



Superintendent Recommendation Regarding Breach of Contract - **School Name**

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The purpose of this document is to make a recommendation to the Board regarding **School Name**.

The Superintendent is making a recommendation to revoke the charter agreement with **School Name** unless **School Name** agrees to specific conditions including waiver of its right to appeal as to enrollment benchmarks, to the APS Board of Education. The basis for this recommendation is set forth below.

School Name has breached section 7.2 of their charter contract as well as C.R.S. 22-30.5-110(3)(c), as set forth in section 8.14 in that it has failed to provide a budget based on realistic revenue and expenditure assumptions which enables **School Name's** mission to be realized while remaining financially solvent due to diminishing enrollment.

Based on closely monitored daily enrollment information as provided by **School Name** in the InfiniteCampus student database, **School Name** enrollment has reached a maximum of 104 students against a target budget enrollment of 265 fully-enrolled students.

In cooperation with the District, **School Name** has submitted an updated budget that would require an enrollment count of 130 students in order to be viable with the assistance of substantial philanthropic support. Failure to meet this significantly reduced enrollment target has endangered the financial viability of the school to operate within fiscally responsible parameters.

On April 1, 2019 **School Name** was required to demonstrate 50% enrollment per the **School Name** Approval Resolution (Attachment #1). **School Name** reported 127 students, 5 short of the 133 students required by April 1. APS sent **School Name** a Notice of Default (Attachment #2) on April 2, 2019. APS made the decision to allow the school to demonstrate evidence of 65% enrollment by April 15, and the school met this benchmark through evidence via scanned PDFs of student (175) registration forms inclusive of parent signatures. On August 21, 2019, the Office of Autonomous Schools requested that **School Name** submit an adjusted budget due to significant under enrollment (Attachment #3). **School Name** had less than 100 students enrolled; their projected enrollment was 265 students. The school submitted a budget (Attachment #4) on September 9, 2019 to APS. With enrollment still hovering around 100, this updated budget included an enrollment of 130 students inclusive of strong statements that this number was both viable and easily attainable. On September 13, 2019, the Office of Autonomous Schools issues a Notice of Concern (Attachment #5) regarding the financial viability of

the school. The school agreed to the conditions within the letter to prevent a breach of contract by October 1. The conditions stated: 1) enrollment would increase to a minimum amount of 130 students, cited by **School Name**'s own budget assumptions; and 2) all grants and miscellaneous revenue amounts would be documented as fully committed. On October 2, 2019, **School Name** had 104 students enrolled, which was substantially short of the conditions set forth in the Notice of Concern issued on September 13, 2019; the Office of Autonomous Schools issued a Notice of Breach (Attachment #6) to **School Name**. The school submitted their response and plan to cure on October 16, 2019 (Attachment #7).

Funding source (grant funds) to support student recruitment and marketing efforts as part of the cure plan is no longer available to **School Name**. Plan for student recruitment and marketing absent these grant funds would be dependent on personal donations from school leadership.

Title I revenue was included in the most recent budget submission from **School Name**. **School Name** initial October Count numbers do not qualify them for this funding. Due to this shortfall, the school stated they will have to let another staff member go, most likely a Kindergarten teacher.

While private funding efforts have generated enough funds for **School Name** to operate for the remainder of the school year, the **School Name** model and budget require a greater than average reliance on unstable private funds in order to remain viable. As part of its financial analysis for all charters, APS requires charter schools to be reasonably viable on public funding with private funding being a supplement to that base. Based on **School Name** submitted data and budget and the APS financial analysis, **School Name** cannot continue to operate in a financially stable fashion unless it can enroll and be funded for a minimum of 240 students for the next school year. The **School Name** enrollment history indicates it is very unlikely they will be able that enrollment figure and as such **School Name** is not financially viable.

In addition to the above documents, the Superintendent also considered the **School Name** Chronology when making this recommendation (Attachment #8).

SUPERINTENDENT RECOMMENDATION:

Based on the foregoing, the Superintendent is making the recommendation that:

- (1) the charter agreement for **School Name** be revoked at the end of the 2019-2020 school year, unless
- (2) **School Name** agrees to the conditions set forth below, and failure to meet any of the below conditions will result in breach of contract without opportunity to cure. In addition, **School Name** must agree to waive their right to appeal*:
 - A. **School Name** will demonstrate evidence of 50% enrollment of 240 (120) by April 1, 2020.
 - B. **School Name** will demonstrate evidence of 80% enrollment of 240 (192) by May 1, 2020.
 - C. **School Name** will demonstrate evidence of 100% enrollment of 240 by June 1, 2020 and will continue to maintain this enrollment through October 1, 2020.
 - D. **School Name** will occupy their permanent facility by June 1, 2020.
 - E. **School Name** will adhere to the 2 year budget submitted to APS on October 16, and any modifications will be approved by APS.
 - F. **School Name** will submit a 5 year balanced budget reliant on PPR and compliant with TABOR by April 1, 2020. This budget must reflect actual enrollment at the time of submission.
- (3) *An appeal would take this ongoing issue into another school year and will negatively impact students. It is imperative the concerns be resolved before the beginning of next school year. If this assurance cannot be provided, the recommendation will default to revocation.*