 24 P.S. § 6-696(n) ("after dissolution the board of school directors shall have the powers and duties of the School Reform Commission").¹⁴⁷ The Charter Schools have not cited any authority for the proposition that the BOE is not entitled to implement resolutions adopted by its predecessor board.

The BOE will decide whether or not to renew the charters based on the evidence presented at the hearings, not based on the information presented previously to the SRC. *See Graystone (Cmwlth.)*, at 142. Thus, the change in composition of the School District's governing board will not impair the BOE's ability to fairly decide the outcome of this proceeding.

b. Request for Recusal

The Charter Schools also contended that I should have recused myself as the hearing officer because Olney or ASPIRA, the School District and a lender were represented in different matters by other lawyers at a law firm that I retired from three years before my appointment in these matters. There was no basis for recusal on those grounds, because I had no knowledge of or involvement in the alleged representations and have no continuing affiliation with the former firm.¹⁴⁸

The Charter Schools also asserted that I should have recused myself because I am an attorney for the School District. By this, they incorrectly implied that I am an *advocate* for the School District. This mischaracterizes a hearing officer's role. In order to be qualified for selection as a hearing officer, one must engage in the School District's public procurement process for legal services. However, when responding to such requests for qualification, I

¹⁴⁷ *See* Ex. HO[O] 121; Ex. HO[S] 127.

¹⁴⁸ *See* Tr. vol. 9, at 267:14-268:21, Tr. vol. 10, at 5:17-8:21.

expressly limit my proposed role to serving as a hearing officer and advising the BOE, regarding charter school proceedings and employee termination matters.

In charter school proceedings, lawyers for the School District are engaged and supervised by the Office of Legal Counsel (“OLC”). However, hearing officers are appointed directly by the BOE instead, and are supervised by the BOE’s Board President and Chief of Staff.¹⁴⁹ This helps protect the hearing officer’s independence and objectivity by separating control of the advocacy and adjudicatory functions. Accordingly, I do not represent the School District in the sense that the Charter Schools implied. Instead, I act as an administrative officer and adviser to assist the BOE in carrying out its adjudicatory responsibilities.

c. Previous Non-Renewal Hearings

The Charter Schools also contented that I must be biased because I recommended non-renewal in three of the many other cases in which I have served as a hearing officer. This seems to presume, without any evidence whatsoever, that non-renewal was not fairly warranted on the merits of those cases. To the contrary, CAB recently affirmed nonrenewal in two of the three cases. *See Eastern Univ. Acad. Charter Sch. v. School Dist. of Phila.*, CAB No 2018-04 (Aug. 14, 2019) (holding that “the record is devoid of any evidence of bias by the Hearing Officer,” the findings were “supported by objective evidence of record” and the same framework “was applied evenly to every charter school”); *Khepera* (holding that “the record strongly supports the SRC’s revocation of Khepera Charter School’s Charter.”). CAB disagreed with some of the SRC’s findings in the earliest of the three cases after considering post-hearing improvements, but found no due process violations or lack of objectivity. *See Community Acad.*

¹⁴⁹ See Ex. HO[O] 1; HO[S] 1.

d. Unjustified Continuance Requests

The Charter Schools also contended that requests for continuances were unfairly denied. To understand how preposterous this is, one must consider the sequence of pertinent events.

When I was appointed in these matters, I contacted Counsel by email and spoke with them in an initial conference call on December 11, 2018. It was agreed in that call, among other things, that (a) the parties would exchange their lists of witnesses and exhibits, pre-marked copies of their exhibits, expert witness reports and resumes, and requests for subpoenas on January 25, 2019, (b) stipulations regarding facts and/or exhibits would be submitted by February 5, 2019, and (c) the hearings would begin on February 12, 2019.¹⁵⁰

However, on February 4, 2019 (about a week before the hearings were to begin), the Charter Schools' Counsel requested a 60-day continuance to avoid any potential impact on a refinancing transaction. This request was denied, because it would not have been appropriate for the BOE (through its Hearing Officer) to participate in an effort to avoid alerting a lender to these nonrenewal proceedings if that would be material to the lender's decision to close the transaction, and there was no need to delay the proceedings if the disclosure would not be material to the lender's decision. Nevertheless, the start of the hearings was postponed by 15 days, because the Charter Schools' Counsel had conflicting court appearances on some of the previously scheduled dates.¹⁵¹

On February 7, 2019 (three days after the 60-day continuance was denied), the Charter Schools terminated their Counsel and asked a different firm to represent them at the hearings.¹⁵² The Charter Schools' current Counsel agreed in writing to start the hearings on March 11, 2019,

¹⁵⁰ See Ex. HO[O] 1-7; Ex. HO[S] 1-7.

¹⁵¹ See Ex. HO[O] 22-23, 25-28; Ex. HO[S] 22-23, 25-28.

¹⁵² See Ex. HO[O] 30-33; Ex. HO[S] 30-33.

“which allows the School District of Philadelphia to conclude the hearings in a timely fashion and allows our firm time to prepare.”¹⁵³ This additional delay was unwelcome but tolerable, so I approved the substitution of counsel on that basis and continued the hearing to the requested dates.¹⁵⁴

On March 7, 2019 (two weekdays before the hearings were set to begin) the Charter Schools requested an additional two-week postponement in order to subpoena files from two law firms that had handled financial transactions for them in 2011 and 2016.¹⁵⁵ This request was denied for several reasons: (a) the delay would likely have been much longer than two weeks, because the School District’s Counsel was unavailable throughout most of April 2019, (b) the Charter Schools had several years to obtain whatever documents they wanted from their previous law firms, (c) the Charter Schools’ former Counsel was advised on December 10, 2018 that the hearings would begin in February 2019, and (d) the Charter Schools’ current Counsel agreed to begin the hearings on March 11, 2019, yet (e) the Charter Schools waited until the hearings were about to begin to seek the documents by subpoena. This was especially egregious because the deadline for requesting subpoenas was January 25, 2019. Notwithstanding their procrastination, the Charter Schools were permitted to subpoena the documents and produce them while the hearings were in progress. This eliminated any need for the requested continuance.¹⁵⁶

The parties’ initially estimated that consecutive hearings for Olney then Stetson could be completed in a total of six to ten days, starting in February 2019. Ultimately, they were completed in 16 days, starting in March 2019. In addition, Olney was permitted to supplement its

¹⁵³ See Ex. HO[O] 34; Ex. HO[S] 34.

¹⁵⁴ See Ex. HO[O] 36-38; Ex. HO[S] 36-38.

¹⁵⁵ See Ex. HO[O] 58; Ex. HO[S] 58.

¹⁵⁶ See Ex. HO[O] 59; Ex. HO[S] 59.

lists of exhibits and witnesses 20 times (including 15 times after the hearings began) and Stetson was permitted to supplement its lists of exhibits and witnesses 22 times (including 17 times after the hearings began), which belatedly added 30 new witnesses and 277 new exhibits (some of which were hundreds of pages long).¹⁵⁷ The Charter Schools were not precluded from calling any witness, concluding the examination of any witness, or presenting any admissible exhibits. Under the circumstances, they were provided ample time and extraordinarily flexibility to prepare for and present their defense.

Counsel for the Charter Schools correctly noted that when discussing the likelihood that a continuance would delay the hearing for more than the requested two weeks, I observed that “if nonrenewal is then granted, the delay could deprive [the Charter Schools’] students of the education they deserve for an additional year.”¹⁵⁸ However, he ignored the “if” when contending that this comment prejudged the result.

e. Proposed Intervention by ASPIRA

The Charter Schools also complained that a petition to intervene by ASPIRA was denied, but that ruling was also clearly justified, because (a) there is no statutory authority for including additional parties in nonrenewal proceedings, (b) ASPIRA’s interests were adequately represented by the Charter Schools, (c) ASPIRA unduly delayed applying for intervention, and (d) intervention would have unduly delayed the proceedings.¹⁵⁹

¹⁵⁷ See Ex. HO[O] 24, 61, 65, 67-68, 70-72, 74-75, 77, 84, 87, 89-91, 101-103, 111 (supplemented lists); Ex. HO[S] 24, 61, 65, 67-71, 73-74, 76, 83, 86, 88-90, 93, 101-103, 105, 117 (supplemented lists); *see, e.g.*, Ex. Olney 58, 100, 289, 292 (lengthy exhibits); Ex. Stetson 43, 91, 263, 266 (lengthy exhibits).

¹⁵⁸ See HO[O] 59, at 2; HO[S] 59, at 2.

¹⁵⁹ See HO[O] 59, at 1-2; HO[S] 59, at 1-2.

f. Last Minute Requests for Documents

I promptly issued every subpoena that the Charter Schools requested until they asked for two more in the final days of the hearing, when the time available for the School District to assemble and produce the requested documents was extremely limited.¹⁶⁰

One of the subpoenas requested documents from Mayer Krain and the other requested all of the CSO's files regarding the Charter Schools. Mayer Krain testified about his documents on March 15th,¹⁶¹ but the Charter Schools waited 25 days to request the subpoenas for those. The Charter Schools' Counsel said on March 29th that he intended to subpoena the CSO's files,¹⁶² but he waited an entire week to request the subpoenas for those. Moreover, all of the documents should have been subpoenaed by the January 25th deadline.

Despite repeated requests, the Charter Schools' Counsel was unable to explain why the requested documents would be relevant and material.¹⁶³ These were serious questions because the outcome will be based on the evidence presented at the hearings, not on the analysis that led to the CSO's recommendation to commence the hearings. *See Graystone (Cmwlth.)*, at 142.

Because the Schools' Counsel waited so long to request the subpoenas and was unable to explain why the documents sought would be relevant and material, and because full compliance with the subpoenas could not be accomplished without delaying completion of the hearing, the requests for these subpoenas were denied. Nevertheless, the School District was pressed to comply voluntarily as best it could. As a result, Mr. Krain's documents were produced and the vast majority of the requested CSO documents were either produced or identified as already

¹⁶⁰ See HO[O] 50, 79-81, 86, 93-100; HO[S] 50, 78-80, 85, 92, 94-100.

¹⁶¹ See Tr. vol. 3, at 91:11-93:9.

¹⁶² See Tr. vol. 10, at 16-20.

¹⁶³ See Tr. vol. 12, at 4:12-41:18; Tr. vol. 13, at 5:2-15:15.

available to the Charter Schools in the Epicenter system used for exchanging documents with schools.¹⁶⁴ This was more than reasonable under the circumstances.

g. Timely Completion of the Hearings

At the end of the first hearing day, I encouraged Counsel to present their evidence more efficiently, as follows: “We have a limited amount of time to work with here. So I think it might be in everyone’s benefit if you could sort of pick up the pace a little bit going forward.”¹⁶⁵ Counsel for the Charter Schools reacted to this with outrage, contending that due process rights would be violated if they were not provided with however much time they wanted to take, instead of the time that was reserved with their agreement. I responded that they “would be free to argue that on appeal.”¹⁶⁶ The Charter Schools contend that this remark was evidence that a decision had already been made to recommend nonrenewal. Like the ignored “if” described in Section III.H.6.d above, this ignores the “would be.” This expression is what grammarians call conditional or subjunctive. It describes what could happen if there is an appeal. It does not assume there will be one, as the Charter Schools contend.

The Charter Schools also asserted that another reference to “any potential appeal” was evidence of predisposition.¹⁶⁷ This time, they ignored both “any” and “potential,” in the same way they ignored the “if” and “would be” above. The Charter Schools also criticized this as a “suggestion” to the School District that indicated a bias against them, despite the fact that similar suggestions were also made for their benefit.¹⁶⁸ All such comments were motivated only by a

¹⁶⁴ See Ex. Olney 296; Ex. Stetson 273; Tr. vol. 13, at 7:24-11:13.

¹⁶⁵ See Tr. vol. 1, at 269:2-6.

¹⁶⁶ See Tr. vol. 1, at 268:21-270:4.

¹⁶⁷ See Tr. vol. 10, at 85:6-19.

¹⁶⁸ See, e.g., Tr. vol. 4, at 230:15-231:5.

desire to avoid potential mistakes that might prolong the hearing or make a fair resolution on the merits more difficult.

Lest there be any doubt, I affirm, subject to the penalties of 18 Pa. C.S. § 1746 relating to unsworn falsification to authorities, that I had not reached any conclusions regarding the outcome of these matters when the referenced comments were made, or at any other time during the hearings in these matters. In fact, I did not decide what my recommendation would be until I completed my analysis of the parties' lengthy post-hearing submissions.

None of this established any lack of independence.

h. Reaction to a Comparison of Renewal Outcomes

The Charter Schools next complained that the School District was permitted to explain that they assumed substantial liabilities for the benefit of other ASPIRA managed schools, but that they were somehow precluded from explaining that the charters of Hostos and Pantoja were renewed with conditions despite their assumption of the same liabilities. The Charter Schools then contradicted themselves by citing testimony establishing the very facts that were purportedly precluded.

In an off the cuff remark, I attempted to point out that consistency would not necessarily result in renewal of all the ASPIRA schools' charters, as opposed nonrenewal. I also made the same point later on the record.¹⁶⁹ This was not based on any prejudgment of the outcome, as the Charter Schools contended. It was an attempt to disclose a perceived weakness in their argument. As a trial lawyer, I appreciated receiving such contemporaneous feedback from judges while there was still a chance to try a different approach. However, it is apparent that the Charter Schools' Counsel did not.

¹⁶⁹ See Tr. vol. 16, at 364:19-24.

In any event, questioning the soundness of an argument does not indicate a lack of independence. If it did, no decision by any court could be deemed impartial.

i. Timing of Objections to Exhibits

Objections to admissibility of an exhibit should be made when it is moved into evidence. The Charter Schools' motions showed that this principle was applied evenhandedly, by citing one instance where I told their Counsel that an objection was premature and should be made if and when the exhibits were moved into evidence, and another instance where I told the School District's Counsel the very same thing.¹⁷⁰

Nevertheless, the Charter Schools complained that I only said "thanks for the warning" to the School District's Counsel. But this was in response to an email that said "I am writing to raise an *anticipated* evidentiary issue."¹⁷¹ Thus, the School District's Counsel was alerting me to an issue that would be raised later, unlike the Charter Schools' Counsel, who had requested an immediate ruling. That is why I thanked one for the "warning" and not the other. This did not show any lack of independence, as the Charter Schools contend.

j. Exhibits Regarding Other Charter Schools

Finally, the Charter Schools contended that I ruled in advance on the admissibility of numerous exhibits and later changed my mind. That is not what happened.

On the third day of the hearings, the Charter Schools' Counsel sought to question a witness about the CSO's renewal reports regarding other schools. A lengthy discussion ensued about the relevance of "what happened with some other charter school."¹⁷² The Charter Schools' Counsel then said "I can limit that to one to try -- as an example of what I'm attempting to do

¹⁷⁰ See Ex. HO[O] 118, at 13-14; Ex. HO[S] 124, at 13-14.

¹⁷¹ See Ex. HO[O] 118, at 21 (emphasis added); Ex. HO[S] 124, at 21 (emphasis added).

¹⁷² See Tr. vol. 3, at 186:16-190:4.

here.”¹⁷³ This is why I said “Okay. Look, I’ll give you one . . . ,” not because I arbitrarily imposed such a limit, as the Charter Schools implied.¹⁷⁴ I then said “I would note also that since these are School District documents, I don’t expect that there would be any reason why they couldn’t all be admitted into evidence in any event, or at least be part of the record”¹⁷⁵ This was not a ruling. It was an expectation that they would probably end up being made part of the record. To make certain that the Charter Schools’ Counsel understood this, I explicitly stated again that “I don’t think it’s likely to be relevant”¹⁷⁶

Consistent with the discussion in Section III.H.6.i above, the actual ruling was not made until the exhibits were moved into evidence. That occurred at the end of the last day of the hearing because Counsel for the Charter Schools waited until then to move them into evidence. At that time, the relevance issue was raised again. I admitted some of the exhibits subject to argument on the relevance issue in the parties’ post-hearing submissions. Some of the other exhibits that the Charter Schools’ are complaining about were never even moved into evidence. The rest were not admitted for various reasons, but have still been made part of the record.¹⁷⁷ This was entirely consistent with the expectation I had previously expressed. Moreover, the stated expectation was for “School District documents,” such as renewal reports for other schools, not for all of the other exhibits the Charter Schools are complaining about, such as other schools’ board minutes, an auditor general report and an expert’s comparison report.

None of this established a lack of independence.

¹⁷³ See Tr. vol. 3, at 190:12-14.

¹⁷⁴ See Tr. vol. 3, at 190:15-16.

¹⁷⁵ See Tr. vol. 3, at 190:16-21.

¹⁷⁶ See Tr. vol. 3, at 191:5-6.

¹⁷⁷ See Tr. vol. 16, at 354:14-372:4; Certification of the Record, at Sections F-G.

k. Conclusion

The Code of Judicial Conduct requires disqualification if a judge's impartiality "might reasonably be questioned." Pa. C.J.C.R. 2.11(A). It provides numerous examples, such as personal bias against a party or lawyer, a family relationship, an economic interest in the controversy, involvement as a material witness, or receipt of a substantial campaign contribution from a party, none of which applies here. *See Id.*

Nor do any of the cases that the Charter Schools relied upon support disqualification here. *See Lyness v. State Bd. of Med.*, 605 A.2d 1204, 1210 n.12 (Pa. 1992); *First Phila. Prep. Charter Sch. v. Commonwealth, Dep't of Educ.*, 179 A.3d 128, 137 (Pa. Cmwlt. Ct. 2018); *Shah v. State Bd. of Med.*, 589 A.2d 783, 794 (Pa. Cmwlt. Ct. 1991); *Dayoub v. Commonwealth, State Dental Council & Examining Bd.*, 453 A.2d 751, 753 (Pa. Cmwlt. Ct. 1982).

Lyness involved a disciplinary decision by the State Board of Medicine. The court held that by commingling its prosecutorial and adjudicatory functions, the Board created a potential for bias and an appearance of non-objectivity sufficient to violate the due process clause of the Pennsylvania Constitution. However, the CSL avoids this due process concern by providing for a *de novo* appeal to CAB. *See West Chester Area Sch. Dist. v. Collegium Charter Sch.*, 812 A.2d 1172, 1180-81 (Pa. 2002) ("the minimum requirements of due process demand that a litigant have, at some stage of a proceeding, a neutral fact-finder, and that a charter school has a neutral fact-finder in CAB."); *Graystone (Cmwlt.)*, at 142 ("Thus, any potential bias was cured when CAB reviewed the Board's revocation decision."); 24 P.S. § 17-1729-A(d). Moreover, unlike the State Board of Medicine, the BOE separates the prosecutorial and adjudicatory functions. As explained in Section III.H.6.b above, the OLC engages outside counsel to present the case for nonrenewal, and the BOE decides the outcome based on evidence presented at a hearing

conducted by an independent hearing officer. *Lyness* acknowledged that the due process concerns it addressed can be avoided by constructing such “walls of division” between the prosecutorial and adjudicatory functions. *Id.*, at 1209.

Shah also involved a disciplinary decision by the State Board of Medicine. There, however, the court found “nothing improper” regarding the Board’s decision and rejected the doctor’s argument that the adjudicative and prosecutorial functions were impermissibly commingled. *Id.*, at 792-96. It also found “no demonstration of bias” based on the same types of arguments made here. *Id.*, at 800.

Dayoub also involved alleged commingling of prosecutorial and adjudicatory functions, but by the State Dental Council and Examining Board. This time the Board’s “partiality and hostility” was so extreme that the hearing was deemed unfair. *Id.*, at 753. The court reached this conclusion because “members of the Board heatedly questioned the petitioner and argued with him in such a manner that their behavior was much more in line with that of a prosecuting attorney than of a neutral, detached and impartial decision-maker.” *Id.* No such hostile questioning occurred here. Instead, I treated all witnesses with courtesy and respect, and only asked questions when needed to clarify their testimony.

First Phila. Prep. dealt with guidelines regarding rate calculations. The court granted a preliminary injunction because if it waited for a hearing to be held by PDE, “(1) tangible harm will occur in the interim in that people will lose jobs; (2) the lives of thousands of students will be directly affected; and (3) unless the process is enjoined, it will keep being repeated each year, depriving the Charter Schools of funding upon which they rely.” *Id.*, at 136. None of this is a concern here, because the CSL allows a charter school to continue operating as usual pending a *de novo* review by CAB. *See* 24 P.S. § 17-1729-A(f). Thus, the reasons for holding the statutory

rate calculations process inadequate in *First Phila. Prep.* do not apply to charter school nonrenewal proceedings.

In short, none of the cases the Charter Schools cited apply to this proceeding.

Disqualification “is not to be granted lightly, lest a jurist abdicate his ‘responsibility to decide.’” *League of Women Voters v. Commonwealth*, 179 A.3d 1080, 1083 (Pa. 2018).

After careful consideration, I concluded that my impartiality could not be “reasonably” questioned based on the arguments that the Charter Schools raised. As a result, it was my duty to proceed, especially since recusal would have required the entire hearing process to be repeated.

Accordingly, the Charter Schools’ motions for disqualification were properly denied.

7. Motions to Reopen the Hearing

The Charter Schools also moved to reopen the hearings in these matters based on what they characterized as “newly discovered evidence.”

a. Initial Motions

The evidence in question is a document consisting of a series of photographs of a screen on which a PowerPoint presentation (“Presentation”) was displayed at a meeting on March 29, 2019.¹⁷⁸ Thus, the “new” evidence was disclosed at the meeting 17 days before the hearings in these matters were concluded. The Charter Schools’ Counsel did not identify the person who took the photographs, but the same document was submitted with a public comment by Kathryn M. McKinley, who was described at the hearings as a member of the Charter Schools’ “superintendent’s immediate team.”¹⁷⁹

¹⁷⁸ See Ex. Olney 300; Ex. Stetson 277.

¹⁷⁹ See Ex. PC[O] 8; Tr. vol. 6, at 28:14-16.

On May 30, 2019, which was 62 days after the Presentation was photographed and 45 days after the hearings were concluded, the Charter Schools moved for its admission as a new exhibit. Their motions did not request leave to question any witnesses about the Presentation.

In a conference call the following day, the School District did not object to the Presentation's authenticity, did not request leave to present any other evidence in response, and did not identify any prejudice that would result from the delay in offering the new exhibit. As a result, the new exhibit was admitted, "subject to argument about its relevance, materiality and significance in the parties' post-hearing submissions."¹⁸⁰

Then, 74 days after the Presentation was photographed, 57 days after the hearing was concluded, and after the School District had already submitted its proposed findings of fact, proposed conclusions of law and supporting memoranda, the Charter Schools moved to reopen the hearing and question witnesses about the Presentation. Doing so at that point would have unduly delayed the resolution of this proceeding.

Before issuing a report in administrative proceedings, a presiding officer may "reopen the proceeding for the purpose of taking additional evidence." *See* 1 Pa. Code § 35.231(a). However, a party requesting this relief must "set forth clearly the facts claimed to constitute grounds requiring reopening of the proceeding, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing." *Id.* Moreover, "[t]o serve as a basis to reopen the record, the material changes of fact must not have been discoverable prior to the conclusion of the hearing." *Shoemaker v. State Emps.' Ret. Bd.*, 688 A.2d 751, 753 (Pa. Cmwlth. Ct. 1997). As noted by the only rehearing case the Charter Schools cited, "[a] decision to grant a rehearing or to reopen a record is within the discretion of an administrative agency, and the exercise of that

¹⁸⁰ *See* Ex. HO[O] 109; Ex. HO[S] 115.

discretion by the agency will not be reversed unless a clear abuse is shown.” *Fritz v. Commonwealth, Dep’t of Transp.*, 468 A.2d 538, 539 (Pa. Cmwlth. Ct. 1983).

Here, the Charter Schools could have discovered the Presentation and questioned witnesses about it while the hearings were in progress. Although the Charter Schools’ Counsel represented that he was unaware of the Presentation until after the hearing concluded, he did not represent that the Charter Schools were unaware of it until then. This is not surprising given that it was disclosed at the meeting on March 29, 2019, and circumstantial evidence suggests that an administrator of the Charter Schools might have observed the Presentation and photographed it at that time. In any event, discoverability is what matters, not actual knowledge. *See Shoemaker*, at 753. The Presentation was clearly discoverable weeks before the hearing was concluded. This was sufficient on its own to warrant denial of the Charter Schools’ motion.

In addition, Counsel for the Charter Schools was personally aware of the Presentation on May 30, 2019, when he moved for its admission as an exhibit. He could have requested leave to question witnesses about it then, but he chose not to do so. By the time he moved to reopen the hearing, the evidence was not “new” enough to justify allowing additional testimony at that late stage, particularly when doing so would have delayed the outcome of this proceeding into an additional school year.

For these reasons, the motion for rehearing was correctly denied.

b. Motions for Reconsideration

On June 19, 2019, the Charter Schools moved for reconsideration of the denial of their motions for rehearing. Because additional information was provided, I reconsidered the previous ruling. However, the ruling was reaffirmed for the reasons explained below.

As noted above, the evidence that the Charter Schools relied upon as cause for reopening the hearing is a document consisting of a series of photographs of a screen on which a

PowerPoint presentation was displayed at a meeting on March 29, 2019.¹⁸¹ In my previous decision, I presumed that the meeting was open to the public. In their motions for reconsideration, the Charter Schools contended that it must not have been a public meeting because it wasn't advertised. This was wrong for at least three reasons. First, it assumed that it was a School District action meeting. That was belied by the news article that the Charter Schools included with their motions for reconsideration, in which a photo caption identified the meeting as a "town hall event" at a charter school called "Mastery Shoemaker."¹⁸² Second, the Charter Schools failed to explain how a staff photographer for The Philadelphia Inquirer could have taken that photo if the meeting was not open the public. Third, an open invitation to the meeting was posted on the internet by its sponsor, the Philadelphia Higher Education Network for Neighborhood Development.¹⁸³

The motions for reconsideration also represented that the Charter Schools received the document on May 24, 2019 in response to a Right-to-Know Law request.¹⁸⁴ However, this was contradicted by Ms. McKinley's submission of the document before that date with her public comment.¹⁸⁵ The motions for reconsideration still did not explain how or precisely when Ms. McKinley actually received the document.

At the very latest, the Charter Schools actually had the document "shortly before" May 21, 2019, when Ms. McKinley submitted her comment.¹⁸⁶ Yet, they waited until May 30 to move

¹⁸¹ See Ex. Olney 300; Ex. Stetson 277.

¹⁸² See Ex. HO[O] 122, at 10; Ex. HO[S] 128, at 10.

¹⁸³ See <http://phennd.org/update/is-school-choice-the-black-choice-may-29/>.

¹⁸⁴ See Ex. HO[O] 122, at 42; Ex. HO[S] 128, at 42.

¹⁸⁵ See Ex. PC[O] 8; Ex. PC[S] 58.

¹⁸⁶ See Ex. HO[O] 122, at 32, McKinley Aff. ¶ 11 (incorrectly stating the date); Ex. HO[S] 128, at 32, McKinley Aff. ¶ 11 (incorrectly stating the date).

for its admission as an exhibit, and even then, did not request any additional testimony. Instead, the Charter Schools waited until June 11, after the School District submitted its proposed findings of fact, proposed conclusions of law and supporting memoranda. If this were ongoing civil litigation, a three-week delay might have been tolerable, but it was unjustifiable in this context, after the close of an administrative hearing that the Charter Schools had repeatedly delayed and prolonged until it could not be reopened without postponing the resolution of these matters until the following school year.

In any event, as noted in Section III.H.7.a above, discoverability is what matters, not actual knowledge. *See Shoemaker*, at 753. Here, the Presentation was discoverable weeks before the hearing was concluded.

The Charter Schools' reference to a newspaper article published on June 17, 2019 also did not justify reopening the hearing.¹⁸⁷ Every word of the article was inadmissible hearsay, and its purportedly new "revelations" consisted primarily of: (a) contentions by Omar Barlow that he also made (unsuccessfully) in 2017 during a public nonrenewal hearing against Eastern University Academy Charter School;¹⁸⁸ (b) a remark by Farah Jimenez at a public meeting before her resignation from the SRC in February 2018; (c) quotes from the Presentation itself, which the Charter Schools had long before the article; and (d) concerns expressed by meeting participants about difficulties finding "good lawyers" and "good finance people." This was not sufficient to "restart the clock" for moving to reopen the hearings.

The Charter Schools' delay also was not justified by denial of their last minute requests for additional subpoenas, because the Presentation was not within the scope of those subpoenas.

¹⁸⁷ See Ex. HO[O] 122, at 8-11; Ex. HO[S] 128, at 8-11.

¹⁸⁸ The Charter Schools could not claim that they were unaware of this, because they submitted a transcript from the Eastern hearing as exhibits in these proceeding. *See* Ex. Olney 281; Ex. Stetson 258.

The proposed subpoenas addressed to Mayer Krain sought his files regarding the audits he conducted for the Charter Schools’ renewal reports.¹⁸⁹ There was no reason to believe that the presentation would have been in those files, and he produced them anyway.¹⁹⁰ The other proposed subpoenas sought the School District’s files regarding “these matters,” including documents relating to the Charter Schools’ annual charter evaluations and renewal reports.¹⁹¹ Thus, these proposed subpoenas also sought files specific to the Charter Schools and their evaluations. It would be unreasonable to presume that the Presentation at issue here was included in those files, given that the Presentation dealt only with overall trends and was prepared for a meeting with leaders of other schools three years after the CSO made its recommendations for Olney and Stetson.

For these reasons, and for the reasons stated in the previous ruling, the denials of the Charter Schools’ motions for rehearing were correctly reaffirmed.

IV. PUBLIC COMMENTS

Public comments were solicited by the Board from April 22, 2019 through May 21, 2019,¹⁹² in response to which 88 individuals submitted 102 comments regarding Stetson,¹⁹³ as follows:

Electronic Petition	56
Other Responses	<u>57</u>

¹⁸⁹ See Ex. HO[O] 122, at 48; Ex. HO[S] 128, at 49. (These proposed subpoenas bore my signature, but only because it was copied without my consent from other subpoenas that I had actually issued before.)

¹⁹⁰ See Ex. Olney 296; Ex. Stetson 273.

¹⁹¹ See Ex. HO[O] 122, at 50; Ex. HO[S] 128, at 51 (These proposed subpoenas also bore my signature, but only because it also was copied without my consent from other subpoenas that I had actually issued before.)

¹⁹² See Ex. HO[S] 106.

¹⁹³ See Ex. PC[S] 01-58. (Ex. PC[S] 40 is the electronic petition.).

Subtotal	113
Less Duplicates	-11
Total Submitted	102

Of the 88 individuals who responded (some of whom submitted two or three comments each), 51 were administrators, teachers or other employees at Stetson, 23 were members of the surrounding community, 6 were parents or grandparents of Stetson students, 4 were advocates at Alliance for Philadelphia Public Schools (“APPS”), 3 did not specify their role, and 1 was a Stetson vendor. All those who responded supported renewal, except the advocates at APPS, who opposed renewal based primarily on the evidence presented at the hearing.

The strong consensus of the administrators, faculty and other employees was that Stetson provides a safe, orderly and clean environment, where students are motivated to learn. Their most frequently stated reasons for supporting renewal were that the Stetson is safe (28%), has a positive climate (28%), supports students (28%), supports the community (28%), is better than it was before it became a charter school (22%), has high academic quality (21%), and has committed teachers and administrators (12%).

Those who opposed renewal did so based primarily on Stetson’s poor academic performance and financial management issues.

In summary, the comments submitted confirm that Stetson does a good job of creating a positive environment, motivating students and supporting them and the community. This is laudable, but it does not excuse Stetson’s material failures to comply with its charter, student performance requirements, generally accepted standards of fiscal management and audit requirements, and applicable laws. *See* 24 P.S. § 17-1729-A.

V. RECOMMENDATION

As described above, Stetson has failed to comply with several requirements of its charter, failed to meet applicable requirements for student performance, failed to comply with generally accepted standards of fiscal management and audit requirements, and violated applicable laws from which it has not been exempted. *See* 24 P.S. § 17-1729-A. These established violations are sufficient to warrant nonrenewal of Stetson's charter, because they are significant, material and fundamental. *See Renaissance Charter*, at 3 n.3.

Nonrenewal of Stetson's charter is not likely to undermine the core purpose of the CSL to improve student learning, because Stetson's students will probably receive a better education elsewhere or at the same school under different management.

Stetson has not met its burden of proving that the School District engaged in selective enforcement against minority-led charter schools or otherwise deprived Stetson of equal protection of the laws.

Stetson also has not met its burden of proving that it was denied due process in any way.

Accordingly, I recommend that Stetson's charter *not* be renewed.

Respectfully Submitted,



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Date: September 19, 2019

**BOARD OF EDUCATION
THE SCHOOL DISTRICT OF PHILADELPHIA**

In the Matter of:

Charter Nonrenewal Proceeding Regarding
John B. Stetson Charter School

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Hearing Officer submits the following findings of fact and conclusions of law regarding this nonrenewal proceeding by the School District of Philadelphia (“School District”) against John B. Stetson Charter School, also known as John B. Stetson School; an ASPIRA, Inc. of Pennsylvania School (“Stetson”).

FINDINGS OF FACT

General Background

1. The School District is a home rule school district of the first class organized and existing under the Pennsylvania Public School Code and the Philadelphia Home Rule Charter.
2. Stetson is a public charter school serving students in grades 5 through 8.
3. The School District was declared a distressed school district under Section 691(c) of the Distressed School Law, 24 P.S. § 6-691(c), as a result of which it was governed by the School Reform Commission (“SRC”) from December 21, 2001, until June 30, 2018.¹
4. On July 1, 2018, the Board of Education (“BOE”) became the SRC’s successor as the School District’s local board of school directors.

¹ The Distressed School Law was added to the Public School Code in 1959 and special provisions relating to school districts of the first class were added in 1998 and later years. *See* Act of Dec. 15, 1959, P.L. 1842, No. 675 (as amended 24 P.S. §§6-691 - 6-695).

Procedural Posture

5. On December 14, 2017, the SRC approved Resolution SRC No. SRC-9 (“SRC-8”) at a public meeting, which instituted nonrenewal proceedings against Stetson. (Ex. JE[S] 1.)

6. SRC-9 listed the following grounds for nonrenewal:

1. During the 2010-2011 school year, 49.9% of Stetson students scored proficient or advanced on the Math PSSA exam. During the 2011-2012 school year, 63.5% of Stetson students scored proficient or advanced on the Math PSSA exam. During the 2012-2013 school year, 50.8% of Stetson students scored proficient or advanced on the Math PSSA exam. During the 2013-2014 school year, the last school year prior to the change in the PSSA, 36.3% of Stetson students scored proficient or advanced on the Math PSSA exam. Thus, from the 2011-2012 school year to the 2013-2014 school year, the percent of students at Stetson scoring proficient or advanced decreased by 27.2 percentage points on the Math PSSA exam.

2. During the 2014-2015 school year, under the new Common Core-aligned PSSA, 7.2% of Stetson students scored proficient or advanced on the Math PSSA exam. During the 2015-2016 school year, also under the new Common Core-aligned PSSA, 2.8% of Stetson students scored proficient or advanced on the Math PSSA exam. During the 2016-2017 school year, also under the new Common Core-aligned PSSA, 2.6% of Stetson students scored proficient or advanced on the Math PSSA exam. Thus, under the new Common Core-aligned PSSA, from the 2014-2015 school year to the 2016-2017 school year, the Charter School had a 4.6 percentage point decrease in PSSA Math proficiency.

3. During the 2010-2011 school year, 31.6% of Stetson students scored proficient or advanced on the Reading PSSA exam. During the 2011-2012 school year, 36.0% of Stetson students scored proficient or advanced on the Reading PSSA exam. During the 2012-2013 school year, 31.2% of Stetson students scored proficient or advanced on the Reading PSSA exam. During the 2013-2014 school year, the last school year prior to the change in the PSSA, 28.3% of Stetson students scored proficient or advanced on the Reading PSSA exam. From the 2011-2012 school year to the 2013-2014 school year, the percent of students at Stetson scoring proficient or advanced decreased by 7.7 percentage points on the Reading PSSA exam.

4. During the 2014-2015 school year, under the new Common Core-aligned PSSA, 18.3% of Stetson students scored proficient or advanced on the English Language Arts (“ELA”) PSSA exam. During the 2015-2016 school year, also under the new Common Core-aligned PSSA, 15.2% of Stetson students scored proficient or advanced on the ELA PSSA exam. During the 2016-2017 school year, also under the new Common Core-aligned PSSA, 12.4% of Stetson students scored proficient or advanced on the ELA PSSA exam. Thus, under the new

Common Core-aligned PSSA, from the 2014-2015 school year to the 2016-2017 school year, the Charter School had a 5.9 percentage point decrease in PSSA ELA proficiency.

5. During the 2010-2011 school year, 3.6% of Stetson students in grade 8 scored proficient or advanced on the Science PSSA exam. During the 2011-2012 school year, 5.3% of Stetson students in grade 8 scored proficient or advanced on the Science PSSA exam. During the 2012-2013 school year, 9.0% of Stetson students in Grade 8 scored proficient or advanced on the Science PSSA exam. During the 2013-2014 school year, 9.0% of Stetson students in Grade 8 scored proficient or advanced on the Science PSSA exam. During the 2014-2015 school year, 8.7% of Stetson students in grade 8 scored proficient or advanced on the Science PSSA exam. During the 2015-2016 school year, 8.4% of Stetson students in Grade 8 scored proficient or advanced on the Science PSSA exam. During the 2016-2017 school year, 3.9% of Stetson students in Grade 8 scored proficient or advanced on the Science PSSA exam. Thus, from the 2014-2015 school year to the 2016-2017 school year, the Charter School had a 4.8 percentage point decrease in PSSA Science proficiency for Grade 8.

6. During the period from the 2010-2011 school year through the 2016-2017 school year, Stetson's Math proficiency rates on the PSSA exam met or exceeded School District of Philadelphia proficiency rates in only two of the seven school years. Proficiency rates in Math on the PSSA for Grades 5 – 8 for students in School District schools were 59.3% in 2010-2011, 52.6% in 2011-2012, 48.0% in 2012-2013, 46.3% in 2013-2014, 16.2% in 2014-2015, 17.5% in 2015-2016, and 18.8% in 2016-2017.

7. During the period from the 2010-2011 school year through the 2016-2017 school year, Stetson's Reading/ELA proficiency rates on the PSSA exam met or exceeded School District of Philadelphia proficiency rates in no school year. Proficiency rates in Reading/ELA on the PSSA for Grades 5 – 8 for students in School District schools were 55.8% in 2010-2011, 53.2% in 2011-2012, 44.2% in 2012-2013, 44.1% in 2013-2014, 33.4% in 2014-2015, 34.3% in 2015-2016, and 35.1% in 2016-2017.

8. During the period from the 2010-2011 school year through the 2016-2017 school year, Stetson's Science proficiency rates on the PSSA exam for Grade 8 met or exceeded School District of Philadelphia proficiency rates in no school year. Proficiency rates in Science on the PSSA for Grade 8 for students in School District schools were 26.0% in 2010-2011, 24.1% in 2011-2012, 27.4% in 2012-2013, 28.6% in 2013-2014, 28.4% in 2014-2015, 28.5% in 2015-2016, and 22.5% in 2016-2017.

9. During the period from the 2010-2011 school year through the 2016-2017 school year, Stetson's Math proficiency rates on the PSSA exam met or exceeded the Charter School sector proficiency rate in no school year. Proficiency rates in Math on the PSSA for Grades 5 – 8 for students in Philadelphia brick and mortar

charter schools were 62.1% in 2010-2011, 64.9% in 2011-2012, 57.9% in 2012-2013, 54.1% in 2013-2014, 14.9% in 2014-2015, 15.2% in 2015-2016, and 17.2% in 2016-2017.

10. During the period from the 2010-2011 school year through the 2016-2017 school year, Stetson's Reading/ELA proficiency rates on the PSSA exam met or exceeded the Charter School sector proficiency rate in no school year. Proficiency rates in Reading/ELA on the PSSA for Grades 5 – 8 for students in Philadelphia brick and mortar charter schools were 57.0% in 2010-2011, 57.5% in 2011-2012, 51.1% in 2012-2013, 50.6% in 2013-2014, 38.5% in 2014-2015, 38.2% in 2015-2016, and 39.8% in 2016-2017.

11. During the period from the 2010-2011 school year through the 2016-2017 school year, Stetson's Science proficiency rates on the PSSA exam for Grade 8 met or exceeded the Charter School sector proficiency rate in no school year. Proficiency rates in Science on the PSSA for Grades 8 for students in Philadelphia brick and mortar charter schools were 31.8% in 2010-2011, 32.0% in 2011-2012, 32.8% in 2012-2013, 32.3% in 2013-2014, 32.5% in 2014-2015, 31.0% in 2015-2016, and 26.2% in 2016-2017.

12. The PSSA Math proficiency rates for Stetson did not exceed the proficiency rate for students attending schools in Stetson's 2015-2016 School Progress Report ("SPR") peer group for the 2014-2015 school year, the 2015-2016 school year or the 2016-2017 school year. 2015-2016 SPR peer group schools proficiency rates for the PSSA Math exam were 10.4% in 2014-2015, 10.4% in 2015-2016, and 11.0% in 2016-2017.

13. The PSSA Reading/ELA proficiency rates for Stetson did not exceed the proficiency rate for students attending schools in Stetson's 2015-2016 SPR peer group for the 2014-2015 school year, the 2015-2016 school year or the 2016-2017 school year. 2015-2016 SPR peer group schools proficiency rates for the PSSA ELA exam were 27.9% in 2014-2015, 27.9% in 2015-2016, and 26.4% in 2016-2017.

14. The PSSA Science Grade 8 proficiency rates for Stetson did not exceed the proficiency rate for students in Grade 8 attending schools in Stetson's 2015-2016 SPR peer group for the 2014-2015 school year, the 2015-2016 school year or the 2016-2017 school year. 2015-2016 SPR peer group schools proficiency rates for the PSSA Science exam for Grade 8 were 22.8% in 2014-2015, 22.3% in 2015-2016, and 17.4% in 2016-2017.

15. Stetson's School Performance Profile ("SPP") score was 57.3 for the 2012-2013 school year, the first year an SPP score was generated by the Pennsylvania Department of Education ("PDE"), 48.8 for the 2013-2014 school year, 37.7 for the 2015-2016 school year, and 46.5 for the 2016-2017 school year. PDE did not produce SPP scores for schools serving students in Kindergarten through Grade 8 for the 2014-2015 school year. All of Stetson's SPP scores were

in the lowest SPP category of 60 or below, and all were significantly below a SPP score of 70, the minimum SPP score PDE has identified as meeting academic performance expectations.

16. Stetson's SPP scores in the 2012-2013 school year, the 2013-2014 school year, the 2015-2016 school year, and the 2016-2017 school year were below the average SPP building level score for all School District-operated schools. The School District school building level average SPP score was 57.5 in 2012-2013, 57.3 in 2013-2014, 52.7 in 2015-2016, and 52.8 in 2016-2017.

17. Stetson's SPP scores in the 2012-2013 school year, the 2013-2014 school year, the 2015-2016 school year, and the 2016-2017 school year were below the average SPP building level score for all Philadelphia brick and mortar charter schools. The Philadelphia brick and mortar Charter School building level average SPP score was 66.0 in 2012-2013, 63.6 in 2013-2014, 56.8 in 2015-2016, and 58.0 in 2016-2017.

18. Stetson did not meet the Pennsylvania academic growth standard, the Average Growth Index ("AGI"), on the Math PSSA exam in the 2013-2014 school year or the 2015-2016 school year.

19. Stetson did not meet the Pennsylvania academic growth standard, the AGI, on the Science PSSA for Grade 8 for the 2010-2011 school year, the 2011-2012 school year, the 2012-2013 school year, the 2013-2014 school year, the 2014-2015 school year, the 2015-2016 school year or the 2016-2017 school year.

20. When comparing Stetson student academic achievement levels to the State's Annual Measureable Objectives ("AMOs") in Math and Reading for the 2012-13 school year, Stetson did not meet the AMO targets on the Math PSSA exam or on the Reading PSSA exam for any of the eight student subgroups identified (Historically Underperforming, Individualized Education Plan ("IEP"), English Language Learner, Economically Disadvantaged, Male, Female, Black or African American and Hispanic), except for English Language Learners and Black students on the Math PSSA exam.

21. When comparing Stetson student academic achievement levels to the AMOs in Math and Reading for the 2013-2014 school year, the last year in which PDE made AMO information available, Stetson did not meet the AMO targets on the Math PSSA exam or on the Reading/ELA PSSA exam for any of the eight student subgroups identified.

22. Stetson had a federal accountability designation of "Focus" for the 2012-2013 school year, the 2013-2014 school year and the 2014-2015 school year meaning that Stetson was in the lowest 10% of Title I schools based on having the highest achievement gap for the Historically Underperforming Students annual measurable objective.

23. Stetson failed to meet commitments made in its original charter

application including: “dramatic improvements in academic achievement,” “all children enter every grade on level,” “the opportunity and achievement gap is closed for all students” and “all students who want to go to college are ready to do so.”

24. Stetson failed to have all special education staff appropriately certified, as required by PDE regulations. According to Stetson’s 2015 and 2017 Annual Reports, one special education teacher at Stetson in the 2014-2015 school year and in the 2016-2017 school year was not appropriately certified.

25. Stetson failed to have all English as a Second Language (“ESL”) instructional staff appropriately certified as required by PDE regulations. As documented in the 2016 Annual Charter Evaluation (“ACE”) based on information submitted by Stetson to the CSO, at least one ESL instructor in the 2016-2017 school year was not appropriately certified.

26. During the charter term and into the 2016-2017 school year, Stetson did not have fully compliant and equitable student admission policies in accordance with the Charter School Law and the Public School Code in that:

- a. As identified at the time of the renewal evaluation in the 2015-2016 school year, during the charter term Stetson’s enrollment form previously required a parent or guardian to provide information about the child’s United States citizenship status, the child’s social security number, and information on whether the child has physical/educational challenges or an IEP which is not permissible under PDE guidance. Stetson’s enrollment form was three pages long and required parents or guardians to respond to seven short answer questions and required the student to respond to five short answer questions, which is not permissible under PDE guidance.
- b. As of December 2017, Stetson’s website provided limited time periods, Monday to Friday from 8:30 to 11:30am in person, when registration and transfers could take place at Stetson. As a Renaissance charter school, Stetson is expected to maintain an ongoing enrollment and transfer process placing students on an ordered waitlist if the Charter School has met or exceeded its enrollment cap.
- c. During the 2016-2017 school year, Stetson’s enrollment materials did not require submission of proof of age, proof of residency, immunization, home language survey or parent registration statement; all five documents are enrollment materials required by PDE guidance. Stetson addressed this noncompliance with PDE guidance after July 2017, upon receiving a Notice of Deficiency from the CSO.

- d. For school years 2010-2011 through 2016-2017, Stetson implemented an enrollment policy whereby any Philadelphia resident children from grades 5 to 8 residing within, and space permitting, residing outside of Stetson's Attendance Zone, were eligible for admission to the Charter School. As a Renaissance charter school, Stetson is required to enroll students on a first come, first serve basis only from the Attendance Zone as in Stetson's Charter.

27. Stetson, in its renewal application, reported one expulsion in the 2010-2011 school year, one expulsion in the 2012-2013 school year and one expulsion in the 2013-2014 school year. However, the Board minutes for the 2010-2011 school year, the 2011-2012 school year and the 2013-2014 school year do not indicate that the Board of Trustees for Stetson approved any expulsions in accordance with the Public School Code and the Charter School's Bylaws.

28. The Board of Trustees of Stetson failed to operate in accordance with applicable law and Stetson Bylaws and policies in that:

- a. While the Stetson Bylaws state that Board members would serve for three-year terms, two Board members served for more than three years during the period of the 2010-2011 school year through the 2016-2017 school year. A current Board member has served on the Board since the 2012-2013 school year and per Board minutes submitted to the CSO, the Board member's term expired June 30, 2016.
- b. The Stetson Bylaws state that officers should be elected at the Annual Board Meeting in June. The Board of Trustees did not provide Board minutes stating that officers were elected at any Annual Board Meeting during the Charter Term. Although a Chair and Secretary were elected in June 2017, these elections do not reflect a complete slate of Board officers.
- c. Board minutes for the charter term through the renewal evaluation in the 2015-2016 school year, did not clearly state the opening and closing of Board meetings specifically for Stetson, as opposed to the other three ASPIRA-managed brick and mortar charter schools; Board meetings for all ASPIRA-managed charter schools are held concurrently with specific business or approvals by individual charter school not clearly delineated.
- d. The Bylaws provide for an Executive Committee that "shall have the authority of the Board; except that no such committee shall have the authority to (i) fill vacancies on the Board or any committee thereof; (ii) amend the by-laws; (iii) approve a plan or merger; (iv) dismiss members of the Board." This raises concerns

regarding a subset of Board members acting on behalf of the entire Board on the operations and functioning of the Charter School.

- e. As public officials under the Pennsylvania Public Official and Employee Ethics Act, members of the Board of Trustees are required to complete Statements of Financial Interest annually by May 1. Stetson did not provide complete Statements of Financial Interest forms for all Board members for all years during the Charter Term. Additionally for calendar year 2016, Statements of Financial Interest for Board members were completed, dated and signed after the due date of May 1, 2017.

29. Stetson failed to meet the 100% highly qualified teacher (“HQT”) requirement during the period from the 2012-2013 school year through the 2015-2016 school year, as required by the No Child Left Behind Act as reported by PDE. In the 2012-2013 school year, only 71% of the PDE-specified core academic classes taught at Stetson were taught by highly qualified teachers. In the 2013-2014 school year, only 73% of the PDE specified core academic classes taught at Stetson were taught by highly qualified teachers. In the 2014-2015 school year, only 92% of the core academic classes at Stetson were taught by highly qualified teachers. In the 2015-2016 school year, only 89% of the core academic classes at Stetson were taught by highly qualified teachers.

30. Stetson’s audited financial statements were not issued on or before December 31 for FY2012 through FY2014 and for FY2016 as required by the Pennsylvania Public School Code. The FY2012 audit was issued in April 2013; the FY2013 audit was issued in January 2014; the FY2014 audit was issued in February 2015; and the FY2016 audit was issued on February 2, 2017.

31. Stetson failed to make certain required payments to the Public School Employees’ Retirement System (“PSERS”) during the Charter Term and the amounts of missed payments were subsequently deducted from the School District’s basic education subsidy. The School District recovered from Stetson the following funds, which Stetson failed to pay to PSERS: \$1,096 in March 2012, \$45,317 in June 2012, and \$240 in May 2013.

32. Stetson has failed to meet generally accepted standards of fiscal management and audit requirements related to short-term financial health and long-term financial sustainability in that:

- a. At the time of the renewal evaluation during the 2015-2016 school year, Stetson had not adopted and implemented sufficient internal controls policies. The School District’s Office of Auditing Services noted no definitive internal control policy related to the allocation of disbursements servicing more than one charter school.
- b. At the time of the renewal evaluation during the 2015-2016 school

year, Stetson and ASPIRA employees had debit/credit cards for use in making Stetson school purchases without specific approval and oversight processes. Discrepancies existed between how the Stetson Board of Trustees and school leadership described the process for requesting and approving use of Stetson's debit/credit card.

- c. At the time of the renewal evaluation during the 2015-2016 school year, monthly invoicing requirements set forth in the management agreement were not followed as specified during the Charter Term.
- d. At the time of the renewal evaluation during the 2015-2016 school year, the School District's Office of Auditing Services noted that transactions between Stetson and related parties (ASPIRA and other ASPIRA-managed charter schools) did not contain an indication of Board approval by Stetson, or other ASPIRA-managed charter schools, where applicable, or appropriate supporting documentation. No written contracts were in place for the majority of funds shifted between related parties outside of the management agreement between ASPIRA and Stetson. Stetson's FY2017 independent financial audit noted that any amounts owed related parties are unsecured, non-interest bearing and have no repayment terms.
- e. Stetson was owed significant funds from ASPIRA, Stetson's CMO, during the period FY2011 through FY2017 including \$495,740 in FY2011, \$790,736 in FY2012, \$1,877,802 in FY2013, \$805,449 in FY2014, \$164,835 in FY2015, and \$233,844 in 2017.
- f. As of June 30, 2011, Stetson owed \$792,796 to two other ASPIRA-managed charter schools. As of June 30, 2012, Stetson owed \$906,545 to three other ASPIRA-managed charter schools. As of June 30, 2013, Stetson owed \$1,023,195 to four other ASPIRA-managed charter schools. As of June 30, 2014, while Stetson no longer owed money to other ASPIRA-managed charter schools, Stetson was owed \$90,731 by another ASPIRA-managed charter school. As of June 30, 2015, Stetson owed \$31,397 to four ASPIRA-affiliated entities.
- g. Of the six metrics of short-term and long-term financial health, Stetson's financial position was less healthy as of the end of FY2017 than as of the end of FY2015 in five of six financial metrics – Current Ratio, Average Cash Days on Hand, Net Position, Fund Balance, and Debt Ratio; only Total Margin showed improvement during that time period. During the 2016-2017 school year, Stetson was invoiced by ASPIRA for administrative services and charter management fees totaling

\$3,437,773 or 28% of total revenues for Stetson in FY2017. In FY2015, Stetson was invoiced \$1,117,976 for administrative services. In FY2017, Stetson was invoiced \$3,009,297 for administrative services.

- h. From FY2011 to present, Stetson's revenue and financial resources have been used for non-Stetson purposes, in violation of the Charter School Law and the Pennsylvania Nonprofit Corporation Law. Stetson was not financially independent from other ASPIRA-managed charter schools or from ASPIRA-affiliated entities. Stetson is obligated under security agreements, guaranties and other financial instruments to secure the debts of other ASPIRA-managed or ASPIRA-affiliated entities. As of June 30, 2017, Stetson had entered into security agreements pledging a portion of Stetson's assets to secure the debt of certain related parties. The holders of the debt and the outstanding liability balances are as follows:

- o ASPIRA: Stetson's revenue has been included in the security interest of a \$800,215 line of credit loan issued to ASPIRA. The loan matured on October 1, 2016 and was extended through October 31, 2017. The balance of the loan as of June 30, 2017 was \$800,215.
- o ASPIRA Community Enterprises, Inc. ("ACE"): Stetson is the guarantor of a \$5,005,005 mortgage loan issued to ACE for the acquisition and construction loan associated with the Antonio Pantoja Charter School. The balance on the loan was \$4,447,227 for year ended June 30, 2016 and \$4,354,757 for year ended June 30, 2017. This loan matured October 1, 2016 and was extended to October 31, 2017. This loan is in forbearance.
- o ACE: Stetson's revenue has been included in the security interest of a \$1,742,573 mortgage loan issued to ACE. The mortgage loan matures in August 2018. The balance on this loan was \$1,239,345 as of June 30, 2016 and \$1,061,735 as of June 30, 2017.
- o ACE/Dougherty, LLC ("ACE/Dougherty"): Stetson is a guarantor and Stetson's revenue has been included in the security interest of a \$12,750,000 note payable issued to ACE/Dougherty for the acquisition, construction and renovation for a building for Eugenio Maria de Hostos Charter School. The balance on the loan was \$8,496,247 for year ended June 30, 2016 and \$8,154,432 for year ended June 30, 2017. This loan matured October 1, 2016

and was extended to October 31, 2017. This loan is in forbearance. While both charter schools have service level agreements with ASPIRA, ACE/Dougherty does not provide services or resources that benefit Stetson.

- i. Upon request by the School District's Office of Auditing Services, Stetson failed to produce fully descriptive insurance claims made and insurance claims paid information.
- j. ASPIRA management failed to appropriately address questionable sampled attendance items for Stetson after identification by the School District's Office of Auditing Services.

(Ex. JE[S] 1.)²

7. At the same time, The SRC also adopted Resolution SRC-8, to institute nonrenewal proceedings regarding Olney Charter High School ("Olney"). (Ex. JE[O] 1.)

8. Olney and Stetson (collectively, the "Charter Schools") are both managed by ASPIRA, Inc. ("ASPIRA").

9. The School District is represented by the same counsel in the Olney and Stetson matters.

10. Both Charter Schools are also represented by the same counsel.

11. On December 5, 2018, the BOE appointed Rudolph Garcia, Esquire to serve as the Hearing Officer for both proceedings.

12. By agreement of counsel, the hearings in the Olney and Stetson matters were interspersed on March 12, 13, 15, 18, 19, 20, 25, 26, 27 and 29, and April 2, 8, 9, 10, 12 and 15, 2019,³ because the witnesses and testimony substantially overlapped.

² See footnote 4 below for an explanation of the exhibit numbering.

³ Transcripts of the Olney and Stetson hearings are combined in a common set of volumes cited here as "Tr. vol. [#], at [page(s):line(s)]."

13. In addition, the parties agreed that relevant portions of the Olney and Stetson records could be incorporated into and relied upon in either proceeding. (Tr. vol. 4, at 305:6-308:8; Tr. vol. 5, at 32:23-33:23; Tr. vol. 10, at 4:17-23.)

14. The School District called the following witnesses in its cases against the Charter Schools: Peng Chao (the senior director of the School District's Charter Schools Office ("CSO")), Roger Kligerman (the CSO's director of quality and accountability), Nicholas Spiva (the CSO's assistant director of accountability), Timothy Hanser (the CSO's assistant director of finance and operations), and Mayer Krain (an auditor two in the School District's Office of Auditing Services ("OAS")).

15. Olney called the following witnesses in its defense: Lillian English-Hentz (an Olney board member and a student's grandparent), Sheila Rodriguez (a student's parent), Carmen Camacho (a student's parent), James Thompson (Olney's principal), Ellen Green (Olney's vice principal), Thomas Darden (ASPIRA's chief operating and innovations officer), Daniel LaSalle (Olney's ninth grade assistant principal), Yeslli Ann Hernandez (a Spanish teacher at Olney), Xin Yi (ASPIRA's controller), Gary Samms (a partner at the law firm of Obermayer, Rebmann, Maxwell & Hippel, LLP), Alexander Schuh (the founder and executive director of School Frontiers LLC), Natalie Hoffa (a paralegal at the law firm of Latsha, Davis & McKenna), and all of the witnesses previously called by the School District (as on cross-examination).

16. Stetson called the following witnesses in its defense: Gary Samms, Thomas Darden, Thomas E. Mullin (Stetson's principal), Joanne Esquilin (Stetson's community outreach coordinator), Hedyanne Vallines (a student's parent), Yubelkis Soto (a student's parent), Debra Williams (a student's parent), Joely Sanchez (three students' parent), Maria Sanchez Ortiz (three

students' grandparent and five former students' parent), Alexander Schuh, Glenda Marrero (Stetson's assistant principal), Jeanette Rodriguez (Stetson's lead administrative assistant), Xin Yi, Natalie Hoffa, and all of the witnesses previously called by the School District (as on cross-examination).

17. The following exhibits⁴ were admitted into evidence: Ex. JE[O] 1-108; Ex. SD[O] 3, 4, 6, 8-19, 22-26, and 29-33; Ex. Olney 19-23, 28, 32-34, 37-39, 41-44, 47, 49-50, 53-55, 57-59, 61-68, 70-71, 73-88, 90-92, 94-97, 100-101, 108-118, 122-125, 153-155, 166, 175-178, 184-187, 190, 205, 207, 209, 214-215, 217-220, 227-230, 233-234, 237-238, 248-253, 255, 258, 269, 281-282, 284-290, 292, 294-296, and 300; Ex. JE[S] 1-92; Ex. SD[S] 5-12, 15, 17-19, and 21-27; and Ex. Stetson 4-5, 15, 22-23, 26, 27, 29, 31, 33-37, 41, 43-44, 46-51, 55, 57-73, 76-88, 91-92, 94, 96-100, 102-107, 111-114, 131, 135, 138, 145, 151-153, 165, 172-175, 186, 197-202, 208-211, 214-215, 218-219, 230-234, 236, 239, 255, 257, 258 259-264, 266, 268-273 and 277.

18. The BOE then solicited public comments from April 22, 2019 through May 21, 2019,⁵ in response to which 141 individuals submitted 142 comments in the Olney matter, and

⁴ Some of these exhibits were admitted in part or only for certain purposes, and other exhibits that the parties exchanged were not offered into evidence or were excluded based on well-founded objections, as specified in the Certification of the Record submitted in each matter. The exhibits were numbered separately in each case, so to avoid confusion: (a) with respect to the exhibits submitted in the Olney matter, joint exhibits are cited here as Ex. JE[O] 1-108, School District exhibits are cited as Ex. SD[O] 1-33 and Olney exhibits are cited as Ex. Olney 1-300; and (b) with respect to exhibits submitted in the Stetson matter, joint exhibits are cited as "Ex. JE[S] 1-92, School District exhibits are cited as Ex. SD[S] 1-28 and Stetson exhibits are cited as Ex. Stetson 1-277. Additional Hearing Officer exhibits are also included to complete the record, which are cited in the same manner as Ex. HO[O] 1-125 and Ex. HO[S] 1-131.

⁵ See Ex. HO[O] 104.

88 individuals submitted 114 comments in the Stetson matter (approximately half of which were part of an electronic petition).⁶

19. This matter is now ripe for decision.

Material Violations of Charter Standards and Conditions

Background Regarding Renaissance Charter Schools

20. Two types of charter schools are authorized in Philadelphia: (a) traditional charter schools, for which an application is submitted directly to the governing body; and (b) Renaissance charter schools, for which an applicant responds to a request for proposals to be a turnaround team for an existing school that needs substantial improvement. (*See* Tr. vol. 1, at 25:1-17.)

21. Mr. Darden worked for the School District as deputy chief of strategic programs and oversaw CSO from March/April 2010 through July 2012. (Tr. vol. 5, at 268:17-269:3; Tr. vol. 7, at 110:17-111:1, 122:8-10.) Prior to serving in this role, Mr. Darden had no experience related to charter schools. (Tr. vol. 7, at 108:2-6.) Mr. Darden left his employment with the School District due to a disagreement with the SRC related to charter schools. (Tr. vol. 7, at 122:15-22.) Mr. Darden then began working for ASPIRA in October 2012. (*Id.* at 124:23-125:6.)

22. On December 2009, the School District's Office of Charter, Partnership & New Schools issued the Renaissance Schools Advisory Board: Final Report ("Advisory Board Report"). (Ex. Olney 258; Ex. Stetson 239.) Mr. Darden served on this Advisory Board while employed by the School District. According to Mr. Darden, the Advisory Board was tasked with "trying to come up with a framework by which the District would look at turning around its

⁶ See Ex. PC[O] 1-143 and Ex. PC[S] 1-58.

lowest performing schools.” (Tr. vol. 5, at 276:3-7.) These lowest performing schools were in Corrective Action status under the No Child Left Behind Act. (Tr. vol. 7, at 111:17-112:2.)

23. As stated in the Advisory Board Report:

Expected Goals of Renaissance Schools

The District expects the following outcomes, at a minimum, from the Renaissance School approach:

1. Improvement in student academic achievement for all students, including English Language Learners and Special Education students, as measured by results on the Pennsylvania System of School Assessment (PSSA).
2. Improvement in rates of student graduation and promotion.
3. Implementation of instructional practices that will transform schools into high achieving learning environments.
4. Attainment of positive school climates, as measured by reductions in serious incidents, student suspensions, and student absenteeism, and improvements in perceptions of safety by students, staff and families.

(Ex. Olney 258, at 4; Ex. Stetson 239, at 4.)

24. By Resolution No. SRC-36, dated January 20, 2010, the SRC adopted the Renaissance Schools Initiative Policy (“Renaissance Schools Policy”), which authorized the SRC to grant Renaissance charters as part of the School District’s Renaissance Schools Initiative. (Ex. JE[O] 2, at 1; Ex. Olney 73; Ex. Stetson 64; Tr. vol. 1, at 26:10-24, 27:1-6.)

25. According to the Renaissance Schools Policy, the purpose of the Renaissance Schools Initiative is as follows:

The Renaissance Schools initiative is articulated in the School District of Philadelphia’s “Imagine 2014” strategic plan and is predicated on the belief that the School District has chronically underperforming schools that are not serving the needs of students and families and have not made adequate yearly progress as defined by state and federal laws, and that those schools need fundamental change to facilitate a transformation of the learning environment. With an urgency to dramatically improve the learning environment in these underperforming schools, the School District is seeking innovative ways to transfer low-performing schools

through new school models that include: in-district restructuring (Innovation Schools) and external partnerships (Contract Schools and Charter Schools).

(Ex. Olney 73, at 1; Ex. Stetson 64, at 1.)

26. A “charter school” is defined in the Renaissance Schools Policy as:

[A]n independent Local Education Agency with a charter school board of trustees to oversee all elements of school curriculum and operations. The relationship between charter schools and the School District shall be accordance with the Pennsylvania Charter School Law and with the charter agreement between the School District and the charter school’s board of directors. In order to adhere to the mission of the Renaissance Schools initiative and to maintain high levels of accountability, Renaissance charter agreements will include provisions outlining requirements for student enrollment, student achievement, data reporting, grade configuration, facilities, and inclusion of the Renaissance Schools charter school in the School Annual Report and other School District accountability systems. The provisions will include stringent academic requirements for turnaround school success that may exceed performance targets for non-Renaissance Schools charter schools. These provisions will also be used as a basis for a decision to renew, not renew or revoke at Renaissance Schools charter at the end of its term.

(Ex. Olney 73, at 2; Ex. Stetson 64, at 2.)

27. Renaissance charter schools formed under the Renaissance Schools Policy are to be “governed by an independent board of trustees pursuant to the Pennsylvania Charter School Law.” (Ex. Olney 73, at 5; Ex. Stetson 64, at 5.)

28. Renaissance charter schools use School District-owned facilities, which are then operated by the turnaround team selected by the School District under a License Agreement entered into with the School District. (Tr. vol. 1, at 27:10-16.)

29. The License Agreement requires the Charter School, as the Licensee, to maintain the premises and perform all maintenance and repairs to the facility, including but not limited to, plumbing, heating, ventilation, and lighting. (Ex. SD[O] 23, at 3.)

30. Turnaround teams are a group of individuals or an organization that seeks to partner with the School District to operate a school with the intention of dramatically improving academic outcomes. (Tr. vol. 1, at 28:5-9.)

31. Two of the four “Guiding Principles” of Imagine2014 were: “increasing achievement and closing the opportunity and achievement gap for all students” and “holding all adults accountable for student outcomes.” (Ex. Olney 252, at 10, 13; Ex. Stetson 233, at 10, 13.)

32. Beginning in 2010, the School District designated certain chronically underperforming School District schools to be Renaissance Schools. (Ex. JE[O] 2, at 2; Tr. vol. 1, at 28:10-13.)

33. As described in more detail below, ASPIRA submitted proposals under the Renaissance Schools Initiative, and was selected to be a turnaround team first for Stetson and then for Olney. (Tr. vol. 1, at 30-32.)

34. On March 30, 2010, the School District issued Request for Proposals No. 260 called the “Renaissance Schools Initiative – Year 1” (“RFP No. 260”), which outlines the Intent of the Renaissance Schools Initiative and states in pertinent part:

A. Renaissance Schools Initiative

The Renaissance Schools Initiative is articulated in the School District’s “Imagine 2014” strategic plan and is predicated on the belief that chronically underperforming schools that are not serving the needs of students and families require fundamental change to facilitate a transformation of the learning environment. With an urgency to dramatically improve the learning environment in these underperforming schools, the School District is seeking innovative ways to transform low-performing schools through new school models that include: in-district restructuring (Innovation Schools and Promise Academies) and external partnerships (Contract Schools and Charter Schools). For more information on the forms of schools please see Attachment A. Renaissance Schools will be granted greater degrees of autonomy in school management in exchange for accountability for performance

(Ex. Olney 76, at 7; Ex. Stetson 63, at 7.)

35. The “Goal of the Proposal” and the “aim of the Renaissance Schools RFP Process” “is to find the most talented and qualified individuals and organizations to bring whole

school change to failing schools in order to produce the greatest increases in student achievement.” (Ex. Olney 76, at 27; Ex. Stetson 63, at 27.)

36. RFP No. 260 contains the following additional pertinent language:

The Respondents ultimately awarded a school for Renaissance conversion will be expected, at a minimum to demonstrate marked improvement in the following areas:

- Student achievement as described in this RFP
- Student attendance
- School climate and safety, as measured by a reduction in serious and “non-serious” offenses
- Parent and student satisfaction, as measured by surveys
- Retention, promotion, and graduation rates

In addition to significant improvement in the aforementioned areas, each Turnaround Team will be expected to meet specific achievement goals for their students. Those goals are explained in detail in Section B6 of this RFP titled “Accountability Agreements”. An Accountability Agreement will be a condition of any Contract, Charter or Performance Agreement entered into as a result of this RFP.

* * *

7. Accountability

The Renaissance Schools Initiative seeks to achieve dramatic improvements in schools by offering increased autonomy in exchange for increased accountability. As a result of the autonomy granted to the Renaissance Schools, the School District expects to see dramatic gains in student achievement. Each form of school (Innovation, Promise Academy, Contract or Charter) will be held to a Performance Agreement, Contract or Charter Agreement that clearly states performance and growth targets for each school over a five year period. Throughout the five year term, the School District will continually monitor the progress and performance at the schools.

The District will utilize a common accountability framework for all schools as the basis for evaluating the performance of Renaissance Schools. The accountability framework will encompass the following performance measures:

- **School Performance Index (SPI)** indicators that include both student academic performance and related school quality measures
- **Student enrollment and retention** indicators to monitor the extent to which the Renaissance School is effectively serving the neighborhood community

- **School operational indicators** to evaluate school climate and to ensure compliance with regulations related to Special Education and English Language Learners

- **Renaissance School Review** to provide rigorous qualitative measures of school quality based on multi-day school visit, and to ensure compliance with the Renaissance School design

School Performance Index (SPI) Indicators

The School Performance Index (SPI) is a combination of key outcome measures that evaluate how a school is performing relative to all District schools, and relative to similar schools. The SPI was the primary indicator for selecting schools to become Renaissance Schools, and will serve as a primary indicator for evaluating the success of Renaissance Schools, and for making decision about the continuation of Performance Agreements, Contracts and Charters. In addition, failure to meet these performance indicators may be a basis for terminating Performance Agreements and Contracts and for revoking or not renewing a Charter, at the discretion of the School District.

* * *

The District will establish SPI targets in Renaissance School agreements that require schools to reach a performance level in 4 years (Summer 2014) that is equivalent to the median performance of District schools. Renaissance Schools must also meet annual targets that correspond to progressive improvements on SPI indicators, or to success in meeting performance targets from the School District's Annual Report card for schools

If a Renaissance School does not meet its Year 4 SPI target (Summer 2014), or fails to meet its annual SPI target for two consecutive years, the School District, through a vote of the School Reform Commissions, may elect to revoke a performance agreement, charter or contract agreement.

Attachment K shows the minimum target value for each SPI indicator that must be reached in order to achieve a score of "5" on the SPI in 2009. A score of "5" indicates that the school is performing at or above the 2009 median for District schools on the SPI indicators

* * *

School Operational Indicators

The School District will track the following school operational indicators in order to provide qualitative measures of school climate and to ensure compliance with regulations related to Special Education and English Language Learners.

1. **Rate of violent incidents at the school.** The School District will evaluate the per pupil rate of violent incidents during each school year. The rate of violent incidents at the Renaissance School should not exceed the school's baseline 2-

year baseline average for school years 2008-09 and 2009-10, as defined by the District's Office of Climate and Safety, nor should the school be determined as a Persistently Dangerous School by the Pennsylvania Department of Education. Incidents exceeding either threshold for two consecutive years will be cause for review and potential intervention, including revocation of the agreement.

* * *

3. English Language Learner Compliance. The School District will establish criteria for evaluating the extent to which Renaissance Schools are providing appropriate services and supports for students designated with Limited English Proficiency (LEP)

* * *

The decision to terminate a performance agreement, contract, or charter agreement is the sole discretion of the SRC (sic) In the case of a Charter Schools, the School District will exercise the right to revoke the Charter if the terms of the Charter Agreement are not satisfactorily upheld, including the specific accountability metrics established for Renaissance Schools. In the event that a Contract is terminated or a Charter revoked, the District will assume responsibility for implementing an alternative school design (including traditional school-District management). The District will consider strategies to minimize disruption during school transition

(Ex. Olney 76, at 5-6, 7, 13-17; Ex. Stetson 63, at 5-6, 7, 13-17.)

37. RFP No. 260 further states:

IF AWARDED A CHARTER, FAILURE TO COMPLY WITH ANY ESSENTIAL COMMITMENT MADE IN THE RENAISSANCE SCHOOLS INITIATIVE CHARTER APPLICATION MAY BE CAUSE FOR REVOCATION OR NONRENEWAL OF THE CHARTER. ONLY COMPLETE APPLICATIONS WILL BE CONSIDERED FOR REVIEW AND EVALUATION.

(Ex. Olney 76, at 44; Ex. Stetson 63, at 44.)

38. According to Mr. Darden, the accountability indicators that were in the charter agreements created under the Renaissance Schools Initiative had the goal of getting the lowest performing schools to an SPI of five (the median ranking on the SPI Index). The purpose of the Index was to identify a system of great schools in Philadelphia where all schools were ranked, with one index for elementary schools and one index for high schools, including charter schools.

(Tr. vol. 5, at 285:18-286:15, 287:15-23.)

39. On March 30, 2010, ASPIRA applied to be the turnaround team for three proposed Renaissance schools: Potter-Thomas Elementary School, Stetson Middle School and Roberto Clemente Middle School. (Ex. JE[S] 2, at 184.)

40. By Resolution No. SRC-26, dated May 12, 2010, the SRC selected ASPIRA to turnaround Stetson Middle School. (Ex. JE[S] 2, at 2.)

41. ASPIRA then filed a charter school application to be awarded a charter for “John B. Stetson Charter School: an ASPIRA, Inc. of Pennsylvania School”. A charter was granted on June 16, 2010. (Ex. JE[S] 2, at 1, 358.)

42. At the time Stetson Middle School was selected for turnaround, it was in Corrective Action 2 status for the seventh year, meaning it had failed to make Adequate Yearly Progress (“AYP”) under the No Child Left Behind Act for 7 years due to low standardized test scores. (Ex. JE[S] 2, at 139; Tr. vol. 9, at 172:7-173:11.)

43. As noted by Dr. Schuh, the turnaround model was to turn around the “low performing school that it was before to a higher performing school.” (Tr. vol. 9, at 180:11-23.)

44. ASPIRA submitted a Renaissance Schools Charter Application (“Charter Application”) for Stetson, which was attached to and incorporated into Stetson’s charter. (Ex. JE[S] 2, at 258-409.)

45. In the Charter Application, ASPIRA touted its academic performance results and bilingual programming in the other two brick and mortar charter schools that it operated in Philadelphia: Eugenio Maria de Hostos Charter School (“Hostos”) and Antonia Pantoja Charter School (“Pantoja”). (Ex. JE[S] 2, at 363-364.)

46. Hostos and Pantoja are not Renaissance charter schools. (Tr. vol. 1, at 33:6-10.)

47. According to the Charter Application, Hostos was able to make AYP goals every year for five years in a row, even though 23% of Hostos' students were classified as English Language Learners ("ELLs"). Pantoja, which was in its second year of operation at the time Stetson's Charter Application was submitted, had 95% attendance and Hostos had 96% attendance. (Ex. JE[S] 2, at 363-364).

48. Under the "School Design and Program Implementation" section of the Charter Application, related to the Renaissance Schools Initiative, ASPIRA represented as follows:

Imagine 2014

ASPIRA of PA will create one Renaissance School that fully supports the District's visionary strategic plan Imagine 2014. In order to create a school in North Philadelphia that lead (sic) to dramatic improvements in academic achievement, we develop a re-imagined school that is based on best ideas in education today, and is staffed with caring, devoted and well-trained staff, similar to our three successful charter schools and preschool: Pequeños Pasos de ASPIRA, Pantoja Charter and De Hostos Charter. Our schools will share the following goals with the District's Imagine 2014 strategic plan:

- A quality school of choice is available for parents and students
- All children enter every grade on level
- All students are excited to attend school every day
- The opportunity and achievement gap is closed for all students . . .
- All students who want to go to college are ready to do so
- Students who are at risk of falling behind or dropping out of school are identified early and provided the supports they need to succeed
- Language assistance is provided for all ELL students

(Ex. JE[S] 2, at 364-365).

49. The Charter Application promises that Stetson will have a "separate non-profit operating Board." (Ex. JE[S] 2, at 366.)

50. According to the Charter Application, Stetson would have "[t]argeted academic supports and interventions for student performing below grade level. (Ex. JE[S] 2, at 366.)

51. The Charter Application further states: “Our curriculum goals are consistent with both the federal No Child Left Behind Law and with the goals of Imagine 2014 – that every student will be proficient and performing on grade level in the core subjects of Reading, Mathematics and Science.” (Ex. JE[S] 2, at 371.)

52. Mr. Darden does not recall evaluating the Charter Application for Stetson or reviewing the bylaws that were submitted with the application while he supervised the CSO. He also stated that he was not aware of how Stetson’s board was going to be set up at the time the application was submitted. By the time the charter application was submitted for Olney, Mr. Darden was aware of how the Stetson board was set up, but he does not recall any discussions in the CSO when the application for Olney came in regarding whether the board setup was in compliance with law, and he did not form an opinion, one way or the other, as to whether it was. (Tr. vol. 7, at 116:9-119:4.)

53. The Charter Application filed by ASPIRA for Stetson did not contain a management agreement between ASPIRA and Stetson or disclose whether or how transactions would occur in the future between those two entities or between Stetson and other charter schools managed by ASPIRA. Nor did the application disclose that Stetson would have any role in, or take action related to the debt of the management company or the facilities of other charter schools. (Ex. JE[S] 2.)

54. On June 16, 2010, the SRC adopted Resolution SRC-44, which authorized the grant of the charter to Stetson. (Ex. JE[S] 2, at 2, 41-43).

Stetson’s Charter

55. On July 1, 2010, Stetson commenced operations under a 5-year charter issued by the SRC (“Stetson’s Charter”). (Ex. JE[S] 2).

56. The Term stated in Stetson’s Charter is July 1, 2010 through June 30, 2015. (Ex. JE[S] 2, at 12.)

57. Stetson’s Charter contains the following pertinent provisions:

**ARTICLE I. LEGAL REQUIREMENTS,
REPRESENTATIONS AND WARRANTIES; GRANT**

* * *

B. **Grant of the Charter.** Subject to all of the terms and conditions in this Charter, the School District grants to the Charter Board this Charter to operate the Charter School as a public school under and pursuant to the Renaissance Schools Policy, the Charter School Law and all other Applicable Laws (as hereinafter defined).

* * *

F. **Renaissance Charter Application of the Charter School.** The Renaissance Charter Application and any amendments, including the representations, certifications and assurances set forth therein (collectively, the “Application”), is hereby incorporated in this Charter as if set forth herein in full. The Charter Board represents and warrants that the information provided to the School district in the Application was true, correct and complete when submitted to the School District and remains true, correct and complete as of the Effective Date The Application may not be modified after the Effective Date except by an amendment to this Charter duly authorized, executed and delivered by the Parties. The Parties acknowledge and agree that the Application sets for the overall goals, standards and general operational policies of the Charter Board relating to the Charter School, and that the Application is not a complete statement of each detail of the Charter Board’s operation of the Charter School The Charter Board shall operate the Charter School in conformity with the mission statement set forth in the Application.

* * *

ARTICLE II. APPLICABLE LAWS

A. Compliance with Applicable Laws.

1. The Charter School shall comply with the Resolution, the Renaissance Schools Policy, common law, court decisions, court orders, the Charter School Law, the Individuals with Disabilities Education Act, 20 U.S.C.S. § 1400 *et seq.*, as amended (“IDEA”), the No Child Left Behind Act, P.L. 107-110 (“NCLB”), and all other applicable state, federal and local laws, statutes, codes, ordinances, regulations and guidance as in effect from time to time (the “Applicable Laws”).

* * *

ARTICLE IV. OPERATIONS AND MANAGEMENT

A. Operation of Charter School. Subject to 24 P.S. § 17-1714-A, the terms of this Charter and Applicable Laws, the Charter Board shall be responsible for the operation of the Charter School and shall decide all matters relating to the Charter School, including but not limited to the following: budgeting, curriculum development, testing, operating procedures, hiring and firing of Charter School staff, contracting with necessary professional and nonprofessional employees and all other powers provided by Applicable Laws.

* * *

ARTICLE V. CURRICULUM

A. Education and Curriculum Plan.

1. The Charter School shall implement a complete educational program and curriculum ("Educational Plan") which is described generally in the Application.

* * *

C. English Education of English Language Learners. The Charter School shall provide appropriate services, in accordance with Applicable Laws, for students who are English Language Learners ("ELL's").

ARTICLE VII. PERSONNEL

* * *

B. Licensure and Qualifications of Staff.

1. The Charter School shall ensure that all staff utilized in providing educational services at the Charter School have all necessary licenses, certifications and credentials required by this Charter and Applicable Laws, including without limitation the seventy-five (75%) certification requirement under the Charter School Law and the one hundred percent (100%) highly-qualified teacher ("HQT") requirement under the NCLB.
2. Personnel of the Charter School who provide special education or related services to children with disabilities shall have appropriate certification as required by Applicable Laws.

* * *

ARTICLE IX. TESTING, REPORTS AND ASSESSMENTS

A. Standardized Tests. The Charter School shall administer all required federal, state and local standardized tests in compliance with all Applicable Laws. The Charter School shall provide classroom instruction which shall include, but not be limited to, instruction on the essential knowledge and skills necessary to achieve course completion or course credit, including end of course examinations (if required by the School District), and scores on the PSSA, and PASA

(Pennsylvania Alternative State Assessment) where applicable, and all other tests and exams required by Applicable Laws.

B. **Student Academic Assessments.** The Charter School agrees to participate in the School District's annual city-wide academic accountability systems. The Charter School agrees to adopt and administer the School District's most current version of assessments and agrees to participate in accountability systems applicable to all School District schools, including without limitation, one School District predictive assessment test. The Charter School agrees to participate in the School District's annual reporting systems, including without limitation, the school report card and School Performance Index. Accountability measures for the Charter School are set forth in RFP 260 and in the Application. The Charter School has agreed to certain specific performance targets during the Term of the Charter. Such specific performance targets are attached to and made a part of the Applications (sic) and which are set forth in Exhibit H attached hereto and made a part hereof. During the Term of the Charter, the specific performance targets will be based on the School Performance Index methodology in use at the commencement of the Charter.

* * *

ARTICLE X. ACCOUNTABILITY

* * *

C. The Charter School acknowledges and agrees that failure to meet, in all material respects, the accountability criteria specified in this Charter, in whole or in part, constitutes grounds for nonrenewal or revocation of this Charter:

1. Governance and Management.

* * *

c. The Charter Board agrees to maintain a record of its meetings and decisions consistent with the Sunshine Act and the Pennsylvania Nonprofit Law.

* * *

2. Operations.

* * *

b. The Charter School shall maintain during the Term of the Charter (i) the teacher certification level at 75% for each year, including special education and administrative certificates, as required by the Charter School Law; and (ii) the one hundred percent (100%) HQT requirement under NCLB.

* * *

3. Program.

a. The Charter School agrees to use its best efforts to achieve AYP and the Pennsylvania Value-Added Assessment Systems ("PVAAS") growth measure consistent with the Pennsylvania Department of Education's Accountability System pursuant (sic) NCLB for each year during the five (5)-year Term of this Charter.

b. The Charter School agrees to fully implement and properly document academic programming and services for special education students and for ELL students, as required by the Pennsylvania Department of Education.

c. The Charter School agrees to meet the specific performance standards set forth in the Application and attached hereto as Exhibit H.

d. The Charter School agrees to participate in the School District's annual performance indicator systems, including without limitation, the School Report Card and the School Performance Index, and to provide required information to produce results for the systems. The Charter School understands that any such performance indicator system may be used as one factor to assess the Charter School's academic performance during the Term.

* * *

ARTICLE XI. BOOKS, AUDITS AND ACCESS

* * *

B. **Audit.** The Charter School shall conduct an annual audit in accordance with the requirements of Article 24 of the Public School Code.

* * *

ARTICLE XVIII. MISCELLANEOUS

* * *

F. **Public Official and Employee Ethics Act.** The Charter School acknowledges that all Charter School trustees and administrators must comply with the Public Official and Employee Ethics Act and that all Charter School trustees and administrators shall submit their completed Statements of Financial Interests forms by May 1st to the Charter School, with copies to the School District.

* * *

I. **Appendices and Exhibits.** The parties agree to the terms and conditions of this Charter and the Exhibits that are attached hereto and incorporated herein by reference.

(Ex. JE[S] 2 at 8-33.)

58. Stetson's Charter is signed by the Board Chair and Board Secretary of Stetson.

(Ex. JE[S] 2 at 36.)

59. Attached to Stetson's Charter are "Specific Performance Targets" related to the Renaissance School Accountability Indicators. The targets include, among other things, a minimum rank of five on the SPI by the 2014-15 school year. (Ex. JE[S] 2, at 56.)

60. Under Mr. Darden's supervision, the CSO conducted qualitative reviews of Olney and Stetson's performance during the first few years of their charters, which were provided to the Charter Schools. (Tr. vol. 7, at 119-120.)

61. The School District issued several reports regarding the Renaissance program in the initial years after the program began, and also cooperated with third parties like Research for Action. (Tr. vol. 5, at 162:9-17; Ex. Olney 64-66, 90-91; Ex. Stetson 49-51, 80-81.) Darden was the head of the CSO when the chaos noted in the February 2012 report was occurring. (Tr. vol. 15, at 207:1-12.)

CSO Review of Charter Schools' Operations

62. Mr. Chao has been the CSO's senior director since July 2018, and was previously employed by the CSO since June of 2013, first as a program coordinator and then as a program manager and director. (Tr. vol. 1, at 23: 18-23; 24:1-4.)

63. Mr. Chao was the CSO's point person for Renaissance charter schools from June 2013 through 2016. (Tr. vol. 1, at 24:7-12.)

64. During the 2014-15 school year, the CSO conducted a comprehensive review of Stetson's performance and operations during the term. Stetson submitted a renewal application as part of the review process. (Ex. JE[S] 28.) The renewal application contains representations by Stetson regarding a variety of basic data points, and also includes a narrative.

65. Following the 2014-2105 review, the CSO recommended a one-year renewal with conditions. However, a one year charter was not entered into by the parties. (Ex. Stetson 22; Tr. vol. 5, at 10:1-21.)

66. The following year, the CSO evaluated Stetson's continued performance and operations. The review included three primary domains: academic success to see how Stetson

had done in terms of improving academic outcomes for students in relationship of the Renaissance program; organizational compliance and viability; and financial health and fiscal management. Following the review, on April 11, 2016, the CSO recommended that Stetson's Charter not be renewed. (Tr. vol. 1, at 45:6-18; Ex. JE[S] 16.)

67. After the nonrenewal recommendation had been made, the CSO continued to evaluate Stetson's performance and operations, including through the issuance of Annual Charter Evaluation ("ACE") reports.

68. The CSO did not change its recommendation between the time it was made in April 2016 and the SRC's approval of the charges in December 2017. (Tr. vol. 5, at 12:20-13:1.)

69. It is now up to the BOE to decide whether or not to renew Stetson's Charter. (Tr. vol. 1, at 47-48; Tr. vol. 5, at 11:19-12:4.)

70. The CSO maintains underlying data and information on which the various domains are evaluated as part of the comprehensive review so that individuals new to the CSO can review that information for themselves. (Tr. vol. 1, at 85:7-19.)

71. Neither Stetson's Charter nor the Request for Proposals issued for the Renaissance Initiative required the School District to send any sort of notice of deficiency to Stetson as a prerequisite to nonrenewal or revocation of its charter.

72. The only "notice" provision that exists in Stetson's Charter relates to "Debarment, Suspension and Ineligibility" by a federal or Commonwealth agency, as more fully described in Article XVII of Stetson's Charter. (Ex. JE[O] 2, at 26; Ex. JE[S] 2, at 32.) None of those provisions apply to a nonrenewal proceeding under the Charter School Law.

73. The Charter Schools spent a significant portion of the hearing attacking the methodology and the conclusions reached by the CSO's Renewal Recommendation Report

through cross-examination of School District witnesses regarding the components of the reports, how the components changed over time, and how the ratings were assigned. (See, e.g. Tr. vol. 2, at 240-248 (Spiva); Tr. vol. 5, at 35-90, 123-171, 245-254 (Chao); Tr. vol. 7, at 281-286 (Hanser); Tr. vol. 8, at 4-7 (Spiva); Tr. vol. 8, at 201-202 (Kligerman); Tr. vol. 10, at 128-133 (Spiva); Tr. vol. 16, at 84:15-92:24 (Hanser).)

74. However, the BOE will decide these matters based upon the evidence presented at the hearings, not based on the CSO's analysis and methodology.

Statements of Financial Interest

75. Stetson's charter provides as follows:

Public Official and Employee Ethics Act. The Charter School acknowledges that all Charter School trustees and administrators must comply with the Public Official and Employee Ethics Act and that all Charter School trustees and administrators shall submit their completed Statement of Financial Interests forms by May 1st to the Charter School, with copies to the School District.

(Ex. JE[S] 2, at 33 § XVIII.F.)

76. Thus, Stetson was obligated to ensure that its board members filed their Statement of Financial Interests ("SOFIs") on time, and was obligated to provide copies to the School District when they did.

77. Here, 19 of Stetson's Trustees failed to comply with the SOFI requirement, and many failed to file SOFIs for multiple years. (*See Findings of Fact*, at A-89 ¶ 331.)

Highly Qualified Teachers

78. Stetson's charter also required it to comply with the Highly Qualified Teacher requirements which were in place through the 2015-16 school year under the No Child Left Behind Act. (Ex. JE[S] 2, at 21 § VII.B.1.)

79. All teachers teaching core academic subjects were required to be highly qualified by the end of the 2005-06 school year.

80. Stetson failed to have 100% of its core subject area teachers highly qualified in the 2010-11, 2011-12, 2012-13, 2013-14, 2014-15 and 2015-16 school years, in violation of its charter. (Ex. JE[S] 10-13, at the last page of each document; Ex. JE[S] 28, at 17; Ex. Olney 88.)

Certification Requirements

81. Stetson's charter requires all special education staff to be appropriately certified. (Ex. JE[S] 2, at 22 § VII.B.2.)

82. Nevertheless, the vast majority of Stetson's special education teachers were not appropriately certified in 2014-15, 2016-17 and 2017-18. (Ex. JE[S] 46-47, at 4; Ex. SD[S] 11, at 4; Tr. vol. 10, at 58:18-63:15.)

Stetson's Bylaws

83. The Charter Application included bylaws for Stetson, which state as follows:

3.1 **Powers.** The Board of Trustees shall be the Board of Trustees as contemplated by the Charter School Law and the Board of Trustees under the Pennsylvania Non Profit Corporation Act. The Board shall have the authority to decide all matters regarding the operation and functioning of the corporation, including but not limited to the authority to:

* * *

d. Adopt the School calendar;

* * *

g. Appoint or dismiss school administrators or staff members;

h. Adopt the annual budget and conduct an annual independent audit of the School's finances;

* * *

k. Create or increase indebtedness;

* * *

m. Enter into contracts of any kind where the amount of the contract exceeds five hundred dollars (\$500);

* * *

o. Determine compensation and terms and conditions of employment of administrators, teachers and other employees of the School.

3.2. **Composition**. The Board of Trustees will consist of nine (9) to fifteen (15) members and the Chief Administrative Officer (ex officio, non-voting and acting as recording secretary). A majority of board Trustees at all times shall be appointees of ASPIRA Inc*. [sic] The membership of the board shall include two parents, one of whom shall be the President of the Parents Association. Selection of the Trustees will be made at an annual meeting in June every year.

3.3 **Term**. All members of the Board of Trustees will serve two-year or three year terms. The Board of Trustees will elect officers from within its membership.

* * *

4.2 **Election and Term of Office**. The officers of the corporation shall be elected by the Board at the Annual Meeting in June. The term of such officers shall be for a period of one (1) year or until such time as their respective successors are duly elected and qualified. Officers may be re-elected without limitation.

(Ex. JE[S] 2, at 387-395.)

84. Mr. Darden testified that, when he was heading the CSO, the School District was not aware of the manner in which board members were appointed to Stetson's Board. (Tr. vol. 6, at 278:15-22.)

85. Although it is not clear from reading the Charter Board minutes, Stetson's Bylaws were apparently amended, because the Bylaws submitted as of July 31, 2015 are different than the ones submitted with the Application. The Bylaws in place on July 31, 2015 and July 31, 2016, call for the Board to be composed of 5-9 members, including the president of the Parents Association as an ex officio voting member. The July 31, 2015 Bylaws continue to state that the "Board of Directors of ASPIRA Inc. of Pennsylvania shall appoint a majority of the Board of Trustees to a maximum of five such appointees. Selection of the Trustees whose terms have expired will be made at an annual meeting in June every year." (Ex. JE[O] 51, at 2-3.) All Board

members are to serve three-year terms. All vacancies must be filled in a manner that maintains the required composition of the Trustees. (Id. at 3.)

86. Mr. Spiva testified that the CSO maintains copies of Bylaws for Stetson that the 2016 Bylaws onward for Stetson are similar in form as the Bylaws for Olney. (3/29/15 N.T. 104-106).

87. On June 9, 2017, the Charter Board took action to further amend the Bylaws. As a result of the action taken, the provision related to ASPIRA appointing trustees was removed from Paragraph 3.2; a provision was added to suggest that directors of another ASPIRA school shall not be interested directors solely on that basis under the Nonprofit Corporation Law; changes were made to the election and term of office of officers so that they could continue in office until another individual was elected; and the following provision was added:

7.6 Debts. The School shall be prohibited from (i) co-mingling any funds of the School with the funds of ASPIRA of Pennsylvania, Inc. or the funds of any other charter school; (ii) guaranteeing any debts of, or pledging any of the School's revenue to secure any debts of, ASPIRA of Pennsylvania, Inc. or of any other charter school; and (iii) having any direct liability for the debts of ASPIRA of Pennsylvania, Inc. or of any other charter school. No member of the Board or officer of the School shall cause the School to enter into any transaction in violation of this Section 7.6. Nothing in this Section 7.6 shall prohibit the School from paying or guaranteeing the debts of the School or for paying for services rendered to or on behalf of the School.

(Ex. JE[O] 53; Ex. Stetson 1.)

School Advisory Council

88. SACs are mentioned in the Renaissance documents and the charter. The initial forming of an SAC for each school was facilitated by the School District. (Tr. vol. 5, at 259:3-7.)

89. The School District trained the SACs and hired third-parties to be the liaison and work directly with the SACs “to identify Renaissance schools that would be turned around to

walk them through each step of the matching process” as part of the initial part of the Renaissance initiative. (Tr. vol. 5, at 283:10-19.)

90. Stetson’s Charter permits the SAC to recommend nonrenewal or revocation if it is not satisfied with Stetson’s performance or wants Stetson to return to School District management. (Ex. JE[O] 2, at 9; Ex. JE[S] 2, at 16.)

91. However, the School District does not need such a recommendation by the SAC in order to commence nonrenewal proceedings. To the contrary, Stetson’s Charter states as follows: “The School District reserves the right to not renew this Charter at the end of the Term or to revoke this Charter at any time during the Term in accordance with 24 P.S. § 17-1729-A and Applicable Laws.” (Ex. JE[O] 2, at 24; Ex. JE[S] 2, at 30.)

92. At the time of Stetson’s initial renewal review, the Stetson SAC remained in existence but had “collapsed to only one member because of the relocation of the remaining members.” (Ex. JE[S] 28, at 43.) Stetson’s renewal application discusses the efforts that Stetson leadership had made to recruit members for the SAC. (*Id.*)

93. The SACs are not composed of School District employees, but of parents from the schools. The CSO cannot force a group of parents to maintain a SAC or remain active members of the SAC. (Tr. vol. 5, at 192:3-5, 259:10-13.)

94. Stetson did not present any evidence that it was harmed or placed at a disadvantage as a result of the SAC not being active when it was considered for renewal or at any time thereafter. Nor did Stetson present any evidence that it or ASPIRA: (a) complained to the School District about the lack of a SAC; (b) asked the School District to take any steps to reconstitute the SAC; or (c) took any steps themselves to reconstitute or maintain the SAC.

95. Stetson has a Parent Teacher organization (“PTA”). The President of the PTA is supposed to be a member of Stetson’s Board of Trustees (“Charter Board”). (Ex. JE[O] 51, at 3; 52 at 2; 54 at 2; Ex. JE[S] 37, at 3.)

Failure to Meet Student Performance Requirements

96. Mr. Kligerman testified at the hearing about Stetson’s academic performance.

97. Mr. Kligerman has worked for the School District since July 2015. Prior to joining the CSO in approximately July 2016, he worked for the School District’s Performance Office, supporting the CSO’s work related to accountability, including production of the School Progress Report (“SPR”). He then joined the CSO, initially as a program manager for data and then as the senior project manager for data. Prior to working for the School District, Mr. Kligerman worked for Scholar Academies, a charter management organization. (Tr. vol. 1, at 94-994.)

Assessment Measures

98. Since 2012-13, the following state assessments have been in use in Pennsylvania: the Pennsylvania System of School Assessments (“PSSA”), the Pennsylvania Alternative System of Assessments (“PASA”), the Keystone Exams and the ACCESS for ELL exam. (Tr. vol. 1, at 111.)

99. At Stetson, PSSA Exams are provided in English and in Spanish. (Tr. vol. 14, at 168:8-15.)

100. Several performance indicator systems have been in place at the School District and State level during Stetson’s charter term: (b) at the state level, the School Performance Profile (“SPP”); and (b) at the local level, the School Performance Index (“SPI”), which was used by the School District until sometime prior to the 2012-13 school year, and then the SPR,

which was used beginning in the 2013-14 school year for charter schools. (Tr. vol. 1, at 102-105.)

101. Beginning in the 2017-18 school year, the Pennsylvania Department of Education (“PDE”) published a new tool called the Future Ready Index (“FRI”), but continued to publish SPP scores for all public schools. (Tr. vol. 1, at 114.)

Stetson’s School Performance Profile Scores

102. The SPP issued by PDE provides a multitude of information about individual schools. The SPP presents “fast facts” about the school, which include the address, the grades served, the school’s status as a Title I school, the average years of teacher experience in both the profession and at the specific school, the percent of classes taught by highly qualified teachers, the enrollment, the gifted population, the dropout rate, as well as demographic details. (Ex. JE[S] 14, 17; Tr. vol. 1, at 115.)

103. The SPP provides each school with a building level academic score, which is on a scale of 0-100 (or slightly more than 100), and PDE has developed a tier-based ranking system. The highest tier is over 100, the next tier is 90 to 100, then 80 to 89.9, 70 to 79.9, 60 to 69.9 and below 60. (Ex. JE[S] 14, 17.)

104. A score of less than 60 is in the lowest performing category on the SPP. (Ex. JE[S] 14.)

105. The SPP score is calculated using multiple metrics, including student achievement or proficiency as measured by state assessment data; the amount of growth groups shown from one year to the next as measured by the Pennsylvania Value Added Assessment System (“PVAAS”); attendance; graduation rates; SAT/ACT data; and other academic indicators. (Ex. JE[S] 14, 17.)

106. Stetson educates students in grades 5-8, so its students were assessed by their performance on the PSSA in English Language Arts (“ELA”) and Mathematics in grades 5-8 and science in grade 8. (Tr. vol. 12, at 75:17-18, 79.)

107. In 2014-15, the PSSA was based on the revised PA Core standards, resulting in a big dip in scores in all public schools. (Tr. vol. 12, at 79:14-20.)

108. Since the 2012-13 school year, Stetson’s SPP scores have been as follows: 57.3 in 2012-13, 48.8 in 2013-14, no score in 2014-15 due to the realignment, 37.7 in 2015-16, 46.5 in 2016-17, and 51.4 in 2017-18. (Ex. JE[S] 14, 15; Ex. SD[S] 8 (Table 5); Tr. vol. 12, at 91-95.)

109. In every year since 2012-13 for which data was available,⁷ Stetson’s SPP score fell below the School District’s average and the charter schools’ average SPP scores:

Pennsylvania SPP (Average)			
Year	District	Charter	Stetson
2012-13	57.5	66.0	57.3
2013-14	57.3	63.6	48.8
2014-15	-	-	-
2015-16	52.5	56.7	37.7
2016-17	53.0	57.1	46.5
2017-18			51.4

(Ex. SD[S] 8; Ex. JE[S] 14-15, 30-31; Tr. vol. 12, at 91-95.)

110. Percentile rank indicates how a school is doing compared to other schools within a group. A percentile rank of 50 is the median. A 99 would mean that the school ranked better than 99 percent of the schools. A 0 would mean that the school was at the very bottom. (Tr. vol. 1, at 156-157; Tr. vol. 12, at 96:2-97:1.)

111. Stetson’s SPP score never reached the 50th percentile of all School District and charter schools that received an SPP score:

⁷ No data was received for 2014-15.

Pennsylvania SPP (Percentile)		
Year	Score	Percentile
2012-13	57.3	45
2013-14	48.8	23
2014-15	-	-
2015-16	37.7	9
2016-17	46.5	27

(Ex. SD[S] 8; Ex. JE[S] 14-15; Tr. vol. 12, at 96:2-16.)

112. Roughly 73% of all School District and charter schools in Philadelphia had a better SPP score than Stetson in 2016-17, the last year for which a percentile is available. (*Id.*)

Stetson's Proficiency Rates

113. Stetson's PSSA data for 2009-10 reflects the aggregate performance of students at John B. Stetson Middle School before Stetson was managed by ASPRIA.

114. Since the 2010-11 school year, the percentage of students enrolled at Stetson who scored proficient or advanced on the PSSA exam in math consistently underperformed the percentage of all students in grades 5-8 enrolled in School District schools and charter schools who scored proficient or above:

PSSA Math: Students Scoring Proficient/Advanced					
Year	Stetson	School District		Charter Sector	
	Rate	Rate	Difference	Rate	Difference
2009-10 (Pre-Turnaround)	27%	57%	-30%	60%	-33%
2010-11	50%	60%	-10%	62%	-12%
2011-12	63%	53%	10%	65%	-2%
2012-13	51%	49%	2%	58%	-7%
2013-14	36%	47%	-11%	54%	-18%
2014-15	7%	16%	-9%	15%	-8%
2015-16	3%	18%	-15%	15%	-12%
2016-17	3%	19%	-16%	17%	-14%
2017-18	4%	21%	-17%	18%	-14%

(Ex. SD[S] 8; Ex. JE[S] 10-13, 65-69; Ex. Stetson 55, at 5.)

115. Since the 2014-15 school year and the realignment of the PSSA to PA Core, Stetson's Math scores have not consistently improved over the years. The 2017-18 results reflect Math performance that is three percentage points *lower* than in the 2014-15 school year.

116. The performance gap in Math between Stetson's students and students in similar grades at School District schools has been widening since 2014-15. (Tr. vol. 12, at 85:6-14.) As noted by Kligerman, an initial increase is not uncommon when the culture changes in a school, but the goal for turnaround schools is *sustained* improvement. (*Id.* at 86:1-12.)

117. Since the 2010-11 school year, the percentage of students enrolled at Stetson who scored proficient or advanced on the PSSA exam in Reading/ELA consistently underperformed the percentage of all students in grades 5-8 enrolled in School District schools and charter schools who scored proficient or above:

PSSA Reading/ELA: Students Scoring Proficient/Advanced					
Year	Stetson	School District		Charter Sector	
	Rate	Rate	Difference	Rate	Difference
2009-10 (Pre-Turnaround)	24%	52%	-28%	58%	-34%
2010-11	32%	53%	-21%	57%	-25%
2011-12	36%	48%	-12%	58%	-22%
2012-13	31%	45%	-14%	51%	-20%
2013-14	28%	45%	-17%	51%	-23%
2014-15	18%	33%	-15%	38%	-20%
2015-16	15%	35%	-20%	38%	-23%
2016-17	12%	35%	-23%	39%	-27%
2017-18	17%	38%	-21%	42%	-23%

(Ex. SD[S] 8; Ex. JE[S] 10-13, 65-69; Ex. Stetson 5, at 5.)

118. Since the 2014-15 school year and the realignment of the PSSA to PA Core, Stetson's ELA scores have not consistently improved over the years. The 2017-18 results reflect

ELA performance that is one percentage point *lower* than in the 2014-15 school year, with even lower percentages of achievement in the intervening years.

119. The performance gap in ELA between Stetson’s students and students in similar grades at School District schools has been widening since 2014-15. The School District has made strategic investments for reading that have yielded improvements on the PSSA. (Tr. vol. 12, at 88:4-13.)

120. Since the 2010-11 school year, the percentage of students enrolled at Stetson who scored proficient or advanced on the PSSA exam in eighth grade Science consistently underperformed the percentage of all students in grades 5-8 enrolled in School District schools and charter schools who scored proficient or above:

PSSA Science: Students Scoring Proficient/Advanced					
Year	Stetson	School District		Charter Sector	
	Rate	Rate	Difference	Rate	Difference
2009-10 (Pre-Turnaround)	5%	26%	-21%	30%	-25%
2010-11	4%	27%	-23%	32%	-28%
2011-12	5%	25%	-20%	32%	-27%
2012-13	9%	28%	-19%	33%	-24%
2013-14	9%	29%	-20%	32%	-23%
2014-15	9%	28%	-19%	32%	-23%
2015-16	8%	29%	-21%	31%	-23%
2016-17	4%	23%	-19%	26%	-22%
2017-18	10%	27%	-17%	29%	-19%

(Ex. SD[S] 8; Ex. JE[S] 10-13, 65-69; Ex. Stetson 55, at 5.)

121. Stetson’s science scores have not continuously or substantially improved over the years. The eighth grade science PSSA did not undergo a realignment in the 2014-15 school year, which means the tested content is similar to 2010-11. The 2017-18 results reflect science performance that is higher than the pre-turnaround performance in 2009-10 school year, but only

by five percentage points in eight years. Moreover, the results have fluctuated, did not consistently improve, and were sometimes even lower than the pre-turnaround results (as recently as 2016-17).

122. The District rates in the tables above reflect the percentage of students in grades 5-8 at School District schools who scored proficient or advanced on the respective PSSA exam. (Tr. vol. 12, at 174:2-9, 205:5-20.)

123. The Charter sector rates in the tables above reflect the percent of students in grades 5-8 at a brick and mortar charter school in Philadelphia who scored proficient or advanced on the respective PSSA exam, including students at other Renaissance charter schools. (Tr. vol. 12, at 205:5-20.)

124. Moreover, in 2017-18, a higher percentage of Stetson's students scored below basic in math than in 2014-15, 2015-16 and 2016-17. The percentage of students scoring below basic in math in 2017-18 (82.8%) is almost 20 percentage points higher than the percentage of students scoring below basic in math in 2014-15 (63.6%). (Ex. JE[S] 65-68.)

125. Stetson provides four years of instruction in science by the time its students take the PSSA Science exam, yet 66.4% to 78.6% of those students scored below basic in Science between 2014-15 and 2017-18. (Ex. JE[S] 65-68.)

Subgroup Performance

126. Subgroup performance on standardized assessments has been tracked beginning with the No Child Left Behind Act, "because the idea was that maybe some of these kids were being left behind by looking at just an aggregate score or like an overall score for the school." (Tr. vol. 9, at 118:14-22.)

127. In its Required Federal Reporting Measures (“RFRM”) report for 2013-14, PDE reported on whether Stetson met the State’s Annual Measurable Objectives (“AMOs”) in reading and in mathematics. None of Stetson’s groups (all students or any of the 8 subgroups, including ELLs, special education students and economically disadvantaged students) met the AMO in math or reading. (Ex. JE[S] 10, at 3-4; Tr. vol. 12, at 143:16-145:2.)

128. The SPP collapses the various subgroups into one subgroup called historically underperforming students. (Tr. vol. 9, at 119:2-13.)

129. The SPP also measures how a school performs in closing the achievement gap for all students and for historically underperforming students:

The achievement gap performance measure is determined by comparing the percent of students who are proficient or advanced in a baseline year with 100% proficiency. Once the achievement gap is determined, schools are measured on the success in closing that gap. The benchmark for success is defined as fifty percent (one-half of the achievement gap) closed over a six-year period. This success rate is measured annually such that if a school is on track or exceeding the annual rate needed to close the gap, a score of 80 is earned. *A school not making any progress in closing the gap or even widening the gap earns a score of zero.*

(Ex. JE[O] 22 at 10; Ex. JE[S] 17, at 10) (emphasis added).)

130. A zero “is the lowest score a school could obtain.” (Tr. vol. 1, at 146:14-18.)

131. Historically underperforming students, as that term is defined by the State, includes special education students with an Individualized Education Program (“IEP”), English Language Learners (“ELLs”) and economically disadvantaged students. (Ex. JE[S] 17, at 11; Tr. vol. 1, at 247-248.)

132. Through the SPP system, PDE determined that it was appropriate to monitor how public schools were serving historically underperforming student populations, to determine whether schools were successfully closing the achievement gap for those student groups.

133. Stetson has not shown any success in closing the achievement gap for the totality of its students or its historically underperforming students:

Stetson's Indicators of Closing the Achievement Gap (All Students)			
Year	Math	ELA	Science
2013-14	NA	NA	20.81
2014-15	Not reported	Not reported	Not reported
2015-16	0	0	0
2016-17	0	0	0

Stetson's Indicators of Closing the Achievement Gap (Historically Underperforming Students)			
Year	Math	ELA	Science
2013-14	NA	NA	30.30
2014-15	Not reported	Not reported	Not reported
2015-16	0	0	0
2016-17	0	0	0

(Ex. JE[S] 14 at 2-4.)

134. Stetson students did not lower the achievement gap in any subject area in 2014-2015, 2015-16 or 2016-17. In the 2013-14 school year, when the gap was calculated for science, there was some gap closure, but the amount of closure was insufficient to meet the expected standard set by the State. The amount of gap closure that year fell within the lowest performing tier on the SPP. (Ex. JE[S] 14, at 4; Tr. vol. 12, at 146:4-148:19.)

Growth Measures

135. PVAAS, “is a performance measure represent[ing] the academic growth of students taking the [PSSA or Keystone Exam] relative to changes in their achievement level/entering achievement during the reported year.” “The PVAAS Growth Index is the growth measure (change of the achievement level for a group of students across grades) divided by the standard error (level of evidence one has around a particular measure in relationship to the

amount of growth made with a group of students).” The PVAAS Growth Index is then converted to a scale ranging from 50 to 100, as follows:

If the PVAAS Growth Index for a school is a zero, then the school score is 75. If the PVAAS Growth Index is 3 or higher, the school performance measure score is 100. If the PVAAS Growth Index is -3 or lower, the school score is 50. (A score can be no lower than 50.) Performance measure scores are scaled proportionally within the range of -3 to +3; -3 to -2 (50.0 to 60.0), -2 to -1 (60.0 to 70.0); -1 to +1 (70.0 to 80.0); +1 to +2 (80.0 to 90.0); and +2 to +3 (90.0 to 100.0).

(Ex. JE[S] 17, at 9.)

136. PVAAS is a component of SPP and the FRI. (Tr. vol. 1, at 145:14-23.)

137. Average Growth Index (“AGI”) is a component of PVAAS, which measures whether students at that school are meeting the projection for growth. (Tr. vol. 1, at 148; Ex. Stetson 258, at 44:10-45:12.)

138. According to Dr. Schuh, “by design,” PVAAS does not take into account the demographics of a school. (Tr. vol. 9, at 140:11-13.)

139. In Stetson’s Charter, Stetson agreed to use its best efforts to achieve the PVAAS growth measure for each year during the five-year term. (Ex. JE[S] 2, at 26.)

140. The growth standard developed by PDE and SAS (PDE’s contractor for PVAAS) is a score between negative one and one. (Tr. vol. 1, at 147.)

141. Stetson’s AGI results were are as follows:

Stetson’s PVAAS Average Growth Index Values			
Year	Math	Reading/ELA	Science
2012-13	9.8	7.3	-7.03
2013-14	-3.3	-.57	-12.87
2014-15	3.63	-.74	-6.83
2015-16	-7.07	-.98	-6.47
2016-17	1.71	3.14	-2.8
2017-18	3.52	3.40	-.65

PVAAS Legend				
Significant Evidence Not Meeting PA Standard for Growth	Evidence of Not Meeting PA Standard for Growth	Evidence of Meeting PA Standard for Growth	Evidence of Exceeding PA Standard for Growth	Significant Evidence of Exceeding PA Standard for Growth

(Ex. SD[S] 8; Ex. JE[O] 70; Tr. vol. 12, at 90:18-22.)

Annual Measureable Objectives

142. Under the federal Elementary and Secondary Education Act (“ESEA”)/No Child Left Behind Act (“NCLB”), PDE sought and received an ESEA Flexibility Waiver to provide for a state-led accountability system for identifying high-performing and struggling Title I schools—those schools with a high percentage of low-income students. The Flexibility Waiver took effect for the 2013-14 school year. (Ex. Stetson 41, at 1.)

143. Under the Flexibility Waiver, PDE had to designate schools based on performance criteria and four AMOs: Test Participation Rate; Graduation Rate/Attendance Rate; and Closing the Achievement Gap for All Students and Historically Underperforming Students. A Title I school may be designated as one of the following: Reward (High Achievement), Reward (High Progress), Focus, Priority and No Designation. (Ex. JE[S] 14, at 13; Ex. Stetson 41, at 3; Tr. vol. 1, at 118.)

144. Focus schools are defined as the lowest 10% of Title I schools based on highest achievement gap for the Historically Low Performing students AMO or Title I school with a graduation rate below 60% or test participation below 95% and not a Priority school. (Ex. Stetson 41, at 5.)

145. The demographics of a school did not factor into whether a school was designed to be Priority. Low achievement by students in the Historically Low performing group did affect consideration as a Focus school. (Tr. vol. 15, at 172:13-174:10.)

146. Focus schools “will be required to review existing school improvement plans and will be required to implement at least one meaningful intervention directly related to criterion influencing that designation at the beginning of the 2013-14 school year.” (Ex. Stetson 41, at 5.)

147. Stetson is a Title I school. (Ex. Stetson 31, at 2.)

148. PDE designated Stetson as a Focus school in the 2013-14 through 2016-17 school years. (Ex. JE[S] 26-27.)

149. As a Focus school, Stetson had to file an Improvement Plan with PDE. The last revision to Stetson’s Improvement Plan that Stetson produced was submitted to PDE on July 20, 2017. (Ex. Stetson 31; Tr. vol. 12, at 310-311.) Various concerns are noted in the report, including concerns about increases in the number of suspensions, and the majority of teachers scoring below the proficient level of performance on various components of the Danielson Framework for Teachers. The Action Plan Goals included a 10% decrease in the students scoring below basic and a 5% increase in students scoring proficient on the PSSA in 2015, 2016 and 2017. (Ex. Stetson 31, at 4-10.)

150. Thomas Mullin noted that Stetson is always looking to hire better staff. (Tr. vol. 12, at 318:5-12.) The goals outlined in the Improvement Plan included ten percent increases in the number of students scoring advanced and proficient on the PSSA in ELA, Math and Science on the 2016-17 assessment. (*Id.* at 23.) However, ten percent increases were not achieved from 2015-16 to 2016-17 or from 2016-17 to 2017-18. (Tr. vol. 14, at 257.)

151. These goals have not been adjusted downward in the latest version of Stetson’s School Improvement Plan (which was not produced). Stetson’s Principal, Glenda Marrero explained: “We always try to keep our goals rigorous in the sense that we want to actually meet these goals. That’s our goal. That’s our mission. If we were to submit a goal that only set a two

percent growth or a three percent growth, the state would probably be like that's pretty low goals to set." (Tr. vol. 14, at 258:1-11.)

Effect of Demographic Differences

152. Stetson enrolls higher percentages of ELL students than the percentages in School District schools, as this is a population of students that ASPIRA was seeking out when it filed the Application and touted its experience educating ELL students in its other charter schools. (Ex. JE[S] 24, at 2; Ex. JE[S] 25, at 2; Ex. SD[S] 19, at 3.)

153. Stetson also has always enrolled higher percentages of special education students than the percentages in School District schools. (*Id.*)

154. However, the percentages of ELL students and special education students at Stetson have not significantly changed since Stetson became a Renaissance Charter School.

155. When ASPIRA applied to convert Stetson into a Renaissance charter school in the 2009-10 school year, Stetson had the following demographics: 29% ELLs, 19.9% special education students: 93.9% economically disadvantaged students. (Ex. JE[S] 2, at 139.)

156. Prior to ASPIRA seeking the charters for Olney and Stetson, for public schools receiving federal funds under Title I, NCLB required State-assessment scores to be reported for all subgroups of students, the idea being "to bring attention to groups . . . that might have been overshadowed by an average score which tend to be how School Districts had reported scores in the past. So culling out subgroups was one aspect of the law." (Tr. vol. 14, at 55:4-56:11.)

157. Under NCLB, subgroups included economically disadvantaged students, ELLs, special education students, and racial/ethnic groups including Hispanic, black and white students. (*Id.* at 56:13-23.)

158. Under NCLB, subgroup performance factored into whether a school was making AYP if a school had at least 40 students in a particular subgroup. (*Id.* at 56:24-57:6.)

159. The SPP system continued to emphasize subgroup performance focusing on the historically underperforming group. (Tr. vol. 14, at 58:7-14.)

160. The percentage of economically disadvantaged students at Stetson has been declining since 2011-12. In 2011-12, based upon Stetson's own data, 100% of Stetson students were "low income." In 2017-18, the percentage of low income students declined to 65.55%. (Ex. Olney 88.)

161. Stetson's ELL population has also decreased since it became a Renaissance Charter School. The percentage of ELL students has gone from a high of 28.9% in the 2010-11 school year to 26% in the 2017-18 school year, with even lower percentages in between those years (23.6% in 2013-14, 22.6% in 2014-15, and 22% in 2015-16).

162. Stetson's special education population stayed relatively the same as the pre-Renaissance percentages, around 20%, through 2016-17. (Ex. JE[S] 28, at 17; Ex. JE[S] 24, at 2; Ex. JE[S] 25, at 2; Ex. SD[S] 19, at 3.)

163. Stetson offers a Newcomer ELL program for students who are brand new to the United States, but there are only about 30 students in the program (about 15 students each in two groups). (Tr. vol. 14, at 170:6-19.)

164. ELLs in their first year of an ESL program do not take the State assessments. (Tr. vol. 15, at 230:7-18.)

165. In the 2010-11 and 2011-12 school years, even with those percentages of ELLs and special education students, Stetson managed to increase the percentage of students scoring

proficient or advanced on the PSSA exam by 12 percentage points in reading and 36 percentage points in math. However, those advances in achievement were not sustained.

166. Subgroup performance on the PSSA is reported in the RFRM, FRI, and ACE reports.

167. Certain special education students who are low functioning are able to take the PASA Exam. (Tr. vol. 4, at 234:19-21; Tr. vol. 6, at 102-103.)

168. The PASA Exam “uses performance tasks to measure the knowledge and skills of students with significant cognitive disabilities.” (Ex. JE[O] 11, at 9.)

169. PASA data is reported out in the RFRM reports. However, according to the 2013-14, 2014-15, 2015-16, and 2016-17 RFRM reports, Stetson did not have any PASA data available in any of those four school years, which would signify that an insufficient number of students qualified to take the PASA exam. (Ex. JE[S] 10-13, at 15.)

170. PASA data also was not reported for 2012-13 or it would have been included as a prior year’s data in the 2013-14 RFRM report. (Ex. JE[S] 10, at 15.)

171. PASA data is reported when there are more than 10 students taking the PASA. (See, e.g. Ex. JE[O] 11, at 9, Notes.)

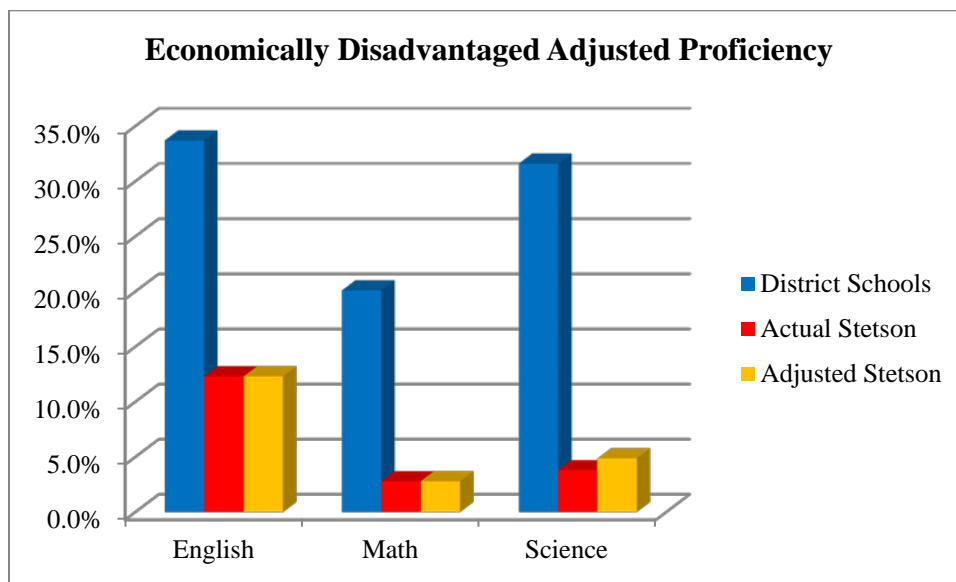
172. The percent of students who are economically disadvantaged, special education or ELL may have an impact on the outcome of standardized test scores. (Ex. Stetson 258, at 97:2-98:12.)

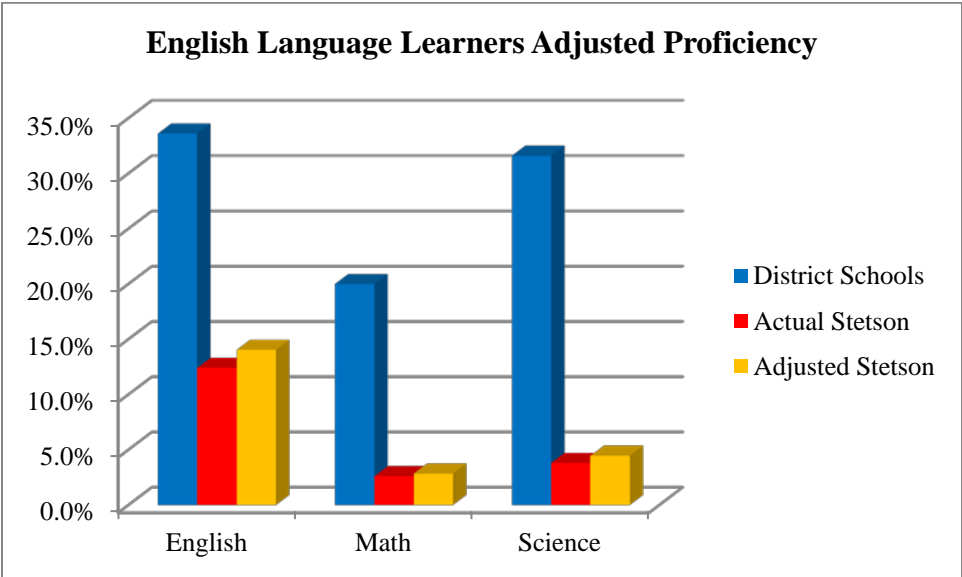
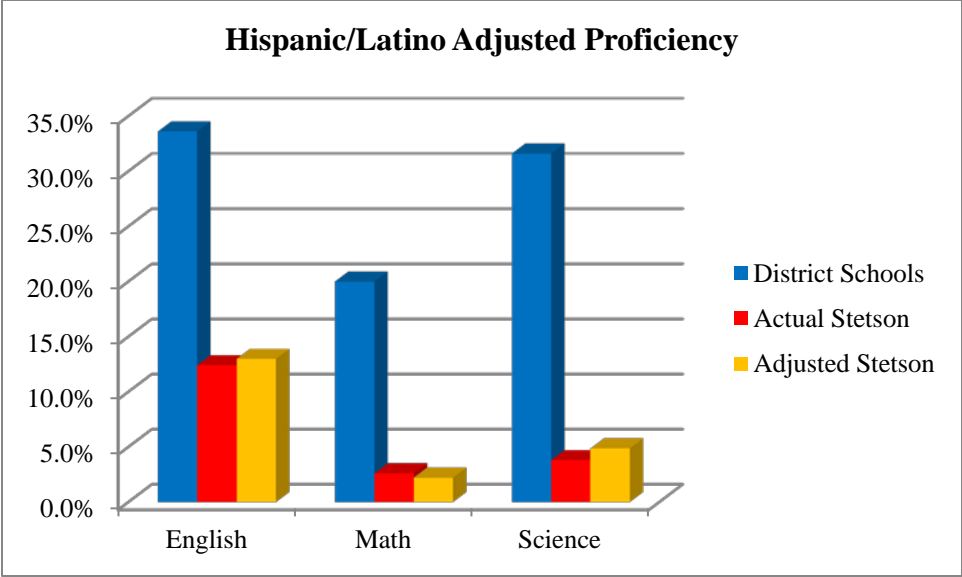
173. Accordingly, Stetson seeks to blame its poor academic performance on its student demographics.

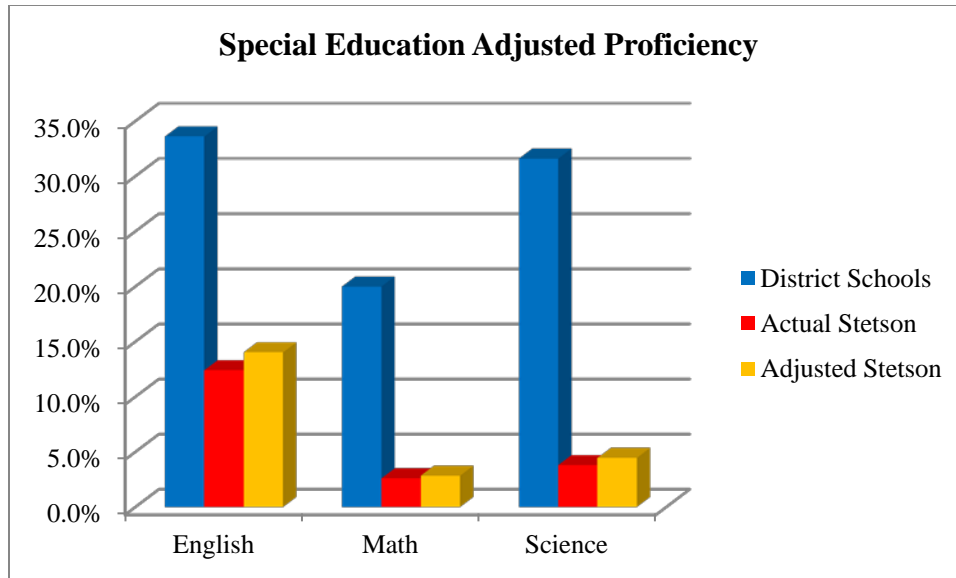
174. However, Stetson’s expert made no attempt to quantify the impact of its higher percentages of economically disadvantaged students, Hispanic/Latino students, ELLs, and

special education students. (See Tr. vol. 13, at 235:23-239:17.) Thus, no evidence was presented to establish that Stetson would have matched the School District's performance if it had the same demographics.

175. It is not surprising that Stetson's expert made no effort to quantify the impact, because if such an analysis had been done, it is likely to have shown that having the same percentages of economically disadvantaged students, Hispanic/Latino students, ELLs, and special education students as the School District would have improved Stetson's overall proficiency rates only slightly, to levels still far below the School District's rates in all three subjects. This is illustrated by the following charts:







176. The data in these charts is based on the most recent RFRM reports for Stetson and the School District. (Ex. JE[S] 13, HO[S] 130.)⁸ The adjustments were calculated by reducing the number of Stetson’s tested students in each category to the percentage of all of its tested students that equaled the percentage of the School District’s tested students in the same category. The adjusted proficiency rates were then determined based on these revised numbers of tested students in each group and Stetson’s average rates for each group, to approximate the overall results that Stetson might have attained if it had the same percentages of economically disadvantaged, Hispanic/Latino, ELL, and special education students as the School District. (Ex. HO[S] 131.)

177. This analysis is necessarily imprecise, but it clearly illustrates that it would not be reasonable to simply presume that Stetson’s performance would have matched the School District’s performance if their demographics had been the same.

⁸ The School District’s RFRM report was not submitted by either party as an exhibit, but its data may be judicially noticed, because it is not subject to reasonable dispute and can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned. *See* Pa. R. Evid. 201.

178. The impact of the demographic differences on Stetson's overall results is slight (a) because Stetson's also has many students who are not in the subgroups, and (b) because the performance of the subgroups at Stetson is significantly worse than their performance at the School District's schools.

179. Based on the undisputed data in the ACE Reports, the following charts compare the performance of various subgroups at Stetson to the performance of those same subgroups in School District-operated schools:⁹

PSSA ELA Proficiency Rates by Student Group						
Subgroup	2015-16		2016-17		2017-18	
	Stetson	School District	Stetson	School District	Stetson	School District
All Students	15%	35%	12%	35%	17%	38%
Female	20%	41%	15%	40%	21%	44%
Male	10%	29%	10%	30%	14%	32%
Asian	*	*	*	68%	*	74%
Black	15%	26%	13%	26%	18%	28%
Hispanic/Latino	15%	26%	12%	27%	17%	29%
Multi-race/Other	*	*	*	42%	*	42%
White	20%	56%	*	55%	*	58%
ELLs	2%	7%	1%	9%	5%	15%
Special Education	3%	12%	3%	17%	4%	21%

PSSA Math Proficiency Rates by Student Group						
Subgroup	2015-16		2016-17		2017-18	
	Stetson	School District	Stetson	School District	Stetson	School District
All Students	3%	18%	3%	19%	4%	21%
Female	3%	19%	2%	19%	4%	21%
Male	2%	17%	3%	18%	4%	20%
Asian	*	*	*	56%	*	58%

⁹ An asterisk indicates that no data was reported because the number of students in the subgroup was insufficient for a valid sample.

PSSA Math Proficiency Rates by Student Group						
Subgroup	2015-16		2016-17		2017-18	
	Stetson	School District	Stetson	School District	Stetson	School District
Black	2%	9%	1%	9%	1%	10%
Hispanic/Latino	3%	10%	3%	11%	4%	13%
Multi-race/Other	*	*	*	26%	*	27%
White	10%	35%	*	37%	*	39%
ELLs	0%	5%	1%	6%	2%	9%
Special Education	1%	8%	1%	12%	3%	15%

PSSA Science Proficiency Rates by Student Group						
Subgroup	2015-16		2016-17		2017-18	
	Stetson	School District	Stetson	School District	Stetson	School District
All Students	8%	29%	4%	23%	10%	27%
Female	6%	29%	4%	23%	10%	28%
Male	11%	30%	3%	22%	9%	26%
Asian	*	*	*	55%	*	62%
Black	12%	19%	5%	13%	3%	17%
Hispanic/Latino	7%	22%	3%	14%	10%	17%
Multi-race/Other	-	-	-	-	*	34%
White	*	*	*	40%	*	48%
ELLs	6%	7%	0%	5%	3%	8%
Special Education	7%	14%	0%	11%	8%	15%

(Ex. JE[S] 24, at 4-6; Ex. JE[S] 25, at 5-7; Ex. SD[S] 19, at 6-8; Tr. vol. 12, at 125:22-138.)

180. This shows that Stetson has not done nearly as well as the School District with Hispanic/Latino (H/L), ELL, and special education (IEP) students,¹⁰ and has been consistently falling further behind in ELA and Math:

¹⁰ In the headings for this table, H/L refers to Hispanic/Latino students, ELL refers to English language learners and IEP refers to special education students. The ACE reports do not contain this type of breakdown for economically disadvantaged students, so they are not included.

2015-16	ELA			Math			Science		
Proficiency	H/L	ELL	IEP	H/L	ELL	IEP	H/L	ELL	IEP
Stetson	15%	2%	3%	3%	0%	1%	7%	6%	7%
School District	26%	7%	12%	10%	5%	8%	22%	7%	14%
Difference	-11%	-5%	-9%	-7%	-5%	-7%	-15%	-1%	-7%

2016-17	ELA			Math			Science		
Proficiency	H/L	ELL	IEP	H/L	ELL	IEP	H/L	ELL	IEP
Stetson	17%	1%	3%	3%	1%	1%	3%	0%	0%
School District	27%	9%	17%	11%	6%	12%	14%	5%	11%
Difference	-10%	-8%	-14%	-8%	-5%	-11%	-11%	-5%	-11%

2017-18	ELA			Math			Science		
Proficiency	H/L	ELL	IEP	H/L	ELL	IEP	H/L	ELL	IEP
Stetson	17%	9%	4%	4%	2%	3%	10%	3%	8%
School District	29%	15%	21%	13%	9%	15%	17%	8%	15%
Difference	-12%	-6%	-17%	-9%	-7%	-12%	-7%	-5%	-7%

(Ex. JE[S] 24; Ex. JE[S] 25; Ex. SD[S] 19.)

181. For all of these reasons, Stetson’s contention that its poor academic performance is merely a reflection of demographic differences is simply not credible.

Future Ready Index

182. The FRI was created by PDE and approved by the United States Department of Education as part of a consolidated plan that Pennsylvania submitted under the Every Student Succeeds Act (“ESSA”). Although SPP is still being calculated since the 2016-17 school year, the FRI has replaced SPP for purpose of accountability under ESSA. (Tr. vol. 1, at 129:2-130:2.)

183. The FRI includes two “On Track Measures”: English Language Proficiency and Regular Attendance. Stetson did not meet the performance standard for attendance for any students, as addressed in more detail below. Nor did Stetson meet the interim goal/improvement target established by PDE in the area of English Language Proficiency. Students with limited English proficiency who were assessed with the ACCESS test only scored 10.2%, which failed

to meet the standard and was below the statewide average of 35.7%. (Ex. JE[S] 18, at 7; Tr. vol. 12, at 150-151.)

184. The English Language proficiency indicator in the FRI reflects “the percentage of English Learners who met their interim growth toward, or attainment level, of English language proficiency as measured by the ACCESS for ELLs.” (Ex. JE[S] 19, at 7.)

185. FRI continues to use PVAAS/AGI data as part of the reporting system. (Tr. vol. 9, at 159:4-11.)

186. Despite having more than 200 additional students in the 2017-18 school year compared to the 2013-14 school year, Stetson had one fewer “professional staff” in 2017-18 and only three more teachers (80 professional staff, 59 teachers) compared to 2013-14 (81 professional staff, 56 teachers). (Ex. Olney 88.)

Inclusion of Special Admission Schools in Comparisons

187. The School District operates special admission and citywide admission schools that have varying criteria for enrollment. (Tr. vol. 2, at 25-27.)

188. According to a report issued by the PEW Charitable Trust (“PEW”), however, there are significant numbers of students enrolled in selective admission schools and citywide admission schools with academic criteria who do not meet the published criteria. (Ex. Stetson 236; Tr. vol. 2, at 95:14-98:22.)

189. PEW published a report in September 2017 analyzing data provided by the School District regarding student enrollment during the 2014-15 school year. Specifically, the study looked at data from students who were eighth graders in the 2014-15 school year who would have participated in the school selection process during that school year for being a ninth grader or entrance into high school in the 2015-16 school year. The study looked at data where they

were in eighth grade 2014-15 and where they ended up in high school in 2015-16. (Ex. Stetson 236.)

190. According to Dr. Schuh, the PEW Charitable Trust is a reputable entity in regards to public education research. (Tr. vol. 9, at 105:1-4.)

191. Four types of high schools are available in the School District—special admission, citywide, neighborhood and charter schools. During the 2015-16 school year, there were 21 special admission high schools, 121 city-wide admission high schools and programs in various school buildings, 24 neighborhood high schools and 43 charter schools serving high school grades. (Ex. Stetson 236, at 7.) Special admission schools have academic, attendance and behavioral criteria for enrollment, “[b]ut the importance of each criterion varies from school to school, based on the judgment of the principal. Special admission school principals also have considerable leeway in how they enforce the criteria, sometimes ignoring their school’s stated admissions standards.” (Ex. Stetson 236, at 7.) Most citywide admission schools are selective but with less stringent academic, attendance and behavior criteria than the special admission schools. Neighborhood schools are open to anyone who can prove residence within a school’s neighborhood boundaries, but “[s]tudents may also apply to neighborhood schools outside their area and can be awarded seats based on availability.” (*Id.* at 8.)

192. Of the ninth graders enrolled in the four categories of schools in the 2015-16 school year, 26% attended special admission high schools, 16% attended citywide admission schools, 27% attended neighborhood schools, and 30% attended charter schools. (Ex. Stetson 236, at 7-8.)

193. The PEW report made a number of pertinent findings:

- a. 14% of all eighth grade students with proficient or advanced scores on the seventh grade PSSA did not apply for enrollment in a special admission school. (Ex. Stetson 236, at 14.)
- b. For those eighth graders with proficient or advanced PSSA scores who did apply, 22% were not admitted to a special admission school. (Ex. Stetson 236, at 17.)
- c. Of the eighth graders who were admitted to special admission schools, 20% of them did not meet the published minimum academic qualifications. (Ex. Stetson 236, at 18.) At particular special admission schools, the percentage of enrolled ninth graders who did not meet the minimum academic criteria was much higher—at Lankenau High School, Walter B. Saul High School, Parkway West High School, Parkway Northwest High School and Motivation High School, at least half of the students enrolling for ninth grade did not meet the minimum standardized test scores. (Ex. Stetson 236, at 19.)¹¹
- d. 14% of students with advance or proficient standardized test scores were accepted by special admission schools but chose not to attend. (Ex. Stetson 236, at 20.)
- e. Of the ninth grade students who were enrolled in a charter school in eighth grade, 70% of them also enrolled in a charter school for ninth grade, either the same charter school or a different charter school. (Ex. Stetson 236, at 24.)
- f. In math specifically, 12% of ninth graders in special admission schools and 61% of ninth graders in citywide admission schools had not scored proficient or advanced. (Ex. Stetson 236, at 30.)

¹¹ Lankenau High School, Parkway Northwest, Motivation High School and Parkway West are all schools that were in the Charter School's peer group in the 2015-2016 SPR, which the Charter School suggests had selective admission requirements. (Ex. Olney 55, at 3; Tr. vol. 6, at 51-52).

- g. Students receiving special education support accounted for 30% of ninth graders at neighborhood schools, compared to 19% overall. (Ex. Stetson 236, at 31.)

194. The students enrolled in special admission schools and citywide admission schools are resident students of Philadelphia entitled to attend School District schools.

195. If the School District did not have special admission schools or citywide admission schools, then those students would be enrolled in their neighborhood schools unless their parents exercised a different choice. As a result, the scores of the neighborhood schools would presumably increase due to the inclusion of the scores of some—but not all—students who attend special admission schools.

196. If one were to remove the scores of students attending special admission schools or citywide admission schools from the School District proficiency rate, the calculation would no longer reflect the actual proficiency rate of all students enrolled in School District schools.

197. When comparing the School District's overall performance to Stetson's overall performance, excluding the best performing School District schools would be as unfair to the School District as excluding the worst performing School District schools would be to Stetson.

198. Accordingly, when comparing Stetson's overall performance to the School District's overall performance, all School District schools must be included.

Performance Under School District Accountability Systems

199. Under the Renaissance Initiative, Stetson's performance was expected to equal at least the median performance of all School District schools by the end of the final year of its charter term. (Tr. vol. 1, at 236-237.)

200. The SPI included four components: (1) Student Progress measured by growth on the PSSA; (2) Student Achievement on the PSSA, including percent of proficient or advanced,

percent below basic, and achievement gap; (3) Post-Secondary Readiness factors (for high schools only) including on-time graduation rate, ninth grade on-track, SAT participation and college enrollment; and (4) Satisfaction & Engagement, including student attendance rate, student satisfaction, parent satisfaction, parent survey response rate and teacher satisfaction. (Ex. JE[O] 2, at 45; Ex. Olney 282; Ex. Stetson 255.)

201. After Stetson received its charter, the School District replaced the SPI with the SPR, beginning in the 2013-14 school year. (Tr. vol. 9, at 207:24-208:18.)

202. Since the 2014-15 school year, all charter schools in Philadelphia have been participating in the SPR, with the exception of one to three schools. (Tr. vol. 1, at 103:21-23.)

203. According to Dr. Schuh, the SPR is an “annual report card created by the School District”. (Tr. vol. 9, at 56:15-19.)

204. The SPR uses several different metrics and reports a score of up to 100. The scores are broken down into ranges designated as tiers: a 0 to 24.9 score tier labeled “Intervene”; a 25 to 49.9 score tier labeled “Watch”; a 50 to 74.9 score tier labeled “Reinforce”; and a 75 to 100 score tier labeled “Model.” (Ex. JE[S] 20-23; Tr. vol. 1, at 105, 159.)

205. The SPR for K-8 schools contains three domains: achievement, progress, and climate. The SPR for high schools contains one additional domain: college & career. (Ex. JE[S] 20-23; Tr. vol. 1, at 105-106.)

206. The SPR reports include information regarding the metrics evaluated under each domain, the score for each metric, and the number of points earned. The metrics in each domain have not fluctuated significantly from year to year. (Ex. JE[S] 20-23; Ex. SD[S] 7.)

207. The achievement domain measures performance on standardized assessments, including the PSSA and Keystone exams, ACCESS for ELLs and reading assessments. (Ex. JE[S] 20-23, each at 1.)

208. The progress domain measures growth on standardized assessments and progress towards graduation, if applicable. (Ex. JE[S] 20-23, each at 1.)

209. The climate domain measures school attendance, annual retention, suspension rates and survey results from both parents and students as part of parent/guardian engagement. (Ex. JE[S] 20-23, each at 1.)

210. The SPR also includes a city and peer ranking of where the school ranks as to all other city schools of its rank type, and a peer rank based on where the school ranks among demographically similar schools of its report type. Schools are ranked against other schools with similar grade configurations. Peer rankings are based on schools that have similarities in rates of economically disadvantaged students, special education students, ELLs, and students who are black or Hispanic. (Ex. JE[S] 20-23, each at 1; Ex. SD[S] 10; Tr. vol. 1, at 163-164.)

211. In comparison to the SPR, the SPI framed performance relative to the median. Schools received a score from one to ten, one being the best, ten being the worst. A school that scored a five would be performing at the median of all schools. In contrast, on the SPR, the score is 0-100. The components of SPI and SPR are similar. Both systems looked at the percent of students passing the state mandated exams, student growth, climate metrics including retention and attendance and survey metrics. (Ex. Olney 231-232, 255; Tr. vol. 1, at 106-107.)

212. Stetson's Charter does not include performance requirements relative to peer schools, as opposed to School District schools as a whole. (Ex. JE[S] 2.)

213. Stetson received an SPR for the 2013-14, 2014-15, 2015-16, 2016-17 and 2017-18 school years.¹²

214. The following table identifies Stetson's Overall score in each year, the performance tier based upon that Overall score, and the City Rank as a result of that Overall score:

Year	Stetson	SPR Tier	City Rank
2013-14	22	Intervene	22 of 33
2014-15	31	Watch	20 of 36
2015-16	16	Intervene	27 of 37
2016-17	42	Watch	18 of 33
2017-18	47	Watch	18 of 33

(Ex. SD[S] 7-8, 10; Ex. JE[S] 20-21.)

215. Stetson scored in the following categories in each domain evaluated under the SPR:

Year	Achievement	Progress	Climate
2013-14	Intervene	Intervene	Watch
2014-15	Intervene	Watch	Watch
2015-16	Intervene	Intervene	Watch
2016-17	Intervene	Reinforce	Watch
2017-18	Intervene	Model	Watch

(Ex. SD[S] 7-8, 10; Ex. JE[S] 20-21.)

216. Stetson's scores compared to the average SPR scores of all School District schools and all charter schools as follows:

¹² Stetson agreed to participate in and be held accountable under the School District's accountability performance system. In contrast, in the Eastern University Academy Charter School ("Eastern") nonrenewal case, a case involving a non-Renaissance charter school, Eastern did not agree in its charter to be held accountable under the SPR. As such, Eastern was not evaluated based upon the SPR. (Ex. Stetson 258, at 93:13-23).

Year	Stetson	School District	Charter Sector
2013-14	22	33	44
2014-15	31	31	37
2015-16	16	32	41
2016-17	42	34	44
2017-18	47	47	48

(Ex. SD[S] 7-8, 10; Ex. JE[S] 20-21.)

217. Stetson’s performance in the Progress category has been the driver of the increases in the overall score on the SPR. (Tr. vol. 12, at 112:20-113:12.) Other schools are also improving, given the increases to the School District average and Stetson’s overall city rank. (*Id.* at 114:16-24.)

218. Stetson presented various demographic data and achievement data found in charts in Stetson Exhibit 48. The charts on pages 1-3 contained demographic data for those peer schools that were identified in the SPR peer groups for 2015-16, 2016-17 and 2017-18. According to this data, there are schools in Stetson’s peer groups who have higher percentages of economically disadvantaged students and higher percentages of special education students than Stetson. (Ex. Stetson 48, at 1-3; Tr. vol. 14, at 268:17-269:20.)

219. Stetson prepared a comparison chart of SPR performance for those schools in its 2016-17 peer group going back to the 2012-13 school year, even though those schools were not demographically similar “peers” of Stetson in the earlier years. (Ex. Stetson 48, at 17-21; Tr. vol. 14, at 199:15-200:11.)

220. Stetson also sought the admission of RFRM reports for a few (but not all) of the schools in its peer and/or similar schools groups from year to year. (Ex. Stetson 5 (selected pages).) Cherry-picking data from only a portion of these groups does not provide a fair comparison to Stetson’s performance, nor is it relevant to the Renaissance program requirements.

221. The non-Renaissance schools reflected in Stetson Exhibit 48 are not subject to the same standards as Stetson under the Renaissance Initiative. Nor did the Renaissance charter suggest that comparisons with a selection of schools in Philadelphia were the appropriate metric for academic performance under the Renaissance program.

222. In 2017-18, Stetson ranked 32nd out of 33 middle schools city-wide in Achievement, 13th out of 33 in Progress, and 24th out of 33 in Climate.

223. To the extent that Peer rankings under the SPR would have any application to this matter despite not being part of the Renaissance charter, in 2017-18, Stetson did not outperform all of its peer schools in the SPR categories: 9th out of 10 in Achievement, 4th out of 10 in Progress; and 5th out of 10 in Climate. (Ex. SD[S] 10.)

224. Peer schools change from year to year due to changes in demographics at the schools or, when the CSO began using the similar schools group in the ACE Reports, changes in the methods of selection. (Tr. vol. 15, at 228:1-229:1.)

Expectations in the Charter

225. A “goal” identified by Stetson in its Charter Application as consistent with the School District’s Imagine 2014 strategic plan, was for students to be “excited to attend school every day.” (Ex. JE[S] 2, at 364-365.)

226. PDE reports average daily attendance (“ADA”) in the SPP, which measures the sum of the student’s average daily attendance divided by average daily membership multiplied by 100. Stetson’s attendance rates were as follows: 90.36% in 2012-13; 92.79% in 2013-14; 90.96% in 2015-16; and 90.63% in 2016-17. (Ex. JE[S] 30, at 3; Ex. JE[S] 14 at 2 and 4.)

227. In the FRI, PDE uses an attendance indicator measuring “the percentage of students enrolled in a school for 60 or more school days and present 90 percent or more of those

school days.” (Ex. JE[S] 19, at 8; Tr. vol. 1, at 170-171.) For the 2017-18 school year, PDE reported that Stetson did not meet the “Regular Attendance” Performance Standard, because only 61.3% of students had such regular attendance. The Statewide average for “Regular Attendance” is 85.4%, with a statewide goal of 94.1%. Neither the “All Student” group nor any of the subgroups reported by Stetson meet the performance standard. (Ex. JE[S] 18, at 7.)

228. Attendance data reported by the State is on a one-year lag, so the data reported in the FRI would be for the 2016-17 school year. (Ex. JE[S] 19, at 3.)

229. In the SPR, the School District analyzed the attendance of all charter schools in Philadelphia using a 95% or more attendance metric. (Tr. vol. 12, at 117-122.) The following table shows the percent of students attending 95% or more days of school and where Stetson falls based on percentile rank among other middle schools receiving an SPR:

Students Attending at Least 95% of School Days		
Year	Stetson	Percentile
2013-14	30%	29
2014-15	35%	32
2015-16	34%	26
2016-17	33%	26
2017-18	31%	12

(Ex. SD[S] 7-8; Ex. JE[S] 20-23.)

230. As noted in the table above, the percentage of Stetson’s students attending 95% or more of their school days has been declining since the 2014-15 school year.

231. In 2017-18 school year, 49% of students attending School District-operated middle schools attended 95% of days or more of their school days, as compared to only 31% of Stetson’s students. Students falling into the measured subgroups at Stetson (ELLs, special education, black, Hispanic/Latino, etc.) all attended school less frequently than students enrolled in School District middle schools, at rates of 10-23% less than their counterparts in School

District schools. Notably, only 32% of ELLs at Stetson attended 95% or more of their school days, as compared to 55% of ELLs enrolled in School District middle schools and 52% of ELLs enrolled in similar schools. (Ex. SD[S] 19, at 9; Tr. vol. 12, at 118-119.)

232. Moreover, 35% of Stetson's students were chronically absent in the 2017-18 school year, which equates to students missing more than 10% of instructional days. Stetson's chronic absentee rates for all students and subgroup students were higher than School District middle schools and similar schools, and all subgroups measured within those comparison schools. For ELLs, 35% of Stetson ELL students were chronically absent in 2017-18 compared to 19% in School District schools and 20% in similar schools. (Ex. SD[S] 19, at 10.)

233. The Safe Schools Reports also include data for habitual truancy. This truancy information is self-reported by Stetson. (Tr. vol. 2, at 87-88.)

234. The following table shows the numbers and percentages of students that Stetson reported as habitually truant:

Habitual Truants		
Year	Total	Rate
2014-15	Not reported	Not reported
2015-16	Not reported	Not reported
2016-17	726	81.57%
2017-18	750	76.30%

(Ex. Stetson 172-175.)

235. Stetson's self-reported habitual truancy rates in 2016-17 and 2017-18 are higher than the habitual truancy rate at Stetson during the 2009-10 school year before it was managed by ASPIRA. According to the John B. Stetson Middle School Safe Schools report publicly available from PDE's Office of Safe Schools, Stetson's habitual truancy rate in 2009-10 was 58.43%. See <https://www.safeschools.pa.gov/Main.aspx?App=6a935f44-7cbf-45e1-850b-e29b2f1ff17f&Me-nu=dbd39a1f-3319-4a75-8f69-d1166dba5d70&res=>.

236. Stetson called Jeanette Rodriguez, an administrative assistant, to address the habitual truancy and attendance data. Ms. Rodriguez confirmed the accuracy of the data in the 2016-17 and 2017-18 Safe Schools reports. She also testified that Stetson had habitual truants in the 2014-15 and 2015-16 school years, and did not know why that data was not reported to the State. However, she did not offer any habitual truancy data for 2014-15 or 2015-16 on direct examination, and could not provide it when asked on cross-examination. (Tr. vol. 16, at 105:1-14, 106:10-17, 110:17-22, 122:20-125:9.)

237. Through testimony of Thomas Mullin, Glenda Marrero, and Joanne Esquilin, Stetson presented evidence of various improvements and initiatives it has undertaken in the areas of climate, safety, and programming.

238. Such improvements include a community outreach center and food pantry for the greater community, access to a dentist and eye doctor; two weeks of professional development and Wednesday early dismissal for professional development; an annual community carnival; and the addition of academic coaches and behavior specialists. (Tr. vol. 12, at 261-262, 342-347.)

239. Mr. Mullin admitted that the School District also had academic coaches and behavior specialists at Stetson, when he worked there in 2009-10, although in smaller numbers (2 vs. 4 coaches, 1 vs. 4 behavior specialists). (Tr. vol. 12, at 301-302.)

240. There have been significant improvements in Stetson's climate since the 2010-11 school year, and Stetson has implemented some positive programming that has benefited students and met certain expectations of the Renaissance program regarding "school climate and safety" and "parent and student satisfaction." (Ex. JE[S] 2, at 76.)

241. In addition to his employment being in jeopardy, Mr. Mullin's credibility is called into question by several assertions he made to support renewal of Stetson's charter:

- a. Mr. Mullin testified that Stetson was removed from the persistently dangerous list. (Tr. vol. 12, at 274.) However, Stetson was removed from the State's persistently dangerous school list in the 2010-11 school year, which happened to coincide with the year that Stetson became a Renaissance Charter School. The State has not identified any persistently dangerous schools in Pennsylvania since the 2013-14 school year, including any School District schools. *See* lists of persistently dangerous schools published on PDE's website, going back to the 2006-07 school year, at [https://www.education.pa.gov/Teachers - Administrators/No Child Left Behind/Pages/Unsafe Schools/Persistently-Dangerous-Schools.aspx](https://www.education.pa.gov/Teachers-Administrators/No_Child_Left_Behind/Pages/Unsafe_Schools/Persistently-Dangerous-Schools.aspx).
- b. Mr. Mullin suggested that in 2018-19, Stetson increased the number of computers available to students, with ten computer carts, 2 computer labs and a coding room, compared to the few functioning computers that the School District offered to students back in 2009-10. (Tr. vol. 12, at 269:24-270:5, 273:21-274:2.) However, the School District last operated Stetson during the 2009-10 school year, approximately ten years ago. Technology availability and cost has drastically changed during that time. He admitted that he is not familiar with any instructional programs that have been utilized by the School District since 2010. (Tr. vol. 12, at 288:7-22.)
- c. Mr. Mullin suggested that information in the Annual Reports about the percentage of certified teachers could be wrong. However, on cross-examination, he admitted

that he does not prepare those reports, and that they are prepared by the Superintendent's office (Ms. Kirwin). He had no basis to say the data is inaccurate. (Tr. vol. 12, at 298:19-300:18.)

- d. Mr. Mullin signed the Safe Schools reports for Stetson in the years for which habitual truancy data was reported, but did so without taking any steps to verify the accuracy of the data. (Tr. vol. 12, at 292-294:5.)
- e. Mr. Mullin has never read: the Renaissance program documents, the RFPs, Stetson's Charter or the Charter Application. (Tr. vol. 12, at 289:10-16, 290:23-291:5.)
- f. Mr. Mullin suggested that the CSO never raised academic performance issues with Stetson, but his only support for that statement was the renewal site visit report from the 2014-15 renewal review. He admitted on cross-examination that the only data available at that time would have been data from the 2013-14 school year, and that the CSO did criticize Stetson's academic performance in the 2015-16 Renewal Recommendation Report. (Tr. vol. 12, at 304-308.)

242. Stetson was obligated to meet all of the goals set forth in the charter and all of the expectations of the Renaissance Initiative, including the principal goal of "dramatic gains in student achievement." (Ex. JE[S] 2, at 84.)

243. Mr. Mullin testified that, on average, about 90% of the students come to Stetson in fifth grade performing at a second grade level in reading and math, and that that has been consistent since ASPIRA began managing Stetson. (Tr. vol. 12, at 248-249.)

244. Stetson uses Measures of Academic Progress (“MAP”) assessments, Independent Reading Level Assessment (“IRLA”), and Achieve3000 and unit assessments to assess academic achievement of its students. (Tr. vol. 14, at 108:6-20, 130-133, 137-140.)

245. Stetson started using Achieve3000 in a few seventh and eighth grade classrooms in 2017-18. Achieve 3000 was then used with all seventh and eighth graders beginning in the 2018-19 school year. In 2019-20, Stetson will also start using Achieve3000 in sixth grade. It is an expensive program because it is computerized and Stetson needs to make sure they have enough laptops to use it. If Stetson had the laptops available now, it would be using Achieve3000 in the earlier grades. (4/10/19 at 134:21-135:7, 236-237.)

246. Stetson did not produce any IRLA or Achieve3000 data for its students, to show how they are scoring or advancing on those assessments. (Tr. vol. 14, at 236:14-18.)

247. Stetson also uses the MAP assessment, which is aligned with Pennsylvania standards. All incoming fifth grade students are given the MAP assessment upon enrollment. Stetson has used the MAP assessments in math, reading and science since the 2015-16 school year, and they are given to students three times per year, in the fall, winter and spring. (Tr. vol. 14, at 109-111, 205:16-23.)

248. The RIT scale generated from the MAP assessment differs from PVAAS and is not a measurement that PDE has ever used in any of its accountability systems. (Tr. vol. 6, at 137-139; Tr. vol. 14, at 125:23-126:1.)

249. Stetson’s students have been showing some growth on the MAP assessments. However, the growth on the RIT scale has not consistently translated into increases in the aggregate number of students moving out of below basic and into basic, or moving out of basic and into proficient on the PSSAs. Instead, more students scored below basic in math in 2017-18

(82.8%) than in the 2014-2105 (63.6%). (Ex. JE[S] 84-87.) In science, the percentage of students scoring below basic in 2017-18 (66.4%) is not significantly different than the percentage in 2014-15 (69.1%).

250. Ms. Marrero presented an exhibit summarizing Stetson's MAP data and PSSA scores. (Ex. Stetson 15.) The MAP data did not predict the actual PSSA scores of Stetson's students in 2015-16 and 2016-17 for any grade level. Stetson did not provide a comparison chart showing the 2017-18 MAP data compared to the 2017-18 PSSA outcomes. (Ex. Stetson 15; Tr. vol. 14, at 114:10-18, 207-211.)

251. Ms. Marrero could not say how many of the students reflected in the PSSA and MAP assessments summarized in her exhibit were the same, meaning that they took both the PSSA and the MAP assessment in the tested year. (Tr. vol. 14, at 217:5-218:1.) She admitted that she has performed such comparisons for 2015-16 and 2016-17, but none of that data was introduced by Stetson. (*Id.* at 246:24-248.)

252. Another MAP score summary chart reflected a growth progression from grade to grade. (Ex. Stetson 270.) However, Ms. Marrero was not sure if students coming from Cramp in sixth grade may have accounted for any of the difference in RIT scores for the sixth graders. She also was not sure if the chart reflected the same cohort of students from year to year. (Ex. Stetson 270; Tr. vol. 14, at 220:13-224:16, 245.)

253. Prior to the 2016-17 school year, Achieve3000 had been used by the School District-operated schools for at least seven years. (Tr. vol. 6, at 158:11-24-159:1-2.)

254. Ms. Marrero testified that Stetson does receive PSSA results for incoming fifth graders in October or November when the reports are released. (Tr. vol. 14, at 151:4-20.)

255. In the 2016-17 school year, 145 of Stetson's students did not live in Stetson's catchment area according to Stetson's own data. (Ex. Stetson 186.) Many witnesses referred to Stetson as a neighborhood school, but all of the students at neighborhood school live in the school's catchment area or attendance zone.

256. About 95% of Stetson's fifth graders come from Elkin Elementary School, which is a K-4 school. On average, another 65-75 students come to Stetson from Cramp in sixth grade. (Tr. vol. 14, at 153; Tr. vol. 12, at 246:19-23.) Stetson did not offer any evidence to suggest that its feeder schools had been changed at any time since Stetson's Charter was awarded. The only change has been to Cramp, which went from K-7 to K-6 around 2013. (4/8/10 N.T. 247.)

257. Several parents and a grandparent of Stetson students testified at the hearing, providing their favorable personal opinions and recounting positive experiences they have had with Stetson. (Tr. vol. 13, at 13-81.) None of them had any information or sufficient knowledge about how Stetson compares to School District schools.

258. About 20-25% of Stetson's students go to Olney after eighth grade. (Tr. vol. 14, at 175:8-176:8.)

Dr. Schuh's Testimony

259. Dr. Schuh testified at the hearings as an expert in K-12 educational assessments and standardized tests in Pennsylvania, K-12 public education accountability and assessment systems in Pennsylvania. (Tr. vol. 9, at 20.)

260. Dr. Schuh does not have any degrees in statistics. (Tr. vol. 9, at 9:1-7.)

261. Dr. Schuh has never testified on behalf of a school district in a nonrenewal or revocation proceeding, only on behalf of charter schools in such cases. (Tr. vol. 9, at 11:17-22, 31-32.)

262. Dr. Schuh helped ASPIRA prepare for the Renaissance Initiative qualification process for ASPIRA. (Tr. vol. 9, at 43:11-24.) As part of that process, he helped ASPIRA look at data for Hostos and Pantoja, and helped ASPIRA review the academic data and demographic information for some of the schools that were likely to be ones that may want to choose ASPIRA, such as Stetson and Roberto Clemente “to see what the needs were at places like Stetson.” (Tr. vol. 9, at 43:17-45:21.)

263. Dr. Schuh admitted that, based upon his review and re-calculations of data found in the SPR, the SPR elements are being calculated correctly. (Tr. vol. 9, at 38:4-11.)

264. Dr. Schuh made a number of statements that are not supported by the evidence or the law in this case: (a) that the SPP stopped being used altogether in 2017-18, even though it continues to be calculated (Tr. vol. 9, at 120:2-6); (b) that the State did not calculate AMOs in English and math in 2013-14 (Tr. vol. 9, at 233:17-234:4), even though those are clearly set forth in the RFRM report; (c) that when the School District calculates graduation rates, they are attributed back to the first school that a student enrolled in even if the student transferred out (Tr. vol. 9, at 246:8-247:1; Tr. vol. 15, at 158:17-161:17; Ex. Olney 79-81, at 31; Ex. Stetson 65-67, at 31); (d) that, under the School District’s graduation rate methodology, students have to graduate by the end of August to be counted (Tr. vol. 9, at 249:17-21; 164:1-12; Ex. Olney 79-81, at 31; Ex. Stetson 65-67, at 31); (e) that the School District’s SPR compared Stetson to K-8 schools (Tr. vol. 9, at 209:8-210:5; Tr. vol. 15, at 196:14-197:14); and (f) that the School District stopped calculating city rank and peer rank for the SPR in 2016-17 and 2017-18, when that data is publicly available on the School District’s website (Tr. vol. 15, at 191:24-195:6; Ex. SD[O] 13).

265. Dr. Schuh did not address 2017-18 data for Olney or Stetson in the charts that he prepared for his testimony. (Tr. vol. 14, at 88:24-89:22.) When asked about whether Stetson had filed a School Improvement plan for 2017-18, he responded “I really wasn’t looking at 17-18 school year that much, so I can’t tell you.” (Tr. vol. 15, at 171:10-13.)

266. Even though he had been charged with reviewing Stetson’s performance as an “expert” on Pennsylvania academic assessment, Dr. Schuh did not take into consideration the decline in State assessment scores since ASPIRA began managing Stetson, other than to suggest that demographics accounted for the declines. Although he stated that it was “definitely worth doing,” Dr. Schuh did not perform a regression analysis or other statistical model to account for the differences in demographics at Stetson or Olney compared to other School District schools or charter schools and control for them. (Tr. vol. 13, at 234:9-239:17.) His opinion that such differences impacted Stetson and Olney’s scores was not supported by any quantifiable or statistical evidence.

267. Dr. Schuh admitted that Stetson’s SPP score in 2016-17 was below the average of the School District schools, and higher than only a third of the School District schools. (Tr. vol. 13, at 222:21-223:7.)

268. Dr. Schuh admitted on cross-examination that the language in the Application¹³ stating that the “opportunity and achievement gap is closed for all students” was intended to apply to all students, including subgroups. (Tr. vol. 14, at 38:24-39:6.)

269. All of the changes to the Statewide assessment system and academic standards addressed in Dr. Schuh’s testimony and report applied equally to all public schools, not just

¹³ The Application language in this regard was the same for both the Olney and Stetson. (Ex. JE[O] 2, at 131; Ex. JE[S] 2, at 365.)

Stetson. (See, e.g. Tr. vol. 14, at 73:14-19, 75:10-16; 4/1/19 N.T. 207:21-208:9, 211:6-21.) Thus, Stetson would not have been the only school affected by those changes.

270. Dr. Schuh opined that the new PSSA exam, realigned in 2014-15 to PA Core standards for ELA and math, is more challenging to ELL students or special education students. No research studies have supported that opinion. He also did not present any charts or data showing what the drop in scores had been for ELL or special education students educated at Olney or Stetson, to see if there was any correlation or performance trend that could be identified. He has not been involved in any curriculum alignment at Olney or Stetson, so he does not know what they were doing to ensure alignment with the new PA Core standards in any grade level, or for programming for ELL students or special education students. (Tr. vol. 15, at 208:21-211:5, 211:22-212-6.)

271. Dr. Schuh also expressed his personal belief that special admission schools, or the students educated in those schools, should not be included in peer schools. His initial testimony improperly lumped together special admission schools, which may have criteria on the books, and citywide admission schools that only have an application process. That incorrect testimony was clarified on cross-examination. (Tr. vol. 15, at 187:18-191:23.) He also admitted that not all students at special admission schools score proficient or advanced on the PSSA or Keystone Exams. Special admission schools also educate special education students and students who are economically disadvantaged. (Tr. vol. 14, at 59:16-60:1, 64:4-19.) He did not, however, recalculate the School District's Keystone Exam proficiency percentages to remove the scores of any students attending special admission schools to even know how the removal of those scores would affect his opinion.

272. Dr. Schuh positively compared Stetson to Elkin, an elementary school that serves as a feeder school into Stetson, because of the two school's similar demographics. However, in 2016-17, Elkin students had a proficiency rate of 24% in fourth grade science, compared to Stetson's proficiency rate of 3.9% in eighth grade science, after students had been enrolled at Stetson for almost four years (unless they had transferred in from somewhere else). (Tr. vol. 15, at 212:8-214:9.)

273. Schuh testified that the School District had frequently changed the metrics used in the SPR, as well as the floors and ceilings within the various metrics, suggesting that SPRs could not be compared from year to year because the reports did not contain the same information. (Tr. vol. 9, at 60-61, 64:20-24.) While there were some changes from 2015-16 to 2016-17, there were no changes from 2016-17 to 2017-18. (Tr. vol. 9, at 62-64; Tr. vol. 14, at 52:8-53:2; Ex. Olney 82, at 20-23; Ex. Olney 83, at 23-26; Ex. Olney 84, at 19-20; Ex. Olney 85, at 19-20.) Some of the changes were the result of State-level or national-level assessments changing, such as the removal of the PSSA writing assessment and changes to the ACCESS exam. (Tr. vol. 14, at 53:4-54:11.) Schuh did not offer any evidence related to how Stetson's SPR score would have changed if the metrics had stayed exactly the same from year to year. Further, each school receiving an SPR is evaluated based upon the same metrics as other schools in the same year, so the within-year metrics are being equally applied to all schools.

274. Dr. Schuh also contended that it is unfair to establish peer groups after the school year ends, because a school does not know which other schools it will be measured against. (Tr. vol. 9, at 78:9-14.) However, it is not clear why this would matter, given that each school should be trying its best no matter which other schools it might ultimately be compared to, and no comparison can be made anyway until the year is completed and there are results to compare.

Because peer groups are comprised of schools that share demographic characteristics (Tr. vol. 9, at 80:21-81:11), the School District would not know the specific demographics of the population at the various schools from year-to-year until the data is collected at the end of the school year. Dr. Schuh did not suggest an alternate way to calculate such peer groups.

275. Whether a special admission school gets into a school's peer group or similar schools group is simply a function of demographics. (Tr. vol. 9, at 91:24-92:22.)

276. In any event, the only comparison groups that are being considered in this proceeding are School District schools as a whole and charter schools as a whole. The SPR's peer-group comparisons are not relied upon in these findings and will not be relied upon by the BOE when deciding whether or not to renew Stetson's Charter.

277. None of Dr. Schuh's testimony and evaluation addressed the specific requirements found in the Renaissance Policy, RFP Nos. 260 and 286, the Applications submitted for the Charter Schools, or the charters they were issued. He did not calculate any median scores under any accountability system for any school year or any subject area and compare those to Olney or Stetson's data. Nor did he dispute the information provided by the School District in this regard.

278. As noted previously, Dr. Schuh also opined that Stetson and especially Olney, should have been compared only to "neighborhood schools" and not any selective admission schools. (Tr. vol. 9, at 194:16-195:12.) However, he did not take into account that: (a) citywide admission schools are also included in the School District group in addition to neighborhood schools and selective admission schools; (b) the Renaissance initiative did not limit comparisons with only neighborhood schools; and (c) the Charter Schools are not true neighborhood schools, because they enroll students from outside their catchment areas or attendance zones.

279. Dr. Schuh opined that the scores of students coming into fifth grade at Stetson might score lower due to the transition to a new school in fifth grade, as compared to the scores of fifth graders in a K-8 school. When asked if he had performed any analysis of Stetson's scores versus fifth grade scores in K-8, he admitted that he had not done so and did not have any data to support his conclusion. (Tr. vol. 13, at 210:18-213:12.)

280. Dr. Schuh also testified about his personal disagreement with the State's PVAAS system and his opinion regarding purported limitations of the system. However, this hearing is pursuant to the Charter School Law, which requires use of the statewide system in place, not some other system that Dr. Schuh would prefer. PVAAS is the approved system used in Pennsylvania to ascertain student growth. It has been part of the SPP system and continues to be part of the FRI. (Tr. vol. 14, at 76:15-78:14, 80:2-5.)

281. Dr. Schuh did not dispute the accuracy of the School District's summary of Stetson's data. (Ex. SD[S] 8.)

282. Many of the articles relied upon by Dr. Schuh were dated, addressed data from distant school years including prior to SPP and prior to NCLB, and/or did not address accountability systems in Pennsylvania. The Fuller report mentioned by Dr. Schuh did not indicate if it reflected data from charter schools, and did not contain data about ELL students, as initially suggested by Dr. Schuh. (Tr. vol. 14, at 80:6-88:23.)

283. Dr. Schuh had multiple conversations with Dr. Carolyn Dumaesq, then Secretary of Education with PDE, around the time of the 2013-14 school year and has no reason to disbelieve that she made the statement that a school having an SPP score of 70 or above is moving in the right direction. (Tr. vol. 15, at 200:18-203:4.)

284. Dr. Schuh admitted that all Chapter 4 standards apply to Olney and Stetson, in addition to the Renaissance standards. (Tr. vol. 15, at 214:10-215:10.)

285. Counsel for Stetson directed Dr. Schuh to a PowerPoint presentation prepared by the School District regarding SPI. The PowerPoint presentation reflects the SPI including a Similar Schools Rank based on demographic factors in addition to an Overall Performance Rank. (Ex. Olney 282; Ex. Stetson 255; Tr. vol. 15, at 221:17-223:22.) The Renaissance Initiative, however, does not mention a Renaissance charter school being compared to similar schools for purposes of evaluation and accountability. Rather, the Renaissance documents and the charter clearly contain performance indicators tied to the Overall Rank.

286. Dr. Schuh admitted that all of the schools identified as Renaissance schools had higher populations of low income and special education students and some had higher percentages of ELLs, agreeing that those characteristics were “indicative of Renaissance Charter Schools.” None of the Renaissance charter schools were exempted from the accountability measures simply because they exhibited those characteristics, and they were identified knowing that they had those characteristics, even at a time when studies were showing that there was a widening achievement gap between the rich and the poor. (Tr. vol. 15, at 250:21-252:8.)

Violation of Applicable Laws

Student Discipline

287. According to Stetson’s representations in its Renewal Application, one student was expelled in each of the 2010-11, 2012-13 and 2013-14 school years. (Ex. JE[S] 28, at 17.) However, according to the meeting minutes provided, Stetson’s Charter Board did not take any action on any expulsions in the 2012-13 school year. (Ex. JE[S] 39.)

288. Stetson did not produce any evidence disputing that its Charter Board did not act on an expulsion in 2012-13.

Highly Qualified Teachers

289. Highly qualified teachers (“HQT”) are defined in the PDE’s RFRM reports as teachers who: (a) hold full certification; (b) have at least a bachelor’s degree; (c) have completed a content area major; (d) passed a content area test; and (e) have completed teacher education coursework. (*See, e.g.* Ex. JE[S] 10, at 16.)

290. While NCLB was in place, PDE reported the percentage of courses taught by non-HQT in the RFRM reports. (Ex. JE[S] 10-13, last page of each document.)

291. On the page in the RFRM where PDE reported the professional qualifications of teachers, each RFRM report states as follows: “Federal regulations require that all public school teachers in core academic subjects be Highly Qualified. Teachers are generally required to be fully certified and to demonstrate their knowledge.” (*Id.*)

292. The percentages of courses at Stetson taught by HQT during its charter term were: 77% in 2013-14; 92% in 2014-15; 89.2% in 2015-16; and 89.2% in 2016-17. (Ex. JE[S] 10-13, at last page of each document.)

293. The HQT requirement was removed from the ESSA. (Tr. vol. 2, at 53:19-22.)

294. In addition to the RFRM reports, Stetson itself reported its percentages of HQT as 57.5% in 2010-11; 55.0% in 2011-12; 70% in 2012-13; 75% in 2013-14; 92% in 2014-15; and 89.20% in 2015-16. (Ex. JE[S] 28, at 17; Ex. Olney 88.) These percentages are consistent with the data PDE reported in the RFRM reports.

Certification of Charter School Staff

295. Stetson self-reported the number of special education staff who are appropriately certified in the Annual Reports that must be filed with the State each year by August 1. The Annual Report template contains a staffing chart that must be completed, and the staffing chart includes a line to report special education staff and their certification status. (*See, e.g.* Ex. JE[S] 46.)

296. The numbers of special education teachers at Stetson who were not appropriately certified were: 10 of 11 in 2014-15; 11 of 12 in 2016-17; and 8 of 12 in 2017-18. (Ex. JE[S] 46-47, at 4; Ex. SD[S] 11, at 4; Tr. vol. 10, at 58:18-63:15.)

297. Moreover, in 2016-17, only 44 of 56 classroom teachers at Stetson were appropriately certified. Stetson's 2016-17 Annual Report said it intended to rectify that: "All teachers are/or will be certified in the area they are teaching for the upcoming school year." (Ex. JE[S] 47, at 4.) However, according to its 2017-18 Annual Report, Stetson employed 13 fewer classroom teachers in 2017-18 than the prior year, but only 37 of the 43 classroom teachers were appropriately certified. (Ex. SD[S] 11, at 4.)

298. Stetson did not offer any evidence to dispute this data.

Student Enrollment and Admission Practices

299. PDE's Basic Education Circular entitled "Enrollment of Students" ("BEC on Enrollment") addresses admission and enrollment requirements for public schools. The BEC requires five categories of information to be submitted "whenever a child of school age is presented for enrollment by a parent(s), school district resident, or any other person having charge or care of the child". The five categories of information are: (a) proof of the child's age; (b) immunizations required by law; (c) proof of residency; (d) parent registration statement; and

(e) home language survey. (Ex. JE[S] 29, at 1-2.) The BEC on Enrollment further states: “For both enrollment and also for residency determinations, a school district or charter school may not request or require any of the following: a social security number” (*Id.* at 3.)

300. An enrollment packet refers to the set of materials given to students and their families once they have been accepted in order to confirm enrollment. The CSO asks charter schools to submit all such materials given to accepted families. (Tr. vol. 2, at 133:17-134:3.)

301. Stetson’s renewal application describes multiple items that parents need to submit to enroll a student, including an application for admission, a uniform contract, a discipline contract, release forms, a health questionnaire, physical forms, IEP paperwork, and a medical card. The renewal application further states: “Once all of the required documents are provided and the application is completely filled out, we then physically enroll the student in Stetson.” (Ex. JE[S] 28, at 35; Tr. vol. 10, at 94-95.)

302. In the CSO’s renewal recommendation report dated January 22, 2015, Stetson was found to be out of compliance with student admission policies based upon its enrollment application asking for U.S. citizenship status and social security number, and asking parents to answer 12 questions. The CSO informed Stetson in the report that these issues were greater concerns because Stetson was a Renaissance charter school and was supposed to be a neighborhood school option for students living in the catchment area. (Ex. Stetson 22, at 8.)

303. Stetson’s enrollment packet for the 2015-16 school year instructs parents to complete various documents in order for a student to be registered, including: enrollment forms, various contracts, and student health status. The checklist instructs parents to submit the following documents with their application, including: report cards, special education records, social security card (listed as optional), physical examination and health assessments, dental

examinations and a medical card. The Enrollment Form also asks about a student's physical and educational challenges, race/ethnicity, and last IEP. (Ex. JE[S] 33, at 1, 3.)

304. The 2015-16 enrollment packet further required an enrollment form to be filled out by parents, which includes multiple questions about why the parent/guardian wants the child to attend Stetson and other personal questions and multiple questions for students to answer, including questions about the strongest language they speak, whether they like to read and what special talents they have. (Ex. JE[S] 33, at 5, 7.)

305. To register for Stetson for the 2016-17 school year, parents were limited to being able to register from only 8:00 a.m. until noon from August 3rd to 30th, and then from 8:30 to 11:30 a.m. starting on August 29th. (Ex. JE[S] 34.)

306. For the 2016-17 school year, Stetson's enrollment packet had the same issues as Olney's, in that it no longer mentioned the five documents that the BEC required for enrollment. In addition, the 2016-17 enrollment packet still asked for information regarding a prospective student's United States citizenship, race/ethnicity and social security number. (Ex. JE[S] 35-36.)

307. These matters were addressed with Stetson and corrected after the 2016-17 school year. (Tr. vol. 10, at 88)

Sunshine Act

308. Stetson's Renewal Application contains a list of members of the Charter Board between 2011-12 and 2015-16. (Ex. SD[S] 28, at 38.)

309. Simultaneous board meetings are held for Olney, Stetson and the other ASPIRA-managed charter schools. (Tr. vol. 4, at 46:4-8.)

310. The same individuals serve on the Charter Board for each ASPIRA-managed charter school, with the exception of the parent representative from each Charter School. (Tr. vol. 2, at 164:10-15.)

311. From the 2011-12 school year until the April 20, 2015 Charter Board meeting, with one exception, the Charter Board meeting minutes do not reflect the Charter Board ever acting to appoint any trustee to the Charter Board or to elect officers of the Charter Board. The sole exception is the June 11, 2013 meeting, when the Charter Board accepted Aracely Rosales' resignation and voted to appoint Fred Ramirez as the Board Chair. (Ex. JE[S] 39, at 25.) In the Charter Board meeting minutes within these time frames, different names of parent board members and ASPIRA-appointed board members often appear in the list of attendees without any votes being taken to appoint new board members or to act on the resignations or vacancies. Further, there are changes reflected periodically in the list of officers at the top of the board meeting minutes, but the minutes themselves (except for the one noted above) do not reflect any votes on the election of officers. (Ex. JE[O] 3, at 1-103; Ex. JE[S] 38-41.)

312. On April 20, 2015, for the first time, the meeting minutes reflect an action item for Jennifer Albandoz to be appointed to fill a vacancy on the Charter Boards of Olney, Stetson and Hostos (but not the other two charter schools). Those minutes also note that there would be board elections after the annual retreat in June, because "[i]n June, everyone is up for renewal." (Ex. JE[O] 3, at 108.)

313. The Charter Board has not used executive sessions in an appropriate way. Between September 28, 2011 and May 16, 2016, executive sessions were held on at least 15 occasions when no stated purpose was provided. (Ex. JE[O] 3; Ex. JE[O] 65, at 1-31; Ex. JE[S] 38-42.) On other occasions, executive sessions were held for announced reasons that are

not proper, such as discussion of: an audit report (May 30, 2012), academic conditions and governance (May 24, 2016), board housekeeping matters (January 30, 2017), and board elections (May 15, 2017). (Ex. JE[O] 3, 65 and 66; Ex. JE[S] 38, 42, 43.) Moreover, where the purposes of executive sessions were announced, the announcements did not disclose any action or discussion of lending transactions.

314. Because the boards for all of the ASPIRA-managed charter schools met simultaneously and the minutes do not reflect the opening and closing of meetings, there are many occasions when the minutes do not accurately or sufficiently reflect what action is being taken for which school. For example, on September 15, 2014, the Charter Board voted on contracts with administrators but the minutes do not include the names of the administrators whose contracts were considered or identify the schools for which the administrators worked. Because there are no roll call votes, the minutes do not indicate who voted on the matter and the Charter Board's chair refused to identify what school was at issue in the vote when asked by a member of the public. (Ex. JE[O] 3, at 76-77; Ex. JE[S] 41, at 18-19.)

315. From their inception until the February 25, 2019 board meeting, the Charter Board meeting minutes do not include roll call votes on any items. Because the meetings for several charter schools were being held simultaneously, the lack of roll call votes or any other specification of votes prevents identification of which members voted on which matters for which entity. (Ex. JE[O] 3, 65-67; Ex. SD[O] 32; Ex. Olney 295; Ex. JE[S] 38-44; Ex. SD[S] 25; Ex. Stetson 272.)

316. Ms. Hentz was the only Charter Board member called to testify at the hearings.

317. Ms. Hentz is the grandmother of two Olney students and the parent representative for Olney's Charter Board. According to her understanding and belief, she "is sure" that she has served on Olney's Charter Board only since June of 2017. (Tr. vol. 4, at 19:6-24, 30:22-31:3.)

318. According to the Charter Board minutes, Ms. Hentz has been serving as the identified "Parent on the Board for Olney" since the meeting of May 24, 2016. (Ex. JE[O] 65, at 36; Ex. JE[S] 42, at 36.) As early as the May 24, 2016 meeting, Ms. Hentz is identified as making action item motions related to Olney. (*Id.* at 37.) However, during cross-examination, Ms. Hentz was adamant that prior to June 2017, she was not an elected parent board member for the Charter Board. She did not know the name of the person who was the elected parent board member for Olney. (Tr. vol. 4, at 35:1-12, 42:21-43:5.) Ms. Hentz testified that until June 2017, her role was informational only, to take information to the PTA. She could not remember voting on any matter, "because I didn't take the interest until I was elected to the board to vote." (Tr. vol. 4, at 36:11-37:13, 43:2-5.) When asked for further clarification of her role from the point she appears in the minutes until June 2017, she replied: "I had a right to make a motion for my school, for the school, because I was taking the place of somebody else, but that's all, you know. And, in fact, I was told that I was to—I was there for informational purposes because I was taking somebody else's place." (Tr. vol. 4, at 64:12-19.)

319. At the June 2017 meeting, Ms. Hentz recalls that "people were nominated and people were elected." She could not remember if that occurred in public. The only meeting held in June 2017 for which minutes were supplied was on June 9, 2017. When shown those minutes, Ms. Hentz agreed that there is no reference in them to her being appointed to the Charter Board. (Ex. JE[O] 66, at 49-58; Ex. JE[S] 43, at 49-58; Tr. vol. 4, at 37:23-40:15.) (Ex. JE[O] 66; Ex. JE[S] 43.)

320. Ms. Hentz testified that the full board votes on the election of parent representatives to the Charter Board. (Tr. vol. 4, at 58:22-59:1.) However, the Charter Board minutes in the record do not reflect any votes on the appointment to the Charter Board of any parent representative for any of the ASPIRA-managed charter schools. The minutes simply reflect various parent representatives in the attendees information, and those names have changed, at time mid-year, without any elections reflected in the minutes. (Ex. JE[O] 3, 65-67; Ex. JE[S] 38-44.)

321. Ms. Hentz testified that since June 2017, when began voting on Olney matters, she has not voted on action items for the other ASPIRA-managed charter schools. (Tr. vol. 4, at 51:7-15.)

322. The Charter Board has an Executive Committee, which does not include Ms. Hentz. She does not know who serves on the Executive Committee, has never seen minutes of an Executive Committee meeting, and does not know when the Executive Committee meets. (Tr. vol. 4, at 56:22-58:9.)

323. Carmen Paris was elected to be Vice Chair of the Charter Board after the Vice Chair was created through a bylaw amendment on July 1, 2016. However, after Carmen Paris stopped attending Charter Board meetings as of the October 16, 2017 meeting, no one has been appointed to fill the Vice Chair vacancy on the Charter Board. (Ex. JE[O] 66-67; Ex. JE[S] 43-44.)

324. Since April 23, 2018, only four board members are on Olney's Charter Board: Ms. Albandoz, Ms. Ortiz, Ms. Grajales and Ms. Hentz. (Ex. JE[O] 67, at 40-60; Ex. SD[O] 32.) Beginning with the February 25, 2019 minutes, an individual named Shelley Leaphart-Williams is listed in the attendee list as a Charter Board member, but none of the minutes since April 23,

2018 reflect any vote by the Charter Board to elect Ms. Leaphart-Williams as a member of the Charter Board. (Ex. Olney 295, at 65.) A motion “to approve” Ms. Leaphart-Williams as a community board member for Olney is mentioned in the January 28, 2019 minutes, but the minutes do not reflect an actual motion, second or vote occurring to approve Ms. Leaphart-Williams as a board member. (Ex. SD[O] 32, at 34.)

325. Since August 20, 2018, when Soledad Alfaro no longer appears on the Charter Board minutes, Stetson only has 4 board members: Ms. Albandoz, Ms. Ortiz, Ms. Grajales and Ms. Morales. (Ex. SD[O] 32, at 10-39; Ex. Stetson 272, at 66-70, 109-118.)

Statements of Financial Interest

326. Public officials must file a Statement of Financial Interest (“SOFI”) by May 1 of each year for the previous calendar year.

327. Accordingly, Stetson’s charter provides as follows:

Public Official and Employee Ethics Act. The Charter School acknowledges that all Charter School trustees and administrators must comply with the Public Official and Employee Ethics Act and that all Charter School trustees and administrators shall submit their completed Statement of Financial Interests forms by May 1st to the Charter School, with copies to the School District.

(Ex. JE[S] 2, at 33 § XVIII.F.)

328. Thus, Stetson was obligated to ensure that its board members filed their SOFIs on time, and was obligated to provide copies to the School District when they did.

329. The CSO reviewed Stetson’s compliance with the SOFI requirements during the charter term through 2016. (Tr. vol. 2, at 202-206; Tr. vol. 10, at 122-123.)

330. Stetson submitted SOFIs to the CSO for 2011 through 2017. (Ex. JE[S] 45.)

331. Comparing the SOFIs submitted to the CSO for 2011 through 2017 with the minutes identifying the members of the Charter Board for 2011-12 through 2016-17 shows that most of the Charter Board members did not submit, or timely submit, SOFIs as required:

- a. Arcely Rosales served on the Charter Board in 2011, 2012 and 2013, but did not file a SOFI for any of those years.
- b. Lissette Gonzalez served on the Charter Board from 2011 through 2015, but did not file a SOFI for 2013, 2014 and 2015, and her 2012 SOFI was allegedly signed, but was not produced.
- c. Tania Barreiro served on the Charter Board in 2011 and 2012, but did not file a SOFI for either of those years.
- d. Carmen Serrano served on the Charter Board in 2011 and 2012, but did not sign a SOFI for 2012, and allegedly signed but did not produce a SOFI for 2011.
- e. Joyce Crosscombe served on the Charter Board in 2011 and 2012, but did not sign a SOFI for 2012.
- f. Orlando Quevedo served on the Charter Board from 2011 through 2016, but did not file a SOFI for 2012 through 2016 and allegedly filed but did not produce a SOFI for 2011.
- g. Tamara Newton served on the Charter Board in 2011 and 2012, but did not file a SOFI for either of those years.
- h. Olabisi Laniya served on the Charter Board in 2011 and 2012, but did not file a SOFI for 2012.
- i. Marlene Douglas-Walsh served on the Charter Board in 2011 and 2012, but filed an incomplete SOFI for 2012.

- j. Carmen W. Nieves served on the Charter Board in 2011 and 2012, but did not file a SOFI for either of those years.
- k. Catherine Williams-Frank served on the Board on 2012 and filed a SOFI, but it was for a different year.
- l. Julio Largo served on the Charter Board from 2012 through 2014, but did not file a SOFI for any of those years.
- m. Frederick Ramirez served on the Charter Board from 2012 through 2017, but did not file a SOFI for 2012, 2014, 2016 and 2017, and his SOFI for 2013 was untimely.
- n. Jacqueline Santiago served on the Charter Board in 2013 and 2014, but did not file a SOFI for either of those years.
- o. Carmen Paris served on the Charter Board from 2013 through 2017, but did not file a SOFI for 2014 and 2017.
- p. Dukobis Stays served on the Charter Board in 2014 and 2015, but file not file a SOFI for either of those years.
- q. Charity Cruz served on the Board in 2016, but did not file a SOFI for that year.
- r. Amaris Gonzalez served on the Board in 2016, but did not file a SOFI for that year.
- s. Soledad Alfaro served on the Board in 2017, but and did not file a SOFI for that year.

(Ex. JE[S] 38-45; Tr. vol. 10, at 125-126; Ex. SD[S] 21.)

332. Stetson did not provide any of those missing SOFIs at the hearings.

333. Stetson did not take any steps to remove any Charter Board member who did not file a timely SOFI.

Role of ASPIRA

334. ASPIRA “is a charter management organization and community-based organization focused on youth development and education of the youth in the neighborhood.” (Tr. vol. 5, at 270:15-18.) ASPIRA operates five charter schools, including one cyber charter school. All of the charter schools are located in North Philadelphia, and share the same mission and focus on North Philadelphia. (Tr. vol. 5, at 270:19-271:5; Tr. vol. 6, at 275:13-21.)

335. ASPIRA is the management company for Olney, Stetson, Pantoja, Hostos and ASPIRA Bilingual Cyber Charter School (“Cyber”), all of which are considered related entities to each other. Other related entities to ASPIRA and the charter schools are ASPIRA Community Enterprises, Inc., and ACE/Dougherty, according to the independent auditors. (Tr. vol. 4, at 17:3-12; Ex. JE[O] 4, at 19; Ex. JE[S] 7, at 24.)

336. ASPIRA serves as Stetson’s management company pursuant to various versions of a Master Service Level Agreement (“MSLA”). The record does not include the first versions of the MSLA entered into between Stetson and ASPIRA, but includes the 2012 MSLA.

337. The 2012 MSLA was never approved or even considered by the Charter Board at a public meeting. (Ex. JE[S] 39-40.)

338. The 2012 MSLA, with an effective date of July 1, 2012, contains the following pertinent language:

3. PERIOD OF AGREEMENT. This Agreement shall become effective on the Effective Date referenced above and shall remain in effect subject to annual ratification by the STETSON Board of Trustees or until terminated in accordance with the terms and conditions stated herein (“Term”).

4. COMPENSATION AND TERMS OF PAYMENT.

4.1 Payment of Services. STETSON shall pay ASPIRA for Program Services in accordance with the applicable Service Schedule hereunder. Unless otherwise agreed by the Parties in a particular Service Schedule, the following shall apply:

4.2 Payment Schedule. ASPIRA shall invoice STETSON monthly for Services performed in accordance with the applicable Service Schedule. Each monthly invoice shall include an itemized breakout by Service Schedule and will include a summary report of tasks performed, additional information may be requested by STETSON management staff for review or if required for audit purposes. Invoiced amounts shall be paid upon STETSON Management approval or within forty-five (45) days of invoice date. . . .

14. GENERAL.

14.1. Independent Contractors. For purposes of this Agreement, ASPIRA and STETSON are independent contractors. Neither Party is granted any right or authority to assume or create any obligation or responsibility, express or implied, on behalf of, or in the name of the other Party, or to bind the other Party in any matter whatsoever. Each Party is solely responsible to select, engage and discharge its employees and other personnel, to determine and pay their compensation, taxes and benefits, and otherwise to control their services and determine all matters. Nothing contained within this Agreement shall impose an obligation of exclusivity on one Party by the other.

(Ex. JE[S] 71, at 3, 10.)

339. Under the Notice provision in the 2012 MSLA, notices to Stetson are required to be sent to the attention of the Chief Academic Officer (“CAO”) with a copies to the Chair of the Charter Board and School Principal/Director. (Ex. JE[O] 44, at 11.) No counsel for Stetson is listed in the 2012 MSLA.

340. The record does not reflect the School District having a 2013 MSLA or 2014 MSLA for Stetson.

341. On an unknown date, Stetson and ASPIRA executed a new MSLA with an effective date of July 1, 2015. (Ex. SD[S] 9.)

342. The 2015 MSLA contains slightly different language than the earlier version of the MSLA, stating in pertinent part:

2.2 Management Fee. In consideration of the Services, Stetson will pay ASPIRA a Management Fee of 5% of local school funds plus reimbursement for any Direct Service Costs, which shall be based on the pricing which ASPIRA charges for its services. Stetson agrees that the Direct Service Costs with respect to each Service shall be subject to change by ASPIRA, not more than once per calendar year, at ASPIRA's reasonable discretion (each a "Service Cost Change"). Each Service Cost Change shall be communicated to John B. Stetson in writing. Notwithstanding the foregoing or anything to the contrary herein, in no event shall any Service Cost Change with respect to any Service represent an increase of more than \$175,000 as compared to the Direct Service Costs charged for such Service immediately prior to such Service Cost Change. Payment for the Services shall be made in accordance with Section 4 below . . .

3. PERIOD OF AGREEMENT. The term of this Agreement shall commence on the Effective Date and shall be for a period that includes the full term of the Stetson charter including any extensions, and shall automatically renew thereafter for additional charter terms unless (i) either Party notifies the other Party of its intention not to renew this Agreement for cause at least ninety (90) days prior to the end of the then current fiscal year, or (ii) this Agreement is sooner terminated as provided hereunder.

4. COMPENSATION AND TERMS OF PAYMENT.

4.1 Payment Schedule. ASPIRA shall invoice Stetson on a monthly basis for the Services that it provides to Stetson. Each monthly invoice shall include an itemized list of the Services that have been performed and the Direct Service Costs, Operational Costs and Management Fee (as defined in the Service Schedule) associated with such Services. Additional information may be requested by Stetson management staff for review or if required for audit purposes. Invoiced amounts shall be paid upon Stetson Management approval or within forty-five (45) days of invoice date . . .

(Ex. SD[S] 9, at 2.)

343. Under the 2015 MSLA, notices to Stetson are required to be sent to the attention of the Superintendent with copies to the Chair of the Charter Board and the School Principal. For the first time, Robert O'Donnell, Esquire of O'Donnell Associates ("O'Donnell") is identified as counsel for Stetson. Stephanie Kosta, Esquire, of Duane Morris is again identified in the 2015 MSLA as counsel for ASPIRA. (Ex. SD[S] 9, at 13.)

344. According to the Charter Board minutes dated February 2, 2015, the Superintendent was initially hired by ASPIRA to report directly to ASPIRA's CEO. (Ex.

JE[O] 3, at 91-92; Ex. Stetson 41, at 75-76.) That would mean that notices required to be sent by ASPIRA to Stetson under the 2015 MSLA would merely be going from one ASPIRA employee to another.

345. The Superintendent, Andrea Gonzalez-Kirwin, is now employed by Stetson. (Tr. vol. 7, at 160:16-161:2.) According to Mr. Darden, Ms. Kirwin provides services to each of the charter schools under an agreement between each of them and Stetson. (*Id.* at 161:9-14.) However, the Charter Board minutes do not reflect the Charter Board ever adopting any service or other agreements between Stetson and any other ASPIRA-managed charter school to reflect the sharing of services of the Superintendent or other “Central Office” staff who would now be employed by Stetson instead of ASPIRA. The Charter Board minutes of February 26, 2018, reflect a resolution being moved to have Ms. Kirwin and one other employee be employed by Stetson “in the same positions, contractual terms, conditions and benefits as they currently receive” and authorizing the Chair of Stetson’s Charter Board to sign contracts with these two individuals; however, the minutes do not reflect (a) an actual vote on that resolution; or (b) an agreement being acted on among the charter schools related to the services of those two individuals. (Ex. JE[S] 44, at 33.)

346. According to the Charter Board minutes, the 2015 MSLA was not approved by the Charter Board until March 21, 2016. (Ex. JE[S] 42, at 25.) Mr. O’Donnell was not present at the March 21, 2016 meeting, according to the minutes. (Ex. JE[S] 42, at 22.)

347. On April 8, 2019, the Charter Board approved two contracts with ASPIRA for each charter school: (a) the “ASPIRA Staffing Agreement”; and (b) a new MSLA. Both documents have an effective date of July 1, 2018, even though they were not approved until April 8, 2019. (Ex. Olney 295; Ex. Stetson 272.)

348. Even though the Superintendent and Senior Director of Curriculum and Instruction are now employees of Stetson and the other charter schools pay Stetson for their services (Tr. vol. 16, at 242-243, 250), the Staffing Agreement obligates Stetson to pay ASPIRA for various staff members including the Superintendent and Senior Director, with their salaries allocated to both Olney and Stetson. (Ex. Olney 295, at 27; Ex. Stetson 272, at 27.) The Staffing Agreement also reflects Stetson paying ASPIRA for multiple special education teachers and other teachers, at least one of whom is at a 1.0 equivalent, meaning that position would be fully allocated to Stetson. (*Id.*)

349. Mr. Yi, ASPIRA's controller, explained that the Superintendent remained included in the Staffing Agreements approved by the Charter Board on April 8, 2019 because they had not been updated to reflect the change in employment of the Superintendent and Senior Director to Stetson. However, that change in employment supposedly occurred by an action item on February 26, 2018, not during the 2018-19 school year, as Mr. Yi suggested. (Tr. vol. 16, at 244-245; Ex. JE[O] 67, at 24; Ex. JE[S] 44, at 24.)

350. All of the MSLAs noted above require ASPIRA to present monthly invoices reflecting the charges to the Charter Schools, since those would fluctuate throughout the year. With only one exception since July 1, 2011, the Charter Board meeting minutes do not reflect any ASPIRA invoices being presented or approved by the Charter Board at any public meeting, let alone on a monthly basis. The exception was on February 26, 2018, when the Charter Board entertained a motion¹⁴ to direct ASPIRA to present invoices for approval by the Charter Board in accordance with the MSLA. (Ex. JE[O] 67, at 27-28; Ex. JE[S] 44, at 27-28.) Ten such invoices

¹⁴ The February 26, 2018 minutes do not reflect an actual vote or outcome of a vote on this resolution.

from ASPIRA for the various charter schools were presented to the Charter Board for approval on February 26, 2018. (*Id.* at 32.)

351. There is no further mention in the Charter Board minutes after February 26, 2018 of any presentation of ASPIRA invoices or any Charter Board action pertaining to any such invoices. (Ex. JE[O] 67, at 34-60; Ex. SD[O] 32.)

352. Even though ASPIRA was chosen as the turnaround team for Stetson due to its experience as the management company for Pantoja and Hostos, not a single ASPIRA employee or Central Office employee with responsibility for the educational program testified at the hearing. The Superintendent also did not testify at the hearing.

Fiscal Management and Audited Financial Statements

Cross Collateralization of PNC Bank and Provident Bank Debt

353. On October 14, 2011, ACE/Dougherty purchased the former Cardinal Dougherty High School building located at 6301 N. 2nd Street, Philadelphia from the Archdiocese of Philadelphia. (Ex. JE[O] 99; Ex. Olney 100, at 105; Ex. JE[S] 82; Ex. Stetson 91, at 105.)

354. Hostos is located at 6301 N. 2nd Street, Philadelphia.

355. On October 19, 2011, ACE/Dougherty and ASPIRA entered into a Bond Purchase and Loan Agreement with the Philadelphia Authority for Industrial Development and PNC Bank for the issuance of \$12,750,000 in Revenue Bonds to finance the acquisition, construction, renovation, installation and equipping of the Dougherty facility. (Ex. Olney 100; Ex. Stetson 91.)

356. The bonds were structured as monthly interest-only payments with a balloon payment being due for the entire amount in October of 2016. (Tr. vol. 7, at 73:9-15.)

357. As part of the PNC financing deal, Fox Rothschild, LLP, acted as (a) bond counsel to the Philadelphia Authority for Industrial Development; (b) counsel to ACE/Dougherty

and ASPIRA; and (c) counsel to Aspira Community Enterprises, Hostos, Stetson, Cyber, Olney and Pantoja. (Ex. Olney 100, at 295-298, 304-314; Ex. Olney 101.)

358. Thus, as noted by Gary Samms, Fox Rothschild acted as counsel for all of the ASPIRA-related entities, including all five of the charter schools. (Tr. vol. 10, at 181:18-23.)

359. On October 19, 2011, Fox Rothschild provided an opinion letter to PNC Bank, at PNC Bank's request, which renders various opinions about the borrowers' actions and obligations. The letter states in pertinent part:

As to any facts material to our opinions expressed herein, we have relied upon the representations and warranties of the Loan Parties contained in the Loan Documents and upon a certificate of the Chief Executive Officer or such other officer of the Loan Parties with respect to certain factual matters.

(Ex. Olney 101, at 3.)

360. Even though the "Loan Parties" are described in the Fox Rothschild letter as being inclusive of all of the Charter Schools, the only certificates attached to the PNC Bank Loan Documents are from the officers of ASPIRA and ACE/Dougherty. (Ex. Olney 100, at 172-251.) No certificates from any of the charter schools are included in the Loan Documents.

361. In addition to the \$12,500,000 bond financing, PNC Bank made the following additional loans to the following parties as part of the October 19, 2011 financing: (a) a \$5,004,004.47 Term Loan to Aspira Community Enterprises; (b) a \$900,000 Committed Line of Credit to ASPIRA; (c) a \$629,554.66 Term Loan to ASPIRA; (d) a \$50,000 Committed Line of Credit to Hostos; and (e) a \$50,000 Committed Line of Credit to ASPIRA and Stetson. (Ex. Stetson 259-262.)

362. As required security, all of these additional loans were guaranteed by Olney, Stetson, Hostos and Pantoja, through the security agreements granting PNC Bank first priority perfected liens on the gross revenues of each entity. (Ex. Stetson 259-262, at 1-2 in each.)

363. To secure these loans, Stetson entered into a Security Agreement with PNC on October 19, 2011. (Ex. Stetson 263.) As “Collateral” for the loan, Stetson agreed to pledge “all Gross Revenues, tuition, grants, amounts received from fund raising, net assets released from restriction, registration fees, investment income, subsidies, bequests, rental income, ticket sale income and similar assets” (*Id.* at 41.)

364. “Gross Revenue”, was defined to include:

all receipts, revenues, income and other moneys received by or on behalf of [Stetson], including without limitation, contributions, donations and pledges whether in the form of cash, securities or other personal property, revenue derived from the operation of the facilities of [Stetson], and all rights to receive the same, whether in the form of Accounts, money, contract rights, chattel paper, documents, deposit accounts, general intangibles . . . , securities, investment property and instruments with respect thereto

The “Collateral” was pledged to secure certain “Obligations,” which were defined to include loans, advances, and debts of Stetson, as well as those of ASPIRA, ACE, and Hostos to PNC. (Stetson 263, at 41-42.)

365. Stetson also granted PNC a number of other rights, including power of attorney to collect any funds to satisfy the obligations incurred by Stetson, ASPIRA, ACE, or Hostos. (Stetson 263, at 44-45.)

366. Stetson did not receive any lines of credit, loans or other money as a result of the 2011 PNC Bank financing.

367. The Charter Schools did not produce any evidence that the Fox Rothschild letter was ever provided to their Charter Boards to review, or that Fox Rothschild ever provided their Charter Boards with any legal advice about the PNC Bank transaction. Fox Rothschild attorneys are not listed as being in attendance at any Charter Board meeting, and the Charter Boards never took action to retain or engage any Fox Rothschild counsel at a public meeting.

368. The Charter Boards did not take any action during the 2011-12 school year (or any other time) to approve any of the charter schools entering into the PNC Bank transactions or to approve any of the officers of the Charter Board to sign the various lending agreements that were required by PNC Bank. (Ex. JE[O] 3; Ex. JE[S] 38; 3/13/19 NT. 186-187.)

369. For reasons unknown to the School District, Olney's role in the PNC Bank loans was not disclosed in Olney's audited financial statements until the statements issued for the year ending June 30, 2017. (Ex. JE[O] 9, at 25.) Stetson's role in the PNC Bank loans was not disclosed in Stetson's audited financial statements until the statements issued for the year ending June 30, 2014. (Ex. JE[S] 5, at 19-20.)

370. At the time Pantoja and Hostos were considered for renewal in the 2012-13 school year, the CSO was not aware of the cross-collateralization issues. (Tr. vol. 16, at 339:14-340:3.) Because the Charter Board did not take any action relative to the PNC Bank financing, neither the CSO nor OAS would have been made aware of those matters by reviewing the Charter Board minutes.

371. Mr. Darden did not become aware of the PNC Bank financing until he was employed by ASPIRA. (Tr. vol. 7, at 54:10-18.)

372. On July 25, 2014, Mr. Chao sent a letter to Alfredo Calderon, the CEO of ASPIRA. The reference line addresses all of the four brick and mortar charter schools managed by ASPIRA, as well as ASPIRA itself. The letter states in pertinent part:

I write in connection with the documents Aspira Inc. of Pennsylvania ("Aspira") has provided to the Charter Schools Office ("CSO") related to Aspira, Antonio Pantoja Charter School ("Pantoja"), Eugenio DeHostos Charter School ("DeHostos"), John B. Stetson Charter School ("Stetson"), and Olney Charter High School ("Olney").

We have a number of concerns:

1. Aspira, Pantoja, DeHostos, Stetson, and Olney are each separate Pennsylvania nonprofit corporations. The four charter schools are not subsidiaries of Aspira and cannot be operated as if they are subsidiaries.
2. The “intercompany” payables and receivables which appear on the audited financials for Aspira, Pantoja, DeHostos, Stetson and Olney are not a permissible use of charter school funds. As such, the payables and receivables should be paid off, and such “intercompany” transactions should not be used in the future.
3. Aspira should renegotiate its bank loans that involve a specific charter school guaranteeing the debt of Aspira or of another charter school. Such arrangements are not permissible.
4. All of the charter schools cannot have the same board of trustees. Under the Charter School Law, the Pennsylvania Public Officials and Employee Ethics act, and the Pennsylvania Nonprofit Law a majority of “disinterested” trustees must approve any contracts or transactions with an entity with which interested trustees have an interest or a conflict. It is not clear how any of the intercompany transactions between the charter schools could have been approved when all of the charter schools have the same board.

We request that Aspira provide a detailed plan to the CSO by August 15, 2014 outlining the measures Aspira has taken or will take to address the issues identified above. Please contact me if you have any questions.

(Ex. SD[O] 24, at 1-2; Ex. SD[S] 17, at 1-2.)

373. This letter was sent to Calderon because he was the head of the management organization that operated each of the charter schools. No one responded to the letter, so Mr. Chao sent two follow-up letters, dated October 6, 2014 and October 15, 2014. (Ex. SD[O] 24, at 3-4; Ex. SD[S] 17, at 3-4; Tr. vol. 16, at 306:22-18.)

374. On December 15, 2014, Stephanie Kosta, Esquire, an attorney at Duane Morris, wrote to the School District’s in-house counsel, Elizabeth Gutman, Esquire, in response to Mr. Chao’s letters. Her letter stated in pertinent part:

Thank you for your patience with Aspira, Inc. of Pennsylvania’s (“Aspira”) response to the letter of Mr. Chao, which sought an outline of measures that Aspira has undertaken or will undertake to address the concerns of the Charter School Office (“CSO”). As we have discussed on multiple occasions over the last few months, some of CSO’s clarification requests were not in the control of Aspira. Coordination between the Charter School Boards was

necessary, and in some cases, resolutions had to be drafted, proposed, and voted on by the various schools' boards.

Please see below the issues that the CSO raised and answers thereto:

1. *The CSO stated: Aspira, Pantoja, DeHostos, Stetson, and Olney are each separate Pennsylvania nonprofit corporations. The four charter schools are not subsidiaries of Aspira and cannot be operated as if they are subsidiaries.*

Aspira understands the CSO's concerns and assures the CSO that each school is set up as a separate entity and is run by an entirely separate board than that of Aspira. In addition, the schools retain separate outside legal counsel from Aspira, that independently advises the school boards. Aspira is a management company, and serves at the pleasure of the school boards. Any conception that schools are operated as "subsidiaries" of Aspira is both legally and factually inaccurate.

2. *The CSO stated: The "intercompany" payables and receivables which appear on the audited financials for Aspira, Pantoja, DeHostos, Stetson and Olney are not a permissible use of charter school funds. As such, the payables and receivables should be paid off, and such "intercompany" transactions should not be used in the future.*

As we have spoken about during our various phone calls, the School Boards and Aspira have agreed that no intercompany loans shall be issued in the future. The payables and receivables of any past loans were satisfied prior to the receipt of CSO letter.

3. *The CSO stated: Aspira should renegotiate its bank loans that involve a specific charter school guaranteeing the debt of Aspira or of another charter school. Such arrangements are not permissible.*

Aspira understands the concerns of the School District. We have contacted the lender and the lender is unwilling to renegotiate the loans with reasonable terms at this time. However, when it comes time to refinance the loans, Aspira will endeavor to remove any guarantee by any charter school.

4. *All of the charter schools cannot have the same board of trustees. Under the Charter School Law, the Pennsylvania Public Officials and Employee Ethics act, and the Pennsylvania Nonprofit Law a majority of "disinterested" trustees must approve any contracts or transactions with an entity with which interested trustees have an interest or a conflict. It is not clear how any of the intercompany transactions between the charter schools could have been approved when all of the charter schools have the same board.*

After review of the cited resources, I can find no prohibition regarding individuals sitting on multiple charter boards. Kindly direct me to those passages and I will advise my client accordingly. By way of further answer, each member

of each board is entirely devoted to the schools he or she services. In addition, it is not true that the board of each school is identical to that of the other schools – there are variations of board member between the schools.

Nonetheless, Aspira and the School Boards understand the concerns of the CSO, and each board has instituted a Conflict of Interest Policy, a sample of which is enclosed herein. The Policies set up a procedure for any Trustee to notify the Board of a conflict. If a conflict arises, the Trustee will be excluded from any decision making or voting process. If a majority of the Board is conflicted, then the contract or transaction will be referred to a Committee of Disinterested Board Members for disposition. Those Policies, drafted prior to the CBO's [sic] letter expressing concerns, coupled with the School Board's positions that there will be no intercompany loans among the schools, should address the concerns of the CBO [sic].

(Ex. SD[O] 25 (emphasis in original); Ex. SD[S] 18 (emphasis in original).)

375. On January 22, 2015, the CSO issued a Renewal Recommendation Report ("2015 Renewal Report") for Stetson, recommending a one-year renewal with conditions. The report raised various financial issues regarding Stetson's operations, including but not limited to the guarantees that had been entered into by Stetson in the PNC Bank transactions. (Ex. Stetson 22, at 12.) The 2015 Renewal Report did not delineate what conditions would be required to address the noted deficiencies.

376. A one-year charter was never executed between the School District and Stetson.

377. On March 16, 2015, prior to Stetson and Olney being recommended for nonrenewal, ASPIRA's outside CPA, Roger Masch, raised concerns to the Charter Board about the finances of Hostos relative to the ACE/Dougherty property, and the PNC financing. The March 16, 2015 meeting minutes state as follows:

Roger Masch referred that the financial statement ended on February 8, 2015. The report is basically the same as last month. There is still much concern on the Finances of the Hostos School. The reason for the concern is that Hostos is a very small school housed in a very large building which is expensive to maintain. When Hostos was moved to the Campus, there were plans to expand the school; but the School District did not approve the expansion. We have met with two banks to consider refinancing of the mortgage, and one of the banks, PNC, suggested that we float a bond, which is not our choice.

The board of trustees requested that a timeline of options to solve the Hostos Financial situation be presented to the board by June 2015. These options should include potential cuts for the future.

(Ex. JE[O] 3, at 98-99; Ex. JE[S] 41, at 83-84.)

378. In September of 2015, Mr. Darden took over the role of leading ASPIRA's efforts to refinance the PNC Bank debt. (Tr. vol. 5, at 274:15-19.) At that time, ASPIRA had not yet entered into the financing later provided by Provident Bank. (Tr. vol. 7, at 130:6-11.)

379. On November 16, 2015, Mr. Masch reported to the Charter Board that Olney and Cyber moving into the Hostos building would help Hostos absorb some of the building's cost. (Ex. JE[O] 65, at 11; Ex. JE[S] 42, at 11.) On March 21, 2016, he again reported to the Charter Board that Hostos is a "small school in a big expensive building," and suggested that cost sharing must be kept high to keep costs low at Hostos. (Ex. JE[O] 65, at 23; Ex. JE[S] 42, at 23.)

380. On April 11, 2016, the CSO issued a Renewal Recommendation Report related to Stetson, recommending that Stetson's charter not be renewed for multiple reasons, including the concerns related to the intercompany transactions and security agreements with related parties. (Ex. JE[S] 16, at 7, 21.)

381. On April 11, 2016, the CSO also issued a Renewal Recommendation Report related to Olney, recommending that Olney's charter not be renewed for multiple reasons, including the concerns related to the intercompany transactions and security agreements with related parties. (Ex. SD[O] 17, at 7, 26.)

382. On April 22, 2016, ASPIRA, as the Borrower, entered into a Security Agreement with Provident Bank, in which ASPIRA Community Enterprises, Inc., ACE/Dougherty, Hostos, Pantoja, Cyber, Stetson and Olney were all listed as Grantors (collectively, "Provident Guarantors"). (Ex. JE[O] 81, at 1.) The Security Agreement provided as follows:

2.1 **Grant of Security.** Subject to the Intercreditor Agreement by and

between Lender and PNC Bank, National Association of even date hereof, each Grantor hereby assigns to Lender, and hereby grants to Lender a security interest in, all of such Grantor's right, title and interest in any to all of the personal property of such Grantor including the following”

(Id.)

383. The Security Agreement goes on to list all of the personal property that was pledged as security, including all revenue of each Guarantor. (Ex. JE[O] 81, at 2.) The Security Agreement is signed by Carmen Paris on behalf of Olney, Stetson, Hostos and Pantoja. (*Id.* at 12-13.)

384. Other documents were also executed on April 22, 2016 for the Provident Bank transaction, including: (a) a Credit Agreement between ASPIRA and Provident Bank; (b) a Guarantee Agreement between the Guarantors and Provident Bank; (c) Open-End Mortgage, Security Agreement and Fixture Filing; (d) Written Consents of the Directors in lieu of organizational meeting; (e) Secretary's Certificates; (f) Intercreditor Agreement; and (g) Absolute Assignment of Leases, Rents, Income and Profits. (Ex. JE[O] 82-88.)

385. The purpose of the Guarantee Agreement was to guarantee ASPIRA's debt under the Credit Agreement, which included a Term Loan and a Revolving Line of Credit in the amount of \$3,300,000. (Ex. JE[O] 83, JE[O] 84; Tr. vol. 8, at 307:6-9, 308:13-19.) Carmen Paris signed the Guarantee Agreement on behalf of Olney, Stetson, Pantoja and Hostos. (Ex. JE[O] 83, at 13-14.)

386. Pantoja, Hostos, ACE/Dougherty and Aspira Community Enterprises each entered into Open-End mortgages with Provident Bank related to the Credit Agreement, providing a mortgage for their respective properties. (Ex. JE[O] 84.)

387. Board members of ASPIRA and the Provident Guarantors each provided a Written Consent in Lieu of Organization Meeting (“Written Consent”) to Provident Bank as part

of the closing documents. The Written Consents for the Charter Schools each state in pertinent part:

The undersigned, being all of the acting members of the Board of Trustees of [Olney/Stetson] . . . , a Pennsylvania nonprofit corporation (the “Company”), in accordance with the applicable provisions of the Pennsylvania Nonprofit Corporation Law of 1988, as amended, do hereby consent to, approve and adopt the following resolutions in lieu of an organization meeting:

WHEREAS, Aspira, Inc. of Pennsylvania (the “Borrower”) has requested The Provident Bank, a New Jersey chartered bank (the “Bank”) to extend certain credit facilities to the Borrower (the “Credit Facilities”) to support the Borrower’s working capital and to finance certain acquisitions by the Borrower;

WHEREAS, it is deemed to be in the best interests of the Company to facilitate the Borrower’s entering into the Credit Facilities with the Bank;

WHEREAS, in order to secure any indebtedness incurred by the Borrower under the Credit Facilities, and as inducement for the Bank to enter into the Credit Facilities with the Borrower, the Bank has required that the Company grant to the Bank a security interest in all of the assets of the Company, execute a guaranty of the Borrower’s indebtedness under the Credit Facilities in favor of the Bank, and take such other steps as may be required by the Bank to further secure the Borrower’s indebtedness under the Credit Facilities and the Company’s guaranty of such indebtedness.

NOW THEREFORE, it is hereby

RESOLVED, that the Company is authorized to take all necessary and appropriate actions to induce the Bank to provide the Credit Facilities to the Borrower.

(Ex. JE[O] 85, at 36-58, 75-83.)

388. The following individuals each signed a Written Consent for Olney, Stetson, Pantoja and Hostos: Jennifer Albandoz, Zoraida Ortiz, Frederick Ramirez, Carmen Paris and Orlando Quevedo. (Ex. JE[O] 85.)

389. None of the parent representatives for Olney, Stetson, Hostos or Pantoja signed a Written Consent. (Ex. JE[O] 85; Tr. vol. 11, at 34:13-16.)

390. A Secretary's Certificate was also signed by each of the Provident Guarantors, which stated in pertinent part:

This Certificate is delivered by [Stetson/Olney] (the "Company") pursuant to that certain Credit Agreement . . . dated April 21, 2016, between Aspira, Inc. of Pennsylvania and The Provident Bank, a New Jersey chartered bank

The undersigned, being the duly authorized and currently acting Secretary of the Company, hereby certifies as follows:

* * *

2. Attached hereto as Exhibit A is a true, complete and correct copy of the resolutions of the Board of Trustees of the Company which were duly adopted on April 21, 2016. Such resolutions were adopted in accordance with applicable law and all procedural rules specified in the Company's By-Laws, have not in any way been amended, modified, revoked or rescinded and, have been in full force and effect since their adoption, to and including the date hereof, and are now in full force and effect.

(Ex. JE[O] 86, at 7-18.)

391. Attached as Exhibit A to the Secretary Certificates signed by Carmen Paris and Jennifer Albandoz on behalf of the Charter Schools are the resolutions for the respective Charter School referenced in numbered paragraph 2 of the Secretary's Certificate. (Ex. JE[O] 86, at 9, 15.)

392. As noted in their title, the Written Consents were executed in lieu of holding an actual meeting. The Charter Board meeting minutes do not reflect discussion or notification of the Provident Bank financing or any action items being taken to approve the Guarantee Agreement, the Written Consents, the Secretary Certificates or any other agreements that were entered into on April 22, 2016 by Olney, Stetson, Hostos or Pantoja.

393. Despite the language in the Secretary Certificates certifying that the resolutions were adopted by the Company in accordance with applicable law and all procedural rules in the

Bylaws, the Charter Schools' Charter Boards never took action at a public meeting to approve the resolutions.

394. Buchanan Ingersoll represented Provident Bank in the April 2016 transaction. (Tr. vol. 11, at 20:10-13.)

395. As part of the Provident Bank transaction, Duane Morris acted as special counsel to ASPIRA, as the Borrower, and to ACE/Dougherty, Hostos, Pantoja, Cyber, Stetson and Olney in their capacity as Guarantors. On April 22, 2016, Duane Morris provided an opinion letter to Provident Bank, at Provident Bank's request, which renders various opinions about the Borrower's actions and obligations. As to the Guarantors, the letter states as follows:

We have assumed that the Guarantor(s) received adequate consideration for undertaking their liabilities and obligations under the Guarantor Documents. Our opinions as to the validity, binding effect or enforceability of any of the Guarantor Documents or to the availability of injunctive relief and other equitable remedies is subject to the effect of rules of law that may render guarantees and agreements in the nature of guarantees unenforceable

(Ex. Olney 294, at 7.)

396. Duane Morris did not address the Charter School Law at all in its letter, or indicate that it had conducted an evaluation of the effect of the Charter School Law on the Guarantor's actions or obligations. In fact, Duane Morris' letter explicitly states:

The opinions expressed herein are limited to (i) the Pennsylvania nonprofit corporation law and (ii) those Federal laws of the United States of America and those laws of the Commonwealth, in each case which, in our experience, without having made any special investigation as to the applicability of any specific law are normally applicable to transactions of the type contemplated by the Credit Agreement (collectively, the "Applicable Laws").

(Ex. Olney 294, at 14.)

397. The Charter Schools did not present any evidence that the Duane Morris letter was ever provided to the Charter Boards to review, or that Duane Morris ever provided the Charter Boards with any legal advice about the Provident Bank transactions. No Duane Morris

attorneys are listed as being in attendance at any Charter Board meeting, and the Charter Board never took action to retain or engage any Duane Morris counsel at a public meeting.

398. Mr. Yi was designated as the records custodian for Olney pursuant to a subpoena served by the School District, and presented the Fox Rothschild and Duane Morris letters during his testimony. When asked on cross-examination where he found the Fox Rothschild and Duane Morris letters, he responded that he obtained them from ASPIRA's files, not Stetson's files. He further testified that he did not know if any member of Stetson or Olney's Charter Board reviewed the Fox Rothschild or Duane Morris letters when they were issued. (Tr. vol. 16, at 217:12-218:20.)

399. Stetson's audited financial statements did not disclose the PNC Bank transactions or the Provident Bank transactions until the statements issued for fiscal year ending June 30, 2017. (Ex. JE[S] 3-9; Tr. vol. 4, at 22-24.)

400. A forbearance agreement is an agreement between a lender and a borrower in which the lender agrees not to execute all of its rights to collect on the debt. Forbearance occurs when the borrower has not met the payment terms of a debt and there has been an agreement with the lender to extend payment beyond the payment terms of the loan. (Tr. vol. 4, at 27:5-12; Tr. vol. 8, at 323:17-22.)

401. On March 16, 2017, ASPIRA and the Provident Guarantors (collectively, the "Obligated Parties") entered into a Forbearance Agreement under which Provident Bank agreed to forbear from the exercise of its rights and remedies until July 1, 2017. (Ex. Olney 115, at 1-2.)

402. On July 5, 2017, Provident Bank and the Obligated Parties entered into a First Amendment to Forbearance Agreement through October 31, 2017 ("First Amendment") for the stated purpose of "allow[ing] the Obligated Parties to obtain financing to pay-off the balance due

and owing on all financial obligations to Lender.” (Ex. Olney 115, at 3.) In the First Amendment, the Obligated Parties reaffirmed that “they are indebted to Lender on the obligations evidenced by the Loan Agreements” in the amount of \$803,399.42, plus *per diem* interest. (*Id.* at 4.) Madalyn Grajales signed the First Amendment on behalf of Pantoja, Cyber, Olney and Stetson, and Jennifer Albandoz signed on behalf of Hostos. (*Id.* at 12-15.)

403. The Obligated Parties did not obtain financing to pay-off the balance due and owing to Lender between July 5, 2017 and October 31, 2017.

404. On December 29, 2017, Provident Bank and the Obligated Parties entered into a Second Amendment to Forbearance Agreement through February 28, 2018 (“Second Amendment”). (Ex. Olney 113.) In the Second Amendment, the Obligated Parties reaffirmed that “they are indebted to Lender on the obligations evidenced by the Loan Agreements” in the amount of \$808,299.36 plus *per diem* interest. (*Id.* at 2.) Jennifer Albandoz signed the Second Amendment on behalf of Hostos, Pantoja, Cyber, Olney and Stetson. (*Id.* at 9-11.)

405. On April 16, 2018, Provident Bank and the Obligated Parties entered into a Third Amendment to Forbearance Agreement through December 31, 2018 (“Third Amendment”). (Ex. Olney 114.) In the Third Amendment, the Obligated Parties again reaffirmed that “they are indebted to Lender on the obligations evidenced by the Loan Agreements,” but the total amount of indebtedness due was not stated. (*Id.* at 2.) Jennifer Albandoz signed the Third Amendment on behalf of Hostos, Pantoja, Cyber, Olney and Stetson. (*Id.* at 9-11.)

406. The original Forbearance Agreement, the First Amendment, the Second Amendment and the Third Amendment were never approved at a public meeting by Olney or Stetson’s Charter Board. (Tr. vol. 11, at 38-41.)

407. On October 1, 2016, PNC Bank and the Borrowers entered into a new Forbearance Agreement, under which the Lender agreed to forbear from the exercise of its rights and remedies until January 1, 2017. The principal amounts outstanding at the time of this forbearance totaled \$14,011,709.41. (Ex. Olney 109, at 3.)

408. Amended Forbearance Agreements then entered into with PNC dated February 23, 2017 and December 18, 2017, extending the forbearance period through December 31, 2018. (Ex. Olney 108, 110.) Each one includes a Consent or Acknowledgment of Guarantor, which is signed by the Board Chair on behalf of Hostos and Pantoja. (Ex. Olney 108, at 9; Ex. Olney 109, at 9; Ex. Olney 110, at 13.)

409. There is no indication in the Charter Board meeting minutes that any Charter Board took action to approve any of the PNC Forbearance Agreements on behalf of Hostos or Pantoja.

410. Mr. Darden was not asked by his own counsel if Olney or Stetson received a benefit from the Provident Bank financing. When asked on cross-examination, the only tangible benefit Mr. Darden identified was Olney's ability to lease a portion of the ACE/Dougherty facility. He also mentioned that the ASPIRA-managed charter schools benefit from having a self-insured health plan, but the creation of such a plan has not been linked to the financing or guarantees. the Charter Schools could have started a self-insured health plan without guaranteeing the financing transactions. (Tr. vol. 7, at 82-87.)

411. As of Mr. Darden's testimony on March 25, 2019, the Forbearance Agreements with PNC Bank and Provident Bank had not been extended beyond December 31, 2018. (Tr. vol. 7, at 183:19-24.)

412. On April 15, 2019, Mr. Yi disclosed that on April 8, 2019, the Charter Board approved a motion to review and ratify a Fifth Amended Forbearance Agreement. The motion in the Charter Board minutes does not identify the lending institution involved, but Mr. Yi believed it was PNC Bank. Mr. Yi did not know if there was a similar motion addressing the Provident Bank forbearance. (Ex. Olney 295, at 76; Ex. Stetson 272, at 68; Tr. vol. 16, at 227:21-231:21.)

413. ASPIRA and its affiliated entities have attempted to complete refinancing in 2016, again in 2017, and again in 2018, and the refinancing has never been able to occur. (Tr. vol. 7, at 182:18-183:7.)

414. As of the date of the last hearing, the PNC Bank and Provident Bank loans had not been refinanced, and the guarantees had not been removed. (Tr. vol. 16, at 312:1-5.)

415. Mr. Darden testified on March 25, 2019 that a lender has been found who is willing to refinance the loans without renewals for the Charter Schools, which was not the case in the previous attempts to obtain refinancing (Tr. vol. 7, at 209-210, 228:13-20), but no term sheet for the financing was provided. No testimony was provided by any lender who might be interested in providing the refinancing that Mr. Darden described. On March 25, 2019, Mr. Darden testified that the refinancing was supposed to close on May 15, possibly early June 2019, given his experience with bond transactions. (Tr. vol. 7, at 81:5-19, 182:10-17.)

416. As of the date of these findings of fact, Stetson has not has not sought to reopen the record or otherwise informed the tribunal that any such refinancing had occurred.

417. As of June 30, 2018, the balance of the lending transactions that Stetson had guaranteed or secured was \$13,629,657. (Tr. vol. 16, at 52:12-16; Ex. SD[S] 6, at 4.)

418. If the Charter Schools would close, that closure would have an impact on ASPIRA's revenue. (Tr. vol. 7, at 199:4-8.)

Intercompany Loans

419. Beginning in the 2010-11 school year, money began being exchanged between Stetson and ASPIRA, and between Stetson and other charter schools managed by ASPIRA, unrelated to the management fees or any services that were being performed by one entity for another. Stetson's independent auditors reported the payables among these parties in the audited financial statements, and stated that the "payables with related parties are unsecured, non-interest bearing and have no repayment terms." (Ex. JE[S] 3-9, Notes; Tr. vol. 3, at 18:15-19.)

420. By the end of the first year of Stetson's operation, ASPIRA owed Stetson almost \$500,000. (Ex. JE[S] 3, at 19.)

421. These intercompany loans continued to occur during the 2012-13 and 2013-14 school years. By the end of the 2013-14 school year, ASPIRA owed Stetson \$1,877,802. (Ex. SD[S] 6, at 3; Ex. JE[S] 4, at 19.)

422. According to the Charter Board minutes, none of the intercompany loans or transactions were authorized by any action of the Charter Board during those school years. (Ex. JE[O] 3; Ex. JE[S] 38-42.)

423. Mr. Darden assumed the oversight of ASPIRA's finance and accounting functions in May 2016, after having served as chief operating officer for ASPIRA since January of 2014. (Tr. vol. 5, at 271:11-18.) Mr. Darden testified that he had to assemble a new finance team and put together the books and paperwork for the auditors to review, which was not completed until November 2016. As a result, the audit for the 2015-16 school year was not completed until January of 2017. (Tr. vol. 6, at 285:6-15.)

424. Mr. Darden expressed his dislike for intercompany transfers, which he confirmed are the balances noted in the auditor's reports owed between the ASPIRA-managed entities and ASPIRA, and confirmed that they are accurately described in those reports:

So prior to my assuming or approximately early—the first couple of months of my assuming oversight of the finance accounting functions in May of 2016, we went back and reviewed the intercompany transactions. And, you know, I didn't like those intercompany transactions then, I don't like them now, but through our review of all of the records for the intercompany transactions, you know, we didn't find anything that indicated to us that these balances that built up were incorrect Once we understood those balances, we then put in place through the accounting changes that we made, you know, all of the things that you would expect to normally see. So if there was a transaction, it had a purchase order. That purchase order then was paid via an invoice, so you had visibility of those transactions and our job since then was to try to reduce those intercompany balances.

(Tr. vol. 7, at 40:22-41:24, 171:13-172:3.)

425. He further testified that: “there had previously been intercompany balances that had buildup [sic], and you know, didn't like those intercompany balances that I found when I took over the finance and accounting function. My goal was then to eliminate those, put ASPIRA in a position where those types of transactions would not need to occur ever again” (Tr. vol. 7, at 88:9-15.)

426. “Since May of 2016,” Mr. Darden does not believe that money has been moved by ASPIRA in the same manner that Mr. Krain described in his testimony. (Tr. vol. 7, at 48:15-49:13.) Prior to that time, there was not a process of documenting intercompany transactions, in terms of purchase orders or invoices. (Tr. vol. 16, at 50-51.)

427. The Charter Board minutes do not reflect any action related to the intercompany balances that had accumulated prior to May of 2016, including the approval or execution of any promissory notes.

428. Contrary to the representation in Ms. Kosta's December 15, 2014 letter, the intercompany loans had not been paid off by or before December 15, 2014. According to Mr. Darden, when he took over the accounting functions in May of 2016, the outstanding balance owed to Olney by ASPIRA was \$2.4 million. It took until late 2016 for the amount to be cut to

approximately \$1 million, and then until 2017, for the remaining \$1 million balance to be paid off. (Tr. vol. 7, at 173:4-174:9.)

429. According to the audited financial statements, as of June 30, 2017, a receivable in the amount of \$433,656 from ASPIRA remained on Olney's balance sheet (Ex. JE[O] 9, at 25), which means that the full amount was not paid off until sometime in the 2017-18 school year, possibly at or around the same time as the nonrenewal resolution.

430. Similarly, amounts remained owed to Stetson through the 2014-15 school year. Stetson's auditors reported a receivable of \$164,835 from ASPIRA as of June 30, 2015. (Ex. JE[S] 6.)

431. Contrary to Ms. Kosta's representations in the December 15, 2014 letter, the ASPIRA-managed charter schools, under the direction of Mr. Darden and other new members of ASPIRA's financial team, engaged in further intercompany transfers and borrowing after December 2014. According to the Charter Board minutes of January 22, 2018, Mr. Darden provided a Finance Report to the Charter Board, in which he stated the following:

Mr. Darden reviewed historical patterns in budget. He stated that schools will be able to pay down loans when they get refinancing done. Mr. Donaldson [sic] commented that structure depends on successful refinancing. Mr. Darden stated this will be discussed with Finance Committee. Mr. Darden also explained that the SRC has asked that Promissory Notes be but [sic] in place. That is is [sic] reported where loans stand and when they are to be paid. Board agreed to hold off on notes until we meet in February. We will vote on them then.

(Ex. JE[O] 67, at 20.)

432. As of June 30, 2017, ASPIRA owed Stetson \$233,844. (Ex. JE[S] 8, at 25.)

433. On February 26, 2018, the Charter Board minutes reflect the following report and actions. Mr. Darden provided a Finance Report, in which he stated as follows:

Mr. Darden provided the Board with a review. Ms. Albandoz asked what will happen if the refinancing does not occur. Mr. Darden replied that promissory notes will have to be but (sic) in place until we can refinance. When the

refinancing is put in place each school would have accounts and intercompany borrowing will end. Ms. Grajales asked what is the time frame that ASPIRA will pay back Stetson. Mr. Darden answered by June 2019. Ms. Albandoz announced she was abstaining from this vote.

The Board then took two actions: (a) “Motion made by Madelyn Grajales to APPROVE the promissory notes and SECONDED by Lillian English-Hentz. MOTION CARRIED”; and (b) with respect to a “Working capital borrowing projected from February 1, 2018, through March 31, 2018,” MOTION made by Madelyn Grajales to ACCEPT the approval of John B. Stetson loans to Cyber, Hostos and ASPIRA, Inc., and SECONDED by Adelaida Morales. MOTION CARRIED.” (Ex. JE[O] 67, at 31.)

434. Neither motion reflects the amount of the promissory notes or the amount of the loans being made, or who the specific parties are to either the promissory notes or the loans.

435. During the hearings, the School District acquired copies of five “Promissory Demand Notes” that were approved on February 26, 2018, which reflect the following entities lending money to the “Borrowers” “to fund the individual working capital needs related to the operations of individual schools”: (a) Stetson lending ASPIRA the amount of \$1,189,536; (b) ASPIRA lending Pantoja the amount of \$62,294; (c) ASPIRA lending Cyber the amount of \$156,924; (d) ASPIRA lending Hostos the amount of \$368,379; and (e) ASPIRA lending Olney the amount of \$116,861. (Ex. SD[O] 22; Ex. SD[S] 15.)

436. All of the Promissory Demand Notes are interest-free and have a due and payable date of no later than June 30, 2019. There is no security in the promissory notes in the event that any Borrower fails to pay by June 30, 2019. (Ex. SD[O] 22; Ex. SD[S] 15; Tr. vol. 7, at 177-178.)

437. On cross-examination, Mr. Darden explained the action items that were taken at the February 26, 2018 meeting. In addition to approval of the Promissory Demand Notes (Ex.

SD[O] 22), the Charter Board approved additional borrowing from Stetson, as the lender, to ASPIRA, as the borrower, through June 30, 2019, setting a maximum amount of \$1.9 million based on a cash flow forecast. The \$1,189,536 from the Stetson loan to ASPIRA is included in the \$1.9 million maximum borrowing. As of March 25, 2019, the full \$1.9 million has been borrowed and was outstanding. (Tr. vol. 7, at 179:19-181:19.)

438. The minutes do not reflect any Charter Board member for any of the Charter Schools recusing or abstaining themselves from the discussion or votes related to the Promissory Notes or loan actions. It is not known if Ms. Albandoz actually abstained from voting as she said she intended to do with respect to the Promissory Notes vote (but not the working capital borrowing for the second action item), because there are no roll call votes reflected in the minutes. Nor does any Charter Board member disclose any conflict in the minutes, prior to voting on the matters. There is no reference to a Committee of Disinterested Board members in the meeting minutes or any discussion whatsoever regarding the need to ensure that only disinterested board members vote on the transactions. Nor do the minutes reflect Stetson, Cyber, Hostos and ASPIRA having separate counsel as these matters were discussed. Robert O'Donnell is present at the meeting as "Board Counsel," but no other attorneys were present. (Ex. JE[O] 67, at 24.)

439. The refinancing referenced by Mr. Darden in the January and February Charter Board minutes never occurred in 2018.

440. Mayer Krain is a Certified Public Accountant and auditor in the School District's OAS. (Tr. vol. 4, at 88-90.) The OAS regularly performs audits of charter schools during their renewal years and provides information to the CSO to assist in their evaluation and recommendation for renewal. Mr. Krain performed audits for both the Stetson and Olney

renewal reviews. The OAS has a standard list of items that it reviews as part of the audits on all charter schools. (*Id.* at 90-96.)

441. As part of the renewal audit first for Stetson and then for Olney, the OAS reviewed the general ledgers, audits and other financial documents for the Charter Schools. Upon reviewing that information, the OAS became concerned about the manner in which money was flowing among the ASPIRA-managed charter schools and from the charter schools to ASPIRA. (Tr. vol. 15, at 138.)

442. Mr. Krain testified about the various concerns that arose when the OAS performed the renewal audit for Stetson and Olney related to, among other things, the intercompany transfers and loans, the cross-collateralization of debt, the lack of internal controls, the failure to document transactions or payments, and the common board membership for these entities in light of the other issues. (Tr. vol. 3, at 99-141.)

443. The OAS found that there was no paperwork for the lending or the payments that had been made to and from ASPIRA or the other schools. There were no monthly invoices for the management fee. There were no loan agreements for the lending between the related entities. There were no purchase orders or other papers that would reflect the purpose of the transactions. Funds for the related entities were being moved by ASPIRA financial personnel by electronic transfers between banks. No checks were written. (Tr. vol. 3, at 106-117.)

444. Internal controls are procedures and methods to ensure the accuracy of accounting records to avoid theft, fraud, and to protect assets. The OAS found that there was a lack of internal controls at ASPIRA related to its financial management of the charter schools' finances. The internal controls that ASPIRA had in place did not include any role for any personnel employed by the charter schools, did not address who had check signing authority, did not

address who had the authority to authorize wire transfers or electronic transfers of funds, did not address the role of the Charter Board in approving payments or expenditures, and did not contain any delineation of the relationship between ASPIRA and the charter schools it managed. (Tr. vol. 3, at 128-133; Ex. JE[O] 61, 104.)

445. Murray Rosenman had been ASPIRA's CFO until May 2016. Mr. Rosenman informed Mr. Krain that ASPIRA had issued debit cards but could not control the spending and had to pull them back. Debit cards were not addressed in the internal controls. (Tr. vol. 3, at 134-135.)

446. A subsidiary is an entity that is owned generally by a parent company, so the parent has a right to control the subsidiary. The Charter Schools are not subsidiaries of ASPIRA. ASPIRA is a management company, and each Charter School is a separate client of ASPIRA. (Tr. vol. 3, at 100:4-10, 102:20-24.)

447. Each charter school is its own corporation, with its own EIN. (*Id.* at 117-118.)

448. In 2015, Mr. Krain asked Mr. Rosenman to provide information from PNC Bank as to why PNC Bank needed all of the cross-collateralization from Olney, Stetson, Hostos and Pantoja. In response, on September 10, 2015, Mr. Rosenman supplied him with a letter from PNC Bank that states as follows: "PNC Bank underwrote credit facilities for ASPIRA Inc. of PA and its Affiliates under the arrangement that the bank was lending to one entity or co-obligated group." (Ex. JE[O] 101; Tr. vol. 3, at 122-125.) When asked if PNC's letter was a concern, Mr. Krain testified as follows:

[W]hat it comes down to is this: Each one of these charter schools stands on its own. It's a separate corporation. It's a separate charter. It's a separate group of kids. They get \$8,000 or \$26,000 or whatever the numbers are up to . . . of the special ed rate and the regular ed rate, and it's for those students that go to those schools. It's not for kids that go to Olney to pay for kids that go to De Hostos or

guaranteed, or from Stetson to guarantee De Hostos, or from Pantoja to guarantee De Hostos, okay?

Now, what happens is when they cross-collateralize and you wind up with a forbearance agreement, or a potential foreclosure as was mentioned earlier today, you then can take down other kids that have nothing to do with the purchase of Cardinal Dougherty, and that is why each school has to stand alone and each – every charter school has to be able to be cut off, I'll say, if they don't make academic progress.

For example, if Olney should be shut down because of their academics, you can't shut them down because you're going to hinder the other three schools financially because of the loans. They have a potential of taking down other schools that are innocent, because De Hostos is the one that bought the building.

(Tr. vol. 3, at 126:4-127:8.)

449. Krain testified that the School District asked ASPIRA to take steps to stop the intercompany borrowing and to change the financing early on, but that was not done. He spoke to ASPIRA employees about these issues because, at that time, there were no financial people at the school-level for Olney or Stetson. (Tr. vol. 15, at 298:5:17; 304:16-305:3.)

450. As a Certified Public Accountant and auditor, Mr. Krain provided his professional opinion about the problems associated with the cross-collateralization and the intercompany loans:

My opinion is that each school stands on its own. It's a separate corporation, has a separate board that's supposed to have a fiduciary responsibility to that entity solely. So to get into why, like, for example, with ASPIRA and these schools, why one school is lending to another school or whatever the other issue is, to me, as an auditor and a CPA, it is an improper entity.

Like, in other words, for de Hostos to lend money to another charter school directly is – and there's five board members that are the same board members on both schools, you have to ask what is their fiduciary responsibility to the entity that's lending it and the entity that's borrowing it?

(Tr. vol. 15, at 312:14-313:5.)

Testimony of Gary Samms

451. The Charter Schools called Gary Samms to testify as an expert witness. (Tr. vol. 8, at 236:16-21.)

452. Mr. Samms served on the board of trustees of Collegium Charter School (“Collegium”) in Exton, Pennsylvania for 8 years, from 2004 to 2012. (Tr. vol. 8, at 245:12-17, 253:12-15.) Collegium did not have a management company at the time he served on Collegium’s board, and he has never advised any charter school regarding its relationship with a management company. Collegium did not have any related entities other than a foundation. (Tr. vol. 8, at 262:8-263:3, 267:13-17.)

453. Mr. Samms has not served on the board of any charter school since 2012. He has never represented a charter school in a nonrenewal or revocation proceeding. (Tr. vol. 8, at 253:19-21, 258:16-21.)

454. Mr. Samms was involved in a bond deal at Collegium, in his capacity as the board president. At least four attorneys were involved in that transaction, including separate counsel for the charter school, the trustees, and the underwriters. (3/16/19 N.T. 248:18-249:3.)

455. Mr. Samms has never represented Olney or Stetson, or done any work for ASPIRA, aside from testifying as an expert witness in this matter. (Tr. vol. 8, at 263:4-10.)

456. Mr. Samms expressed his opinion that Mastery Charter Schools and Propel Charter Schools were set up in a fashion similar to the ASPIRA-managed charter schools. However, his opinion was not based upon any personal or reliable knowledge of how those entities are structured, as he has never represented those entities; never had any conversations with anyone at Mastery or Propel about their governance structure; doesn’t know anything about how the Propel schools interact with each other; never reviewed the management agreement in place for the Mastery schools; has no familiarity with the internal controls in place for the

Mastery schools or the manner in which any of the Mastery schools share services; only reviewed limited documents available to him, such as one set of board meeting minutes for the Mastery schools, three years of 990s for Mastery Charter High School and the Propel Federal Agreement; did not know if any Mastery schools have guaranteed any bond debt for any other Mastery schools; and did not know if any of the Mastery schools have loaned money to each other. (Tr. vol. 8, at 273:5-10; Tr. vol. 11, at 79:3-10, 80:20-82:7.) Mr. Samms did not even know who Scott Gordon is, although he was clearly identified as the Chief Executive Officer of Mastery Schools for Mastery in the 990s that Mr. Samms reviewed. (Tr. vol. 11, at 81:18-23; Ex. Olney 155, at 1, 7.)

457. Mr. Samms admitted that there is no agreement in place between the ASPIRA-managed charter schools similar to the Propel Federation Agreement. (Tr. vol. 11, at 82:21-83:1.)

458. Mr. Samms also suggested that the fact that the bylaws submitted with the Applications for Olney and Stetson included a clause that the board members would be appointed by ASPIRA was significant, because the School District has been on notice of that language. However, he did not know that the Charter Schools had already taken steps to remove that language from the Bylaws. He did not know whether ASPIRA has stopped appointing board members for Olney; he did not know that the Bylaws had been amended to prohibit the cross collateralization of debt; and he did not know that Mr. Darden had already testified that he, in his capacity as the head of the CSO at the time the applications were filed, did not know about the bylaws or board composition structure. (Tr. vol. 8, at 276:13-20; Tr. vol. 10, at 215:14-23; Tr. vol. 11, at 78:2-22.)

459. With respect to the PNC Bank and Provident Bank transactions and forbearance agreements, Mr. Samms suggested that entry into those transactions was not in violation of

Section 1714-A of the Charter School Law because he had not seen any indication that Olney or Stetson had spent any money on those transactions and the guarantees have not been executed upon by the lenders. (Tr. vol. 10, at 223-224.) Before rendering this opinion, he did not take any steps to investigate whether Olney or Stetson had incurred any attorneys' fees or other types of fees as a result of the lending transactions, other than to review the documents that counsel had provided to him. (Tr. vol. 11, at 52:2-15.)

460. Mr. Samms also opined that Stetson received a benefit from the 2011 PNC Bank financing because of the \$50,000 line of credit that was extended to ASPIRA and Stetson as part of the financing. However, on cross-examination, he admitted that the line of credit letter was directed to ASPIRA, not Stetson; that the line of credit was jointly granted to ASPIRA and Stetson, not just to Stetson; that he did not know if Stetson ever received any money from the line of credit or if any part of the revolving line was ever used for Stetson expenditures; and that the Hostos line of credit was granted to Hostos alone, and not also to ASPIRA. Mr. Samms further admitted that the only benefit to Stetson from the PNC Bank financing was the line of credit, and that Olney did not receive any line of credit from the PNC Bank financing. (Tr. vol. 11, at 42:17-47:11.) Mr. Samms had no knowledge that Aspira Community Enterprises, which received a \$5 million loan from the PNC Bank financing, secured by the Charter Schools, ever provided any services to Olney or Stetson. (Tr. vol. 11, at 48:20-49:4.)

461. Olney never provided any evidence during the hearing that it received a line of credit or any benefit whatsoever from the PNC Bank financing.

462. Mr. Samms admitted that he did not see any evidence in the meeting minutes that the Olney or Stetson Charter Board voted to adopt any of the PNC Bank financial obligations, which in his view violated the Sunshine Act. (Tr. vol. 11, at 9:14-19, 12-14.) He testified: "[The

actions of the public entity] have to take place at a public meeting. You've got to have a resolution to adopt this and it has to be a vote in public for obvious reasons, and that has not been done in this case, so I think they would be unenforceable anyway." (Tr. vol. 10, at 225:13-19.)

He further testified on cross-examination:

Q. I believe during your direct testimony you rendered the opinion that the PNC-related agreements are the type of agreements that needed to be voted on in public; is that correct?

A. That's correct.

Q. And your understanding or your opinion is based on the Sunshine Act, correct?

A. Correct.

Q. And the Sunshine Act would require any agreement of a public entity where there is the creation of an indebtedness or the agreement to take on any liabilities to be voted on in public, correct?

A. That's my opinion.

Q. So it is your opinion, within a reasonable degree of professional certainty, that Olney Charter High School's board violated the Sunshine Act when it failed to approve the PNC agreements in public?

A. Potentially.

Q. And when you say potentially, what is the basis for that?

A. I don't know everything that occurred at that time. I don't know what is not recorded. I don't know if it happened, but it is not. So, I apologize, I'm not being vague, it is just based on what I know, that's correct.

Q. Okay, based upon your reading of the board meeting minutes that have been supplied to you, that's your opinion; is that correct?

A. That's correct.

Q. And is it also your opinion, within a reasonable degree of professional certainty, that John B. Stetson Charter School's board violated the Sunshine Act by failing to take action at a public meeting on those PNC Bank-related transactions?

A. Yeah, I think what I said in my report and my testimony was that it would be unenforceable because there was no resolution passed or a vote in public. So I don't think I actually wrote they violated the Sunshine Act, but I would agree things could have been done procedurally differently. Absolutely.

Q. And if something would be voidable, in your opinion, it was because the Sunshine Act was not complied with?

A. Correct.

(Tr. vol. 11, at 14:7-16:7.)

463. Neither Olney nor Stetson produced any evidence to address the gap in Mr. Samms' knowledge—that Olney or Stetson's Board took action to approve the PNC Bank-related transactions or the Provident Bank-related transactions in public that might not have made it into the meeting minutes.

464. With respect to the Provident Bank transactions, Mr. Samms admitted that written consents should not have been used to approve the resolutions because of the Sunshine Act. (Tr. vol. 11, at 23:23-24:8.)

465. The Charter Board meeting closest to the signing of the April 21, 2016 Written Consents was on April 18, 2016. No attorney is identified in the minutes as being present at that meeting, and no executive session is identified in the minutes as being held. The April 18, 2016 meeting minutes do not reflect any discussion or action items regarding the Provident Bank transaction. At the next meeting following the April 21, 2016, Written Consents, which was on May 16, 2016, no counsel is listed as being in attendance at that meeting; there is no discussion or action items relative to the Provident Bank transaction; and an executive session is held only for the purpose of "personnel and contracts," with a contract section following in the board minutes unrelated to the Provident Bank transaction. (Ex. JE[O] 65, at 27; Tr. vol. 11, at 28:8-18, 30:1-31:23.)

466. Mr. Samms expert opinion constituted an admission that the Charter Schools violated the Sunshine Act by failing to approve the Provident Bank lending agreements in public, and failing to approve any of the forbearance agreements related to the Provident Bank indebtedness. (Tr. vol. 11, at 31:21-32:5, 38:4-8, 39:9-24, 41:8-20.)

467. Mr. Samms agreed that the lending transactions with Provident Bank are creating an indebtedness for both of the Charter Schools. (Tr. vol. 11, at 32:12-17.)

468. Charter nonrenewal hearings are not an enforcement action of the various lending transactions. (Tr. vol. 11, at 41:21-42:1.)

469. With the lone exception of the June 11, 2013 meeting, the first Charter Board meeting where Robert O'Donnell (or any other counsel identified for any Charter School) is identified as in attendance was on May 24, 2016. (Ex. JE[S] 39, at 23; Ex. JE[O] 65, at 36.)

470. Through Mr. Samms' testimony, the Charter Schools are essentially asserting that they induced the lenders to provide the financial benefit that was provided to ASPIRA and some of its related entities (other than the Charter Schools) by executing all of the documents for the transaction and obtaining legal opinions from the same counsel that indicate all of the required steps have been taken; but that should not be held against them in these nonrenewal proceedings because they did so improperly, so the agreements are not enforceable.

471. Mr. Samms also opined that the standard of care for a nonprofit board would be to rely upon the advice of counsel and other professionals present at the board meetings. (Tr. vol. 8, at 290:13-291:1, 292:19-293:1; Tr. vol. 10, at 235:4-236:21.) However, the Charter Schools never presented any evidence that their Charter Board members relied on such advice by counsel or other professionals.

472. No one from Duane Morris or Fox Rothschild testified about the assumptions they made when they prepared the opinion letters addressed to PNC Bank and Provident Bank, respectively. Mr. Samms did even not know if Duane Morris or Fox Rothschild ever sent their opinion letters to Olney or Stetson's Charter Board. (Tr. vol. 11, at 116:20-117:18.)

473. Further, Mr. Samms admitted that a nonrenewal proceeding under the Charter School Law is not the same as a breach of fiduciary duty or tort action where an element of intent is required as part of the cause of action. (Tr. vol. 11, at 62:19-64:4.)

474. Mr. Samms' knowledge about what Olney and Stetson's Charter Boards did or did not do is based solely on reading the minutes in the record and seeing that board counsel may have been present at meetings from time to time, and not based on any conversations with counsel for Olney, any member of the Charter Board or any of the professionals that he believes were relied upon by the Charter Board. He has never attended a meeting of Olney or Stetson's Charter Board, has never spoken to any members of Olney or Stetson's Charter Board, and has never spoken to any legal counsel from Fox Rothschild, Duane Morris, Buchanan Ingersoll or with Robert O'Donnell about Olney or Stetson. (Tr. vol. 11, at 5:7-6:24.)

475. Mr. Samms has no personal knowledge of whether any information or advice was provided at board meetings that is not reflected in the board minutes. (Id. at 8:5-18.)

476. Mr. Samms admitted that he could not say with certainty that the lawyers provided advice about the lending transactions. (Tr. vol. 10, at 237-238:3.)

477. Moreover, Counsel for the Charter Schools was asked if he was raising an advice of counsel defense, and responded only that that had not been determined. (Tr. vol. 10, at 45-48:3.)

478. According to the minutes in the record up to the date of the hearing, no action was taken at a public meeting to waive the attorney-client privilege so that any attorney representing Olney or Stetson could disclose any advice provided to either of them.

479. Nor was any other evidence presented to establish that Olney or Stetson relied on any advice of counsel or other professionals regarding the PNC Bank transaction, the Provident Bank transaction or the intercompany loans.

480. According to Mr. Darden, it was not a consistent practice to have legal counsel at board meetings until approximately the summer or early fall 2016. (Tr. vol. 7, at 97:10-15.)

481. Mr. Darden also admitted that an attorney's physical presence at a meeting does not mean that the attorney is providing legal counsel on every action item or topic that has arisen. (Tr. vol. 10, at 41:14-18.) If advice is given in executive session, that would not be reflected in meeting minutes. (Id. at 42:20-43:2.)

482. In his testimony, Mr. Samms raised the Auditor General's report about the ASPIRA-managed schools, suggesting that the Auditor General ("AG") was not critical about the ASPIRA management structure. (Tr. vol. 10, at 215:23-216:8, 222:18-23; Tr. vol. 11, at 65:17-66:4.)

483. This assertion by Mr. Samms was contradicted by the AG report itself. The report, entitled "Limited Procedures Engagement, ASPIRA-Managed Charter Schools," was issued in May 2018. (Ex. SD[O] 33; Ex. SD[S] 26.) It made eight separate Findings about the ASPIRA-managed charter schools, including the following:

Finding No. 1 – Lack of Governance – The Boards did not fulfill their duty to govern the Charter Schools allowing Aspira, Inc. to manage their public school funds without sufficient accountability.

Finding No. 2 – Declining Financial Position – Reduced revenues, persistent operating deficits, poor cash flow & overspent budgets caused the Charter

Schools' combined General Fund Balance to plummet from \$7.7 million in 2014 to \$(419,000) in 2016.

Finding No. 3 – Weak Management Agreements & Poor Record-Keeping – A poor organizational structure, weak management agreements, and lack of board oversight allowed Aspira, Inc. to control all school revenues and expenditures – including payments to itself – with little documentation to support charges to the schools.

Finding No. 4 – Risky Collateralization of Aspira, Inc.'s Delinquent Debt – The charter schools pledged revenues and net assets to secure Aspira, Inc.'s debt, and most of that debt was unpaid and past due.

Finding No. 7 – Executive Sessions Not in Compliance with Sunshine Act – The Charter School's Boards may have repeatedly failed to comply with the Sunshine Act when conducting their executive sessions.

Finding No. 8 – Financial Reporting Errors – The Charter School's Audited Financial Statements Contained Errors, Omissions, and Inconsistencies.

(Id.)

484. Mr. Samms conceded that the board members have fiduciary duties to each board on which they serve under the Nonprofit Law, the Charter School Law and the Ethics Act, meaning that the board members who serve on Olney's board have obligations and duties to Olney and the board members who serve on Stetson's board have obligations and duties to Stetson. He agreed that there are potential conflicts in the manner in which the Charter Boards are set up for the ASPIRA-managed charter schools, because the majority of the board members are the same on each board. (Tr. vol. 11, at 57:10-58:9.)

485. Mr. Samms testified that he was not retained as an expert to opine on Olney or Stetson's board members' compliance with the Ethics Act or avoidance of conflicts of interest, or on whether they complied with the non-profit law regarding actions by disinterested board members. (Tr. vol. 11, at 58:19-59:3.)

Audited Financial Statements

486. WithumSmith+Brown audited Stetson's financial statements through the 2016-17 school year. (Ex. JE[S] 3-8.)

487. The audits for the following school years were issued after the December 31 deadline: (a) the audit for 2011-12 was issued on April 19, 2013; (b) the audit for 2012-13 was issued on January 20, 2014; (c) the audit for 2013-14 was issued on February 6, 2015; and (d) the audit for 2015-16 was issued on January 23, 2017. (Ex. JE[S] 3-7; Tr. vol. 15, at 5:10-6-8:1.)

488. The CSO did not begin issuing Notices of Deficiency to charter schools until 2016. (Tr. vol. 7, at 257:14-22.)

Fiscal Management

489. Mr. Yi, ASPIRA's Controller since August 2016, agreed that various financial metrics that the CSO reviewed for Stetson are the same metrics that he uses, including cash on hand, change in assets, and net assets. (Tr. vol. 8, at 29, 32:15-24.)

490. Mr. Yi personally verified all of the financial data reported by the CSO in the ACE Reports, and agreed that the metrics were calculated properly and in the same manner in which they are calculated by ASPIRA. (Tr. vol. 8, at 34:20-35:15, 109:20-112:4; Tr. vol. 16, at 136:3-12, 150:3-151:3; Ex. Stetson 94.)

491. The financial metrics reported by the CSO are consistent with generally accepted standards of fiscal management and are recommended by the National Association of Charter School Authorizers. (Tr. vol. 3, at 5:7-15.)

492. Short-term financial health metrics include average days of cash on hand, total margin and current ratio. (Ex. JE[S] 25, at 17.)

493. Long-term financial health metrics include net position, non-restricted fund balance, and debt ratio. (Ex. JE[S] 25, at 18.)

494. Total margin is the percentage of the school's total annual revenue that it did not spend. As evaluated by the CSO, a total margin of at least 0% meets the standard and a total margin of less than -10% does not meet the standard. (Ex. JE[S] 25, at 17.)

495. Net position measures how much a school is worth as a percentage of its total annual revenue. As evaluated by the CSO, a net position of at least 16.66% meets the standard and a net position of less than 0% does not meet the standard. (Ex. JE[S] 25, at 18.)

496. Non-restricted fund balance also measures how much a school is worth as a percentage of its total annual revenue, but removes certain items such as property, equipment and long-term debt. As evaluated by the CSO, a value of at least 16.66% meets the standard and a value of less than 0% does not meet the standard. (*Id.*)

497. Since the SRC issued the notice of nonrenewal, the financial health of Stetson has improved. In the 2014-15 and 2015-16 school years, Stetson's total margin, net position and fund balance were on a downward trend, falling below standards, with Stetson engaging in deficit spending by over \$400,000 in 2014-15 and by over \$1.1 million in 2015-16. However, based upon the last two years of audited financial statements, Stetson has improved its financial condition. (Ex. SD[S] 6, at 1; Ex. JE[S] 6-9; Ex. JE[S] 25, at 14; Ex. SD[S] 19.)

498. The assets included in the financial metrics include receivables that are on Stetson's books, which would include the loans that have been made to ASPIRA. (Tr. vol. 16, at 28:18-29:10, 58:10-15.)

499. Mr. Yi presented various financial metrics for Stetson as of December 31, 2018, but those figures are not reliable because they are mid-year unaudited numbers. (Ex. Stetson 94, at 2; Tr. vol. 8, at 45:13-23, 56:23-57:9.)

500. Mr. Darden took over the finance and accounting function at ASPIRA in May of 2016. He instituted a credit card policy in July of 2016 and restricted the use of credit cards to three individuals across the organization. (Tr. vol. 7, at 24:4-9.)

501. Mr. Darden corroborated Mr. Krain's testimony about the state of affairs with ASPIRA's fiscal management of the charter schools. Mr. Rosenman had been ASPIRA's CFO until May 2016. Mr. Darden agreed that there were concerns with the accounting practices that had been in place under Mr. Rosenman, Mr. Rosenman's performance and the performance of his finance team. The concerns included lack of documentation for transactions, including the failure to issue invoices, payment of invoices and recording the transactions rather than netting those transactions against open payables; other issues with timely closing of books on a monthly basis; issues with documentation of journal entries in a way that would allow someone to fully trace them. (Tr. vol. 7, at 139:15-140:15.)

502. The School District has calculated and provided financial metrics for Stetson since the issuance of the Renewal Recommendation Reports in the 2014-15 (Stetson) and 2014-15 and 2015-16 school years (Olney) and then through the issuance of the ACES. (Ex. JE[O] 17, 30, 31; Ex. SD[O] 26; Ex. JE[S] 16, 24, 25; Ex. SD[S] 19; Ex. Stetson 22.)

503. Through its witnesses, Stetson suggests that the School District underpaid it for the 2015-16, 2016-17 and 2017-18 school years due to rate changes that occurred mid-year. The following evidence addresses this issue:

- a. The School District filled out a PDE-363 form each year to calculate the rates payable to charter schools, based upon budgeted expenditures. (Ex. Olney 217-219; Tr. vol. 8, at 77:2-4.)
- b. The School District pays all charter schools the same rates. (Tr. vol. 8, at 129:7-18.)
- c. On April 18, 2016, the School District notified all “Charter School Operators,” not just the Charter Schools, that PDE had issued revised charter school per pupil payment rates for the School District on April 6, 2016 for the 2015-16 school year. Based upon the revisions made by PDE, the School District adjusted the per pupil payment rates downward by \$209.44 per regular education student and \$400.62 per special education student. (Ex. Olney 205.) As a result of these decreases, the cumulative loss of revenue to Olney was \$430,000 for 2015-16. (Tr. vol. 8, at 81:24-82:2.)
- d. On March 21, 2017, the School District notified charter schools that PDE had released revised charter school per pupil payment rates for the 2016-17 school year for the School District on March 17, 2017. (Ex. Olney 190.) As a result of these decreases, the cumulative loss of revenue to the Charter School was approximately \$930,000 for 2016-17. (Tr. vol. 8, at 85:10-14.)
- e. Stetson has been repaid the reduced funds for the 2016-17 school year as a result of litigation filed in Commonwealth Court in the First Philadelphia case. (Ex. Stetson 272, at 119; Ex. Olney 295, at 121.)
- f. If there had not been a mid-year rate reduction and Stetson had continued to receive the higher rates in the years in question, it is not known whether its

financial metrics would change, because that would depend on how Stetson had used the funds. (Tr. vol. 7, at 287:17-288:10.)

- g. There was no information provided by Stetson that the School District had reduced its per pupil rates for 2017-18 based on actual expenditures, as had happened in 2015-16 and 2016-17 due to the rate changes by PDE. As noted in Stetson's own exhibit, all payments have been received for 2017-18. (Ex. Stetson 272, at 119.)
- h. In addition to the budget vs. actual dispute, the Charter Schools apparently contend that the School District has taken deductions from the 363 form that are not proper. According to Mr. Yi, such deductions would equate to underfunding in the amount of approximately \$3 million for Stetson and \$6 million for Olney. (Ex. Olney 295, at 121; Ex. Stetson 272, at 69.)
- i. As of the conclusion of the hearings on April 15, 2019, Stetson had not submitted a subsidy redirection request to PDE for any amounts that it believed were due for the 2017-18 school year due to the 363 deduction issue, claiming that it had until April 25, 2019 to do so. Mr. Yi testified on April 15, 2019 that he was not aware if Stetson intended to do so. (Tr. vol. 16, at 270:20-271:6.)

504. ASPIRA implemented several changes to the accounting and financial procedures and practices that had been in place. Most of those changes occurred after the SRC approved the nonrenewal resolution on December 17, 2017.

505. James Parsons and Karen Willis were hired in July or August 2018 as school-based finance officers. Both are employed by Stetson, and supposedly work under contracts with the other schools. (Tr. vol. 7, at 145:14-24.)

506. However, no such contracts were presented at the hearings. The Charter Board minutes from the meetings of June 29, 2018 and August 20, 2018 (there was no July board meeting) do not reflect approval of the hiring of Mr. Parsons or Ms. Willis, or approval of a contract with either of them. Nor do the Charter Board minutes reflect approval of any agreements among the Charter Schools to share any services provided by Mr. Parsons or Ms. Willis. (Ex. SD[O] 32, at 1-14.)

507. Mr. Parsons and Ms. Willis are both listed as attendees starting with the June 29, 2018 Charter Board meeting. (*Id.* at 1.)

508. The Charter Schools did not call Mr. Parsons or Ms. Willis to testify at the hearings.

509. On February 26, 2018, after the SRC approved the nonrenewal charges, the Charter Board approved a Financial Policy Manual to replace the internal controls that had been in use before. (Ex. Olney 95, Stetson 86, JE[O] 61, JE[O] 67, at 30; Tr. vol. 8, at 91:12-21, 97:18-21.)

510. The Financial Policy Manual addresses check signing authority for each Charter School and the process to obtain school-level approval for purchases and other matters. (Ex. Olney 95, Stetson 86.)

511. However, Mr. Yi admitted that the check signing and approval process in the Financial Policy Manual could continue to “cause confusion.” (Tr. vol. 8, at 102:9-104:24.)

512. The Charter Board only began approving purchases of \$5,000 or more for the Charter Schools after the approval of the Financial Policy Manual. The first Charter Board meeting where such steps were taken was on the February 26, 2018. (Ex. JE[O] 67, at 29-30; Tr. vol. 8, at 106:12-22.)

513. The Charter Board also approved a Position Control Policy at the February 26, 2018 meeting, which Mr. Yi said was needed because 2015-16 was a significant loss year and ASPIRA did not have a formal procurement process in place on positions. (Ex. JE[O] 67, at 30; Tr. vol. 16, at 162:10-164:13.)

514. After Mr. Parsons and Ms. Willis were hired in the 2018-19 school year, Ms. Willis drafted a Purchase Manual to provide the Charter Schools with more detailed instruction on how to conduct purchases, in order to separate the manner in which the Charter Schools purchase from how ASPIRA purchases. (Tr. vol. 16, at 157:4-158:13, 161:16-18.)

515. However, according to the Charter Board minutes, it does not appear that any manual related to purchasing was approved until January 28, 2019, when a document called an “Unauthorized School Purchases processes and policy” was apparently approved by the Charter Board, although there was no roll call vote. (Ex. SD[O] 32, at 35.)

516. The Charter Board did not authorize Mr. Parsons and Ms. Willis to have access to the Charter School’s bank accounts until the January 28, 2019 meeting. (Ex. SD[O] 32, at 33.)

517. According to the Charter Board minutes of October 29, 2018, Ms. Kirwin voiced her concerns to the Charter Board during the finance section of the agenda about how the 2018-19 budgets “were not inclusive of principal feedback and school academic and programmatic needs.” (Ex. SD[O] 32, at 24.)

518. Mr. Darden testified that, in early 2017, the Charter Board had established a Finance Committee that meets monthly. (Tr. vol. 7, at 149:2-4.) However, the Charter Board meeting minutes do not reflect establishment of a Finance Committee at any time during or since the 2016-17 school year, a fact that Mr. Darden admitted on cross-examination.

519. While the January 20, 2018 meeting minutes refer to something that will be discussed with the Finance Committee (Ex. JE[O] 67, at 20), the Charter Board did not take action to establish the committee or appoint its members. Nor do the minutes reference any reports by the Finance Committee to the Charter Board as a whole.

520. If the Finance Committee actually exists, it does not meet publicly, and its meetings are not advertised or posted on the Charter Schools' websites. (Tr. vol. 7, at 150-152.)

521. None of the Bylaws adopted by the Charter Board create a Finance Committee. According to the Bylaws, committees can only be created by the Charter Board: "The Board, by resolution adopted by a majority vote of the full Board, may designate from among its members and executive committee and one or more other committees, each of which, to the extent provided in the resolution, shall have the authority of the Board" (Ex. JE[O] 54, at 4; see also, Ex. JE[O] 51-53.)

522. The Charter Board meeting minutes do not reflect Stetson taking action to approve monthly invoices for ASPIRA. Nor is the Finance Committee taking actions with respect to payments to ASPIRA. (Tr. vol. 7, at 153:10-154:5.)

Payments to PSERS

523. Stetson's employees participate in the Public School Employees Retirement System ("PSERS"). (Ex. SD[S] 27, ¶ 5.) ASPIRA, as the charter management, oversees PSERS payments for Stetson's employees. (Tr. vol. 6, at 286:16-20.)

524. During the 2011-12 school year, PDE withheld \$46,412.32 from the School District's state payments to cover employer and/or employee contributions that Stetson had not paid to PSERS. (Ex. SD[S] 27, ¶ 7.)

525. During the 2012-13 school year, PDE withheld \$239.57 from the School District's state payments to cover employer and/or employee contributions that Stetson had not paid to PSERS. (Ex. SD[S] 27, ¶ 8.)

526. The School District recovered the amounts that PDE withheld by withholding equivalent amounts from Stetson's monthly per-pupil charter payments. (Ex. SD[S] 27, ¶ 9.)

527. These are the only payments missed by Stetson.

Other Asserted Defenses

Mastery Charter Schools

528. In an effort to legitimize the intertwined structure and practices of the ASPIRA-managed schools, the Charter Schools asserted throughout the hearing process that they are similar to the structure and practices of charter schools operated by Mastery Charter Schools. However, there are significant differences between the structure and practices of the ASPIRA schools and the structure and practices of the Mastery schools.

529. Mastery Charter High School ("MCHS") serves as the management company for the other Mastery charter schools and receives a management fee from them for its services. (Tr. vol. 1, at 61:13-16, 89:16-23; Tr. vol. 16, at 337:19-23.)

530. MCHS' board is distinct from the unified board that operates the other Mastery charter schools. (Tr. vol. 1, at 61:13-62:1.)

531. The other charter schools managed by MCHS do not have any other contractual obligations with each other and are not operating in the same manner as the charter schools in the ASPIRA management network. (Tr. vol. 1, at 61:13-62:6, 81.)

532. To the best of the Mr. Chao's and Krain's knowledge, the Mastery charter schools are not loaning money to each other, and have not pledged security interests in debt or other

financing transactions entered into by another one of the charter schools. (Tr. vol. 1, at 81:8-82:2, 89:16-90:5; Tr. vol. 3, at 210:11-212:8; Tr. vol. 16, at 72:11-74:1.)

533. According to Mr. Chao, whether or not it would be problematic for charter schools within the same management system to purchase services from one another would depend on the details of the arrangement. (Tr. vol. 1, at 62:8-63:7.)

534. If the Mastery schools' arrangements or actions had been similar to those of the ASPIRA-managed charter schools, the CSO would have flagged those issues. (Tr. vol. 1, at 82:10-14.)

535. Mr. Krain has reviewed the general ledger, 990s and other financial documents from the Mastery schools as part of the OAS's review that takes place at the time of each charter school's renewal. He conducted that review with the same expectations and standards as when he reviewed the ASPIRA schools' transactions, and he did not identify any concerns with Mastery's structure. (Tr. vol. 16, at 81:22-82:23, 94:8-12.) There were no deposits going from one Mastery-operated charter school to another, according to the general ledgers of those schools. (Tr. vol. 16, at 94:23-95:1.)

536. The flow-through items listed on MCHS' 990s are grants that are flowing from MCHS to the various MCHS-managed schools. (Ex. Olney 153-155; Ex. Stetson 151-153; Tr. vol. 16, at 78:9-81:11.)

537. MCHS charges a flat percentage as its management fee, without adding any additional direct service costs or staffing costs. (Tr. vol. 16, at 87:19-88:7.)

538. Given these distinctions, the School District's criticisms of the Charter Schools' structure, operations and financial transactions are not undermined by or inconsistent with the absence of similar criticisms regarding the Mastery schools.

Hostos and Pantoja

539. The Charter Schools also sought to legitimize the intertwined structure and practices of the ASPIRA-managed schools by noting that the CSO recommended a renewal with conditions for Hostos and Pantoja, instead of nonrenewal. However, there are significant differences between the charter requirements and performance of Hostos and Pantoja and the charter requirements and performance of Olney and Stetson.

540. Hostos and Pantoja both serve students kindergarten through eighth grade.

541. Hostos and Pantoja's charter requirements are different because they are not Renaissance charter schools. (Tr. vol. 5, at 208:15-17.)

542. Hostos and Pantoja also have better academic performance than Olney and Stetson, while also serving high percentages of historically underperforming students.

543. In the 2015-16 school year, Hostos had the following demographics: 88% Hispanic students; 33% special education students; and 14% ELLs. (Ex. Stetson 215, at 2; Ex. Olney 234, at 2.)

544. Nevertheless, in 2014-15 and 2015-16, Hostos' aggregate proficiency scores in math, ELA and science exceeded the aggregate scores of School District schools, peer schools and charter schools. (Ex. Stetson 215, at 4-6; Ex. Olney 234, at 4-6; Ex. Stetson 214, at 4-6; Ex. Olney 233, at 4-6.)

545. In the 2015-16 school year, Pantoja had the following demographics: 90% Hispanic students; 28% special education students; and 14% ELLs. (Ex. Stetson 211, at 2; Ex. Olney 230, at 2.)

546. Nevertheless, in 2014-15 and 2015-16, Pantoja's proficiency scores in math, ELA and science also exceeded the aggregate scores of School District schools and peer schools, with

the sole exception of math in 2015-16. (Ex. Stetson 210, at 4-6; Ex. Olney 229, at 4-6; Ex. Stetson 211, at 4-6; Ex. Olney 230, at 4-6.)

547. The CSO has recommended Hostos and Pantoja for renewal with conditions. However, neither school has been renewed by the SRC or the BOE, and no charters have been signed. (Tr. vol. 5, at 208:2-14.)

548. In June 2018, the CSO sent Pantoja and Hostos proposed charter agreements that contain 13 “conditions for renewal” addressing the findings in their renewal reports. (Ex. Olney 237, 238; Ex. Stetson 218, 219.) The Charter Schools did not present any evidence that Pantoja and Hostos have agreed to the conditions, or that the conditions have been met.

549. Under these circumstances, the CSO’s recommendation of nonrenewal for Olney and Stetson is not undermined by or inconsistent with its slightly better recommendation for Pantoja and Hostos.

Richard Allen Preparatory Charter School

550. The Charter Schools also contended that the CSO treated them differently than Richard Allen Preparatory Charter School (“Richard Allen”). However, there are significant differences between Richard Allen’s circumstances and Olney and Stetson’s circumstances.

551. Richard Allen’s charter requirements are different because it is not a Renaissance charter school. (Tr. vol. 5, at 211:1-7.)

552. Richard Allen did not have the same financial issues as Olney and Stetson. (Tr. vol. 5, at 211:8-16.) The only note in the financial stewardship section of the CSO’s renewal report for Richard Allen involves prepayment of rent to its component unit for the building that Richard Allen uses as its own facility. (Tr. vol. 5, at 223:9-20.)

553. The CSO recommended Richard Allen for a one-year renewal with conditions during the 2014-15 school year. Thereafter, the CSO recommended Richard Allen for nonrenewal.

554. Given the distinctions described above, the CSO's recommendation of nonrenewal for Olney and Stetson is not undermined by or inconsistent with its recommendations for Richard Allen.

Minority-Led Charter Schools Briefing

555. After the hearings ended, the Charter Schools requested belated admission of a PowerPoint presentation dated March 29, 2019 entitled Minority-Led Charter Schools Briefing ("Presentation"). (Ex. Olney 300; Ex. Stetson 277.)

556. The Presentation shows the number of charter schools that have operated in the School District since 2007-08, including the number of schools that have been opened and closed, and the number of Renaissance charter schools. (*Id.* at 4.)

557. The Presentation also provides some information from a third-party entity, the Center for Education Reform, containing national data from 2011 regarding the primary reasons why charter schools close. That same slide states: "All charter schools that have closed in Philadelphia were independently operated. Many charter schools led by Black and Latino CEOs are independently operated." (*Id.* at 5.)

558. The Charter Schools are not independently operated, as described in the Presentation. To the contrary, they are managed by ASPIRA.

559. The Presentation also provides data about the charter schools in Philadelphia that have closed since the 2014-15 school year, whether they were minority-led schools, and the primary reason for the closure. Out of the ten charter schools that closed since 2014-15, 60%

were “minority-led.” (*Id.* at 6.) The Presentation does not state how that percentage compares to the overall percentage of minority-led charter schools in Philadelphia.

560. Additional charter schools have entered into surrender agreements following nonrenewal recommendations. A surrender agreement reflects the charter school’s ability to remain in operation but with specific targets that must be met. Of the four charter schools that have done so, 75% were minority-led. (*Id.* at 7.) The Presentation also does not state how that percentage compares to the overall percentage of minority-led charter schools in Philadelphia.

561. Five charter schools are in the midst of nonrenewal proceedings, including the Charter Schools. Of those five charter schools, 80% are minority-led. (*Id.* at 8.) The Presentation also does not state how that percentage compares to the overall percentage of minority-led charter schools in Philadelphia.

562. The Presentation notes that there is not a dedicated non-profit charter support organization in Philadelphia, unlike in other major cities, to provide technical assistance and guidance to charter schools. (*Id.* at 9.) However, in this case, the Charter Schools have access to ASPIRA and its resources, along with the Central Office team now employed by Stetson.

CONCLUSIONS OF LAW

Applicable Legal Principles

1. Charter schools are required to comply with the Charter School Law (“CSL”), *See* 24 P.S. § 17-1701-A, *et seq.*
2. Stetson is a charter school operating pursuant to the CSL. *See* 24 P.S. § 17-1701-A *et seq.*

Revocation Procedure

3. The CSL authorizes nonrenewal of a charter on any of the following grounds:

(1) One or more material violations of any of the conditions, standards or procedures contained in the written charter signed pursuant to section 1720-A.

(2) Failure to meet the requirements for student performance set forth in 22 Pa. Code Ch. 5 (relating to curriculum) or subsequent regulations promulgated to replace 22 Pa. Code Ch. 5 or failure to meet any performance standard set forth in the written charter signed pursuant to section 1716-A.

(3) Failure to meet generally accepted standards of fiscal management or audit requirements.

(4) Violation of provisions of this article [the CSL].

(5) Violation of any provision of law from which the charter school has not been exempted, including Federal laws and regulations governing children with disabilities.

(6) The charter school has been convicted of fraud.

See 24 P.S. § 17-1729-A(a) (footnotes omitted).

4. The local board of school directors “may” choose not to renew a charter on any of these grounds. *See* 24 P.S. § 17-1729-A(a).

5. The local board of school directors “shall conduct a comprehensive review prior to granting a five (5) year renewal of the charter.” 24 P.S. § 17-1728-A(a).

6. Before deciding not to renew a charter, the local board of school directors must give notice to the governing board of the charter school, stating the grounds for such action with reasonable specificity, and must give reasonable notice of the date on which a public nonrenewal hearing will be held. 24 P.S. § 17-1729-A(c).

7. The local board of school directors must conduct a hearing, present evidence in support of the grounds for nonrenewal as stated in its notice, and give the charter school a reasonable opportunity to offer testimony before taking final action. *See* 24 P.S. § 17-1729-A(c).

8. Under the CSL, charter nonrenewal hearings are to be conducted in accordance with the Local Agency Law. *See* 24 P.S. § 17-1729-A(c); 2 Pa. C.S. Ch.5 Subch. B.

9. At the hearing, the local board of school directors has the burden to present sufficient evidence to substantiate its reasons for nonrenewal. 24 P.S. § 17-1729-A(c); *Delaware Valley Charter High Sch. v. School Dist. of Phila.*, CAB No. 2016-06, at 23 (June 8, 2017) (“*Delaware Valley*”).¹⁵

10. The asserted grounds must be proven by “a preponderance of the evidence.” *See Delaware Valley*, at 27; *Imani Educ. Circle Charter Sch. v. School Dist. of Phila.*, CAB No. 2014-08 at 25 (May 11, 2016) (“*Imani*”); *Graystone Acad. Charter Sch. v. Coatesville Area Sch. Dist.*, CAB No. 2012-01, at 38 (Aug. 2, 2013) (“*Graystone (CAB)*”). This burden is satisfied if “the evidence demonstrates a fact is more likely to be true than not to be true, or if the burden were viewed as a balance scale, the evidence in support of the proponent’s case must weigh slightly more than the opposing evidence.” *Id.*

11. In addition, “the reasons for terminating a charter must be compelling in the sense that a charter school’s violations of the terms of its charter or the CSL are significant, material and fundamental.” *Renaissance Charter Sch.*, CAB No. 2008-07, at 3 n.3 (Apr. 14, 2009) (“*Renaissance Charter*”).

12. The local board of school directors must take formal action regarding revocation of a charter at a public meeting pursuant to the Sunshine Act, 65 Pa. C.S. §§ 701-716, after giving the public 30 days to submit comments to the board. *See* 24 P.S. § 17-1729-A(c).

13. The SRC and the BOE have complied with all of these procedural requirements of the CSL to date, and will comply with the final requirement by voting on this matter at a public meeting.

¹⁵ All citations to decisions of the State Charter School Appeal Board (“CAB”) are made with reference to their docket number, referenced as “CAB No. [number] ([date]).” These decisions are publicly available on PDE’s website at <http://www.education.pa.gov/K-12/Charter Schools/Pages/CAB-Decisions.aspx>.

14. In addition, the essential elements of due process in an administrative matter are notice of governmental action and an opportunity to be heard to challenge that action. *Pocono Mountain Charter Sch., Inc. v. Pocono Mountain Sch. Dist.*, 88 A.3d 275, 285-86 (Pa. Cmwlth. Ct. 2014); *Barasch v. Pennsylvania Pub. Util. Comm’n*, 546 A.2d 1296, 1305 (Pa. Cmwlth. Ct. 1988).

15. These elements of due process have been satisfied in this proceeding.

Purpose of Charter Schools

16. “The core purpose of the [CSL] is to improve students’ education.” *New Hope Acad. Charter Sch. v. School Dist. of York*, 89 A.3d 731, 739 (Pa. Cmwlth. Ct. 2014) (*New Hope (Cmwlth.)*”).

17. The intent of the General Assembly in enacting the CLS was, among other things, to establish and maintain schools that improve pupil learning, to increase learning opportunities for all pupils, and to hold charter schools accountable for meeting measurable academic standards. *See* 24 P.S. § 17-1702-A; *New Hope (Cmwlth.)*; *see also*, *Discovery Charter Sch. v. School Dist. of Phila.*, 166 A.3d 304, 316 (Pa. 2017).

18. “[A]ll statutes that are part of the Public School Code must be interpreted to permit school districts to take actions necessary to provide students a good education” because “the fundamental purpose of the Public School Code is to provide ‘a thorough and efficient system of public education’ in accordance with Article III, Section 14 of the Pennsylvania Constitution.” *New Hope (Cmwlth.)*, at 739 (citations omitted).

19. “The [CSL] is a part of the Public School Code and must be interpreted to carry out the purpose of providing a quality education.” *Id.* (citing *Northside Urban Pathways Charter Sch. v. State Charter Sch. Appeal Bd.*, 56 A.3d 80, 83 (Pa. Cmwlth. Ct. 2012)).

Binding Effect of a Charter

20. “Upon approval of a charter application under section 1717-A, a written charter shall be developed which shall contain the provisions of the charter application 24 P.S. § 17-1720-A. This written charter . . . shall act as legal authorization for the establishment of a charter school . . . [and] shall be legally binding on both the local board of school directors of a school district and the charter school’s board of trustees.” *Id.*

21. “[T]he information in the charter school application is intrinsic to the charter and is essentially the heart of the charter school” because “the charter school application is required by the Charter School Law to be extremely detailed and specifically identify the manner in which the charter school will operate (see 24 P.S. § 17-1719-A) and because the information contained in the charter school application eventually becomes part of the charter itself” *Thurgood Marshall Acad. Charter Sch.*, CAB No. 2001-5, at 11 (Jan. 15, 2002).

22. “When a charter is granted by a local board of school directors, the charter school is required to comply with the terms and conditions of the charter, as well as the information contained in the charter school application, which is incorporated into the charter.” *Truebright Science Acad. Charter Sch. v. School Dist. of Phila.*, CAB No. 2013-11, at 15 (Jan. 8, 2015) (“*Truebright (CAB)*”) (citing 24 P.S. §§ 17-1720-A, 17-1729-A(a)(1)).

23. Accordingly, the “written charter shall be legally binding on both the local board of school directors of a school district and the charter school’s board of trustees.” *Discovery Charter Sch.*, at 319 (quoting 24 P.S. § 17-1720-A(a)).

Operation of Charter Schools

24. “A charter school shall be accountable to the parents, the public and the Commonwealth, with the delineation of that accountability reflected in the charter.” 24 P.S. § 17-1715-A(2).

25. “A charter school established under this act is a body corporate and shall have all powers necessary or desirable for carrying out its charter, including, but not limited to, the power to: . . . (4) Receive and disburse funds for charter school purposes only” 24 P.S. § 17-1714-A(a)(4).

26. “The board of trustees of a charter school shall have the authority to decide matters related to the operation of the school, including, but not limited to, budgeting, curriculum and operating procedures, subject to the school’s charter.” 24 P.S. § 17-1716-A(a).

27. Moreover, “[t]he board shall have the authority to employ, discharge and contract with necessary professional and nonprofessional employees subject to the school’s charter and the provisions of this article.” *Id.*

28. In addition, “[t]he board of trustees shall determine the level of compensation and all terms and conditions of employment of the staff except as may otherwise be provided in this article.” 24 P.S. § 17-1724-A(a).

29. “A charter school shall not discriminate in its admission policies or practices on the basis of intellectual ability . . . or athletic ability, measures of achievement or aptitude, status as a person with a disability, proficiency in the English language or any other basis that would be illegal if used by a school district.” 24 P.S. § 17-1723-A(b)(1).

English Language Learners

30. “A school entity shall administer a home language survey to all students seeking first time enrollment in its schools in accordance with the requirements of the United States Department of Education’s Office for Civil Rights.” 22 Pa. Code § 11.11(e).

31. In addition:

Every school district shall provide a program for each student whose dominant language is not English for the purpose of facilitating the student’s achievement of English proficiency and the academic standards under § 4.12 (relating to academic standards). Programs under this section shall include appropriate bilingual-bicultural or English as a second language (ESL) instruction.

22 Pa. Code § 4.26.

32. “Each State plan shall demonstrate that the State has adopted English language proficiency standards that – (i) are derived from the 4 recognized domains of speaking, listening, reading, and writing; (ii) address the different proficiency levels of English learners; and (iii) are aligned with the challenging State academic standards.” 20 U.S.C. § 6311(b)(1)(F).

33. “Each State plan shall demonstrate that local educational agencies in the State will provide for an annual assessment of English proficiency of all English learners in the schools served by the State educational agency.” 20 U.S.C. § 6311(b)(2)(G)(i).

34. English learners who have been enrolled in a school in the United States for less than 12 months may be excluded from one administration of the reading and language arts assessment required under ESSA or the results of assessments taken by such English learners may be excluded from the results reported for that school, in the discretion of the State. 20 U.S.C. § 6311(b)(3)(A).

Student Conduct

35. Prior to admitting a student, a charter school must obtain “a sworn statement or affirmation stating whether the pupil was previously or is presently suspended or expelled . . . for an act or offense involving weapons, alcohol or drugs or for the wilful infliction of injury to another person or for any act of violence committed on school property.” If the student was suspended or expelled, “[t]he registration shall include the name of the school from which the student was expelled or suspended for the above-listed reasons with the dates of expulsion or suspension and shall be maintained as part of the student’s disciplinary record.” 24 P.S. § 13-1304-A(a).

36. “The governing board has the authority to make reasonable and necessary rules governing the conduct of students in school. The rulemaking power, however, is not unlimited; it must operate within statutory and constitutional restraints. A governing board has only those powers that are enumerated in the statutes of the Commonwealth, or that may reasonably be implied or necessary for the orderly operation of the school.” 22 Pa. Code § 12.3(a).¹⁶

37. “Each governing board shall adopt a code of student conduct that includes policies governing student discipline and a listing of students’ rights and responsibilities *as outlined in this chapter.*” 22 Pa. Code § 12.3(c) (emphasis added). “This conduct code shall be published and distributed to students and parents or guardians. Copies of the code shall also be available in each school library.” *Id.*

38. The State Board of Education has specified due process requirements for all students to be suspended or expelled from school. 22 Pa. Code §§ 12.6 and 12.8. Those requirements are applicable to charter schools. 24 P.S. § 17-1732-A(b).

¹⁶ Charter schools are subject to 22 Pa. Code Ch. 12, pursuant to 24 P.S. § 17-1732-A(b).

39. Section 12.6 of the State Board of Education’s regulations provides in pertinent part as follows:

(b) Exclusion from school may take the form of suspension or expulsion.

* * *

(2) Expulsion is exclusion from school by the governing board for a period exceeding 10 school days and may be permanent expulsion from the school rolls. Expulsions require a prior formal hearing under § 12.8.

(c) During the period prior to the hearing and decision of the governing board in an expulsion case, the student shall be placed in his normal class except as set forth in subsection (d).

(d) If it is determined after an informal hearing that a student’s presence in his normal class would constitute a threat to the health, safety or welfare of others and it is not possible to hold a formal hearing within the period of a suspension, the student may be excluded from school for more than 10 school days. A student may not be excluded from school for longer than 15 school days without a formal hearing unless mutually agreed upon by both parties. Any student so excluded shall be provided with alternative education, which may include home study.

22 Pa. Code § 12.6.

40. Section 12.8 of the State Board of Education regulations provides as follows:

A formal hearing is required in all expulsions actions. This hearing may be held before the governing board or an authorized committee of the board, or a qualified hearing examiner appointed by the board. When a committee of the board or a hearing examiner conducts the hearing, a majority vote of the entire governing board is required to expel a student.

22 Pa. Code § 12.8(b).

41. With respect to these nonrenewal proceedings, the term “governing board” in Chapter 12 means “the board of trustees of a charter school.” 22 Pa. Code § 12.16.

The Ethics Act

42. Pennsylvania’s Public Official and Employee Ethics Act (“Ethics Act”) requires public officials to file a statement of financial interests (SOFI) by May 1 of each year. 65 Pa. C.S. § 1104(a).

43. Moreover, “No public official shall be allowed to take the oath of office or enter or continue upon his duties, nor shall he receive compensation from public funds, unless he has filed a statement of financial interests as required by this chapter.” 65 Pa. C.S. § 1104(d).

44. This requirement applies to trustees of a charter school, because they are “public officials.” 24 P.S. § 17-1715-A(11).

45. In their SOFIs, public officials must disclose, among other things, “[a]ny office, directorship or employment of any nature whatsoever in any business entity.” 65 Pa. C.S. § 1105(b)(8).

46. “Because public confidence in government can best be sustained by assuring the people of the impartiality and honesty of public officials, this chapter shall be liberally construed to promote complete financial disclosure as specified in this chapter.” 65 Pa. C.S. § 1101.1(a).

47. If a Charter Board member fails to file a SOFI as and when required, he or she must be removed for violating the Ethics Act. 65 Pa. C.S. § 1104(d).

48. A Charter Board member’s failure to file a SOFI as and when required constitutes a violation of law, but that violation cannot be imputed to Stetson because the filing is an individual responsibility, not the corporate responsibility of a charter school. *Reading Sch. Dist. v. I-LEAD Charter Sch.*, ___ A.3d ___, 2019 WL 1179160, *13 (Pa. Cmwlth. Ct., Mar. 14, 2019).

49. However, a Charter Board member’s failure to file a SOFI as and when required may be a proper basis for non-renewal or revocation of a charter when considered in the

aggregate with other violations and issues. *Renaissance Charter*, at 13-14; *Khepera Charter Sch. v. School Dist. of Phila.*, CAB No. 2018-01, 48-49 (Dec. 17, 2018).

50. Moreover, the School District can consider the failure to file SOFIs as a governance issue when deciding whether a charter should be renewed. *Reading Sch. Dist.*

51. The failure to ensure that SOFIs are filed as and when required may also constitute grounds for nonrenewal as a failure to comply with a charter requirement. *See* 24 P.S. § 17-1729-A(a)(1).

52. Other Ethics Act violations by a charter school may also serve as a basis for charter school nonrenewal. *Reading Sch. Dist.*

53. In addition to the SOFI requirement, the Ethics Act states that “[n]o public official or public employee shall engage in conduct that constitutes a conflict of interest.” 65 Pa. C.S. § 1103. For this purpose, a “conflict of interest” is defined as:

Use by a public official or public employee of the authority of his office or employment or any confidential information received through his holding public office or employment for the private pecuniary benefit of himself, a member of his immediate family or a business with which he or a member of his immediate family is associated”

65 Pa. C.S. § 1102.

54. In addition, the Ethics Act provides that:

No public official or public employee . . . or any business in which the person . . . is associated shall enter into any contract valued at \$500 or more with the governmental body with which the public official or public employee is associated . . . unless the contract has been awarded through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded. In such a case, the public official or public employee shall not have any supervisory or overall responsibility for the implementation or administration of the contract.

65 Pa. C.S. § 1103(f).

55. It also provides as follows:

Any public official or public employee who in the discharge of his official duties would be required to vote on a matter that would result in a conflict of interest shall abstain from voting and, prior to the vote being taken, publicly announce and disclose the nature of his interest as a public record in a written memorandum filed with the person responsible for recording the minutes of the meeting at which the vote is taken, provided that whenever a governing body would be unable to take any action on a matter before it because the number of members of the body required to abstain from voting under the provisions of this section makes the majority or other legally required vote of approval unattainable, then such members shall be permitted to vote if disclosure are made as otherwise provided herein.

65 Pa. C.S. § 1103(j).

56. The CSL similarly provides as follows:

A person who serves as an administrator for a charter school shall not receive compensation from another charter school or from a company that provides management or other services to another charter school. The term ‘administrator’ shall include the chief executive officer of a charter school and all other employees of a charter school who by virtue of their positions exercise management or operational oversight responsibilities. A person who serves as an administrator for a charter school shall be a public official under 65 Pa. C.S. Ch. 11 (relating to ethics standards and financial disclosure).

24 P.S. § 17-1715-A(12).

57. A charter board’s failure to discuss or consider the terms of management agreements, leases or contracts with the charter school’s management company through an open and public process violates the Ethics Act and the Nonprofit Corporation Law. *New Hope Acad. Charter Sch. v. School Dist. of York*, 89 A.3d 731, 741 (Pa. Cmwlth. Ct. 2014).

58. Contracts or transactions between the management company, or the principals involved in the management company, and the charter school are subject to the Ethics Act requirements. *Id.*

59. When a client relies on the attorney’s advice as an affirmative defense, or when the confidential information is placed at issue, the client waives the attorney-client privilege. *Bonds v. Bonds*, 689 A.2d 275, 277 (Pa. Super. Ct. 1997).

60. Where intent is not an element of a cause of action, reliance upon counsel may not be raised as an affirmative defense. *See, e.g. Phelps v. Caperoon*, 190 A.3d 1230, 1238-1239 (Pa. Super. Ct. 2018).

61. “When a board of trustees does not operate a charter school properly, e.g., the board of trustees violates the charter, the Sunshine Act, or other laws, the remedy is to revoke the charter under section 1729-A of the Charter School Law. 24 P.S. § 17-1729-A.” *Fairfield Area School Dist. v. National Org. for Children, Inc.*, 837 A.3d 644, 651 (Pa. Cmwlth. Ct. 2003) (holding that the trial court did not err in concluding that school districts lacked standing to sue the individual members of the Board of Trustees for violations of the Sunshine Act and other laws, in light of section 1729-A’s remedy of nonrenewal or revocation).

62. The trustees of a charter school must maintain ultimate control of the school, not the school’s management company. *West Chester Area Sch. Dist. v. Collegium Charter Sch.*, 812 A.2d 1172, 1177 (Pa. 2002).

63. “A prerequisite to the grant of a charter is the organization of the school as a nonprofit corporation governed by a board of trustees that possesses authority to decide matters relating to the operation of the school, subject to the school’s charter.” *Mosaica Acad. Charter Sch. v. Department of Educ.*, 813 A.2d 813, 818 (Pa. 2002).

The Nonprofit Corporation Law

64. The Nonprofit Corporation Law (“NCL”), 15 Pa. C.S.A. §§ 5701 *et seq.*, states in pertinent part:

(a) Directors.--A director of a nonprofit corporation shall stand in a fiduciary relation to the corporation and shall perform his duties as a director, including his duties as a member of any committee of the board upon which he may serve, in good faith, in a manner he reasonably believes to be in the best interests of the corporation and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. In

performing his duties, a director shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

(1) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented.

(2) Counsel, public accountants or other persons as to matters which the director reasonably believes to be within the professional or expert competence of such person.

(3) A committee of the board upon which he does not serve, duly designated in accordance with law, as to matters within its designated authority, which committee the director reasonably believes to merit confidence.

(b) Effect of actual knowledge.—A director shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that would cause his reliance to be unwarranted.

15 Pa. C.S.A. § 5712.

65. Directors can breach their duty of care to the nonprofit corporation by ignoring reports about serious mismanagement and failing to take appropriate action. *See, e.g. In re Lemington Home for Aged*, 777 F.3d 620, 629 (3d Cir. 2015) (duty of care was breached where the directors ignored reports about serious mismanagement by the nonprofit's senior administrator and failed to fire the individual).

66. Directors or trustees of a nonprofit corporation must consider the best interests of the nonprofit corporation when discharging their duties. In considering the best interests of the corporation, directors or trustees may consider the following: (a) the effects of any action on any or all groups affected by such action, including creditors; (b) the short-term and long-term interests of the corporation; and (c) all other pertinent factors. 15 Pa. C.S.A. § 5715(a).

67. Under the NCL, an interested director of a nonprofit corporation is a director who has a contract or has engaged in a transaction with the nonprofit corporation or is a director who

has a financial or other interest in a domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust or other association with which the nonprofit corporation has a contract or has engaged in a transaction. *See* 15 Pa. C.S.A. § 5728.

68. Under the NCL, it is permissible for a board to authorize a contract or transaction by the affirmative votes of a majority of the disinterested directors even though the disinterested directors are less than a quorum. 15 Pa. C.S.A. § 5728(a)(1). A contract or transaction in which an interested director has voted is not void or voidable, so long as:

(1) the material facts as to the relationship or interest and as to the contract or transaction are disclosed or are known to the board of directors and the board authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors even though the disinterested directors are less than a quorum;

(2) the material facts as to the director's or officer's relationship or interest and as to the contract or transaction are disclosed or are known to the members entitled to vote thereon, if any, and the contract or transaction is specifically approved in good faith by vote of those members; or

(3) the contract or transaction is fair as to the corporation as of the time it is authorized, approved or ratified by the board of directors or the members.

15 Pa. C.S.A. § 5728(a).

The Sunshine Act

69. “The board of trustees [of a charter school] shall comply with the act of July 3, 1986 (P.L. 388, No. 84), known as the ‘Sunshine Act.’” 24 P.S. § 17-1716-A(c).

70. “The General Assembly finds that the right of the public to be present at all meetings of agencies and to witness the deliberation, policy formulation and decision making of agencies is vital to the enhancement and proper functioning of the democratic process and that secrecy in public affairs undermines the faith of the public in government and the public's effectiveness in fulfilling its role in a democratic society.” 65 Pa. C.S. § 702(a).

71. “Official action and deliberations by a quorum of the members of any agency shall take place at a meeting open to the public unless closed under section 707 (relating to exceptions to open meetings), 708 (relating to executive sessions) or 712 (relating to General Assembly meetings covered).” 65 Pa. C.S. § 704.

72. “In all meetings of agencies, the vote of each member who actually votes on any resolution, rule, order, regulation, ordinance or setting of official policy must be publicly cast and, in the case of roll call votes, recorded.” 65 Pa. C.S. § 705.

73. The Sunshine Act also provides as follows:

Written minutes shall be kept of all open meetings of agencies. The minutes shall include:

- (1) The date, time and place of the meeting.
- (2) The names of members present.
- (3) The substance of all official actions and a record by individual member of the roll call votes taken.
- (4) The names of all citizens who appeared officially and the subject of their testimony.

65 Pa. C.S. § 706.

74. An executive session “may be held during an open meeting or at the conclusion of an open meeting or may be announced for a future time. The reason for holding the executive session must be announced at the open meeting occurring immediately prior or subsequent to the executive session.” 65 Pa. C.S. § 708(b).

75. A charter school’s failure to comply with its Bylaws during the charter term, as required by its charter, is grounds for revocation. *Khepera*, at 48.

Assessment of Academic Performance

76. “A charter school shall participate in the Pennsylvania State Assessment System as provided for in 22 Pa. Code Ch. 5 (relating to curriculum), or subsequent regulations promulgated to replace 22 Pa. Code Ch. 5, in the manner in which the school district in which the charter school is located is scheduled to participate.” 24 P.S. § 17-1715-A(8).

77. Chapter 5 of Title 22 of the Pennsylvania Code was repealed and replaced by Chapter 4 on January 15, 1999 at 29 Pa. B. 399. *See New Hope (Cmwlth.)*, at 737; *Sugar Valley Rural Charter Sch.*, CAB No. 2004-04, at 9 (May 11, 2005).

78. The term “school entities” is defined by Chapter 4 to include a “charter school.” 22 Pa. Code § 4.3.

79. A decision to revoke or not renew a charter may be based on failure to comply with the academic requirements in Chapter 4. *See Graystone Charter Sch. v. Coatesville Area Sch. Dist.*, 99 A.3d 125, 139 (Pa. Cmwlth. Ct. 2014) (“*Graystone (Cmwlth.)*”); *Career Connections Charter High Sch. v. School Dist. of Pittsburgh*, 91 A.3d 736 (Pa. Cmwlth. Ct. 2014) (“*Career Connections*”); *New Hope (Cmwlth.)*, at 738.

80. “The purpose of Chapter 4 is ‘to establish rigorous academic standards and assessments to facilitate the improvement of student achievement and to provide parents and communities a measure by which school performance can be determined.’ 22 Pa. Code §§ 4.2; *see also* 24 P.S. §17-1702-A(6).” *Truebright (CAB)*, at 15.

81. “A school entity’s curriculum shall be designed to provide students with planned instruction needed to attain these academic standards [set forth in Chapter 4].” 22 Pa. Code § 4.12(d).

82. Chapter 4 describes the State assessment system as follows:

- (a) The State assessment system shall be designed to serve the following purposes:
- (1) Provide students, parents, educators and citizens with an understanding of student and school performance consistent with the No Child Left Behind Act of 2001 (Pub. L. No. 107-110, 115 Stat. 1425).
 - (2) Determine the degree to which school programs enable students *to attain proficiency of academic standards* under § 4.12 (relating to academic standards).
 - (3) Provide information to State policymakers, including the General Assembly and the Board on how effective schools are in promoting and demonstrating student proficiency of academic standards.
 - (4) Provide information to the general public on school performance.
 - (5) Provide results to school entities based upon the aggregate performance of all students, for students with an Individualized Education Program (IEP) and for those without an IEP.
 - (6) Assess student proficiency in the academic standards for English Language Arts . . . Mathematics . . . science and technology and environment and ecology . . . and civics and government . . . for the purpose of determining, in part, a student's eligibility for high school graduation.
- (b) The State assessment system shall include PSSA assessments and Keystone Exams.

22 Pa. Code § 4.51(a) (emphasis added).

83. The State assessment system classifies academic proficiency as follows:

a. "Advanced" means "superior academic performance indicating an in-depth understanding and exemplary display of the skills included in Pennsylvania's Academic Standards." 31 Pa. B. 2763.

b. "Proficient" means "satisfactory academic performance indicating a solid understanding and adequate display of the skills included in Pennsylvania's Academic Standards." 31 Pa. B. 2763.

c. “Basic” means “marginal academic performance, work approaching, but not yet reaching satisfactory performance, indicating partial understanding and limited display of the skills included in Pennsylvania’s Academic Standards.” 31 Pa. B. 2763.

d. “Below Basic” means “inadequate academic performance that indicates little understanding and minimal display of the skills included in Pennsylvania’s Academic Standards.” 31 Pa. B. 2763.

84. Under ESEA, state accountability systems are required to measure proficiency on annual assessments and, at the state’s discretion, student growth as measured by such annual assessments, including for subgroups of students, defined as economically disadvantaged students, students from major racial and ethnic groups, children with disabilities and English learners. 20 U.S.C. § 6311(c).

85. As of August 30, 2013, after receiving a waiver from the United States Department of Education, PDE instituted the SPP reporting system, which continued to use students’ attainment of Advanced or Proficient scores on the PSSA as measures of academic achievement. *See Community Acad.*, at 43; *Delaware Valley*, at 32-33.

86. The SPP weighs a variety factors when measuring a school’s academic performance, including “raw test scores on the PSSA and Keystone Exams, academic growth through PVAAS scores, graduation rates, attendance rates, College Board testing, college attendance after graduation, and student achievement in Advanced Placement (‘AP’) testing in Mathematics, Reading/Literature, Science/Biology, and Writing.” *Community Acad.*, at 43. “All of these data elements are evaluated in order to create a ‘building level academic score’ that is used to track achievement for state-level academic accountability.” *Id.*

87. Allowing a charter school to “remain open despite student academic performance that is consistently far below state standards would violate the overriding purpose of the Public School Code to provide ‘a thorough and efficient system of public education,’ and could raise issues of unconstitutionality under Article III, Section 14 of the Pennsylvania Constitution.” *New Hope (Cmwlth.)*, at 739-40 (citation omitted).

88. Absent unusual circumstances not present here, it is appropriate to compare a charter school’s academic performance to the average academic performance of schools in the local school district when applying 24 P.S. § 17-1729-(a)(2). *See Id.*; *see also Truebright (CAB)*, at 18; *Community Acad.*, at 45; *c.f. Gillingham Charter Sch. v. Pottsville Area Sch. Dist.*, CAB No. 2016-11, at 74-75 (Oct. 27, 2017) (rejecting such a comparison because two thirds of the charter school’s students were drawn from outside the chartering school district).

89. CAB has affirmed the comparison of a charter school’s scores to the average of the scores of both the public schools, including special admission schools, and the other charter schools operating within the School District. *Delaware Valley*, at 29; *Khepera*, at 42; *Imani*, at 11.

90. “Chapter 4 does set forth a measurement and requirement of student academic performance: the PSSA and proficiency as measured by the PSSA.” *New Hope (Cmwlth.)*, at 737. “Proficiency as measured by PSSA test scores is therefore a Chapter 4 student performance requirement.” *Id.*

91. “A consistently low percentage of students scoring proficient or better on the PSSA constitutes a failure to satisfy Chapter 4 student performance requirements and is a valid ground for nonrenewal of a school’s charter under Section 1729-A(a)(2) of the [CSL] where the charter schools’ proficiency rates are lower than those of its school district’s schools as a whole

and no clear pattern of significant improvement in its PSSA results is shown.” *New Hope (Cmwlth.)*, at 737¹⁷; *accord Career Connections*, at 741; *Imani*, at 32; *Delaware Valley*, at 29; *Khepera*, at 42.

92. When comparing a charter school’s scores to the School District’s scores, all schools operated by the School District should be included, rather than excluding schools with the highest scores or the lowest scores. *New Hope (Cmwlth.)*, at 737.

93. CAB has also affirmed the comparison of a charter school’s scores to the average of the scores of all the charter schools operating within the School District. *Delaware Valley*, at 29.

94. Keystone Exam requirements established by the State Board of Education are set forth in Section 4.51b. 22 Pa. Code § 4.51b. After implementation of the Keystone Exams in the 2012-13 school year, those Exams became the proper measure of eleventh grade performance. *New Hope*, at 737, n. 8.

95. Section 4.24(k) addresses high school requirements relative to the Keystone Exams, and states as follows:

Beginning in the 2011-2012 school year, a student who does not demonstrate proficiency on a Keystone Exam . . . shall be offered supplemental instructional support by the student’s . . . charter school, including a cyber charter school. The supplemental instructional support must be consistent with the student’s educational program and assist the student to attain proficiency in the State academic standards.

22 Pa. Code § 4.24(k).

¹⁷ The 2014 decision of the Commonwealth Court in *New Hope (Cmwlth.)* did not address a charter school’s academic performance on the Keystone Exams or the SPP because the last data available was for the 2011-2012 school year, which pre-dated those newer measures. *New Hope (Cmwlth.)*, at 733.

96. A chartering school district is authorized to revoke or not renew the charter of a charter school if the standards for student achievement as set forth in Chapter 4 or its charter are not met. 24 P.S. § 17-1729-A(a)(2); *see e.g. New Hope; Career Connections; Graystone (Cmwlth.); Academy Charter Sch. v. Coatesville Area Sch. Dist.*, 99 A.3d 125, 139 (Pa. Cmwlth. Ct. 2014); *Truebright Science Acad. Charter Sch. v. Philadelphia Sch. Dist.*, 115 A.3d 919, 922-923 (Pa. Cmwlth. Ct. 2015) (“*Truebright (Cmwlth.)*”).

97. As noted by CAB:

The purpose of Chapter 4 is ‘to establish rigorous academic standards and assessments to facilitate the improvement of student achievement and to provide parents and communities a measure by which school performance can be determined. 22 Pa. Code § 4.2; *see also* 24 P.S. § 17-1702-A(6). Section 4.51 of Ch.4 regulations require schools to demonstrate that their students are proficient or better on the PSSA tests every year, pursuant to the mandates of the No Child Left Behind . . . Act. 22 Pa. Code § 4.51(a)(1). The General Assembly, consistent with its expression of intent, provided for a basis of nonrenewal of a charter in the event that a charter school failed to meet the requirements for student performance as set forth in Ch. 4 of the State Board of Education regulations. 24 P.S. § 17-1729-A(a)(2).

Delaware Valley, CAB No. 2016-06, at 27-28.

98. Whether a charter school has met the PVAAS growth standard is a valid consideration for renewal or revocation. *Truebright (CAB)*, at 18.

99. Stetson failed to meet the requirements for student performance as set forth in 22 Pa. Code, Ch. 4. 24 P.S. § 17-1729-A(a)(2).

Charter Requirements

100. A charter school’s failure to meet a performance goal set forth in its charter is also a valid ground for nonrenewal or revocation under 24 P.S. § 17-1729-A(a)(2). *Reading Sch. Dist.; Truebright (Cmwlth.)*, at 922; *Graystone (Cmwlth.)*, at 139; *Khepera*, at 44;

101. After 2016-17, SPP scores continue to be relevant to charter school performance, because they are a component of the evaluation of a multiple charter school organization application. 24 P.S. § 17-1729.1-A(b)(1)(iii). This provision of the CSL was added in November 2017. 2017, Nov. 6, P.L. 1142, No. 55, § 10, eff. imd.

102. Stetson failed to meet the goals and requirements for student performance as set forth in its charter and the Renaissance program. 24 P.S. § 17-1729-A(a)(2).

103. Stetson also failed to comply with its charter in other material respects regarding attendance and habitual truancy.

104. Stetson also failed to comply with its charter requirements for SOFIs.

105. Stetson also failed to comply with its charter requirements for HQTs.

106. Stetson also failed to comply with its charter requirements for certifications of special education staff.

Fiscal Management

107. The mismanagement of a charter school's finances is an appropriate reason to refuse to renew or to revoke the charter of the school. *See e.g. Ronald H. Brown Charter School*, 928 A.2d 1145 (Pa. Cmwlth. Ct. 2007) (revocation/non-renewal upheld where charter school had general fund deficit for 3 years and failed to make interest payments on interest-only note to management company); *Thurgood Marshall* (fiscal mismanagement sufficient to support revocation where charter school overspent its budget by over \$140,000 and placed itself in budget deficit of over \$50,000); *Creative Ed. Concepts Charter Sch.*, CAB No. 1999-15 (revocation upheld where charter school operated at a loss).

Financial Reports and Audits

108. The CSL, 24 P.S. § 17-1719(9), requires a charter school to be audited in accordance with Section 437 of the School Code, which states as follows: “The accounts of the school treasurer shall be audited annually as hereinafter provided.” 24 P.S. § 4-437.

109. “An annual financial report shall be submitted to the Secretary of Education by each . . . charter school . . . not later than the 31st day of October.” 24 P.S. § 2-218(a).

110. “The chief school administrator and board secretary of a . . . charter school . . . shall submit a signed statement to the Department of Education not later than the 31st day of December of each year certifying that: the audited financial statements of the . . . charter school . . . have been properly audited pursuant to Article XXIV and that in the independent auditor’s professional opinion, the financial statements submitted in the annual financial report was materially consistent with the audited financial statements.” 24 P.S. § 2-218(b).

111. The annual independent audit of a charter school’s financial statements must be completed on or before December 31 of each year. 24 P.S. § 2-218(b); *Graystone (Cmwlth.)*, at 140-41; *Graystone (CAB)*, at 60.

112. Stetson’s failure to meet these audit requirements for 2013, 2014, and 2016 are grounds for revocation of its charter. 24 P.S. § 17-1729-A(a)(3).

Teacher Qualifications

113. All public school teachers teaching core academic subjects supported by Title I funds were required to be highly qualified by the end of the 2005-06 school year. 20 U.S.C. § 6319(a)(2); 22 Pa. Code § 403.4.

114. To be highly qualified, a teacher must hold a bachelor’s degree and must demonstrate competence in the core content areas in which they teach through the means

permitted under the state law to do so, in addition to meeting the certification requirements under the CSL. *See Khepera*, at 25 ¶ 137.

115. A failure to have all core academic subjects taught by highly qualified teachers through the 2015-16 school year can be a basis for revocation or nonrenewal, even though that was no longer required in subsequent years. *Khepera*, at 47.

116. In addition, “[a]t least seventy-five per centum of the professional staff members of a charter school shall hold appropriate State certification.” 24 P.S. § 17-1724-A(a).

117. PDE has the “following responsibilities with respect to certification and permitting of professional personnel in the schools of this Commonwealth: . . . (2) Designation of professional titles for personnel. (3) Prescription of procedures for issuance of certificates and permits (5) Registration of certified and permitted persons. (6) Maintenance of records of all certificates and permits. . . . (10) The issuance of administrative agency interpretative policies and directives relating to professional certification and staffing in the schools of this Commonwealth as may be necessary to carry out the intent of this chapter.” 22 Pa. Code § 49.13(b).

118. “Persons who provide special education and related services to children with disabilities in charter schools and cyber charter schools shall have appropriate certification, notwithstanding section 1724-A of the [CSL].” 22 Pa. Code § 711.5.

119. The special education staff and coordinator must hold appropriate State certification and cannot be part of the 25% of professional staff not required to hold appropriate certification. *Ronald Brown Charter Sch.*, CAB No. 2005-08, at 26-27 (July 19, 2006).

Public School Employees' Retirement System

120. The CSL also provides that “The charter school . . . shall make quarterly payments by employers to the Public School Employees’ Retirement System . . .” (“PSERS”) and that “employees of a charter school shall make regular member contributions as required for active members under 24 Pa. C.S. Pt. IV.” 24 P.S. § 17-1724-A(c).

121. To ensure receipt a charter school’s employer and employee contributions to PSERS, any unpaid amounts due are deducted from funds appropriated to the chartering school district, and then deducted by the chartering school district from its payment to the charter school pursuant to the Public School Code of 1949. 24 Pa. C.S.A. § 8327(b)(2).

122. In addition, if a charter school fails to remit employer or employee contributions in a timely manner, “the Board will impose an interest charge of 6% per annum to the date of payment, to be added to the amount of the delinquency, whether payment shall occur through the subsidy deduction method or shall be made directly to the Board by the delinquent employer.” 22 Pa. Code § 213.27(b).

School Violence Statistics

123. All school entities are required to submit annual school violence statistics and reports to PDE’s Office for Safe Schools by no later than July 31 of each year. 24 P.S. §§ 13-1302-A(b)(2.1), 13-1303-A(b).

Grounds for Revocation

124. The School District has met its burden of proving each of the following grounds for nonrenewal of Stetson’s charter by a preponderance of the evidence:

- a. Stetson failed to meet material requirements in its charter. *See* 24 P.S. § 17-1729-A(a)(1).

b. Stetson failed to meet applicable requirements for student performance. *See* 24 P.S. § 17-1729-A(a)(2).

c. Stetson failed to meet generally accepted standards of fiscal management and audit requirements. *See* 24 P.S. § 17-1729-A(a)(3).

d. Stetson violated multiple provisions of law from which it has not been exempted. *See* 24 P.S. § 17-1729-A(a)(5).

125. Many of these established violations provide compelling reasons for nonrenewal of Stetson's charter, because they are significant, material and fundamental. *See Renaissance Charter*, at 3 n.3.

126. The established violations are based upon the evidence presented at the hearing, not the CSO's Renewal Recommendation Report.

127. Nonrenewal of Stetson's charter is not likely to undermine the core purpose of the CSL to improve student learning, because in all years and subjects, the proficiency rates of students at School District schools and Philadelphia charter schools have significantly exceeded the proficiency rates of Stetson's students.


128. The number and breadth of Stetson's charter and legal violations reveal a pervasive lack of organizational competence, which further supports an exercise of the BOE's discretion to not renew Stetson's charter.

129. Accordingly, the School District has established a sufficient factual and legal basis for not renewing Stetson's charter.

130. Stetson has not met its burden of proving by a preponderance of the evidence that the CSO's nonrenewal recommendation was arbitrary or capricious. Moreover, the CSO's recommendation was at most an internal opinion by agency staff. The final adjudication will be

by vote of the BOE, and it will be based on the evidence presented at the hearing, not on the CSO's renewal report.

131. Stetson also has not met its burden of proving by a preponderance of the evidence that the School District has treated minority-led charter schools differently than other charter schools, or that it did so with a discriminatory purpose. *See PG Publishing Co. v. Aichele*, 705 F.3d 91, 115 (3rd Cir. 2013).



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Date: September 19, 2019

**BOARD OF EDUCATION
THE SCHOOL DISTRICT OF PHILADELPHIA**

In the Matter of:

Charter Nonrenewal Proceeding Regarding
John B. Stetson Charter School

PROPOSED ADJUDICATION OF THE BOARD OF EDUCATION

The Hearing Officer proposes the following adjudication for adoption as a resolution of the Board of Education.

RESOLUTION

Re: John B. Stetson Charter School; Nonrenewal of Charter

WHEREAS, pursuant to the Charter School Law (“CSL”), 24 P.S. § 17-1701-A et seq., the School Reform Commission (“SRC”) of The School District of Philadelphia (“School District”) granted a charter (“Charter”) to the Board of Trustees of JOHN B. STETSON CHARTER SCHOOL (“STETSON”) to operate a charter school for a five-year term commencing in 2010; and

WHEREAS, STETSON seeks renewal of its Charter; and

WHEREAS, members of the Charter Schools Office (“CSO”) of the School District reviewed the academic performance, organizational compliance and viability, and fiscal health and sustainability of STETSON during the term of the Charter and concluded that there were grounds for the commencement of nonrenewal proceedings against the STETSON under Section 1729-A of the CSL; and

WHEREAS, in compliance with Section 1729-A of the CSL, the SRC, by Resolution No. SRC-8, approved on December 14, 2017, resolved that there were substantial grounds for nonrenewal of STETSON’s Charter, set forth the reasons supporting such nonrenewal, scheduled a hearing in this matter and authorized the appointment of a hearing officer to conduct the hearing; and

WHEREAS, the Board of Education (“Board”) replaced the SRC and became its successor with respect to this proceeding in July 1, 2018; and

WHEREAS, the Board appointed a Hearing Officer on December 5, 2018 who held a public hearing on March 12, 13, 15, 18, 19, 20, 25, 26, 27, 29, and April 2, 8, 9, 10, 12 and 15, 2019, during which testimony and exhibits were received regarding whether STETSON’s charter should or should not be renewed; and

WHEREAS, a 30-day public comment period was provided following the conclusion of the hearing; and

WHEREAS, pursuant to the CSL, STETSON has been permitted to remain in operation pending the outcome of these proceedings; and

WHEREAS, on September 19, 2019, the Hearing Officer certified the record of the hearing and submitted a report to the Board recommending nonrenewal of STETSON's Charter, including findings of fact, conclusions of law and a proposed adjudication; and

WHEREAS, the Board has reviewed all of the testimony and exhibits admitted during the hearing, the Hearing Officer's Report, including its Findings of Fact and Conclusions of Law, the submissions by all interested parties, and the public comments received; and

WHEREAS, this matter is now ripe for decision; now be it

RESOLVED, that STETSON's request for renewal of its Charter is DENIED.

FURTHER RESOLVED, that the Board adopts the Hearing Officer's Report, including its Findings of Fact and Conclusions of Law, as the reasons for this decision.

FURTHER RESOLVED, that in the event STETSON timely appeals this decision to the State Charter School Appeal Board ("CAB"), pursuant to the requirement contained in Section 1729-A(f) of the CSL, the Charter shall remain in effect and STETSON shall be permitted to remain open pending the conclusion of its appeal before CAB. In the event that STETSON does not appeal this decision to the CAB, STETSON shall cease all operations pursuant to a dissolution plan and timetable established by the School District, under the direction of the Office of General Counsel. Said plan shall be presented to the Board within sixty (60) days of the date of this Order.



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Date: September 19, 2019

**BOARD OF EDUCATION
THE SCHOOL DISTRICT OF PHILADELPHIA**

In the Matters of:

Charter Nonrenewal Proceeding Regarding
Olney Charter High School

Charter Nonrenewal Proceeding Regarding
John B. Stetson Charter School

CERTIFICATION OF THE RECORD

I hereby certify that the following transcripts, exhibits, and public comments submitted herewith constitute a true and complete record of the hearings in these nonrenewal proceedings by the School District of Philadelphia (“School District” or “SDP”) against Olney Charter High School (“Olney”) and John B. Stetson Charter School (Stetson):

A. Transcripts¹

<u>Vol.</u>	<u>Date</u>	<u>Witnesses</u>	<u>Pages</u>	<u>Matter</u>
01	03/12/19	Peng Chao	023-090	Olney
		Roger S. Kligerman	094-268	Olney
02	03/13/19	Roger S. Kligerman	004-109	Olney
		Nicholas Spiva	114-269	Olney
		Timothy Hanser	272-289	Olney
03	03/15/19	Timothy Hanser	004-087	Olney
		Mayer Krain	088-254	Olney
04	03/18/19	Lillian English-Hentz	018-065	Olney
		Sheila Rodriguez	068-76	Olney
		Carmen Camacho	079-87	Olney

¹ Because there was substantial overlap between the witnesses called in the Olney and Stetson matters, and because some of the witnesses were called out of order to accommodate their schedules, the parties agreed to include all of the testimony for both hearings in a single set of transcripts. (*See* Tr. vol. 13, at 4:3-5:1.) All of the transcripts are listed here, but only portions relevant to the particular matter are cited in the Hearing Officer’s Report, Findings of Fact and Conclusions of Law (“Report”) for that matter.

<u>Vol.</u>	<u>Date</u>	<u>Witnesses</u>	<u>Pages</u>	<u>Matter</u>
		James Thompson	087-233	Olney
		Ellen Green	233-316	Olney
05	03/19/19	Peng Chao	004-226	Stetson
		Peng Chao	227-267	Olney
		Thomas Darden	267-297	Olney
06	03/20/19	Ellen Green	004-221	Olney
		Daniel LaSalle	222-254	Olney
		Thomas Darden	254-291	Olney
07	03/25/19	Thomas Darden	004-232	Olney
		Yeslli Ann Hernandez	242-256	Olney
		Timothy Hanser	256-294	Olney
08	03/26/19	Nicholas Spiva	004-028	Olney
		Xin Yi	028-169	Olney
		Roger Kligerman	175-227	Olney
		Gary Samms	236-330	Both
09	03/27/19	Alexander Schuh	008-258	Olney
10	03/29/19	Thomas Darden	015-054	Both
		Nicholas Spiva	057-160	Stetson
		Gary Samms	169-247	Both
11	04/02/19	Gary Samms	004-132	Both
12	04/08/19	Roger Kligerman	004-205	Stetson
		Thomas E. Mullin	211-327	Stetson
		Joanne Esquilin	327-371	Stetson
13	04/09/19	Hedyanne Vallines	013-024	Stetson
		Yubelkis Soto	026-033	Stetson
		Debra Williams	034-046	Stetson
		Joely Sanchez	054-067	Stetson
		Maria Sanchez Ortiz	067-081	Stetson
		Alexander Schuh	082-248	Both
14	04/10/19	Alexander Schuh	004-097	Both
		Glenda Marrero	098-292	Stetson
15	04/12/19	Timothy Hanser	004-124	Both
		Mayer Krain	126-157	Both
		Alexander Schuh	157-252	Both

<u>Vol.</u>	<u>Date</u>	<u>Witnesses</u>	<u>Pages</u>	<u>Matter</u>
16	04/15/19	Mayer Krain	004-101	Both
		Jeanette Rodriguez	101-131	Stetson
		Xin Yi	132-271	Stetson
		Natalie Hoffa	272-279	Both
		Peng Chao	301-342	Both

B. Joint Exhibits in the Olney Matter²

<u>Exhibit</u>	<u>Description</u>	<u>Status³</u>
JE[O] 1	Resolution SRC-8, adopted December 14, 2017, Notice of Nonrenewal of Charter	Admitted
JE[O] 2	2011 Charter Agreement for Olney Charter High School (“Olney”)	Admitted
JE[O] 3	Minutes of meetings by Olney’s Board of Trustees from 2011-2015	Admitted
JE[O] 4	Olney’s independent financial audit for the year ending June 30, 2012	Admitted
JE[O] 5	Olney’s independent financial audit for the year ending June 30, 2013	Admitted
JE[O] 6	Olney’s independent financial audit for the year ending June 30, 2014	Admitted

² The parties agreed that relevant portions of the Olney and Stetson records could be incorporated into and relied upon in either proceeding. (Tr. vol. 4, at 305:6-308:8; Tr. vol. 5, at 32:23-33:23; Tr. vol. 10, at 4:17-23.) Accordingly, the exhibits for both hearings are included as part of the record here. The exhibits were pre-numbered separately before this agreement was reached, so to avoid confusion, it is necessary to distinguish the exhibits in one case from different exhibits with the same numbers in the other case. Accordingly, with respect to the exhibits submitted in the Olney matter, joint exhibits are cited here as Ex. JE[O] 1-108, School District exhibits are cited as Ex. SD[O] 1-33 and Olney exhibits are cited as Ex. Olney 1-300. Similarly, with respect to exhibits submitted in the Stetson matter, joint exhibits are cited as Ex. JE[S] 1-92, School District exhibits are cited as Ex. SD[S] 1-28 and Stetson exhibits are cited as Ex. Stetson 1-277. Additional Hearing Officer exhibits and public comments are also included to complete the record. Those for Olney are cited as Ex. HO[O] 1-125 and Ex. PC[O] 1-143, and those for Stetson are cited as Ex. HO[S] 1-131 and Ex. PC[S] 1-58.

³ In the Status columns, “Admitted” means that the entire exhibit was admitted into evidence, “Excluded” means its admission was denied, “Partial” means it was admitted in part, “Qualified” means it was admitted with specified qualifications, and “N.O.” means it was not offered into evidence.

<u>Exhibit</u>	<u>Description</u>	<u>Status</u> ³
JE[O] 7	Olney's independent financial audit for the year ending June 30, 2015	Admitted
JE[O] 8	Olney's independent financial audit for the year ending June 30, 2016	Admitted
JE[O] 9	Olney's independent financial audit for the year ending June 30, 2017	Admitted
JE[O] 10	Olney's independent financial audit for the year ending June 30, 2018	Admitted
JE[O] 11	2013-2014 Required Federal Reporting Measures ("RFRM") report for Olney	Admitted
JE[O] 12	2014-2015 RFRM report for Olney	Admitted
JE[O] 13	2014-2015 RFRM report for Olney	Admitted
JE[O] 14	2016-2017 RFRM report for Olney	Admitted
JE[O] 15	2016-2017 School Performance Profile ("SPP") for Olney with Fast Facts and historical academic data	Admitted
JE[O] 16	Screenshot from Pennsylvania Department of Education's ("PDE") webpage showing Olney's 2017-2018 SPP building level score	Admitted
JE[O] 17	2015-2016 Renewal Recommendation Report for Olney	Admitted
JE[O] 18	2015 Pennsylvania Value Added Assessment System ("PVAAS") data for Olney – Algebra I, Literature and Biology	Admitted
JE[O] 19	2016 PVAAS data for Olney – Algebra I, Literature and Biology	Admitted
JE[O] 20	2017 PVAAS data for Olney – Algebra I, Literature and Biology	Admitted
JE[O] 21	2018 PVAAS data for Olney – Algebra I, Literature and Biology	Admitted
JE[O] 22	Glossary of Terms for SPP published by PDE	Admitted
JE[O] 23	2018 Future Ready PA Index Summary Report for Olney published by PDE	Admitted
JE[O] 24	Future Ready PA Index Glossary published by PDE	Admitted
JE[O] 25	List of 2017 Comprehensive Support and Improvement ("CSI") schools published by PDE	Admitted
JE[O] 26	2013-2014 School Progress Report ("SPR") for Olney issued by the School District	Admitted
JE[O] 27	2014-2015 SPR for Olney issued by the School District	Admitted

<u>Exhibit</u>	<u>Description</u>	<u>Status</u> ³
JE[O] 28	2015-2016 SPR for Olney issued by the School District	Admitted
JE[O] 29	2016-2017 SPR for Olney issued by the School District	Admitted
JE[O] 30	2016 Annual Charter Evaluation (“ACE”) for Olney issued by the School District	Admitted
JE[O] 31	2017 ACE for Olney issued by the School District	Admitted
JE[O] 32	2013-2014 list of Priority and Focus schools published by PDE	Admitted
JE[O] 33	2015-2016 list of Priority and Focus schools eligible for School Improvement Grants, as published by PDE at https://www.education.pa.gov/Teachers%20-%20Administrators/Federal%20Programs/Pages/School-Improvement-Grants-(SIG).aspx	Admitted
JE[O] 34	2015-2016 Renewal Application Narrative submitted to the School District by Olney	Admitted
JE[O] 35	Basic Education Circular (“BEC”) entitled “Educating Students with Limited English Proficiency and English Language Learners”	Admitted
JE[O] 36	BEC entitled “Enrollment of Students”	Admitted
JE[O] 37	2012-2013 SPP score and Academic Performance Data for Olney	Admitted
JE[O] 38	2013-2014 SPP score and Academic Performance Data for Olney	Admitted
JE[O] 39	2014-2015 Keystone results for Olney	Admitted
JE[O] 40	2015-2016 Keystone results for Olney	Admitted
JE[O] 41	2016-2017 Keystone results for Olney	Admitted
JE[O] 42	2017-2018 Keystone results for Olney	Admitted
JE[O] 43	March 15, 2016 letter from the CSO to Olney re: draft renewal recommendation report	Admitted
JE[O] 44	Master Level Service Agreement between Olney and ASPIRA, Inc. dated July 1, 2011	Admitted
JE[O] 45	Master Level Service Agreement between Olney and ASPIRA, Inc. dated July 1, 2012	Admitted
JE[O] 46	Master Level Service Agreement between Olney and ASPIRA, Inc. dated July 1, 2014	Admitted
JE[O] 47	2015-2016 Olney Enrollment Packet	Admitted
JE[O] 48	2015-2016 Olney Student Application	Admitted

<u>Exhibit</u>	<u>Description</u>	<u>Status</u> ³
JE[O] 49	2017 Notice of Deficiency issued by CSO	Admitted
JE[O] 50	2016 Notice of Deficiency issued by CSO	Admitted
JE[O] 51	Olney's Bylaws submitted July, 2015	Admitted
JE[O] 52	Olney's Bylaws submitted August, 2016	Admitted
JE[O] 53	Olney's Bylaws submitted September, 2017	Admitted
JE[O] 54	Olney's Bylaws submitted August 2018	Admitted
JE[O] 55	Statements of Financial Interest submitted by Olney	Admitted
JE[O] 56	Olney's 2014-2015 Annual Report	Admitted
JE[O] 57	Olney's 2015-2016 Annual Report	Admitted
JE[O] 58	Olney's 2016-2017 Annual Report	Admitted
JE[O] 59	Olney Summary Report for payments made by the School District in the 2012-2013 school year	Admitted
JE[O] 60	Olney Summary Report for payments made by the School District in the 2014-2015 school year	Admitted
JE[O] 61	Internal Accounting Controls and Accounting Procedures Manual for ASPIRA, Inc. and the ASPIRA-managed schools - 2017	Admitted
JE[O] 62	January 3, 2017 Notice of Deficiency – Timely Audit Submission issued by CSO to Olney	Admitted
JE[O] 63	2015 letter from PNC Bank issued to ASPIRA, Inc.	Admitted
JE[O] 64	2016 ACE Preview Window Conversation with ASPIRA – March 20, 2017	Admitted
JE[O] 65	2015-2016 Board of Trustees meeting minutes	Admitted
JE[O] 66	2016-2017 Board of Trustees meeting minutes	Admitted
JE[O] 67	2017-2018 Board of Trustees meeting minutes	Admitted
JE[O] 68	2015-2016 Student Handbook	Admitted
JE[O] 69	2015-2016 Code of Student Conduct	Admitted
JE[O] 70	ASPIRA, Inc. Consolidated Financial Statements for year ending June 30, 2011	Admitted
JE[O] 71	ASPIRA, Inc. Consolidated Financial Statements for year ending June 30, 2012	Admitted
JE[O] 72	ASPIRA, Inc. Consolidated Financial Statements for year ending June 30, 2013	Admitted
JE[O] 73	ASPIRA, Inc. Consolidated Financial Statements for year ending June 30, 2014	Admitted
JE[O] 74	Olney's Safe Schools Report, 2011-2012	Admitted
JE[O] 75	Olney's Safe Schools Report, 2012-2013	Admitted

<u>Exhibit</u>	<u>Description</u>	<u>Status</u> ³
JE[O] 76	Olney's Safe Schools Report, 2013-2014	Admitted
JE[O] 77	Olney's Safe Schools Report, 2014-2015	Admitted
JE[O] 78	Olney's Safe Schools Report, 2015-2016	Admitted
JE[O] 79	Olney's Safe Schools Report, 2016-2017	Admitted
JE[O] 80	Olney's Safe Schools Report, 2017-2018	Admitted
JE[O] 81	Security Agreement	Admitted
JE[O] 82	Credit Agreement	Admitted
JE[O] 83	Guarantee Agreement	Admitted
JE[O] 84	Mortgages, Security Agreements and Fixture Filings	Admitted
JE[O] 85	Written Consents in Lieu of Organization Meeting	Admitted
JE[O] 86	Secretary's Certificates	Admitted
JE[O] 87	Intercreditor Agreement	Admitted
JE[O] 88	Absolute Assignment of Leases, Rents, Income and Profits	Admitted
JE[O] 89	Audited financial statements for ASPIRA, Inc. – 2014-2015	Admitted
JE[O] 90	Audited financial statements for ASPIRA, Inc. – 2015-2016	Admitted
JE[O] 91	Audited financial statements for Antonia Pantoja Charter School – 2015-2016	Admitted
JE[O] 92	Audited financial statements for Antonia Pantoja Charter School – 2016-2017	Admitted
JE[O] 93	Audited financial statements for Antonia Pantoja Charter School – 2017-2018	Admitted
JE[O] 94	Audited financial statements for Eugenio Maria de Hostos Charter School – 2015-2016	Admitted
JE[O] 95	Audited financial statements for Eugenio Maria de Hostos Charter School – 2016-2017	Admitted
JE[O] 96	Audited financial statements for Eugenio Maria de Hostos Charter School – 2017-2018	Admitted
JE[O] 97	Open-End Mortgage and Security Agreement	Admitted
JE[O] 98	Subordination and Attornment Agreement	Admitted
JE[O] 99	Indenture	Admitted
JE[O] 100	2017 Notice of Deficiency	Admitted
JE[O] 101	2015-09-10 Emails re: letter from PNC	Admitted
JE[O] 102	Enrollment/Attendance review dated June 12, 2012	Admitted

<u>Exhibit</u>	<u>Description</u>	<u>Status</u> ³
JE[O] 103	2011 Lease Agreement between Olney and ACE/Dougherty	Admitted
JE[O] 104	2015 Internal Controls Policy	Admitted
JE[O] 105	2016 School Performance Profile Scores Statewide	Admitted
JE[O] 106	2017 School Performance Profile Scores Statewide	Admitted
JE[O] 107	Federal Accountability Designation for all Philadelphia District Schools, as published at http://www.esaefedreport.com/District/SchoolList/c51/126515001	Admitted
JE[O] 108	Stipulations	Admitted

C. Joint Exhibits in the Stetson Matter

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
JE[S] 1	Resolution SRC-9, adopted December 14, 2017, Notice of Nonrenewal of Charter	Admitted
JE[S] 2	2010 Charter Agreement for Stetson	Admitted
JE[S] 3	Stetson's independent financial audit for the year ending June 30, 2012	Admitted
JE[S] 4	Stetson's independent financial audit for the year ending June 30, 2013	Admitted
JE[S] 5	Stetson's independent financial audit for the year ending June 30, 2014	Admitted
JE[S] 6	Stetson's independent financial audit for the year ending June 30, 2015	Admitted
JE[S] 7	Stetson's independent financial audit for the year ending June 30, 2016	Admitted
JE[S] 8	Stetson's independent financial audit for the year ending June 30, 2017	Admitted
JE[S] 9	Stetson's independent financial audit for the year ending June 30, 2018	Admitted
JE[S] 10	2013-2014 Required Federal Reporting Measures ("RFRM") report for Stetson	Admitted
JE[S] 11	2014-2015 RFRM report for Stetson	Admitted
JE[S] 12	2015-2016 RFRM report for Stetson	Admitted
JE[S] 13	2016-2017 RFRM report for Stetson	Admitted
JE[S] 14	2016-2017 School Performance Profile ("SPP") for Stetson with Fast Facts and historical academic data	Admitted

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
JE[S] 15	Screenshot from Pennsylvania Department of Education's ("PDE") webpage showing Stetson's 2017-2018 SPP building level score	Admitted
JE[S] 16	2015-2016 Renewal Recommendation Report for Stetson	Admitted
JE[S] 17	Glossary of Terms for SPP published by PDE	Admitted
JE[S] 18	2018 Future Ready PA Index Summary Report for Stetson published by PDE	Admitted
JE[S] 19	Future Ready PA Index Glossary published by PDE	Admitted
JE[S] 20	2013-2014 School Progress Report ("SPR") for Stetson issued by the School District	Admitted
JE[S] 21	2014-2015 SPR for Stetson issued by the School District	Admitted
JE[S] 22	2015-2016 SPR for Stetson issued by the School District	Admitted
JE[S] 23	2016-2017 SPR for Stetson issued by the School District	Admitted
JE[S] 24	2016 Annual Charter Evaluation ("ACE") for Stetson issued by the School District	Admitted
JE[S] 25	2017 ACE for Stetson issued by the School District	Admitted
JE[S] 26	2013-2014 list of Priority and Focus schools published by PDE	Admitted
JE[S] 27	2015-2016 list of Priority and Focus schools eligible for School Improvement Grants, as published by PDE at https://www.education.pa.gov/Teachers - Administrators/Federal Programs/Pages/School-Improvement-Grants-(SIG).aspx	Admitted
JE[S] 28	2015-2016 Renewal Application Narrative submitted to the School District by Stetson	Admitted
JE[S] 29	BEC entitled "Enrollment of Students"	Admitted
JE[S] 30	2012-2013 SPP score and Academic Performance Data for Stetson	Admitted
JE[S] 31	2013-2014 SPP score and Academic Performance Data for Stetson	Admitted
JE[S] 32	March 15, 2016 letter from the CSO to Stetson re: draft renewal recommendation report	Admitted
JE[S] 33	2015-2016 Stetson Enrollment Packet	Admitted
JE[S] 34	September 2016 Screenshot from Stetson's website	Admitted

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
JE[S] 35	July 5, 2017 Notice of Deficiency issued by CSO to Stetson	Admitted
JE[S] 36	2016 ACE Preview Window Conversation with ASPIRA – March 20, 2017	Admitted
JE[S] 37	Stetson’s Bylaws	Admitted
JE[S] 38	Minutes of meetings by Stetson’s Board of Trustees from 2011-2012	Admitted
JE[S] 39	Minutes of meetings by Stetson’s Board of Trustees from 2012-2013	Admitted
JE[S] 40	Minutes of meetings by Stetson’s Board of Trustees from 2013-2014	Admitted
JE[S] 41	Minutes of meetings by Stetson’s Board of Trustees from 2014-2015	Admitted
JE[S] 42	Minutes of meetings by Stetson’s Board of Trustees from 2015-2016	Admitted
JE[S] 43	Minutes of meetings by Stetson’s Board of Trustees from 2016-2017	Admitted
JE[S] 44	Minutes of meetings by Stetson’s Board of Trustees from 2017-2018	Admitted
JE[S] 45	Statements of Financial Interest submitted by Stetson	Admitted
JE[S] 46	Stetson’s 2014-2015 Annual Report	Admitted
JE[S] 47	Stetson’s 2016-2017 Annual Report	Admitted
JE[S] 48	Stetson Summary Report for payments made by the School District in the 2012-2013 school year	Admitted
JE[S] 49	Stetson Summary Report for payments made by the School District in the 2014-2015 school year	Admitted
JE[S] 50	Internal Accounting Controls and Accounting Procedures Manual for ASPIRA, Inc. and the ASPIRA-managed schools	Admitted
JE[S] 51	January 3, 2017 Notice of Deficiency – Timely Audit Submission issued by CSO to Stetson	Admitted
JE[S] 52	2015 letter from PNC Bank issued to ASPIRA, Inc.	Admitted
JE[S] 53	ASPIRA, Inc. Consolidated Financial Statements for year ending June 30, 2011	Admitted
JE[S] 54	ASPIRA, Inc. Consolidated Financial Statements for year ending June 30, 2012	Admitted
JE[S] 55	ASPIRA, Inc. Consolidated Financial Statements for year ending June 30, 2013	Admitted

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
JE[S] 56	ASPIRA, Inc. Consolidated Financial Statements for year ending June 30, 2014	Admitted
JE[S] 57	Security Agreement	Admitted
JE[S] 58	Credit Agreement	Admitted
JE[S] 59	Guarantee Agreement	Admitted
JE[S] 60	Mortgages, Security Agreements and Fixture Filings	Admitted
JE[S] 61	Written Consents in Lieu of Organization Meeting	Admitted
JE[S] 62	Secretary's Certificates	Admitted
JE[S] 63	Intercreditor Agreement	Admitted
JE[S] 64	Absolute Assignment of Leases, Rents, Income and Profits	Admitted
JE[S] 65	2014-2015 PSSA results for Stetson	Admitted
JE[S] 66	2015-2016 PSSA results for Stetson	Admitted
JE[S] 67	2016-2017 PSSA results for Stetson	Admitted
JE[S] 68	2017-2018 PSSA results for Stetson	Admitted
JE[S] 69	2011-2014 PSSA Data File for Stetson	Admitted
JE[S] 70	2012-2013 AGI data for Stetson	Admitted
JE[S] 71	2012 Master Service Level Agreement	Admitted
JE[S] 72	Audited financial statements for ASPIRA, Inc. – 2014-2015	Admitted
JE[S] 73	Audited financial statements for ASPIRA, Inc. – 2015-2016	Admitted
JE[S] 74	Audited financial statements for Antonia Pantoja Charter School – 2015-2016	Admitted
JE[S] 75	Audited financial statements for Antonia Pantoja Charter School – 2016-2017	Admitted
JE[S] 76	Audited financial statements for Antonia Pantoja Charter School – 2017-2018	Admitted
JE[S] 77	Audited financial statements for Eugenio Maria de Hostos Charter School – 2015-2016	Admitted
JE[S] 78	Audited financial statements for Eugenio Maria de Hostos Charter School – 2016-2017	Admitted
JE[S] 79	Audited financial statements for Eugenio Maria de Hostos Charter School – 2017-2018	Admitted
JE[S] 80	Open-End Mortgage and Security Agreement	Admitted
JE[S] 81	Subordination and Attornment Agreement	Admitted
JE[S] 82	Indenture	Admitted

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
JE[S] 83	2015-02 emails re: missing items	Admitted
JE[S] 84	2015 PSSA Statewide School Data	Admitted
JE[S] 85	2016 PSSA Statewide School Data	Admitted
JE[S] 86	2017 PSSA Statewide School Data	Admitted
JE[S] 87	2018 PSSA Statewide School Data	Admitted
JE[S] 88	2016 School Performance Profile Scores Statewide	Admitted
JE[S] 89	2017 School Performance Profile Scores Statewide	Admitted
JE[S] 90	2018 AGI Math – Stetson	Admitted
JE[S] 91	2018 AGI English - Stetson	Admitted
JE[S] 92	Federal Accountability Designation for all Philadelphia District Schools, as published at http://www.eseafedreport.com/District/SchoolList/c51/126515001	Admitted

D. School District Exhibits in the Olney Matter

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
SD[O] 1	2012-10-25 PSERS deduction	N.O.
SD[O] 2	2015-06-01 PSERS deduction	N.O.
SD[O] 3	ESL Student Level Access data for 2016-2017 from PDE for Olney Charter High School (“Olney”)	Admitted
SD[O] 4	ESL ACCESS 2016-2017 response from Olney	Admitted
SD[O] 5	ESL response with incomplete ACCESS tests 2016-2017	N.O.
SD[O] 6	ESL ACCESS information for 2015-2016	Admitted
SD[O] 7	Olney Summary Report for payments made by the School District in the 2013-2014 school year	N.O.
SD[O] 8	Olney Summary: Academic and Other Information	Admitted
SD[O] 9	Olney Fiscal Summary	Admitted
SD[O] 10	2017-2018 School Progress Report for Olney	Admitted
SD[O] 11	Olney Summary: Academic and Other Information – UPDATED	Admitted
SD[O] 12	2015 Service Level Agreement	Admitted
SD[O] 13	2017-2018 SPR School Metric Scores	Admitted
SD[O] 14	Olney 2017-2018 Annual Report	Admitted
SD[O] 15	Olney ACCESS 2017-18 Response	Admitted

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
SD[O] 16	Basic Education Circular, Educating English Learners	Admitted
SD[O] 17	2017-2018 SPR User Guide	Admitted
SD[O] 18	Statements of Financial Interest-Olney	Admitted ⁴
SD[O] 19	2019-03-14 Olney Summary - revised with updated Table 12 values	Admitted
SD[O] 20	Senate Bill 904 Testimony	N.O.
SD[O] 21	Article- District Charter Office Chief Resigns	N.O.
SD[O] 22	Promissory Demand Note	Admitted ⁵
SD[O] 23	August 24, 2011 License Agreement	Admitted
SD[O] 24	Letters to Calderon regarding Concerns with Documents Provided	Admitted
SD[O] 25	December 15, 2014 Letter Gutman regarding Concerns of the Charter School Office	Admitted
SD[O] 26	2018 ACE Olney	Admitted
SD[O] 27	2018-2019 Minutes	N.O.
SD[O] 28	Statement of Financial Interests	N.O.
SD[O] 29	Management Service Level Agreement	Admitted
SD[O] 30	Aspira Staffing Agreement	Admitted
SD[O] 31	Olney Charter High School FY 18-19 Final General Fund Budget	Admitted
SD[O] 32	Meeting Minutes- June 29, 2018 through January 2019	Admitted
SD[O] 33	Auditor General Report	Admitted

⁴ Exhibit SD[O] 18 was initially admitted subject to consideration of argument in post-hearing submissions regarding whether nonrenewal of a charter may be based upon deficiencies regarding statements of financial interest. (*See* Tr. vol. 2, at 270:3-271:5.) After considering the submissions, this exhibit is admitted without qualification, for the reasons explained in Section II.A.3 of the accompanying Report.

⁵ Exhibits SD[O] 22 and 26 were initially admitted subject to further argument in post-hearing submissions regarding whether after-acquired information must be excluded as beyond the scope of the resolution by which the Olney hearing was commenced (Ex. JE[O] 1). (*See* Tr. vol. 7, at 237:18-240:3.) After considering those submissions, the previous ruling is reaffirmed, for the reasons explained in Section III.H.3 of the accompanying Report.

E. School District Exhibits in the Stetson Matter

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
SD[S] 1	2012-02-23 PSERS deduction	N.O.
SD[S] 2	2012-06-01 PSERS deduction	N.O.
SD[S] 3	2013-04-25 PSERS deduction	N.O.
SD[S] 4	2015-06-01 PSERS deduction	N.O.
SD[S] 5	Summary for John B. Stetson Charter School (“Stetson”): Academic and Other Information	Admitted
SD[S] 6	Stetson Fiscal Summary	Admitted
SD[S] 7	2017-2018 School Progress Report for Stetson	Admitted ⁶
SD[S] 8	Stetson Summary: Academic and Other Information – UPDATED	Admitted
SD[S] 9	2015 Service Level Agreement	Admitted
SD[S] 10	2017-2018 SPR School Metric Scores	Admitted
SD[S] 11	Stetson 2017-2018 Annual Report	Admitted
SD[S] 12	2017-2018 SPR User Guide	Admitted
SD[S] 13	Senate Bill 904 Testimony	N.O.
SD[S] 14	Article- District Charter Office Chief Resigns	N.O.
SD[S] 15	Promissory Demand Note	Admitted
SD[S] 16	August 24, 2011 License Agreement	N.O.
SD[S] 17	Letters to Calderon regarding Concerns with Documents Provided	Admitted
SD[S] 18	December 15, 2014 Letter Gutman regarding Concerns of the Charter School Office	Admitted
SD[S] 19	2018 ACE Stetson	Admitted ⁷
SD[S] 20	2018-2019 Minutes	N.O.
SD[S] 21	Statement of Financial Interests	Admitted ⁸

⁶ Stetson objected to Exhibits SD[S] 7, 10 and 12 as beyond the scope of the resolution pursuant to which this hearing was commenced (Ex. JE[S] 1), but this objection is overruled for the reasons explained in Section III.H.3 of the accompanying Report. (*See* Ex.JE[S] 1; Tr. vol. 2, at 129:5-130:16; Tr. vol. 7, at 239:4-242:3; Tr. vol. 12, at 157:24-158:23, 208:3-16.)

⁷ Stetson objected to Exhibit SD[S] 19 as beyond the scope of the resolution pursuant to which this hearing was commenced (Ex. JE[S] 1), but this objection is overruled for the reasons explained in Section III.H.3 of the accompanying Report. (*See* Tr. vol. 10, at 165:7-13.)

⁸ Exhibit SD[S] 21 was admitted subject to further argument in post-hearing submissions on whether deficiencies regarding statements of financial interest can be held against a charter

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
SD[S] 22	Management Service Level Agreement	Admitted
SD[S] 23	Aspira Staffing Agreement	Admitted
SD[S] 24	Stetson FY 18-19 Final General Fund Budget	Admitted
SD[S] 25	Meeting Minutes- June 29, 2018 through January 2019	Admitted
SD[S] 26	Auditor General Report	Admitted
SD[S] 27	April 12, 2019 Stipulation	Admitted
SD[S] 28	School District of Philadelphia Directory of Citywide Elementary & Special Admission Middle Schools	N.O.

F. Olney Exhibits in the Olney Matter

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Olney 1	Board Meeting Minutes SY 2011-2018	N.O.
Olney 2	2015 Keystone Exam School Level Data	N.O.
Olney 3	2016 Keystone Exam School Level Data	N.O.
Olney 4	2017 Keystone Exam School Level Data	N.O.
Olney 5	2018 Keystone Exam School Level Data	N.O.
Olney 6	Required Federal Reporting Measures for Philadelphia School District High Schools and All Philadelphia Charter Schools, SY 2014-2015 through 2016-2017	Excluded ⁹
Olney 7	Average Daily Attendance Data for Comparable School District Schools, SY 2013-2014 through 2016-2017	N.O.
Olney 8	PSD School Progress Chart	N.O.

school in nonrenewal proceedings. (*See* Tr. vol. 10, at 163:21-165:5.) After considering the submissions, this exhibit is admitted without qualification, for the reasons explained in Section II.A.3 of the accompanying Report.

⁹ Pages 309-356, 408-479, 525-561, 661-711, 712-744, 745-814, 1395-1404, 1537-1604, 1730-1762, 1990-2041, 2204-2254, 2255-2299, 2754-2786, 2787-2852, 2923-2973, 2974-3006, 3007-3078, 3276-3308 of this exhibit were initially admitted as public records, *see* Pa. R. Evid. Rule 803(8), subject to subject further argument in post-hearing submissions on whether they are relevant and material. (*See* Ex. HO[O] 107.) Upon consideration of those submissions, these pages are now excluded as irrelevant and immaterial for the reasons stated in Section III.H.6.j III.H.6.jof the accompanying Report. Pages 2710-2753 (regarding Olney) were excluded as duplicative of other exhibits that have already been admitted. (*Id.*) All other pages of this exhibit were withdrawn by email on 4/29/19 at 2:16 PM. (the “Reilly Email”). (*See* Ex. HO[O] 106.)

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Olney 9	Serious Incidents Data for Comparable School District Schools, SY 2014-2015 through 2016-2017	N.O.
Olney 10	Peer Schools vs. Olney – PVAAS Chart	N.O.
Olney 11	Schools Comparisons Chart	N.O.
Olney 12	Graduation Rates for Comparative School District Schools SY2010-2011 through 2013-2014	N.O.
Olney 13	2018 Student Handbook	N.O.
Olney 14	Olney Algebra AGI 2018	N.O.
Olney 15	Olney Literature AGI 2018	N.O.
Olney 16	Olney Biology AGI 2018	N.O.
Olney 17	Olney Charter High School Enrollment	N.O.
Olney 18	Olney Charter High School ESL Manual	N.O.
Olney 19	Olney Charter High School Mission Statement	Admitted
Olney 20	2015 By Laws	Admitted ¹⁰
Olney 21	2016 By Laws	Admitted
Olney 22	2017 By Laws	Admitted
Olney 23	2018 By Laws	Admitted
Olney 24	4-Year Keystone - Olney Charter High School	N.O.
Olney 25	A systematic review of factors linked to poor academic performance of disadvantaged students in science and maths in schools	Excluded ¹¹
Olney 26	Academic Initiatives	N.O.
Olney 27	Academic Presentation 6.29.18	N.O.
Olney 28	Achieve 3000 - Olney	Admitted
Olney 29	ASPIRA Schools Academic Scores and Enrollment Data	N.O.
Olney 30	Daily News article 201314 SPR Some hesitation with SPR report	Excluded

¹⁰ Exhibits Olney 20-23 were initially admitted subject to confirmation that they were the same as others that had been previously admitted as joint exhibits. I have now confirmed that they are the same as Exhibits JE[O] 51-054.

¹¹ Exhibits Olney 25, 30-31, 69, 72, 144, 148, 210-211, 254 and 276-277 were objected to as hearsay and the objection was sustained subject to reconsideration in light of further argument in post-hearing submissions. (See Tr. vol. 15, at 256:22-266:16; Tr. vol. 16, at 372:5-374:8.) After considering those submissions, the previous ruling is reaffirmed for the reasons explained in Section III.H.5 of the accompanying Report.

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Olney 31	Daily news article on 201314 SPR Rating schools on more than test scores	Excluded
Olney 32	December 2018 JAG Monthly Report	Admitted
Olney 33	ELA FALL 2016-2017 - FALL 2018-2019 OCHS	Admitted
Olney 34	February2019 Monthly Report	Admitted
Olney 35	Feeder Schools for Olney	N.O.
Olney 36	Historical Performance Data 2011 - 2016	N.O.
Olney 37	How Renaissance schools were selected 2010	Admitted
Olney 38	HS-Directory-2017 School District of Philadelphia	Admitted
Olney 39	January 2019 JAG Monthly Report	Admitted
Olney 40	Major Points for Commentary OCHS and Stetson	N.O.
Olney 41	MAP - Growth-Fact-Sheet	Admitted
Olney 42	MAP - Normative-Data-2015	Admitted
Olney 43	MAP - SPR Quick Reference	Admitted
Olney 44	MAP Achievement in reading and math	Admitted
Olney 45	MAP for board 11.21	N.O.
Olney 46	MAP for board 4.24.17 Final	N.O.
Olney 47	MAP Student growth data 2017-18 SY	Admitted ¹²
Olney 48	Math FALL 2016-2017 - FALL 2018-2019 OCHS	N.O.
Olney 49	NCLB FAQs PDE memo on SPP and annual measurable objectives 201213	Admitted
Olney 50	November 2018 JAG Monthly Report	Admitted
Olney 51	OCHS and Stetson PVAAS Progress	N.O.
Olney 52	OCHS Attendance Data 2018	N.O.
Olney 53	October 2018 JAG Monthly Report	Admitted
Olney 54	OHCS PVAAS Scores	Admitted
Olney 55	Olney Charter High School – Kacer Renewal Update 2017	Admitted
Olney 56	Olney MAP growth Fall 2018-Winter 2019 MAP Growth	N.O.
Olney 57	Olney School Performance Profile Results 2018	Admitted
Olney 58	PA Renewal Requirements 2015	Admitted
Olney 59	PA State Report Card 2010 PSSA	Admitted

¹² Exhibit Olney 47 was admitted after an objection to it was withdrawn by email. (See Ex. HO[O] 105, 107.)

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Olney 60	Pantoja Prep Charter School Presentation Dec 2017	N.O.
Olney 61	PDE changes to testing 2011 to 2015	Admitted
Olney 62	PDE- State Federal Reporting Measures priority focus 2015	Admitted
Olney 63	Peer School Demographics for Olney	Partial ¹³
Olney 64	Philadelphia's Renaissance Schools Initiative 2012	Admitted
Olney 65	Philadelphia's Renaissance Schools Initiative after Four Years	Admitted
Olney 66	Philadelphia's Renaissance Schools, A Report on Start Up and Early Implementation, May 2011	Admitted
Olney 67	Post-secondary points of pride 2017-2018 Year in review	Admitted
Olney 68	Post-secondary points of pride 2016-2017 Year in review	Admitted
Olney 69	Public School Notebook 2013 on SPP issues in Philadelphia	Excluded
Olney 70	Report on Review and Analysis of Resolutions of Nonrenewal for Aspira Stetson and Aspira Olney Alex Schuh FINAL March 6	Partial ¹⁴
Olney 71	Resume of Ellen Green	Admitted
Olney 72	RFA Report Abstract 2010	Excluded
Olney 73	School District of Philadelphia Renaissance Schools Initiative, Policy No. 141	Admitted
Olney 74	School Performance Profile Olney Charter High School 13-16	Admitted
Olney 75	School Performance Profile Olney Charter High School 16-17	Admitted
Olney 76	SDP RFP 260 - Renaissance Schools 2010	Admitted
Olney 77	SDP-Renaissance-Schools-Initiative-Policy	Admitted

¹³ Pages 42-57 and 63-74 of this exhibit were withdrawn and the remaining pages were excluded as irrelevant, subject to reconsideration after further argument in post-hearing submissions. (*See* Tr. vol. 6, at 216:6-9; Tr. vol. 9, at 219:15-222:16.) After considering those submissions, the previous ruling is reaffirmed.

¹⁴ The table on page 26 of this exhibit was admitted as a summary pursuant to Pa. R. Evid. 1006, but all other pages were objected to as hearsay. A ruling on that objection was deferred pending consideration of further argument in post-hearing submissions. (*See* Tr. vol.15, at 256:22-262:12.) After considering those submissions, the hearsay objection is sustained for the reasons explained in Section III.H.5 of the accompanying Report.

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Olney 78	September 2018 Jobs for America's. Graduates Monthly Report	Admitted
Olney 79	SPR Business Rules 2015-2016	Admitted
Olney 80	SPR Business Rules 2016-2017	Admitted
Olney 81	SPR Business Rules 2017-2018	Admitted
Olney 82	SPR User Guide 2012-2013	Admitted
Olney 83	SPR User Guide 2013-2014	Admitted
Olney 84	SPR User Guide 2014-2015	Admitted
Olney 85	SPR User Guide 2015-2016	Admitted
Olney 86	SPR User Guide 2016-2017	Admitted
Olney 87	SPR User Guide 2017-2018	Admitted
Olney 88	STATISTICAL SCHOOL DATA Olney - Stetson	Admitted
Olney 89	Student Standardized Raw Test Score Data	N.O.
Olney 90	The School District of Philadelphia, Renaissance Schools Initiative Progress Report 2010-2011 through 2012-2013, December 2013	Admitted
Olney 91	timeline of Renaissance and district oversight and chaos RFA report 18 months	Admitted
Olney 92	What is the Renaissance School Initiative	Admitted
Olney 93	YEARLY STATISTICAL SCHOOL DATA	N.O.
Olney 94	2016-2017 Annual Financial Audit (Olney)	Admitted
Olney 95	ASPIRA and the School FINANCIAL POLICY MANUAL 20180220 V2	Admitted
Olney 96	ASPIRA and the School FINANCIAL POLICY MANUAL Federal grants	Admitted
Olney 97	ASPIRA Consolidated Financials 2017	Admitted
Olney 98	Budgeted FY19 Sch A	N.O.
Olney 99	Budgeted FY19 Sch B	N.O.
Olney 100	Closing Agenda - PNC Loan Docs 10.19.11	Admitted
Olney 101	Credit Facilities to Aspira, Inc. of Pennsylvania and certain of its affiliates 10.19.11	Admitted
Olney 102	FY19 CMO fee re original proposal vs budget	N.O.
Olney 103	Olney SDP Summary Report 2011-12	N.O.
Olney 104	Olney SDP Summary Report 2013-14	N.O.
Olney 105	Olney SDP Summary Report 2015-16	N.O.
Olney 106	Olney SDP Summary Report 2016-17	N.O.

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Olney 107	Olney SDP Summary Report 2017-18	N.O.
Olney 108	PNC 2nd Amendment 20170317	Admitted
Olney 109	PNC ASPIRA Forbearance Agreement 2016- Signed	Admitted
Olney 110	PNC December 2017 Forbearance Agreement	Admitted
Olney 111	Position Control Policy- FINAL - Approved 2-15-18	Admitted
Olney 112	Resume - Thomas Darden 3-8-19	Admitted
Olney 113	Provident 2nd Forbearance Agreement	Admitted
Olney 114	Provident 3rd Forbearance Agreement	Admitted
Olney 115	Provident First Amendment to Forbearance Agreement (Notarized)	Admitted
Olney 116	Provident-Aspira - Credit Agreement (Execution version)	Admitted
Olney 117	PSERS payments Olney Charter High School	Admitted
Olney 118	Purchasing MANUAL SY 2018-19	Admitted
Olney 119	Resolution for Board President Designees Revised 11/19	N.O.
Olney 120	S&P Article - Charter School Medians Reflect Operating Pressures in a Growing Sector 06-27-13	N.O.
Olney 121	S&P Article - Funding Volatility May Cause Public Charter School Credit Quality to Deteriorate Further 06-27-13	N.O.
Olney 122	SDP 2015-2016 PDE 2028	Qualified ¹⁵
Olney 123	SDP 2016-2017 PDE 2028	Qualified
Olney 124	SDP 2017-2018 PDE 2028	Qualified
Olney 125	SDP PDE 2028 2014-2015	Qualified
Olney 126	12.14.17 src vote to ax 3 philly charters news article	N.O.
Olney 127	15.16 SDP PDE 363	N.O.
Olney 128	16.17 SDP PDE 363	N.O.
Olney 129	17.18 SDP PDE 363	N.O.
Olney 130	18.19 SDP PDE 363	N.O.

¹⁵ Exhibits Olney 122-125, 190, 205 and 217-220 were admitted only to show that the rate was adjusted, not as evidence that it was inappropriately calculated before or after the adjustment was made, subject to consideration of further argument regarding relevance in post-hearing submissions. (See Tr. vol. 8, at 58:18-75:3, 171:8-173:3.) After considering those submissions, the previous ruling is reaffirmed.

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Olney 131	2014-2015 Student Code of Conduct -Olney High School	N.O.
Olney 132	2016-2017 Student Code of Conduct -Olney High School	N.O.
Olney 133	2017-2018 Student Code of Conduct -Olney High School	N.O.
Olney 134	2019-01-09 LT Stoner	N.O.
Olney 135	All Phila and CS Teacher Cert Data 2011 -Final	N.O.
Olney 136	All Phila and CS Teacher Cert Data 2013 -Final	N.O.
Olney 137	All Phila and CS Teacher Cert Data 2015 -Final	N.O.
Olney 138	ASPIRA Bilingual Cyber CS - SDP v. ASPIRA Bilingual Cyber CS - Pleadings - Order - Order Referring Question and Motions to Agency Head and Notifying P	Excluded ¹⁶
Olney 139	ASPIRA Charter Schools ACE feedback Email	N.O.
Olney 140	Auditor Kensington charter school had long time woes	N.O.
Olney 141	Brief in Opposition	Excluded
Olney 142	Climate narrative both schools and major points for commentary	N.O.
Olney 143	Corrective Action Plan for ESL ACCESS Olney	N.O.
Olney 144	ELC report-Safeguarding-Civil-Rights	Excluded
Olney 145	Emergency Certification Summaries OCHS and Stetson	N.O.
Olney 146	Enrollment Materials Timeline Communication to and from CSO	N.O.
Olney 147	Gary Samms, Esquire Bio	N.O.
Olney 148	Gold E Transition to High School RFA on Phila Special admission process	Excluded
Olney 149	Highlights and Growth-All Schools AGK	N.O.
Olney 150	Instructional Coaching and Evaluation Manual	N.O.
Olney 151	Ken Trujillo SRC 12.14.17 testimony	N.O.
Olney 152	Mastery Charter Elementary School report apps philly	Excluded ¹⁷

¹⁶ Exhibits Olney 138, 141 and 179 were excluded as argument, immaterial, cumulative, and prejudicial. (See Tr. vol. 16, at 346:14-354:13, 380:17-381:9.) See also footnote 15 above.

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Olney 153	Mastery Charter High School 201506 990	Admitted ¹⁸
Olney 154	Mastery Charter High School 201606 990	Admitted
Olney 155	Mastery Charter High School 201706 990	Admitted
Olney 156	Mastery Foundation 201506 990	N.O.
Olney 157	Mastery Foundation 201606 990	N.O.
Olney 158	Mastery Pickett 201606 990	N.O.
Olney 159	Mastery Pickett 201706 990	N.O.
Olney 160	Mastery-Charter-Schools-PA-Board-Minutes-2018.10.01	Excluded
Olney 161	Mayer Krain 2014-08 Imani Education Circle Charter School	N.O.
Olney 162	Mayer Krain Letters	N.O.
Olney 163	Mayer Krain LinkedIn	N.O.
Olney 164	October 1 Enrollment Numbers and ELL and Sped for 2011 - 2018 by School	N.O.
Olney 165	Olney - Annual Report 2012-2013	N.O.
Olney 166	Olney - Annual Report 2013-2014	Admitted
Olney 167	Olney - Annual Report 2017-2018	N.O.
Olney 168	Olney - PDE Charter Annual Report 2011-2012	N.O.
Olney 169	Olney 2013-14 ACS LEA Staff	N.O.
Olney 170	Olney 2014-15 ACS LEA Staff	N.O.
Olney 171	Olney 2015-16 ACS LEA Staff	N.O.
Olney 172	Olney 2018-19 ACS LEA Staff	N.O.
Olney 173	Olney BSE Compliance Monitoring Review	N.O.
Olney 174	Olney East Charter Application Final Submitted	N.O.
Olney 175	Olney East Safety Report 07.08	Admitted
Olney 176	Olney East Safety Report 08.09	Admitted
Olney 177	Olney East Safety Report 09.10	Admitted

¹⁷ Exhibits Olney 152 and 160 were excluded as unauthenticated and hearsay. (*See* Tr. vol. 16, at 356:17-259:10.)

¹⁸ Exhibits Olney 153-155 were tentatively admitted subject to consideration of whether they are relevant to any defenses asserted in post-hearing submissions. (*See* Tr. vol.16, at 354:17-358:15.) Upon consideration of those submissions, these exhibits are now admitted as relevant and material to the defenses that common boards and related-party financial dealings were deemed acceptable for Mastery charter schools.

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Olney 178	Olney East Safety Report 10.11	Admitted
Olney 179	Olney Pre-Hearing Motion	Excluded
Olney 180	Olney Response to 2017 Notice of Deficiency	N.O.
Olney 181	Olney Unified Charter Application Original 2010	N.O.
Olney 182	Olney Vacancy Report for October 2018	N.O.
Olney 183	Olney West Charter Application Final Submitted	N.O.
Olney 184	Olney West Safety Report 07.08	Admitted
Olney 185	Olney West Safety Report 08.09	Admitted
Olney 186	Olney West Safety Report 09.10	Admitted
Olney 187	Olney West Safety Report 10.11	Admitted
Olney 188	PA Mastery Charter School - Pickett Campus 2017	N.O.
Olney 189	Penn Data Comparison - Olney	N.O.
Olney 190	Rate Change Notification 2017	Qualified
Olney 191	RED UICS - Renewal Report - 2018	Excluded ¹⁹
Olney 192	RED Universal Alcorn Charter School - Renewal Report - 2018	Excluded ²⁰
Olney 193	RED W08 Inquiry Renewal 2017	Excluded
Olney 194	RED W13 PrepCS Renewal 2017	Excluded
Olney 195	RED X21 Universal Creighton Renewal 2017	Excluded
Olney 196	Roger Kligerman LinkedIn	N.O.
Olney 197	SRC Letter to Charter School CEOs re Per Pupil Funding Levels 07-03-14	N.O.
Olney 198	SRC Minutes-6.30.14-Combined	N.O.
Olney 199	SRC-10 Resolution Approving Antonia Pantoja CS 05-15-13	N.O.
Olney 200	SRC-13 Resolution Approving Eugenia de Hostos CS 05-15-13	N.O.
Olney 201	The Day - New London mayor's appointment failure - News from southeastern Connecticut	N.O.
Olney 202	The Philadelphia Great Schools Compact 12-20-11	N.O.

¹⁹ A ruling on the relevance of Exhibit Olney 191 was initially deferred pending consideration of further argument in post-hearing submissions. (*See* Tr. vol. 8, at 171:12-173:21.) I now sustain the relevance objection.

²⁰ Exhibits Olney 192-195 and 206 were excluded as unauthenticated and irrelevant. (*See* Tr. vol. 16, at 359:11-362:18.)

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Olney 203	Tim Hanser LinkedIn	N.O.
Olney 204	Trujillo Email to Wilkerson 12.13.17	N.O.
Olney 205	updated per pupil ltr - 04.18.2016	Qualified
Olney 206	W02 Harambee Renewal 2016	Excluded
Olney 207	Olney Financial ratios	Admitted
Olney 208	Interim Statement of Activities 2018	N.O.
Olney 209	Report of Gary Samms 3.7.19	Partial ²¹
Olney 210	An Examination of Pennsylvania School Performance Profile Scores	Excluded
Olney 211	Phila. School District Trying To Fix School Rating System – CBS Philly	Excluded
Olney 212	Philadelphia School District’s charter head stepping down	N.O.
Olney 213	Superintendent discusses tenure, year’s accomplishments	N.O.
Olney 214	Resume - Alex Schuh	Admitted
Olney 215	Kligerman Emails 2013	Admitted
Olney 216	Olney ELL Roster 2_7_19	N.O.
Olney 217	SDP Calculated 363 15-16 7.6.15	Qualified
Olney 218	SDP Calculated 363 16-17 6.21.16	Qualified
Olney 219	SDP Calculated 363 17-18 6.9.17	Qualified
Olney 220	SDP Calculated 363 18-19 6.14.18	Qualified
Olney 221	Trujillo Letter to Gutman 8.10.16	N.O.
Olney 222	Trujillo Letter to Gutman 9.14.16	N.O.
Olney 223	Trujillo Letter to Gutman 10.11.16	N.O.
Olney 224	Trujillo Report to the School Reform Commission 10.12.16	N.O.
Olney 225	Trujillo Letter to Gutman 1.29.18	N.O.
Olney 226	Mr. Kligerman’s notes	N.O.
Olney 227	Antonia Pantoja Charter School - Renewal Charter - 2018	Admitted ²²

²¹ Pages 6-14 of Exhibit Olney 209 were admitted, but all other pages were objected to as hearsay. A ruling on that objection was deferred pending consideration of further argument in post-hearing submissions. (See Tr. vol. 15, at 285:10-288:9.) After considering those submissions, the hearsay objection is sustained for the reasons explained in Section III.H.5.b III.H.5.b of the accompanying Report.

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Olney 228	Eugenio Maria de Hostos Charter School - Renewal Charter - 2018	Admitted
Olney 229	Antonia Pantoja Charter School - 2015 ACE	Admitted
Olney 230	Antonia Pantoja Charter School - 2016 ACE	Admitted
Olney 231	Antonia Pantoja Charter School - Renewal Report - 2013	N.O.
Olney 232	Antonia Pantoja Charter School - Renewal Report - 2018	N.O.
Olney 233	Eugenio Maria de Hostos Charter School - 2015 ACE	Admitted
Olney 234	Eugenio Maria de Hostos Charter School - 2016 ACE	Admitted
Olney 235	Eugenio Maria de Hostos Charter School - Renewal Report - 2013	N.O.
Olney 236	Eugenio Maria de Hostos Charter School - Renewal Report - 2018	N.O.
Olney 237	Chao 060118 email w attachments re Charter Pantoja	Admitted
Olney 238	Chao 060118 email w. attachments re Charter Hostos	Admitted
Olney 239	Excerpt - Philadelphia Charter School Renewal Evaluations 2017-2018	N.O.
Olney 240	James Parsons Resume	N.O.
Olney 241	Richard Allen Preparatory C.S. - Release and Settlement Agreement - fully executed	Excluded ²³
Olney 242	Richard Allen Preparatory Charter School - 2015 ACE	Excluded
Olney 243	Richard Allen Preparatory Charter School - 2015 Renewal Report	Excluded
Olney 244	Richard Allen Preparatory Charter School - 2017 ACE	Excluded

²² Exhibits Olney 227-230, 233-234 and 237-238 were initially admitted subject to consideration of whether they are relevant and material to any defenses asserted in post-hearing submissions. (See Tr. vol. 16, at 362:20-366:21.) Upon consideration of those submissions, these exhibits are now admitted as relevant to Olney's argument that the financial dealings among ASPIRA managed schools should be disregarded because the CSO recommended a different outcome for Antonia Pantoja Charter School ("Pantoja") and Eugenio de Hostos Charter School ("Hostos").

²³ Exhibits Olney 241-246 were excluded as irrelevant and prejudicial. (See Tr. vol. 16, at 367:10-368:1.)

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Olney 245	Richard Allen Preparatory Charter School - 2017 Notice of Deficiency	Excluded
Olney 246	Richard Allen Preparatory Charter School - 2017 Supplemental Renewal Report	Excluded
Olney 247	ASPIRA charter provider on thin ice, Philly School District says - WHYY	Excluded ²⁴
Olney 248	Attendance Summary – 2014-2017	Admitted
Olney 249	RFP 286- Renaissance Schools Year II - FINAL 11-16-10	Admitted
Olney 250	SPI Manual-1	Admitted
Olney 251	SPI Q&A	Admitted
Olney 252	Imagine 2014 - Five-Year Strategic Plan	Admitted
Olney 253	Imagine 2014- A Year 2 Update	Admitted
Olney 254	Teachers and students call for more resources for growing English Learner population _ The notebook	Excluded
Olney 255	Pew Report - Getting Into High School in Phila	Admitted
Olney 256	Steel parents file grievance against SAC charter vote _ Parents United for Public Education	N.O.
Olney 257	Steel parents win decisive vote to keep school public _ Parents United for Public Education	N.O.
Olney 258	Renaissance Schools Advisory Board Final Report 2009	Admitted
Olney 259	SRC Minutes 6.21.18 Charter Schools	N.O.
Olney 260	Comparison of Renewal Report Domain Questions 15-16	N.O.
Olney 261	Grade Breakdown 9th Grade Fall_Redacted	N.O.
Olney 262	Grade Breakdown 9th Grade Winter_Redacted	N.O.
Olney 263	Grade Breakdown 10th Grade Fall_Redacted	N.O.
Olney 264	Grade Breakdown 10th Grade Winter_Redacted	N.O.
Olney 265	Grade Report Grade 9 Fall English Only_Redacted	N.O.
Olney 266	Grade Report Grade 9 Winter English Only_Redacted	N.O.
Olney 267	Grade Report Grade 10 Fall_Redacted	N.O.
Olney 268	Grade Report Grade 10 Winter_Redacted	N.O.

²⁴ Exhibit Olney 247 was excluded as hearsay. (*See* Tr. vol. 16, at 369:18-22.)

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Olney 269	2015 map norms for student and school achievement status and growth	Admitted
Olney 270	Docket 289 MD 2017 - Antonia Pantoja Charter School, et al. v. Commonwealth	Excluded ²⁵
Olney 271	Docket - Antonia Pantoja Charter School, et al. v. School Dist	Excluded
Olney 272	Auditor General's Report - School District of Phila 2016	Excluded ²⁶
Olney 273	Auditor General's Report - SDP's Oversight of Charters 2016	N.O.
Olney 274	Can we trust the Philadelphia District's yardstick for school quality - WHYY	N.O.
Olney 275	Phila. District Suspends School-Rating System - Education Week	N.O.
Olney 276	Propel Charter School Federal Agreement	Excluded
Olney 277	Appendix A to Propel Official Statement	Excluded
Olney 278	Yeslli Ann Hernandez Profile	N.O.
Olney 279	Schuh Comparison of Aspira Stetson CS to Richard Allen Prep CS and Philadelphia District Schools	N.O.
Olney 280	Schuh Source Documents - Comparison of Aspira Stetson CS to Richard Allen Prep CS	N.O.
Olney 281	Testimony from Non-Renewal Hearing – Eastern University Academy Charter School	Partial ²⁷
Olney 282	SDP School Performance Index PowerPoint 2011	Admitted
Olney 283	The Widening Academic Achievement Gap Between the Rich and the Poor - Reardon	N.O.
Olney 284	SDP SPR SY1718 Peer Group Generation	Admitted

²⁵ Exhibits Olney 270 and 271 were excluded as irrelevant and immaterial. (*See* Tr. vol. 16, at 369:23-370:4.) *See also* footnote 15 above.

²⁶ Exhibit Olney 272 was excluded as hearsay. (*See* Tr. vol. 16, at 271:6-272:4.)

²⁷ Pages 44:10-47:17, 49:24-50:22, 56:21-58:7, 70:19-71:18, 92:14-18, 93:2-23, 97:2-98:12, 101:1-10, 105:22-106:9, 115:16-116:17, 124:20-125:24, 133:5-24, 134:24-135:7, 136:21-138:4 and 154:5-15 of Exhibit Olney 281 were admitted as an opposing party's statements pursuant to Pa. R. Evid. 803(25), subject to consideration of whether they are relevant and material to any defenses asserted in post-hearing submissions. Upon consideration of those submissions, these pages are now admitted for any light they might shed on the grounds for nonrenewal asserted at the hearing. All other portions of this exhibit were withdrawn by the Reilly Email, so those portions are not admitted. (*See* Ex. HO[O] 106.)

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Olney 285	PNC Transaction 2011 - 5,004,005.47 Term Loan Documents	Admitted
Olney 286	PNC Transaction 2011 - 629,554.66 Term Loan Documents	Admitted
Olney 287	PNC Transaction 2011 - 50,000 Loan to Eugenio Documents	Admitted
Olney 288	PNC Transaction 2011 - 50,000 Loan to Stetson Documents	Admitted
Olney 289	PNC Transaction 2011 - Collateral Documents	Admitted
Olney 290	PNC Transaction 2011 - Borrowers Documents	Admitted
Olney 291	SDP Renaissance Policy 407	Withdrawn
Olney 292	Provident Transaction - 4-22-2016	Admitted
Olney 293	Samms Letter in re ASPIRA, Olney, Stetson 3.25.19	Excluded ²⁸
Olney 294	Provident Opinion Letter from Borrower's Counsel - 4.22.16	Admitted
Olney 295	2019-03-26 Subpoena to Olney with Responsive Documents	Admitted
Olney 296	Krain Notes	Admitted
Olney 297	PDE RTK Request 3.14.19	Excluded ²⁹
Olney 298	PDE RTK Extension 3.21.19	Excluded
Olney 299	PDE RTK Final Response 4.11.19	Excluded
Olney 300	Minority-Led Charter Schools Briefing 3.29.19	Admitted ³⁰

G. Stetson Exhibits in the Stetson Matter

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Stetson 1	2018 Board of Trustees Bylaws	Excluded ³¹

²⁸ Exhibit Olney 293 was objected to as hearsay. A ruling on that objection was deferred pending consideration of further argument in post-hearing submissions. (*See* Tr. vol. 15, at 286:6-288:9.) After considering those submissions, the hearsay objection is sustained for the reasons explained in Section III.H.5 of the accompanying Report.

²⁹ Exhibits Olney 297-299 were excluded as irrelevant. (*See* Tr. vol. 16, at 375:14-380:9.)

³⁰ Exhibit Olney 300 was admitted after the hearing was concluded, subject to argument about its relevance, materiality and significance in post-hearing submissions. (*See* Ex. HO[O] 109.) After considering those submissions, it is admitted as relevant and material to the argument that there are inequities in the charter renewal process.

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Stetson 2	2017-2018 Board of Trustees Schedule	Excluded
Stetson 3	2018-2019 Board of Trustees Schedule	Excluded
Stetson 4	Board Meeting Minutes SY 2017-2018	Partial ³²
Stetson 5	Required Federal Reporting Measures for Philadelphia School District Middle Schools within a 2 Mile Geographic Radius and All Philadelphia Charter Schools, SY 2014-2015 through 2016-2017	Partial ³³
Stetson 6	2013 School Progress Report Scores for all Philadelphia Charter Schools and School District Schools	N.O.
Stetson 7	2014 School Progress Report Scores for all Philadelphia Charter Schools and School District Schools	N.O.
Stetson 8	2015 School Progress Report Scores for all Philadelphia Charter Schools and School District Schools	N.O.
Stetson 9	2016 School Progress Report Scores for all Philadelphia Charter Schools and School District Schools	N.O.
Stetson 10	2017 School Progress Report Scores for all Philadelphia Charter Schools and School District Schools	N.O.

³¹ Exhibits Stetson 1-3 were objected to as unauthenticated, and a ruling on the objection was initially deferred pending determination of whether they are the same as other documents that had been previously admitted as joint exhibits. (Tr. vol. 16, at 381:18-382:12.) I have now confirmed that they are not included among the joint exhibits, so the objection is sustained.

³² Exhibit Stetson 4 was objected to as unauthenticated, and a ruling on the objection was initially deferred pending determination of whether it is the same as other documents that had been previously admitted as joint exhibits. (Tr. vol. 16, at 381:18-382:12.) I have now confirmed that pages 8-67 are included in Exhibit J 44, so those pages are admitted. However, the objection is sustained as to pages 1-7, because they are not included in the joint exhibits.

³³ Pages 177-221, 525-569, 669-719, 720-764, 901-922, 1615-1673, 1967-2018, 2085-2129, 2181-2231, 2232-2276 , 2414-2464 , 2856-2906, 2907-2952, 2953-3003, 3489-3539 of Exhibit Stetson 5 exhibit were admitted as public records pursuant to Pa. R. Evid. Rule 803(8), subject to consideration of whether they are relevant and material to any defenses asserted in post-hearing submissions. (*See* Ex. HO[S] 109.) Upon consideration of those submissions, these pages are now excluded as irrelevant and immaterial for the reasons stated in Section III.H.6.j of the accompanying Report. Pages 3076-3126 (regarding Stetson) were excluded as duplicative of other exhibits that have already been admitted. (*Id.*) All other pages of this exhibit were withdrawn by the Reilly Email. (*See* Ex. HO[S] 108.)

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Stetson 11	Year over Year School Progress Report Scores for all Philadelphia Charter Schools and School District Schools	N.O.
Stetson 12	2018-2019 John B. Stetson Charter School Student Handbook	N.O.
Stetson 13	John B. Stetson Charter School Enrollment Packet-current	N.O.
Stetson 14	ASPIRA, Inc. Schools' ESL Manual – current	N.O.
Stetson 15	2017 PSSA and Map Spring	Admitted
Stetson 16	2017-2018 PSSA. PVAAS- Aspira Schools Final	N.O.
Stetson 17	3-yr PSSA - John B Stetson Charter Middle	N.O.
Stetson 18	A systematic review of factors linked to poor academic performance of disadvantaged students in science and maths in schools	Excluded ³⁴
Stetson 19	Academic Initiatives	N.O.
Stetson 20	Academic Presentation 6.29.18	N.O.
Stetson 21	ASPIRA Schools Academic Scores and Enrollment Data	N.O.
Stetson 22	CSO Stetson Renewal Report - 1.22.15	Admitted
Stetson 23	CSO Stetson RSV Report 2014	Admitted
Stetson 24	Daily News article 201314 SPR Some hesitation with SPR report	Excluded
Stetson 25	Daily news article on 201314 SPR Rating schools on more than test scores	Excluded
Stetson 26	ELA FALL 2016-2017 - FALL 2018-2019 JBS	Admitted
Stetson 27	Feeder Schools for Stetson	Admitted
Stetson 28	Historical Performance Data 2011 - 2016	N.O.
Stetson 29	How Renaissance schools were selected 2010	Admitted
Stetson 30	IRLA Evidence	N.O.
Stetson 31	John-B.-Stetson-Charter-School Charter-Improvement-Report 3-23-2018	Admitted
Stetson 32	Major Points for Commentary OCHS and Stetson	N.O.

³⁴ Exhibits Stetson 18, 24-25, 54, 101, 142, 146, 194 and 235 were objected to as hearsay and the objection was sustained subject to reconsideration in light of further argument in post-hearing submissions. (*See* Tr. vol. 15, at 256:22-266:16, 273:8-274:21; Tr. vol. 16, at 372:5-374:8.) After considering those submissions, the previous ruling is reaffirmed for the reasons explained in Section III.H.5 of the accompanying Report.

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Stetson 33	MAP - Growth-Fact-Sheet	Admitted
Stetson 34	MAP - Normative-Data-2015	Admitted
Stetson 35	MAP - SPR Quick Reference	Admitted
Stetson 36	MAP - Stetson Historical Data	Admitted
Stetson 37	MAP - Stetson Historical Data (disaggregated)	Admitted
Stetson 38	MAP for board 11.21	N.O.
Stetson 39	MAP for board 4.24.17 Final	N.O.
Stetson 40	MATH FALL 2016-2017 - FALL 2018-2019 JBS	N.O.
Stetson 41	NCLB FAQs PDE memo on SPP and annual measurable objectives 201213	Admitted
Stetson 42	OCHS and Stetson PVAAS Progress	N.O.
Stetson 43	PA Renewal Requirements 2015	Admitted
Stetson 44	PA State Report Card 2010 PSSA	Admitted
Stetson 45	Pantoja Prep Charter School Presentation Dec 2017	N.O.
Stetson 46	PDE changes to testing 2011 to 2015	Admitted
Stetson 47	PDE- State Federal Reporting Measures priority focus 2015	Admitted
Stetson 48	Peer School Demographics for Stetson	Partial ³⁵
Stetson 49	Philadelphia's Renaissance Schools Initiative 2012	Admitted
Stetson 50	Philadelphia's Renaissance Schools Initiative after Four Years	Admitted
Stetson 51	Philadelphia's Renaissance Schools, A Report on Start Up and Early Implementation, May 2011	Admitted
Stetson 52	PSSA Growth Report July 20 2017	N.O.
Stetson 53	PSSA School Level Data-JBS	N.O.
Stetson 54	Public School Noteboook 2013 on SPP issues in Philadelphia	Excluded
Stetson 55	Report on Review and Analysis of Resolutions of Nonrenewal for Aspira Stetson and Aspira Olney Alex Schuh FINAL March 6	Partial ³⁶

³⁵ Only pages 1-2 and 4-21 of Exhibit Stetson 48 were admitted (all other pages were withdrawn). (See Tr. vol. 14, at 392:10-294:24.)

³⁶ The tables on pages 5-6 and 23 of Exhibit Stetson 55 were admitted as summaries (*see* Pa. R. Evid. 1006), but all other pages were objected to as hearsay. A ruling on that objection was deferred pending consideration of further argument in post-hearing submissions. (*See* Tr.

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Stetson 56	Resume of Gregory Mangels	N.O.
Stetson 57	Resume of Thomas Mullin	Admitted
Stetson 58	School District of Philadelphia Renaissance Schools Initiative, Policy No. 141	Admitted
Stetson 59	School Improvement Plan - Stetson 2017	Admitted
Stetson 60	School Performance Profile John B 13-16	Admitted
Stetson 61	School Performance Profile John B 16-17	Admitted
Stetson 62	School Performance Profile John B Fast Facts 16-17	Admitted
Stetson 63	SDP RFP 260 - Renaissance Schools 2010	Admitted
Stetson 64	SDP-Renaissance-Schools-Initiative-Policy	Admitted
Stetson 65	SPR Business Rules 2015-2016	Admitted
Stetson 66	SPR Business Rules 2016-2017	Admitted
Stetson 67	SPR Business Rules 2017-2018	Admitted
Stetson 68	SPR User Guide 2012-2013	Admitted
Stetson 69	SPR User Guide 2013-2014	Admitted
Stetson 70	SPR User Guide 2014-2015	Admitted
Stetson 71	SPR User Guide 2015-2016	Admitted
Stetson 72	SPR User Guide 2016-2017	Admitted
Stetson 73	SPR User Guide 2017-2018	Admitted
Stetson 74	STATISTICAL SCHOOL DATA Olney - Stetson	N.O.
Stetson 75	Stetson Job Description Introduction	N.O.
Stetson 76	Stetson Charter High School – Kacer Renewal Update 2017	Admitted
Stetson 77	Stetson PVAAS Scores	Admitted
Stetson 78	Stetson School Performance Profile Results	Admitted
Stetson 79	Student Standardized Raw Test Score Data	Admitted
Stetson 80	The School District of Philadelphia, Renaissance Schools Initiative Progress Report 2010-2011 through 2012-2013, December 2013	Admitted
Stetson 81	timeline of Renaissance and district oversight and chaos RFA report 18 months	Admitted
Stetson 82	What is the Renaissance School Initiative	Admitted
Stetson 83	YEARLY STATISTICAL SCHOOL DATA	Admitted

vol. 15, at 256:22-262:12, 273:8-274:21.) After considering those submissions, the hearsay objection is sustained for the reasons explained in Section III.H.5 of the accompanying Report.

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Stetson 84	2016-2017 Annual Financial Audit (JohnBStetsoCharterSchool)	Admitted
Stetson 85	All PSERS payments for John B. Stetson	Admitted
Stetson 86	ASPIRA and the School FINANCIAL POLICY MANUAL 20180220 V2 (2)	Admitted
Stetson 87	ASPIRA and the School FINANCIAL POLICY MANUAL Federal grants	Admitted
Stetson 88	ASPIRA Consolidated Financials 2017	Admitted
Stetson 89	Budgeted FY19 Sch A	N.O.
Stetson 90	Budgeted FY19 Sch B	N.O.
Stetson 91	Closing Agenda - PNC Loan Docs 10.19.11	Admitted
Stetson 92	Credit Facilities to Aspira, Inc. of Pennsylvania and certain of its affiliates 10.19.11	Admitted
Stetson 93	FY19 CMO fee re original proposal vs budget	N.O.
Stetson 94	Stetson Financial Ratios	Admitted
Stetson 95	Interim Statement of Activities 2018	N.O.
Stetson 96	Report of Gary Samms 3.7.19	Partial ³⁷
Stetson 97	PNC 2nd Amendment 20170317	Admitted
Stetson 98	PNC ASPIRA Forbearance Agreement 2016- Signed	Admitted
Stetson 99	PNC December 2017 Forbearance Agreement	Admitted
Stetson 100	Position Control Policy- FINAL - Approved 2-15-18	Admitted
Stetson 101	An Examination of Pennsylvania School Performance Profile Scores	Excluded
Stetson 102	Provident 2nd Forbearance Agreement	Admitted
Stetson 103	Provident 3rd Forbearance Agreement	Admitted
Stetson 104	Provident First Amendment to Forbearance Agreement (Notarized)	Admitted
Stetson 105	Provident-Aspira - Credit Agreement (Execution version)	Admitted
Stetson 106	Resume - Thomas Darden 3-8-19	Admitted
Stetson 107	Purchasing MANUAL SY 2018-19	Admitted

³⁷ Pages 6-14 of Exhibit Stetson 96 were admitted, but all other pages were objected to as hearsay. A ruling on that objection was deferred pending consideration of further argument in post-hearing submissions. (See Tr. vol. 15, at 285:10-288:9.) After considering those submissions, the hearsay objection is sustained for the reasons explained in Section III.H.5 of the accompanying Report.

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Stetson 108	Resolution for Board President Designees Revised 11719	N.O.
Stetson 109	S&P Article - Charter School Medians Reflect Operating Pressures in a Growing Sector 06-27-13	N.O.
Stetson 110	S&P Article - Funding Volatility May Cause Public Charter School Credit Quality to Deteriorate Further 06-27-13	N.O.
Stetson 111	SDP 2015-2016 PDE 2028	Qualified ³⁸
Stetson 112	SDP 2016-2017 PDE 2028	Qualified
Stetson 113	SDP 2017-2018 PDE 2028	Qualified
Stetson 114	SDP PDE 2028 2014-2015	Qualified
Stetson 115	Stetson SDP Summary Report 2011-12	N.O.
Stetson 116	Stetson SDP Summary Report 2012-13	N.O.
Stetson 117	Stetson SDP Summary Report 2013-14	N.O.
Stetson 118	Stetson SDP Summary Report 2014-15	N.O.
Stetson 119	Stetson SDP Summary Report 2015-16	N.O.
Stetson 120	Stetson SDP Summary Report 2016-17	N.O.
Stetson 121	Stetson SDP Summary Report 2017-18	N.O.
Stetson 122	12.14.17 src vote to ax 3 philly charters news article	N.O.
Stetson 123	15.16 SDP PDE 363	N.O.
Stetson 124	16.17 SDP PDE 363	N.O.
Stetson 125	17.18 SDP PDE 363	N.O.
Stetson 126	18.19 SDP PDE 363	N.O.
Stetson 127	2014-2015 Student Code of Conduct - John B. Stetson Charter School	N.O.
Stetson 128	2015-2016 Student Code of Conduct - John B. Stetson Charter School	N.O.
Stetson 129	2016-2017 Student Code of Conduct - John B. Stetson Charter School	N.O.
Stetson 130	2017-2018 Student Code of Conduct - John B. Stetson Charter School	N.O.

³⁸ Exhibits Stetson 111-114, 165 and 199-202 were admitted to show that the rate was adjusted, not as evidence that it was inappropriately calculated before or after the adjustment was made, subject to consideration of further argument regarding relevance in post-hearing submissions. *See* Tr. vol. 8, at 58:18-75:3, 171:8-173:3; Tr. vol. 13, at 52:12-54:14. After considering those submissions, the previous ruling is reaffirmed.

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Stetson 131	2019-01-09 LT Stoner	Qualified ³⁹
Stetson 132	All Phila and CS Teacher Cert Data 2011 -Final	N.O.
Stetson 133	All Phila and CS Teacher Cert Data 2013 -Final	N.O.
Stetson 134	All Phila and CS Teacher Cert Data 2015 -Final	N.O.
Stetson 135	ASPIRA Bilingual Cyber CS - SDP v. ASPIRA Bilingual Cyber CS - Pleadings - Order - Order Referring Question and Motions to Agency Head and Notifying P	Qualified
Stetson 136	ASPIRA Charter Schools ACE feedback Email	N.O.
Stetson 137	Auditor Kensington charter school had long time woes	N.O.
Stetson 138	Brief in Opposition	Qualified
Stetson 139	Climate narrative both schools and major points for commentary	N.O.
Stetson 140	CSO Rebuttal for JBS	N.O.
Stetson 141	EL Stetson Description	N.O.
Stetson 142	ELC report-Safeguarding-Civil-Rights	Excluded
Stetson 143	Emergency Certification Summaries OCHS and Stetson	N.O.
Stetson 144	Enrollment Materials Timeline Communication to and from CSO	N.O.
Stetson 145	Gary Samms, Esquire Bio	Admitted
Stetson 146	Gold E Transition to High School RFA on Phila Special admission process	Excluded
Stetson 147	Highlights and Growth-All Schools AGK	N.O.
Stetson 148	Instructional Coaching and Evaluation Manual	N.O.
Stetson 149	Ken Trujillo SRC 12.14.17 testimony	N.O.
Stetson 150	Mastery Charter Elementary School report apps philly	Excluded ⁴⁰
Stetson 151	Mastery Charter High School 201506 990	Admitted ⁴¹

³⁹ Exhibits Stetson 131, 135 and 138 were subject to the same ruling as Exhibits Stetson 111-114 and 165. (Tr. vol. 16, at 382:18-383:22.)

⁴⁰ Stetson 150 was excluded as unauthenticated and hearsay. (See Tr. vol. 16, at 383:23-384:8.)

⁴¹ Exhibits Stetson 151-153 were tentatively admitted subject to consideration of whether they are relevant to any defenses asserted post-hearing submissions. (See Tr. vol.16, at 354:17-

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Stetson 152	Mastery Charter High School 201606 990	Admitted
Stetson 153	Mastery Charter High School 201706 990	Admitted
Stetson 154	Mastery Foundation 201506 990	N.O.
Stetson 155	Mastery Foundation 201606 990	N.O.
Stetson 156	Mastery Pickett 201606 990	N.O.
Stetson 157	Mastery Pickett 201706 990	N.O.
Stetson 158	Mastery-Charter-Schools-PA-Board-Minutes-2018.10.01	Excluded ⁴²
Stetson 159	Mayer Krain 2014-08 Imani Education Circle Charter School	N.O.
Stetson 160	Mayer Krain Letters	N.O.
Stetson 161	Mayer Krain LinkedIn	N.O.
Stetson 162	October 1 Enrollment Numbers and ELL and Sped for 2011 - 2018 by School	N.O.
Stetson 163	PA Mastery Charter School - Pickett Campus 2017	N.O.
Stetson 164	Penn Data Comparison - Stetson	N.O.
Stetson 165	Rate Change Notification 2017	Qualified
Stetson 166	RED UICS - Renewal Report - 2018	Excluded ⁴³
Stetson 167	RED Universal Alcorn Charter School - Renewal Report - 2018	Excluded ⁴⁴
Stetson 168	RED W08 Inquiry Renewal 2017	Excluded
Stetson 169	RED W13 Prep CS Renewal 2017	Excluded
Stetson 170	RED X21 Universal Creighton Renewal 2017	Excluded
Stetson 171	Roger Kligerman LinkedIn	N.O.
Stetson 172	Safe Schools ACS and LEA Profile-Stetson 2014-2015	Admitted

358:15, 384:9-16.) Upon consideration of those submissions, these exhibits are now admitted as relevant and material to the defenses that common boards and related-party financial dealings were deemed acceptable for Mastery charter schools.

⁴² Exhibit Stetson 158 was excluded as unauthenticated and hearsay. (*See* Tr. vol. 16, at 356:17-259:10, 384:17-22.)

⁴³ A ruling on the relevance of Exhibit Stetson 166 was initially deferred pending consideration of post-hearing submissions. (*See* Tr. vol. 8, at 171:12-173:21; Tr. vol. 13, at 53:14-54:14.) However, I now confirm that it is irrelevant.

⁴⁴ Exhibit Stetson 167-170 were excluded as unauthenticated and irrelevant. (*See* Tr. vol. 16, at 359:11-362:18, 385:14-387:1.)

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Stetson 173	Safe Schools ACS and LEA Profile-Stetson 2015-2016	Admitted
Stetson 174	Safe Schools ACS and LEA Profile-Stetson 2017-2018	Admitted
Stetson 175	Safe Schools ACS and School Profile Stetson 2016-2017	Admitted
Stetson 176	SRC Letter to Charter School CEOs re Per Pupil Funding Levels 07-03-14	N.O.
Stetson 177	SRC Minutes-6.30.14-Combined	N.O.
Stetson 178	SRC-10 Resolution Approving Antonia Pantoja CS 05-15-13	N.O.
Stetson 179	SRC-13 Resolution Approving Eugenia de Hostos CS 05-15-13	N.O.
Stetson 180	Stetson 2013-14 ACS LEA Staff	N.O.
Stetson 181	Stetson 2014-15 ACS LEA Staff	N.O.
Stetson 182	Stetson 2015-16 ACS LEA Staff	N.O.
Stetson 183	Stetson 2018-19 ACS LEA Staff	N.O.
Stetson 184	Stetson BSE Compliance Monitoring Review	N.O.
Stetson 185	Stetson PreHearing Motion	Excluded
Stetson 186	Stetson Response to 2017 Notice of Deficiency	Admitted
Stetson 187	Stetson Video	Excluded ⁴⁵
Stetson 188	The Day - New London mayor's appointment failure - News from southeastern Connecticut	N.O.
Stetson 189	The Philadelphia Great Schools Compact 12-20-11	N.O.
Stetson 190	Tim Hanser LinkedIn	N.O.
Stetson 191	Trujillo Email to Wilkerson 12.13.17	N.O.
Stetson 192	updated per pupil ltr - 04.18.2016	N.O.
Stetson 193	W02 Harambee Renewal 2016	Excluded
Stetson 194	Phila. School District Trying To Fix School Rating System – CBS Philly	Excluded
Stetson 195	Philadelphia School District's charter head stepping down	N.O.
Stetson 196	Superintendent discusses tenure, year's accomplishments	N.O.

⁴⁵ Exhibit Stetson 187 was objected to as unauthenticated and hearsay, and both objections were sustained. (*See* Tr. vol. 12, at 321:21-325:24.)

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Stetson 197	Resume - Alex Schuh	Admitted
Stetson 198	Kligerman Emails 2013	Admitted
Stetson 199	SDP Calculated 363 15-16 7.6.15	Qualified
Stetson 200	SDP Calculated 363 16-17 6.21.16	Qualified
Stetson 201	SDP Calculated 363 17-18 6.9.17	Qualified
Stetson 202	SDP Calculated 363 18-19 6.14.18	Qualified
Stetson 203	Trujillo Letter to Gutman 8.10.16	N.O.
Stetson 204	Trujillo Letter to Gutman 9.14.16	N.O.
Stetson 205	Trujillo Letter to Gutman 10.11.16	N.O.
Stetson 206	Trujillo Report to the School Reform Commission 10.12.16	N.O.
Stetson 207	Trujillo Letter to Gutman 1.29.18	N.O.
Stetson 208	Antonia Pantoja Charter School - Renewal Charter - 2018	Admitted ⁴⁶
Stetson 209	Eugenio Maria de Hostos Charter School - Renewal Charter - 2018	Admitted
Stetson 210	Antonia Pantoja Charter School - 2015 ACE	Admitted
Stetson 211	Antonia Pantoja Charter School - 2016 ACE	Admitted
Stetson 212	Antonia Pantoja Charter School - Renewal Report - 2013	N.O.
Stetson 213	Antonia Pantoja Charter School - Renewal Report - 2018	N.O.
Stetson 214	Eugenio Maria de Hostos Charter School - 2015 ACE	Admitted
Stetson 215	Eugenio Maria de Hostos Charter School - 2016 ACE	Admitted
Stetson 216	Eugenio Maria de Hostos Charter School - Renewal Report - 2013	N.O.
Stetson 217	Eugenio Maria de Hostos Charter School - Renewal Report - 2018	N.O.
Stetson 218	Chao 060118 email w attachments re Charter Pantoja	Admitted

⁴⁶ Exhibits Stetson 208-211, 214-215 and 218-219 were initially admitted subject to consideration of whether they are relevant and material to any defenses asserted in post-hearing submissions. (See Tr. vol. 16, at 362:20-366:21, 365:21-366:1, 387:8-19.) Upon consideration of those submissions, these exhibits are now admitted as relevant to Olney's argument that the financial dealings among ASPIRA managed schools should be disregarded because the CSO recommended a different outcome for Pantoja and Hostos.

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Stetson 219	Chao 060118 email w. attachments re Charter Hostos	Admitted
Stetson 220	Excerpt - Philadelphia Charter School Renewal Evaluations 2017-2018	N.O.
Stetson 221	James Parsons Resume	N.O.
Stetson 222	Richard Allen Preparatory C.S. - Release and Settlement Agreement - fully executed	Excluded ⁴⁷
Stetson 223	Richard Allen Preparatory Charter School - 2015 ACE	Excluded
Stetson 224	Richard Allen Preparatory Charter School - 2015 Renewal Report	Excluded
Stetson 225	Richard Allen Preparatory Charter School - 2017 ACE	Excluded
Stetson 226	Richard Allen Preparatory Charter School - 2017 Notice of Deficiency	Excluded
Stetson 227	Richard Allen Preparatory Charter School - 2017 Supplemental Renewal Report	Excluded
Stetson 228	ASPIRA charter provider on thin ice, Philly School District says - WHYY	Excluded ⁴⁸
Stetson 229	Attendance Summary – 2014-2017	N.O.
Stetson 230	RFP 286- Renaissance Schools Year II - FINAL 11-16-10	Admitted
Stetson 231	SPI Manual-1	Admitted
Stetson 232	SPI Q&A	Admitted
Stetson 323	Imagine 2014 - Five-Year Strategic Plan	Admitted
Stetson 234	Imagine 2014- A Year 2 Update	Admitted
Stetson 235	Teachers and students call for more resources for growing English Learner population _ The notebook	Excluded
Stetson 236	Pew Report - Getting Into High School in Phila	Admitted
Stetson 237	Steel parents file grievance against SAC charter vote _ Parents United for Public Education	N.O.
Stetson 238	Steel parents win decisive vote to keep school public _ Parents United for Public Education	N.O.

⁴⁷ Exhibits Stetson 222-227 were excluded as irrelevant and prejudicial. (*See* Tr. vol. 16, at 367:10-368:1. 387:20-388:2.)

⁴⁸ Exhibit Stetson 228 was excluded as hearsay. (*See* Tr. vol. 16, at 369:18-22, 289:12-390:1.)

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Stetson 239	Renaissance Schools Advisory Board Final Report 2009	Admitted
Stetson 240	SRC Minutes 6.21.18 Charter Schools	N.O.
Stetson 241	Comparison of Domain Questions 14-15 & 15-16	N.O.
Stetson 242	Docket 289 MD 2017 - Antonia Pantoja Charter School, et al. v. Commonwealth	Excluded ⁴⁹
Stetson 243	Docket - Antonia Pantoja Charter School, et al. v. School Dist	Excluded
Stetson 244	Auditor General's Report - School District of Phila 2016	Excluded ⁵⁰
Stetson 245	Auditor General's Report - SDP's Oversight of Charters 2016	N.O.
Stetson 246	Can we trust the Philadelphia District's yardstick for school quality - WHYY	N.O.
Stetson 247	Phila. District Suspends School-Rating System - Education Week	N.O.
Stetson 248	Propel Charter School Federal Agreement	N.O.
Stetson 249	Appendix A to Propel Official Statement	N.O.
Stetson 250	Yeslli Ann Hernandez Profile	N.O.
Stetson 251	Schuh Comparison of Aspira Stetson CS to Richard Allen Prep CS and Philadelphia District Schools	Excluded ⁵¹
Stetson 252	Schuh Source Documents - Comparison of Aspira Stetson CS to Richard Allen Prep CS	N.O.
Stetson 253	PDE_SDP Source Documents – Stetson-27 - Feeder Schools for Stetson	N.O.
Stetson 254	PDE/SDP Source Documents – Stetson-48 - Peer School Demographics for Stetson	N.O.
Stetson 255	SDP School Performance Index PowerPoint 2011	Admitted
Stetson 256	The Widening Academic Achievement Gap Between the Rich and the Poor - Reardon	N.O.
Stetson 257	SDP SPR SY1718 Peer Group Generation	Admitted

⁴⁹ Exhibits Stetson 242-243 were excluded as irrelevant and immaterial. (*See* Tr. vol. 16, at 369:23-370:4, 388:3-7.) *See also* footnote 15 above.

⁵⁰ Exhibit Stetson 244 was excluded as hearsay. (*See* Tr. vol. 16, at 271:6-272:4, 388:8-12.)

⁵¹ Exhibit Stetson 251 was excluded as unauthenticated, hearsay and irrelevant. (*See* Tr. vol. 15, at 275:6-282:23.)

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Stetson 258	Testimony from Non-Renewal Hearing – Eastern University Academy Charter School	Partial; Qualified ⁵²
Stetson 259	PNC Transaction 2011 - 5,004,005.47 Term Loan Documents	Admitted
Stetson 260	PNC Transaction 2011 - 629,554.66 Term Loan Documents	Admitted
Stetson 261	PNC Transaction 2011 - 50,000 Loan to Eugenio Documents	Admitted
Stetson 262	PNC Transaction 2011 - 50,000 Loan to Stetson Documents	Admitted
Stetson 263	PNC Transaction 2011 - Collateral Documents	Admitted
Stetson 264	PNC Transaction 2011 - Borrowers Documents	Admitted
Stetson 265	SDP Renaissance Policy 407	Excluded ⁵³
Stetson 266	Provident Transaction - 4-22-2016	Admitted
Stetson 267	Samms Letter in re ASPIRA, Olney, Stetson 3.25.19	Excluded ⁵⁴
Stetson 268	Provident Opinion Letter from Borrower's Counsel - 4.22.16	Admitted
Stetson 269	Glenda Marrero's Resume	Admitted
Stetson 270	Underlying Data for MAP Exhibits	Admitted
Stetson 271	2016-17 Grade 7 Math PSSA Student Results	Admitted
Stetson 272	2019-03-26 Subpoena to Stetson with Responsive Documents	Admitted
Stetson 273	Krain Notes	Admitted
Stetson 274	PDE RTK Request 3.14.19	Excluded ⁵⁵

⁵² Pages 44:10-47:17, 49:24-50:22, 56:21-58:7, 70:19-71:18, 92:14-18, 93:2-23, 97:2-98:12, 101:1-10, 105:22-106:9, 115:16-116:17, 124:20-125:24, 133:5-24, 134:24-135:7, 136:21-138:4 and 154:5-15 of Exhibit Stetson 258 were admitted as an opposing party's statements pursuant to Pa. R. Evid. 803(25), subject to consideration of whether they are relevant and material to any defenses asserted in post-hearing submissions. Upon consideration of those submissions, these pages are now admitted for any light they might shed on the grounds for nonrenewal asserted at the hearing. All other portions of this exhibit were withdrawn by the Reilly Email, so those portions are not admitted. (*See* Ex. HO[S] 109.)

⁵³ Exhibit Stetson 265 was not unauthenticated. (*See* Tr. vol. 16, at 388:13-389:2.)

⁵⁴ Exhibit Stetson 267 was objected to as hearsay. A ruling on that objection was deferred pending consideration of further argument in post-hearing submissions. (*See* Tr. vol. 15, at 286:6-288:9.) After considering those submissions, the hearsay objection is sustained for the reasons explained in Section III.H.5 of the accompanying Report.

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Stetson 275	PDE RTK Extension 3.21.19	Excluded
Stetson 276	PDE RTK Final Response 4.11.19	Excluded
Stetson 277	Minority-Led Charter Schools Briefing 3.29.19	Admitted ⁵⁶

H. Hearing Officer Exhibits in the Olney Matter

<u>Exhibit</u>	<u>Description</u>
HO[O] 1	2018-12-05 Appointment Letter.pdf
HO[O] 2	2018-12-05 Garcia Email to Counsel.pdf
HO[O] 3	2018-12-19 Garcia Email to Counsel.pdf
HO[O] 4	2018-12-19 Petersen Email to Garcia.pdf
HO[O] 5	2018-12-19 Reply to Petersen Email.pdf
HO[O] 6	2019-01-08 Petersen Email to Garcia.pdf
HO[O] 7	2019-01-08 Reply to Petersen Email.pdf
HO[O] 8	2019-01-15 Garcia Email to Leinhauser.pdf
HO[O] 9	2019-01-24 Petersen Email to Garcia.pdf
HO[O] 10	2019-01-24 Reply to Petersen Email.pdf
HO[O] 11	2019-01-24 Leinhauser Email to Garcia.pdf
HO[O] 12	2019-01-24 Reply to Leinhauser Email.pdf
HO[O] 13	2019-01-28 Leinhauser Email to Garcia.pdf
HO[O] 14	2019-01-28 Petersen Email to Garcia.pdf
HO[O] 15	2019-01-28 Reply to Counsel Email.pdf
HO[O] 16	2019-01-30 SDP Witness List.pdf
HO[O] 17	2019-01-30 SDP Exhibit List.pdf
HO[O] 18	2019-01-30 Joint Exhibit List.pdf
HO[O] 19	2019-01-30 Olney Exhibit and Witness List.pdf
HO[O] 20	2019-01-31 Leinhauser Email to Garcia.pdf
HO[O] 21	2019-01-31 Reply to Leinhauser Email.pdf
HO[O] 22	2019-02-01 Leinhauser Email to Garcia.pdf

⁵⁵ Exhibits Stetson 274-276 were excluded as irrelevant. (*See* Tr. vol. 16, at 375:14-380:9, 389:3-9.)

⁵⁶ Exhibit Stetson 277 was admitted after the hearing was concluded, subject to argument about its relevance, materiality and significance in post-hearing submissions. (*See* Ex. HO[S] 115.) After considering those submissions, it is admitted as relevant and material to the argument that there are inequities in the charter renewal process.

HO[O] 23	2019-02-01 Reply to Leinhauser Email.pdf
HO[O] 24	2019-02-01 Olney Exhibit and Witness Lists (revised).pdf
HO[O] 25	2019-02-03 Leinhauser Email to Garcia.pdf
HO[O] 26	2019-02-03 Petersen Email to Garcia.pdf
HO[O] 27	2019-02-03 Reply to Counsel Email.pdf
HO[O] 28	2019-02-04 Garcia Email to Counsel.pdf
HO[O] 29	2019-02-04 Leinhauser Email to Garcia.pdf
HO[O] 30	2019-02-07 Petersen Email to Garcia.pdf
HO[O] 31	2019-02-08 Leinhauser Email to Garcia.pdf
HO[O] 32	2019-02-08 Reply to Leinhauser Email.pdf
HO[O] 33	2019-02-08 Garcia Email to McKenna.pdf
HO[O] 34	2019-02-11 McKenna Letter to Garcia.pdf
HO[O] 35	2019-02-11 Petersen Letter to Garcia.pdf
HO[O] 36	2019-02-11 Garcia Email to Counsel.pdf
HO[O] 37	2019-02-14 McKenna Email to Garcia.pdf
HO[O] 38	2019-02-14 Reply to McKenna Email.pdf
HO[O] 39	2019-02-26 SDP Witness List (revised).pdf
HO[O] 40	2019-02-26 SDP Exhibit List (revised).pdf
HO[O] 41	2019-03-01 (1) ASPIRA Petition to Intervene.pdf
HO[O] 42	2019-03-01 (2) Memo of Law.pdf
HO[O] 43	2019-03-01 (3) Exhibit A.pdf
HO[O] 44	2019-03-01 (4) Exhibit B.pdf
HO[O] 45	2019-03-01 (5) Exhibit C.pdf
HO[O] 46	2019-03-03 McKenna Email to Garcia.pdf
HO[O] 47	2019-03-04 Reply to McKenna Email.pdf
HO[O] 48	2019-03-05 McKenna Letter to Garcia.pdf
HO[O] 49	2019-03-05 Reply to McKenna Letter.pdf
HO[O] 50	2019-03-05 Subpoena to O'Donnell.pdf
HO[O] 51	2019-03-05 Petersen Email to Garcia.pdf
HO[O] 52	2019-03-05 Reply to Petersen Email.pdf
HO[O] 53	2019-03-05 Second Petersen Email to Garcia.pdf
HO[O] 54	2019-03-05 Reply to Second Petersen Email.pdf
HO[O] 55	2019-03-05 SDP Exhibit List (revised).pdf
HO[O] 56	2019-03-06 SDP Brief Opposing Intervention.pdf
HO[O] 57	2019-03-07 Olney Letter re Intervention and Notice.pdf

HO[O] 58	2019-03-07 Olney Motion to Continue.pdf
HO[O] 59	2019-03-07 Garcia Email Confirming Rulings.pdf
HO[O] 60	2019-03-07 Petersen Email to Garcia.pdf
HO[O] 61	2019-03-07 Olney Exhibit and Witness Lists (revised).pdf
HO[O] 62	2019-03-08 McKenna Reply to Petersen Email.pdf
HO[O] 63	2019-03-08 Garcia Email to McKenna.pdf
HO[O] 64	2019-03-08 McKenna Reply to Garcia Email.pdf
HO[O] 65	2019-03-08 Olney Exhibit and Witness Lists (revised).pdf
HO[O] 66	2019-03-08 Reilly Letter to Garcia.pdf
HO[O] 67	2019-03-09 Olney Exhibit and Witness Lists (revised).pdf
HO[O] 68	2019-03-11 Olney Exhibit and Witness Lists (revised).pdf
HO[O] 69	2019-03-12 SDP Exhibit List (revised).pdf
HO[O] 70	2019-03-14 Olney Exhibit and Witness Lists (revised).pdf
HO[O] 71	2019-03-15 Olney Exhibit and Witness Lists (revised).pdf
HO[O] 72	2019-03-17 Olney Exhibit and Witness Lists (revised).pdf
HO[O] 73	2019-03-18 SDP Exhibit List (revised).pdf
HO[O] 74	2019-03-19 Olney Exhibit and Witness Lists (revised).pdf
HO[O] 75	2019-03-22 Olney Exhibit and Witness Lists (revised).pdf
HO[O] 76	2019-03-22 SDP Exhibit List (revised).pdf
HO[O] 77	2019-03-25 Olney Exhibit and Witness Lists (revised).pdf
HO[O] 78	2019-03-26 McKenna Letter Requesting Subpoenas.pdf
HO[O] 79	2019-03-26 Subpoena to Duane Morris.pdf
HO[O] 80	2019-03-26 Subpoena to Fox Rothschild.pdf
HO[O] 81	2019-03-26 Subpoena to PNC.pdf
HO[O] 82	2019-03-26 Petersen Email Requesting Subpoenas.pdf
HO[O] 83	2019-03-26 Subpoena to Olney.pdf
HO[O] 84	2019-03-26 Olney Exhibit and Witness Lists (revised).pdf
HO[O] 85	2019-03-27 McKenna Letter Requesting Subpoena.pdf
HO[O] 86	2019-03-27 Subpoena to Buchanan Ingersoll.pdf
HO[O] 87	2019-03-27 Olney Exhibit and Witness Lists (revised).pdf
HO[O] 88	2019-03-28 SDP Exhibit List (revised).pdf
HO[O] 89	2019-03-28 Olney Exhibit and Witness Lists (revised).pdf
HO[O] 90	2019-03-28 Olney Exhibit and Witness Lists (revised).pdf
HO[O] 91	2019-03-29 Olney Exhibit and Witness Lists (revised).pdf
HO[O] 92	2019-04-04 SDP Exhibit List (revised).pdf

HO[O] 93	2019-04-05 McKenna Letter Requesting Subpoenas.pdf
HO[O] 94	2019-04-07 Petersen Email re Request.pdf
HO[O] 95	2019-04-07 Reply to Petersen Email.pdf
HO[O] 96	2019-04-08 (1) McKenna Letter Regarding Subpoenas.pdf
HO[O] 97	2019-04-08 (2) Exhibit A.pdf
HO[O] 98	2019-04-08 (3) Exhibit B.pdf
HO[O] 99	2019-04-08 (4) Exhibit C.pdf
HO[O] 100	2019-04-08 (5) Exhibit D.pdf
HO[O] 101	2019-04-11 Olney Exhibit and Witness Lists (revised).pdf
HO[O] 102	2019-04-14 Olney Exhibit and Witness Lists (revised).pdf
HO[O] 103	2019-04-15 Olney Exhibit and Witness Lists (revised).pdf
HO[O] 104	2019-04-22 Notice Soliciting Public Comments
HO[O] 105	2019-04-29 Petersen Email re Objections to Exhibits
HO[O] 106	2019-04-29 Reilly Email re Objections to Exhibits
HO[O] 107	2019-04-30 Garcia Email re Objections to Exhibits
HO[O] 108	2019-05-30 Motion for Admission of New Exhibit
HO[O] 109	2019-05-31 Garcia Email Ruling of Motion
HO[O] 110	2019-06-02 Garcia Email Extending Deadline
HO[O] 111	2019-06-03 Olney Exhibit and Witness Lists (revised)
HO[O] 112	2019-06-11 SDP Proposed Findings and Conclusions
HO[O] 113	2019-06-11 SDP Supporting Memorandum
HO[O] 114	2019-06-11 Olney Proposed Findings and Conclusions
HO[O] 115	2019-06-11 Olney Supporting Memorandum
HO[O] 116	2019-06-11 Olney Motion for Rehearing
HO[O] 117	2019-06-11 Olney Proposed Order for Motion for Rehearing
HO[O] 118	2019-06-11 Olney Motion to Disqualify
HO[O] 119	2019-06-11 Olney Proposed Order for Motion to Disqualify
HO[O] 120	2019-06-12 Garcia Email Ruling on Motion for Rehearing
HO[O] 121	2019-06-16 Garcia Email Ruling on Motion to Disqualify
HO[O] 122	2019-06-19 Olney Motion for Reconsideration
HO[O] 123	2019-06-19 Garcia Email Ruling on Motion for Reconsideration
HO[O] 124	2019-06-23 RFM Philadelphia 2016-17
HO[O] 125	2019-06-23 Garcia Demographic Calculations

I. Hearing Officer Exhibits in the Stetson Matter

<u>Exhibit</u>	<u>Description</u>
HO[S] 1	2018-12-05 Appointment Letter.pdf
HO[S] 2	2018-12-05 Garcia Email to Counsel.pdf
HO[S] 3	2018-12-19 Garcia Email to Counsel.pdf
HO[S] 4	2018-12-19 Petersen Email to Garcia.pdf
HO[S] 5	2018-12-19 Reply to Petersen Email.pdf
HO[S] 6	2019-01-08 Petersen Email to Garcia.pdf
HO[S] 7	2019-01-08 Reply to Petersen Email.pdf
HO[S] 8	2019-01-15 Garcia Email to Leinhauser.pdf
HO[S] 9	2019-01-24 Petersen Email to Garcia.pdf
HO[S] 10	2019-01-24 Reply to Petersen Email.pdf
HO[S] 11	2019-01-24 Leinhauser Email to Garcia.pdf
HO[S] 12	2019-01-24 Reply to Leinhauser Email.pdf
HO[S] 13	2019-01-28 Leinhauser Email to Garcia.pdf
HO[S] 14	2019-01-28 Petersen Email to Garcia.pdf
HO[S] 15	2019-01-28 Reply to Counsel Email.pdf
HO[S] 16	2019-01-30 SDP Witness List.pdf
HO[S] 17	2019-01-30 SDP Exhibit List.pdf
HO[S] 18	2019-01-30 Joint Exhibit List.pdf
HO[S] 19	2019-01-30 Stetson Exhibit and Witness List.pdf
HO[S] 20	2019-01-31 Leinhauser Email to Garcia.pdf
HO[S] 21	2019-01-31 Reply to Leinhauser Email.pdf
HO[S] 22	2019-02-01 Leinhauser Email to Garcia.pdf
HO[S] 23	2019-02-01 Reply to Leinhauser Email.pdf
HO[S] 24	2019-02-01 Stetson Exhibit and Witness Lists (revised).pdf
HO[S] 25	2019-02-03 Leinhauser Email to Garcia.pdf
HO[S] 26	2019-02-03 Petersen Email to Garcia.pdf
HO[S] 27	2019-02-03 Reply to Counsel Email.pdf
HO[S] 28	2019-02-04 Garcia Email to Counsel.pdf
HO[S] 29	2019-02-04 Leinhauser Email to Garcia.pdf
HO[S] 30	2019-02-07 Petersen Email to Garcia.pdf
HO[S] 31	2019-02-08 Leinhauser Email to Garcia.pdf
HO[S] 32	2019-02-08 Reply to Leinhauser Email.pdf
HO[S] 33	2019-02-08 Garcia Email to McKenna.pdf

<u>Exhibit</u>	<u>Description</u>
HO[S] 34	2019-02-11 McKenna Letter to Garcia.pdf
HO[S] 35	2019-02-11 Petersen Letter to Garcia.pdf
HO[S] 36	2019-02-11 Garcia Email to Counsel.pdf
HO[S] 37	2019-02-14 McKenna Email to Garcia.pdf
HO[S] 38	2019-02-14 Reply to McKenna Email.pdf
HO[S] 39	2019-02-26 SDP Witness List (revised).pdf
HO[S] 40	2019-02-26 SDP Exhibit List (revised).pdf
HO[S] 41	2019-03-01 (1) ASPIRA Petition to Intervene.pdf
HO[S] 42	2019-03-01 (2) Memo of Law.pdf
HO[S] 43	2019-03-01 (3) Exhibit A.pdf
HO[S] 44	2019-03-01 (4) Exhibit B.pdf
HO[S] 45	2019-03-01 (5) Exhibit C.pdf
HO[S] 46	2019-03-03 McKenna Email to Garcia.pdf
HO[S] 47	2019-03-04 Reply to McKenna Email.pdf
HO[S] 48	2019-03-05 McKenna Letter to Garcia.pdf
HO[S] 49	2019-03-05 Reply to McKenna Letter.pdf
HO[S] 50	2019-03-05 Subpoena to O'Donnell.pdf
HO[S] 51	2019-03-05 Petersen Email to Garcia.pdf
HO[S] 52	2019-03-05 Reply to Petersen Email.pdf
HO[S] 53	2019-03-05 Second Petersen Email to Garcia.pdf
HO[S] 54	2019-03-05 Reply to Second Petersen Email.pdf
HO[S] 55	2019-03-05 SDP Exhibit List (revised).pdf
HO[S] 56	2019-03-06 SDP Brief Opposing Intervention.pdf
HO[S] 57	2019-03-07 Stetson Letter re Intervention and Notice.pdf
HO[S] 58	2019-03-07 Stetson Motion to Continue.pdf
HO[S] 59	2019-03-07 Garcia Email Confirming Rulings.pdf
HO[S] 60	2019-03-07 Petersen Email to Garcia.pdf
HO[S] 61	2019-03-07 Stetson Exhibit and Witness Lists (revised).pdf
HO[S] 62	2019-03-08 McKenna Reply to Petersen Email.pdf
HO[S] 63	2019-03-08 Garcia Email to McKenna.pdf
HO[S] 64	2019-03-08 McKenna Reply to Garcia Email.pdf
HO[S] 65	2019-03-08 Stetson Exhibit and Witness Lists (revised).pdf
HO[S] 66	2019-03-08 Reilly Letter to Garcia.pdf
HO[S] 67	2019-03-09 Stetson Exhibit and Witness Lists (revised).pdf

<u>Exhibit</u>	<u>Description</u>
HO[S] 68	2019-03-11 Stetson Exhibit and Witness Lists (revised).pdf
HO[S] 69	2019-03-14 Stetson Exhibit and Witness Lists (revised).pdf
HO[S] 70	2019-03-15 Stetson Exhibit and Witness Lists (revised).pdf
HO[S] 71	2019-03-17 Stetson Exhibit and Witness Lists (revised).pdf
HO[S] 72	2019-03-18 SDP Witness List (revised).pdf
HO[S] 73	2019-03-19 Stetson Exhibit and Witness Lists (revised).pdf
HO[S] 74	2019-03-22 Stetson Exhibit and Witness Lists (revised).pdf
HO[S] 75	2019-03-22 SDP Exhibit List (revised).pdf
HO[S] 76	2019-03-25 Stetson Exhibit and Witness Lists (revised).pdf
HO[S] 77	2019-03-26 McKenna Letter Requesting Subpoenas.pdf
HO[S] 78	2019-03-26 Subpoena to Duane Morris.pdf
HO[S] 79	2019-03-26 Subpoena to Fox Rothschild.pdf
HO[S] 80	2019-03-26 Subpoena to PNC.pdf
HO[S] 81	2019-03-26 Petersen Email Requesting Subpoenas.pdf
HO[S] 82	2019-03-26 Subpoena to Stetson.pdf
HO[S] 83	2019-03-26 Stetson Exhibit and Witness Lists (revised).pdf
HO[S] 84	2019-03-27 McKenna Letter Requesting Subpoena.pdf
HO[S] 85	2019-03-27 Subpoena to Buchanan Ingersoll.pdf
HO[S] 86	2019-03-27 Stetson Exhibit and Witness Lists (revised).pdf
HO[S] 87	2019-03-28 SDP Exhibit List (revised).pdf
HO[S] 88	2019-03-28 Stetson Exhibit and Witness Lists (revised).pdf
HO[S] 89	2019-03-28 Stetson Exhibit and Witness Lists (revised).pdf
HO[S] 90	2019-03-29 Stetson Exhibit and Witness Lists (revised).pdf
HO[S] 91	2019-04-04 SDP Exhibit List (revised).pdf
HO[S] 92	2019-04-05 McKenna Letter Requesting Subpoenas.pdf
HO[S] 93	2019-04-05 Stetson Exhibit and Witness Lists (revised).pdf
HO[S] 94	2019-04-07 Petersen Email re Request.pdf
HO[S] 95	2019-04-07 Reply to Petersen Email.pdf
HO[S] 96	2019-04-08 (1) McKenna Letter Regarding Subpoenas.pdf
HO[S] 97	2019-04-08 (2) Exhibit A.pdf
HO[S] 98	2019-04-08 (3) Exhibit B.pdf
HO[S] 99	2019-04-08 (4) Exhibit C.pdf
HO[S] 100	2019-04-08 (5) Exhibit D.pdf
HO[S] 101	2019-04-08 Stetson Exhibit and Witness Lists (revised).pdf

<u>Exhibit</u>	<u>Description</u>
HO[S] 102	2019-04-11 Stetson Exhibit and Witness Lists (revised).pdf
HO[S] 103	2019-04-14 Stetson Exhibit and Witness Lists (revised).pdf
HO[S] 104	2019-04-15 SDP Exhibit List (revised).pdf
HO[S] 105	2019-04-15 Stetson Exhibit and Witness Lists (revised).pdf
HO[S] 106	2019-04-22 Notice Soliciting Public Comments
HO[S] 107	2019-04-29 Petersen Email re Objections to Exhibits
HO[S] 108	2019-04-29 Reilly Email re Objections to Exhibits
HO[S] 109	2019-04-30 Garcia Email re Objections to Exhibits
HO[S] 110	2019-05-12 Lizzy Diaz Comment (PC 02) - Google Translate
HO[S] 111	2019-05-12 Angel Morales Comment (PC 03) - Google Translate
HO[S] 112	2019-05-13 Genoveva Ramos Comment (PC 05) - Google Translate
HO[S] 113	2019-05-14 Angel Morales Comment (PC 06) - Google Translate
HO[S] 114	2019-05-30 Motion for Admission of New Exhibit
HO[S] 115	2019-05-31 Garcia Email Ruling of Motion
HO[S] 116	2019-06-02 Garcia Email Extending Deadline
HO[S] 117	2019-06-03 Stetson Exhibit and Witness Lists (revised)
HO[S] 118	2019-06-11 SDP Proposed Findings and Conclusions
HO[S] 119	2019-06-11 SDP Supporting Memorandum
HO[S] 120	2019-06-11 Stetson Proposed Findings and Conclusions
HO[S] 121	2019-06-11 Stetson Supporting Memorandum
HO[S] 122	2019-06-11 Stetson Motion for Rehearing
HO[S] 123	2019-06-11 Stetson Proposed Order for Motion for Rehearing
HO[S] 124	2019-06-11 Stetson Motion to Disqualify
HO[S] 125	2019-06-11 Stetson Proposed Order for Motion to Disqualify
HO[S] 126	2019-06-12 Garcia Email Ruling on Motion for Rehearing
HO[S] 127	2019-06-16 Garcia Email Ruling on Motion to Disqualify
HO[S] 128	2019-06-19 Stetson Motion for Reconsideration
HO[S] 129	2019-06-19 Garcia Email Ruling on Motion for Reconsideration
HO[S] 130	2019-06-23 RFRM Philadelphia 2016-17
HO[S] 131	2019-06-23 Garcia Demographic Calculations

J. Public Comments in the Olney Matter⁵⁷

<u>Exhibit</u>	<u>Name</u>	<u>Role</u>
PC[O] 1	Lynda Rubin	Community Member (APPS)
PC[O] 2	Lisa Haver	Community Member (APPS)
PC[O] 3	Deborah Grill	Community Member (APPS)
PC[O] 4	Karel Kilimnik (First Comment)	Community Member (APPS)
PC[O] 5	Diane Payne	Community Member
PC[O] 6	Karel Kilimnik (Second Comment)	Community Member (APPS)
PC[O] 7	Adelaida Morales	Parent
PC[O] 8	Kathryn M. McKinley	Special Education Director
PC[O]-9	Bahiyya Burke	Student
PC[O]-10	Danelle Ortiz	Student
PC[O]-11	Radelyn Deleon Camito	Student
PC[O]-12	Shanya Soto	Student
PC[O]-13	Justin Davis	Student
PC[O]-14	Dandre	Student
PC[O]-15	Charles Littes	Student
PC[O]-16	Josue	Student
PC[O]-17	Elvin Compos	Student
PC[O]-18	Destiny Carmona	Student
PC[O]-19	Ernest Wiley	Student
PC[O]-20	Valery Rodriguez	Student
PC[O]-21	Ramon Bellard-Gomez	Student
PC[O]-22	Hector Figuerra	Student
PC[O]-23	Serenity White	Student
PC[O]-24	Heizel Guevara	Student
PC[O]-25	Shayro Perez	Student
PC[O]-26	Kayshla Martinez	Student
PC[O]-27	Elizabeth Cesarini	ELL Coordinator
PC[O]-28	Yeison Ramirez	Student
PC[O]-29	Drew Podillo	Student

⁵⁷ Because public comments were solicited at the same time for Olney and Stetson, some of these comments related to both schools. (See Ex. PC[O] 1 and PC[S] 20; Ex. PC[O] 2 and PC[S] 21; Ex. PC[O] 3 and PC[S] 29; Ex. PC[O] 4 and PC[S] 33; Ex. PC[O] 5 and PC[S] 34; Ex. PC[O] 6 and PC[S] 37; Ex. PC[O] 7 and PC[S] 53.)

PC[O]-30	Juliany Morales	Student
PC[O]-31	Lovelvn Gonzales	Student
PC[O]-32	Christina Brown	Student
PC[O]-33	Kamioha Labbiter	Student
PC[O]-34	Aaaquil	Student
PC[O]-35	Juhsl Jackson	Student
PC[O]-36	Bryan Vidoso	Student
PC[O]-37	Luis F.	Student
PC[O]-38	Neysha Fernandez	Student
PC[O]-39	Aiondra Rivera	Student
PC[O]-40	Naykalee Rivera	Student
PC[O]-41	Osiris Morales-Vargas	Student
PC[O]-42	Malik Campbell	Student
PC[O]-43	Djybi Thiam	Student
PC[O]-44	Anthony Baerga	Student
PC[O]-45	Samuel Feliciano	Student
PC[O]-46	Hodalys Mendoza	Student
PC[O]-47	Salvador Arroyo	Student
PC[O]-48	Kener Cordon	Student
PC[O]-49	Ross Shane	Student
PC[O]-50	Nathan Gonzalez	Student
PC[O]-51	Josh Rivera	Student
PC[O]-52	Kayla M.	Student
PC[O]-53	Sayde Rodriguez	Student
PC[O]-54	Nasir P.	Student
PC[O]-55	Tanae Stanfield	Student
PC[O]-56	Han Nguyen	Student
PC[O]-57	Prok	Student
PC[O]-58	Anthony Lawrence	Student
PC[O]-59	Tifannie Torres	Student
PC[O]-60	Marquise Harley	Student
PC[O]-61	Justin Ortiz	Student
PC[O]-62	Saul Estevez	Student
PC[O]-63	Genesis Ramirez	Student
PC[O]-64	Davuensky Alretvs	Student

PC[O]-65	Jaydon Hill	Student
PC[O]-66	Laysha Burgos	Student
PC[O]-67	Anika Colon	Student
PC[O]-68	Taizarrah	Student
PC[O]-69	Tiqzjah Brownlee	Student
PC[O]-70	Devonte Tarrance	Student
PC[O]-71	Trale	Student
PC[O]-72	Jean Anne English	Teacher
PC[O]-72	Elizabeth Wolff	Teacher
PC[O]-73	Jealiz Marie Rosario	Student
PC[O]-74	Chasatie Ramos	Student
PC[O]-75	Darontaye Blake	Student
PC[O]-76	Ariel Cochancela	Student
PC[O]-77	Brian Tav	Student
PC[O]-78	Corey Coston	Student
PC[O]-79	Danelys Acosta	Student
PC[O]-80	Julius Cumba	Student
PC[O]-81	Kevin Aguila	Student
PC[O]-82	Cristian Villareal	Student
PC[O]-83	Myshae Giddings	Student
PC[O]-84	Sylvia Danesa Rivera	Student
PC[O]-85	Tamera King	Student
PC[O]-86	Zaikareah Bruce	Student
PC[O]-87	Shafeeqa Robinson	Student
PC[O]-88	Aminah M Gray	Student
PC[O]-89	Timothy Smith	Student
PC[O]-90	Zakia Long	Student
PC[O]-91	Brandon Fatal	Student
PC[O]-92	Jordy Rodriguez	Student
PC[O]-93	Mendy Obassi	Student
PC[O]-94	Pamela Bosque Lopez	Student
PC[O]-95	Xavier Pedrogo	Student
PC[O]-96	Siani Richardson	Student
PC[O]-97	Cliff Leon	Student
PC[O]-98	Yazmine Seleman	Student

PC[O]-99	Lesliany Valedon	Student
PC[O]-100	Shaquanna Dunston	Student
PC[O]-101	Jean O. Oliveras	Student
PC[O]-102	Lyanni Perez	Student
PC[O]-103	Raygermee Salas	Student
PC[O]-104	Tyesha Jones	Student
PC[O]-105	Jovanni	Student
PC[O]-106	Nayelie DeJesusl	Student
PC[O]-107	Mostafa	Student
PC[O]-108	Elijah	Student
PC[O]-109	Demetrius Torres	Student
PC[O]-110	Joshua Rejnolo	Student
PC[O]-111	Safi Yaking	Student
PC[O]-112	Rashon Yoeang	Student
PC[O]-113	Jorge Colon-Torres	Student
PC[O]-114	Rashed	Student
PC[O]-115	Victoria Moxey	Student
PC[O]-116	Destenie Ramos	Student
PC[O]-117	Evelin Ruiz Garcia	Student
PC[O]-118	Darnell Johnson	Student
PC[O]-119	Daizan Phy	Student
PC[O]-120	Myzeh Ross	Student
PC[O]-121	Melvin Then	Student
PC[O]-122	Yeredith Cruz	Student
PC[O]-123	Dajuan Bowman	Student
PC[O]-124	Daaina	Student
PC[O]-125	Jeses	Student
PC[O]-126	Mohammad Yassin	Student
PC[O]-127	Haziz	Student
PC[O]-128	Euaria	Student
PC[O]-129	Alexandrina	Student
PC[O]-130	Joseli Torres	Student
PC[O]-131	Jorge	Student
PC[O]-132	Luis Gonzalez	Student
PC[O]-133	Devon Sovann	Student

PC[O]-134	Sovandara Huynh	Student
PC[O]-135	Latyra Perry	Student
PC[O]-136	Latyra Perry [DUP]	Student
PC[O]-137	Luis Gonzalez [DUP]	Student
PC[O]-138	Kanye Gladden	Student
PC[O]-139	Kanye Gladden [DUP]	Student
PC[O]-140	Vanessa Peralta-Eduardo	Student
PC[O]-141	Zion Adams	Student
PC[O]-142	Nafisah Haynes	Student
PC[O]-143	Brian Gillin	Teacher


K. Public Comments in the Stetson Matter

<u>Exhibit</u>	<u>Name</u>	<u>Role</u>
PC[S] 1	Elizabeth Cooper	Teacher
PC[S] 2	Lizzy Diaz	Parent
PC[S] 3	Angel Morales	Parent
PC[S] 4	Lindsey Fick	Counselor
PC[S] 5	Genoveva Ramos	Grandparent
PC[S] 6	Angel Morales (Second Comment)	Grandparent
PC[S] 7	Robin Filut	Teacher
PC[S] 8	Jane Edwards	Teacher
PC[S] 9	Lucas Shayka	Teacher
PC[S] 10	Marypat Coyle	Teacher
PC[S] 11	Rhode Diaz Adames	Outreach Coordinator
PC[S] 12	Thomas Mullin	Principal
PC[S] 13	Dianne Tzouras Stackhouse	Community Member
PC[S] 14	Joanne Esquilin	Community Member
PC[S] 15	George Vafiadis	Community Member
PC[S] 16	Mary Frances Cavallaro	Teacher
PC[S] 17	Beth Cole	Director of Operations
PC[S] 18	Anisha Berrien-Akers	School Nurse
PC[S] 19	Tim Conaway	Teacher
PC[S] 20	Lynda Rubin	Community Member (APPS)
PC[S] 21	Lisa Haver	Community Member (APPS)
PC[S] 22	Paige Erin Kavanaugh	Teacher

PC[S] 23	Danielle McIntosh	Teacher
PC[S] 24	Margot Vineberg	Teacher
PC[S] 25	Jennifer Portante	Teacher
PC[S] 26	Christopher T. Sutter	Teacher
PC[S] 27	Samantha Alicea-Swindell	Teacher
PC[S] 28	Noelle McMullin	ASPIRA Employee
PC[S] 29	Deborah Grill	Community Member (APPS)
PC[S] 30	Glenda H. Marrero	Assistant Principal
PC[S] 31	Panagiotis Giannoumis	Unspecified
PC[S] 32	Lauren Valerio	Teacher
PC[S] 33	Karel Kilimnik	Community Member (APPS)
PC[S] 34	Diane Payne	Community Member
PC[S] 35	Lindsey Polacheck	Teacher
PC[S] 36	Kelly Hirsch	Teacher
PC[S] 37	Karel Kilimnik (Second Comment)	Community Member (APPS)
PC[S] 38	Aubrey Redd	Provider
PC[S] 39	Edwin Desamour	Behavior Specialist
PC[S] 40	Electronic Petition:	
	Athena Levan	Community Member
	Jessica Mendez	Community Member
	Ashley Rosario	Community Member
	Chris Lelpert	Community Member
	Jennifer Santiago	Community Member
	Angela Orth	Community Member
	Mary Frances Cavallaro	Community Member
	Dave Talbot	Community Member
	Jane Edwards	Community Member
	Keith Sabo	Community Member
	Robin Filut	Community Member
	Alysha McGovern	Community Member
	Ms. Dotvil	Community Member
	Lynn Guiles	Community Member
	Barbara Wallace	Community Member
	Lindsey Fick	Community Member
	Alyssla Zimmaro	Community Member

NaQuisha Hartwell-Bradford	Community Member
Eugenia Giannoumis	Community Member
Lucas Shayka	Community Member
Rhode Diaz Adames	Community Member
Kathryn Baldwin	Community Member
Erin Seitz	Community Member
Sofra Peguero	Community Member
Joanne Esquilin	Community Member
Crystal Pritchett	Community Member
Erin Seitz	Community Member
April Grimes	Community Member
Maureen Ann Burke	Community Member
Peter Daniel Coyle	Community Member
Elizabeth Cooper	Community Member
Lloyd Hicks	Community Member
Kimberly A. Christidhis	Community Member
Monique Williams	Community Member
Cesar Rios	Community Member
Mrs. Taylor	Community Member
David Anthony	Community Member
Bill Rowe	Community Member
Raimundo Rivera	Community Member
Jesslca Martinez	Community Member
George	Community Member
Anisha Berrien-Akers	Community Member
Ken Tomczuk	Community Member
Lynn Gulles	Community Member
Tim Conaway	Community Member
Katherine Levins	Community Member
Annamary Rivera	Community Member
Noelle McMullin	Community Member
Noelle McMullin	Community Member
Danielle McIntosh	Community Member
Margot Vineberg	Community Member
Jennifer Portante	Community Member

	Pamela Cassel	Community Member
	Lauren Valerio	Community Member
	Jeffety Pugh	Community Member
	Lindsey Polacheck	Community Member
PC[S] 41	Greg Mangels	Services Coordinator
PC[S] 42	Sofia Peguero	Teacher
PC[S] 43	Jen Jen	Unspecified
PC[S] 44	Jen Jen (Second Comment)	Unspecified
PC[S] 45	Emily S. Hartz	School Psychologist
PC[S] 46	Jeannette Rodriguez	Administrative Assistant
PC[S] 47	Crystal Pritchett	Community Member
PC[S] 48	Myra Rivera	Secretary
PC[S] 49	Nadya Rivera	Office Clerk
PC[S] 50	Christopher Devers	Teacher
PC[S] 51	Demetra Vafiadis	Unspecified
PC[S] 52	Erin K. Kelly	Teacher
PC[S] 53	Adelaida Morales	Parent
PC[S] 54	Dalia Burgos	Parent
PC[S] 55	Kelsey Schwarzenbach	Teacher
PC[S] 56	Rubena Papakirk	Community Member
PC[S] 57	Erin K. Kelly (Second Comment)	Teacher
PC[S] 58	Kathryn M. McKinley	Special Education Director



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Date: September 19, 2019