



*Our vision is to serve as a BEACON of virtue, truth, and beauty
enlightening young hearts and minds to
benefit society at large.*

June 7, 2017

Via: Hand Delivery & Email

Dr. Paul Gothold, Superintendent
San Diego County Office of Education
Rick Shea, President, and Members
San Diego County Board of Education
6401 Linda Vista Road
San Diego, CA 92111-7319

Re: Beacon Classical Academy Written Statement in Support of Appeal of Charter Revocation

Dear Dr. Gothold, President Shea, and Members of the San Diego County Board of Education:

Beacon Classical Academy (“Beacon” or “Charter School”) was revoked by the National School District Governing Board (“District”) on May 8, 2017. Beacon presents this letter pursuant to the California Code of Regulations, Title 5 (“5 CCR”), sections 1968.5.4 (a)(6) and (a)(7) in support of its position that the District erred in its decision to revoke the Beacon charter, and hereby appeals the District’s decision to the San Diego County Board of Education (“County Board”). Below is a summary of applicable law and legal analysis demonstrating that the District Board’s factual findings in this case are not supported by substantial evidence and thus the County Board must reverse the revocation of the Beacon charter.

The Charter School detailed how it cured, or did not commit, each alleged violation in its responses to the Notice of Violation and the Notice of Intent to Revoke, a summary of which is provided in table form and attached to this correspondence as **Enclosure AA**. We believe the item-by-item responses provided by the Charter School, as well as the attached evidence provided in the revocation appeal packet to the County Board and incorporated herein by reference, demonstrate that the District did not meet the evidentiary burden required to revoke Beacon’s charter, and thus, the County Board must reverse the revocation.

I. INTRODUCTION

A. Background

When Beacon envisioned their program we did so with a desire to promote *humanitas*, a Latin noun meaning culture, moral, humanness (humane -compassionately kind). The goal is the attainment of knowledge coupled with wisdom and infused with virtue to promote socially responsible, caring, and productive citizens. Not so different from what most people would pursue. Traditionally, classical education is the cultivation of the human soul as it pertains to truth, goodness and beauty through the seven liberal arts (*trivium* -grammar, logic, and rhetoric; and *quadrivium*—arithmetic, geometry, music, and astronomy). Hence, our vision is to serve as a BEACON of virtue, truth, and beauty, enlightening young hearts and minds to benefit society at large.

Our school is presently composed of 68.4 % Title 1 students and 57% ELL students. The typical Beacon Classical student arrives at our door 1.6 grade levels behind, with some that started out 5 years below, with no learning disabilities. These students were basically the “left behind kids”. Parents chose Beacon because we have smaller class sizes; more structure, teach a classical approach, and because we emphasize a passion for learning.

Beacon Classical Academy Elementary (“BCAE”) was originally authorized under Julian Union Elementary School District as an independent study charter school, located within the National School District’s boundaries. BCAE self-closed in order to be authorized under the District as a classroom-based charter school called Beacon Classical Academy National City (“Beacon” or “Charter School”).

Prior to authorizing as a classroom-based charter Beacon Classical Academy Elementary surveyed their families. The majority of the families requested to have a classroom-based charter school with more than the 2-day choices of Monday and Tuesday or Thursday and Friday options. They requested classes be offered every day. Due to the popular interest for a 5-day a week classical program, it was decided to offer a full classroom-based program. The governing board chose to self-close and to be authorized as classroom-based. A classroom-based program would provide more opportunity for working families to attend the Charter. A classroom-based program may legally provide 80% classroom-based and 20% independent study. The homeschool families were given 2 options; full independent study or the integrated 2-day a week program.

However, prior to the approval of the classroom-based charter, word of the classical program reached as far as North County: Rancho Peñasquitos, Oceanside, Escondido, and San Marcos. In 2014-15, parents from North County enrolled in the Independent Study program. North County parents requested a classroom-based charter in North County. However, it was not possible to start a charter in North county, therefore most of the North County families did not re-enroll the following year when the classroom-based charter started. More students who were at a higher socioeconomic level did not transfer from 2014-15 to 2015-16. The demographics for 2014-15 were 64% Title 1 students. In 2015-16, there were 81% Title 1 students (Exhibit A1-2).

B. Relationship with the District

During Beacon’s first year as a classroom-based program, NSD did not provide any oversight visitation. When Beacon was awarded the PCSGP grant for \$575,000 and shared the good news with NSD, there was no response. There were, however, some finance related communications from NSD to

Beacon surrounding the finance reports. Beacon had contracted with NSD for special education services. Communication regarding those services occurred. In particular, when NSD began recommending special education students to Beacon, Beacon reminded NSD's Special Education Director and the assigned Resource Specialist Teacher that according to the MOU, NSD had agreed not to recommend special education students to Beacon. During that first year, Beacon also reminded NSD's finance department that according to the MOU, in lieu of tax funds were supposed to be transferred every month by the 15th beginning in August of the school year. However, Beacon did not receive these funds until October 23, 2015 when a \$44,907.00. The next payment of \$113,815.00 to Beacon did not occur until June 28, 2016 via auditor's transfer. On October 11, 2016 of the second year, Beacon again requested from NSD the in-lieu tax funds that should have been paid beginning on August 15th, but did not receive a response until October 24, 2016. NSD transferred \$37,647 on October 25, 2016 for the months of August through October. Monthly transfers began on November 15, 2016, which is 4 months late according to the MOU and Ed Code 47635 requirements (Exhibit F1-1).

On April 5, 2016, Beacon received a 30-Day Notice of Cure Default ... NSD cited 3 MOU violations: one for two late finance reports, first and second interim. The first was due on 11/25 but was sent 7 days late and the other was due on 2/28 and was sent 1 day late. A second violation was noted for not posting agendas and minutes on the website and not emailing them to NSD. However, agendas had been posted on the website and on the building within the 72 hours requirement, but not the minutes, nor were either emailed to the NSD. The third violation was a nonissue. NSD was in error regarding a loan. The debt was incurred under the Independent Study Charter and was disclosed as an ongoing debt when the classroom-based charter was authorized. Beacon responded within 7 days. Since then all finance reports have been early or on time, both agendas and minutes are posted on the website, and are sent by email to NSD. Additionally, Beacon provided to NSD the loan repayment schedule though not necessary.

In the Summer of 2015 Beacon requested from NSD a letter of good standing in order to continue receiving the SB 740 facility grant funds, a requirement for ongoing funding. Beacon also requested another letter of good standing for the ASES after school grant application. NSD responded that they were not able to provide the letters of good standing because they did not know if Beacon was in good standing. In order to determine whether Beacon was in good standing NSD would need to do a full MOU, finance, and instruction audit. Beacon received three audit letters for each area on November 3, 2016

Unfortunately, Beacon's facility was red-tagged on November 4 and Beacon became homeless. During a routine fire inspection, the Chief Fire Marshall identified a safety concern regarding a construction project led by the owner. Although, other concerns were also identified, it was the construction project that triggered the red tagging of the main building where the school was located. (Exhibit A1-7) On the second day after the building was red-tagged, a professional engineer (PE) confirmed there was no safety issue and wrote a report upon which he placed his California PE Seal. Professional Engineers complete a four-year college degree, work under another PE for four years, pass two competency exams and earn a license from the state's licensure board. PEs are responsible for the safety and code compliance of their work, and must hold themselves to high ethical standards of practice. The City, however, ignored the PEs report. Additionally, on the same day when the Building Official and the Chief Fire Marshall were both presented with the PE report, the officials also presented the building owner with an official violation. See NOV Exhibit (Exhibit A1-8) entitled Beacon Classical Academy &

South Bay Community Church of National City Notice of Violations which states in line item 7 that the "TJI" at the East end of the hallway is the reason that the school was evacuated. However, it is not a joist, according to the PE, it's a 2' x 4'. When the Building Official was told that he verified it when he was standing on the ladder looking at the board, the Building Official said to the owner, "Well I guess that's good for you." But he did not allow occupancy for over three months.

Line 7. Damage was performed to the engineered floor joists (TIJ's) that support the second story floor at the east school hallway. School was evacuated due to the compromise of said structural supports... (Exhibit A1-8).

Beacon provided NSD with a copy of the PEs report, hoping that NSD would advocate on behalf of Beacon to the City. But no support was offered. Beacon is aware that the Chief Fire Marshall is married to a NSD top level administrator who works in the District office. (Exhibit A1-10) Instead of supporting Beacon, NSD sent a letter on 11/4/16 requesting a facility plan from Beacon due the next business day by 5 pm. If a plan was not submitted, NSD warned that it would begin the revocation process (Exhibit A1-9). Beacon located a gymnasium, and the City approved its temporary use for 20 days only. The space was shared with a private school. Beacon set up and took down makeshift learning areas each day. Beacon requested space from NSD. Beacon was informed by the RSP teacher and aide that the closest NSD elementary school had available space, however when Beacon asked, NSD said they had no available space for Beacon students to meet. Beacon students did independent study work, had classes in a church gymnasium, went to tutoring at the library, and went on educational field trips. Beacon was homeless from 11/4/16 o 2/13/17, excluding the Thanksgiving and Winter break. Nevertheless, Beacon's concerted efforts resulted in significant achievement growth. Unfortunately, the building displacement caused student attrition, resulting in 70 students eventually leaving the school, the majority of which were higher achieving students. The progress BCA students made this year is significant especially when compared to the progress from 2015-16, and the fact that Beacon students lacked suitable learning conditions.

Beacon faced forces beyond its control (Force Majeure). Though the PE had provided a legally valid letter with his California seal of authority, the City not only ignored the letter, but appeared to work against the owner by not allowing the safety concern to be addressed. Because of the building being red-tagged, Beacon staff was not allowed to enter the building unless the Chief Fire Marshall gave permission. When and if Beacon was given permission, staff was limited to entering the building for only 15 minute time periods of 2-3 staff personnel at a time. In spite of these restraints on being able to access documents, Beacon was expected to present documents to NSD regarding the audits. Beacon was not able to freely enter the building until February 13, six days after the Notice of Violations was due.

According to the MOU, 29 (i) page 30 of 32 (Exhibit F1-1), "In the event of performance of this Agreement, or any obligations hereunder, is prevented, restricted or interfered with by ...circumstances beyond the reasonable control and without the fault or negligence of the party affected, the party affected, upon giving prompt notice to the other party, shall be excused from such performance on a day-to-day basis to the extent of such prevention restriction, or interference (and the other party shall be excused from such performance on a day-to-day basis until the delay, restriction or interference has ceased), provided, however, that the party so affected shall use its best reasonable efforts to avoid and remove

such cause of nonperformance and both parties shall proceed whenever such causes are removed or cease.”

Beacon promptly responded to the minor concerns identified by the Chief Fire Marshall, for example, the removal of the lunch canopy, though the cover was fire retardant and the structure was anchored to the ground, per Fire Marshall it also needed a wind resistant report. Based on the fact that the red tagging was a consequence of the owner’s construction project, Beacon had no jurisdiction over the cure to this. Therefore the timeline for the audits, which resulted in incomplete information, and the Notice of Violations, which resulted in the Revocation, was duly based on an unfair timeline. Not only was Beacon not able to access their files. Beacon was in a crisis mode. Childcare issues for parents, students removed from their school, and staff members suffered a variety of stress symptoms: anxiety attacks, sleeping disorders, headaches, which led to two staff members suffering from a heart attack and an aneurysm. The audits should have ceased - “the party shall be excused from such performance on a day-to-day basis until the delay, restriction or interference has ceased.”

C. Academic and Operational Accomplishments

Although Beacon is still a young school, it has already shown significant growth despite increasing enrollment of students below grade level and/or attrition of higher achieving students. The California Charter School Association (“CCSA”) Team’s Analysis’ chart focused on comparing grade growth of students who are below grade level from Spring 15-16 to Winter 16-17. Table Set 2 (Exhibit A1-14) of this chart indicates that Beacon had more students make progress this year compared to last year. This information was based on the Winter assessment period. This means that from Fall to Winter this year, more of the students who entered Beacon below grade level are showing growth as compared to all of last year. Specifically, 30% of these students have already made at least one year’s worth of growth, whereas last year only 23% had made that much progress by the end of the year. Also, due to the loss of the facility, Beacon saw a higher attrition percentage of students from 2016-2017 to 2015-2016 who were at grade level or higher leave, so the weighted average of Beacon’s pool of students changed. There were a lot more students in the Fall who were below grade level than the year before. Even so despite the less than optimal learning conditions, below than grade level students made more progress than previous years.

The Charter’s academic goals state that 85% of the students at grade level will yield at least one year growth and students below grade level would grow at least .5 year’s growth may no longer be appropriate goals. Beacon is actually seeing from the 2016-17 Winter MAP reading and math results that students below grade level are exceeding these goals. In reading 57.6% of students below grade level have already reached or exceeded .5 year. On average, these students who started out 1.5 grade levels below grew 1 grade level or more as measured by RIT norms. Moreover, 44.2% of EL students entering BCA below grade level reached or went beyond .5 year (Exhibit A1-4).

In mathematics, 54.5% of students at grade level are making an average growth of 1.5 grades and 68.6% of students below grade level have already reached or exceeded .5 year. Furthermore on average, students below grade level who started out 1.5 grade levels below grew 1 grade level or more as measured by RIT norms. Additionally, 57.8% of EL students entering BCA below grade level reached or went

beyond .5 year. Since these growth ELA results are from the 2016-17 Winter MAP assessments, Beacon anticipates more student growth will be evidenced from the Spring 2016-17 results (Exhibit A1-4). (

In general this year's 16-17 Winter Reading MAP scores are higher than 15-16's scores for grades K, 1, 3, 4, 6, *7 and *8. Winter 16-17 scores were also higher than 14-15 Winter scores for grades K, 1, 2, 3, 6, and *8. Likewise, this year's 16-17 Winter MAP Math scores are also higher than 15-16's scores for grades K, 1, 3, 4, 5, 6, *7 and *8. Additionally, Winter 16-17 scores were also higher than 14-15 Winter scores for grades K, 1, 2, 3, and 6. *An asterisk indicates that the population for that grade level was less than 10 students. Our public documents (charts) cannot reflect their data, but it is available in private upon a request from the Board* (Exhibit A1-3)

In summary, the facility issue was a once in a life-time unforeseeable circumstance and we pushed through and still showed progress. We saw this growth most notably in below grade level students who have made more than one year's improvement in reading and math. Most important, these results were Winter scores. We can only imagine how much more progress could have occurred if our building hadn't been shut down. The year was not yet finished. We are expecting even more students to increase more than one level by June.

Beacon was awarded the Federal Public Charter Schools Grant Program (PCSGP), a sub-grant program funded by the Charter Schools Program (CSP) and administered by the U.S. Department of Education (ED). The PCSGP is a highly competitive discretionary grant program. These federal funds are awarded to charters to assist in the development and operations of new charter schools to develop high quality and high performing charter schools. Beacon was awarded \$575,000.00. It is a reimbursable grant. First the funds are allocated or sourced from a lender, spent, receipts submitted, and then reimbursement follows. Last year Beacon was able to bring trainers to Beacon that provided math, ELA, ELD, and other trainings before the school year started and throughout the year. Prior to the commencement of this school year Beacon had two weeks of teacher training in math and ELA, and continues to provide weekly trainings. New curriculum, computers, and classroom teaching tools were purchased. A total of \$385,000 worth of educational improvements have enriched Beacon. Beacon hopes to spend the remaining balance of \$190,000 for school-wide staff training and development to transform Beacon into a high performing school.

Beacon has a high percentage of parents that are currently involved in Beacon's parent organizations, training, and fundraising. Over 190 signatures signed a petition to keep Beacon open (Exhibit F1-2) and wrote reasons why. Also, several parents also wrote letters in support of why they support Beacon (Exhibit F1-3).

D. Update on Charter School Board of Directors

Beacon has made strong efforts to invite qualified individuals to join its Board of Directors, and currently has six (6) members serving on its Board. The Board represents diverse members with broad professional experiences that include Engineer, Information Technology Manager, Public Defender, Retired Preschool Director, Senior Banker, and Media Productions Manager. Beacon is continuing to

build up the Board both in numbers and in training. Trainings on the Brown Act and ethical practices have been provided (BCA NOV).

For previous Board meetings where less than 3 members were present, the Board revisited the meeting minutes to review and re-vote on the action items, and the minutes were thereafter amended accordingly. The Beacon Board looks forward to sharing its diverse expertise and experience in providing quality and transparent governance to Beacon.

II. STATEMENT OF LAW

A. The Due Process Procedural Steps for Revocation of a Charter School

The Charter Schools Act was amended in 2006 by AB 2030 to ensure that charter schools receive additional due process, including a multi-step notice and opportunity to cure process, as a way to avoid arbitrary or capricious revocation actions by school districts. The Legislature added these protections to ensure that the educational process for students is not disrupted unless there is substantial evidence to support revocation and the charter school has had a reasonable opportunity to remedy the alleged problems.

Education Code Section 47607 states in pertinent part:

(c)(1) A charter may be revoked by the authority that granted the charter under this chapter if the authority finds, through a showing of substantial evidence, that the charter school did any of the following:

(A) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter.

(B) Failed to meet or pursue any of the pupil outcomes identified in the charter.

(C) Failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement.

(D) Violated any provision of law.

(2) The authority that granted the charter shall consider increases in pupil academic achievement for all groups of pupils served by the charter school as the most important factor in determining whether to revoke a charter.

(d) Prior to revocation, the authority that granted the charter shall notify the charter public school of any violation of this section and give the school a reasonable opportunity to remedy the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils.

(e) Prior to revoking a charter for failure to remedy a violation pursuant to subdivision (d), and after expiration of the school's reasonable opportunity to remedy without successfully remedying the violation, the chartering authority shall provide a written notice of intent to revoke and notice of facts in support of revocation to the charter school. No later than thirty (30) days after providing the notice of intent to revoke a charter, the chartering authority shall hold a public hearing, in the normal course of business, on the issue of whether evidence exists to revoke the charter. No later than thirty (30) days after the public hearing, the chartering authority shall issue a final decision to revoke or decline to revoke the charter, unless the chartering authority and the charter school agree to extend the issuance of the decision by an

additional 30 days. The chartering authority shall not revoke a charter, unless it makes written factual findings supported by substantial evidence, specific to the charter school, that support its findings.

The state regulations implementing Education Code Section 47607, which were adopted by the State Board of Education in December 2011, contain very detailed procedures that govern the charter revocation and appeals process. Pertinent definitions are included in 5 CCR Section 11965:

(d) “Notice of Intent to Revoke” means the written notice of a chartering authority's decision to pursue revocation of a school's charter due to the charter school's failure to remedy one or more violations identified in the Notice(s) of Violation. This notice shall identify all of the following:

(1) All evidence relied upon by the chartering authority in determining that the charter school failed to remedy a violation pursuant to this section;

(2) The date and time at which the chartering authority will hold a public hearing concerning revocation, which shall be held no more than 30 calendar days after the chartering authority issues this notice.

(f) “Notice of Violation” means the written notice of a chartering authority's identification of one or more specific alleged violations by the charter school based on the grounds for revocation specified in Education Code section 47607(c). This notice shall identify all of the following:

(1) The charter school's alleged specific material violation of a condition, standard, or procedure set out in the school's charter pursuant to Education Code section 47607(c)(1); the specific pupil outcome(s) identified in the school's charter that the charter school allegedly failed to meet or pursue pursuant to Education Code section 47607(c)(2); the charter school's alleged fiscal mismanagement or specific failure to follow generally accepted accounting principles pursuant to Education Code section 47607(c)(3); or the specific provision(s) of law that the charter school allegedly failed to follow pursuant to Education Code section 47607(c)(4), as appropriate.

(2) All evidence relied upon by the chartering authority in determining the charter school engaged in any of the acts or omissions identified in subdivision (f)(1) including the date and duration of the alleged violation(s), showing the violation(s) is/are both material and uncured, and that the alleged violation(s) occurred within a reasonable period of time before a notice of violation is issued; and

(3) The period of time that the chartering authority has concluded is a reasonable period of time for the charter school to remedy or refute the identified violation(s). In identifying the time period that will serve as the charter school's reasonable opportunity to remedy the identified violation(s), the chartering authority shall consider the amount of time reasonably necessary to remedy each identified violation, which may include the charter school's estimation as to the anticipated remediation time.

Moreover, 5 CCR Section 11968.5.2 governs the charter revocation process that must be followed by school districts:

This section sequentially sets forth procedures the chartering authority and the charter school's governing body as described in the school's charter shall complete for the revocation of a school's charter pursuant to Education Code section 47607, except for charter revocation when the violation constitutes a severe and imminent threat to the health or safety of pupils which is subject to section 11968.5.3 rather than this section.

- (a) At least 72 hours prior to any board meeting in which a chartering authority will consider issuing a Notice of Violation, the chartering authority shall provide the charter school with notice and all relevant documents related to the proposed action.
- (b) The chartering authority shall deliver a Notice of Violation to the charter school's governing body as described in the school's charter.
- (c) Upon receipt of a Notice of Violation, the charter school's governing body as described in the school's charter, if it chooses to respond, shall take the following actions:
 - (1) Submit to the chartering authority a detailed, written response addressing each identified violation which shall include the refutation, remedial action taken, or proposed remedial action by the charter school specific to each alleged violation. The written response shall be due by the end of the remedy period identified in the Notice of Violation.
 - (2) Attach to its written response supporting evidence of the refutation, remedial action, or proposed remedial action, if any, including written reports, statements, and other appropriate documentation.
- (d) After conclusion of the reasonable opportunity to remedy, the chartering authority shall evaluate the response of the charter school's governing body as described in the school's charter response to the Notice of Violation and any supporting evidence, if submitted, and shall take one of the following actions:
 - (1) If the chartering authority has substantial evidence that the charter school has failed to refute to the chartering authority's satisfaction, or remedy a violation identified in the Notice of Violation, continue revocation of the school's charter by issuing a Notice of Intent to Revoke to the charter school's governing body as described in the school's charter; or
 - (2) Discontinue revocation of the school's charter and provide timely written notice of such action to the charter school's governing body as described in the school's charter.
- (e) If the chartering authority does not act, as specified in subdivision (d), within 60 calendar days of the conclusion of the remedy period specified in the Notice of Violation, the revocation process is terminated and the Notice of Violation is void.
- (f) On the date and time specified in the Notice of Intent to Revoke, the chartering authority shall hold a public hearing concerning revocation. No more than 30 calendar days after the public hearing (or 60 calendar days by written mutual agreement with the charter school) the chartering authority shall issue a Final Decision.
- (g) The chartering authority shall provide a copy of the Final Decision to the CDE and its county board of education (unless the county board of education is also the chartering authority), within 10 calendar days of issuing the Final Decision.
- (h) If the chartering authority does not act to issue a Final Decision within the timeframe specified in subdivision (f), the revocation process is terminated and the Notice of Intent to Revoke is void.

Therefore, under Education Code Section 47607 and 5 CCR Section 11968.5.2, a charter school cannot be revoked until the school district has completed the following due process steps:

- 1) A school district governing board (not the superintendent of the district) makes findings supported by substantial evidence that the charter school has violated its charter or law, or engaged in fiscal mismanagement, or failed to achieve its pupil outcomes and has provided a written notice ("Notice of Violation") to the charter school requesting that these violations be cured and specifying a reasonable period of time in which to cure these alleged violations;

- 2) After allowing a reasonable time to cure and if the charter school has failed to cure the alleged violations;
- 3) The school district governing board has reconvened a public meeting and determined that the charter school has failed to cure the violations;
- 4) The school district issues a second notice of intent to revoke the school's charter ("Notice of Intent to Revoke") that includes substantial evidence in support of its revocation and provides notice to a charter school that a public hearing will be held within thirty (30) days of issuance of this second notice to determine if "substantial evidence exists to revoke the charter";
- 5) Holds a public "hearing"; and
- 6) Within thirty (30) days following the board meeting, the governing board issues a final decision on the revocation that includes written factual findings supported by substantial evidence to support the decision. (See Education Code Sections 47607(c), 47607(d) and 47607(e)).

B. The Appellate Rights of a Revoked Charter School

The amendments approved in 2006 also included an appeal process allowing the Charter School to challenge any revocation by appealing the decision to the county board of education and then to the State Board of Education. Education Code Section 47607 states in pertinent part:

(f)(1) If a school district is the chartering authority and it revokes a charter pursuant to this section, the charter school may appeal the revocation to the county board of education within 30 days following the final decision of the chartering authority.

(2) The county board may reverse the revocation decision if the county board determines that the findings made by the chartering authority under subdivision (e) are not supported by substantial evidence. The school district may appeal the reversal to the state board.

(3) If the county board does not issue a decision on the appeal within 90 days of receipt, or the county board upholds the revocation, the charter school may appeal the revocation to the state board.

(4) The state board may reverse the revocation decision if the state board determines that the findings made by the chartering authority under subdivision (e) are not supported by substantial evidence. The state board may uphold the revocation decision of the school district if the state board determines that the findings made by the chartering authority under subdivision (e) are supported by substantial evidence.

Finally, the state regulations governing the charter revocation appeal process to a county board of education (5 CCR 11968.5.4) state as follows:

This section establishes the procedures that a charter school and county office of education must follow if the charter school elects to appeal to a county board of education a district chartering authority's Final Decision to revoke the school's charter.

(a) Within 30 calendar days of receipt of a Final Decision revoking the school's charter, the charter school's governing body as described in the school's charter, shall approve and deliver a written Notice of Appeal to the county board of education that:

- (1) Includes a copy of the Notice of Violation, Notice of Intent to Revoke and the Final Decision issued pursuant to this article except that the charter school shall not be responsible for providing these documents if the chartering authority did not provide them to the charter school as required in section 11968.5.2;
 - (2) Includes evidence of the final vote of the chartering authority, if available;
 - (3) Includes all evidence relied upon by the chartering authority in determining whether substantial evidence existed that the charter school failed to remedy one or more violations identified in the Notice(s) of Violation;
 - (4) Includes all evidence and correspondence submitted by the charter school's governing body as described in the school's charter in response to the chartering authority's Notice of Violation and Notice of Intent to Revoke;
 - (5) Includes minutes of any public meeting at which the chartering authority considers or makes its decision to revoke the school's charter, if available;
 - (6) Includes a written statement explaining why the charter school does not believe the district chartering authority's factual findings are supported by substantial evidence; and
 - (7) Identifies any procedural omissions or errors the charter school alleges to have occurred in the revocation process.
- (b) If the county board of education does not issue a written decision that explains whether, in the county board of education's judgment, the district chartering authority's factual findings are supported by substantial evidence within 90 calendar days of receiving a Notice of Appeal that includes the documents listed in subdivision (a) of this section, the district chartering authority's decision is upheld, pending any further appeal.
- (1) In determining whether the district chartering authority's factual findings are supported by substantial evidence, the county board of education shall consider whether the district chartering authority provided the charter school's governing body as described in the school's charter a Notice of Violation, a reasonable opportunity to remedy the identified violation(s), a Notice of Intent to Revoke, a public hearing, and Final Decision, pursuant to Articles 2 and 2.5 and Education Code sections 47607(c) through (e), inclusive.
 - (2) If the charter school submits a response to the Notice of Violation pursuant to section 11968.5.2(c), the county board of education shall, in determining whether the district chartering authority's factual findings are supported by substantial evidence, consider whether the charter school complied with the procedures set forth in that section.
 - (3) The county board of education shall also consider whether an alleged procedural deficiency negatively impacted the charter school's ability to refute or remedy the alleged violation or the chartering authority's ability to comply with its procedural obligations or authorizing duties.
- (c) The county board of education shall provide the CDE and the chartering authority a copy of its written decision within 10 calendar days of its action.
- (d) An appeal to a county board of education of a Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety is subject to section 11968.5.3 rather than this section.

C. The “Substantial Evidence” Standard of Review

Before revocation, Education Code sections 47607(d) and (e) require a charter authorizer to provide the charter school with written notice of “facts in support of revocation” and “a reasonable opportunity to remedy the violation.” The charter authorizer must then make “written factual finding

supported by substantial evidence, specific to the charter school, that support its findings” that the school violated the law or charter. (Education Code Section 47607(c)(1).) “Substantial evidence” means evidence “of ponderable legal significance” that is at least “reasonable, credible, and of solid value” or “as relevant evidence that a reasonable mind might accept as adequate to support a conclusion.” (*JKH Enterprises, Inc. v. Dep’t of Industrial Relations* (2006) 142 Cal. App. 4th 1046, 1057; *Beck Development Co. v. Southern Pacific Transportation Co.*, (1996) 44 Cal. App. 4th 1160, 1204; *County of San Diego v. Assessment Appeals Bd. No. 2* (1983) 148 Cal.App.3d 548, 555.) The phrase “substantial evidence” “cannot be deemed synonymous with ‘any’ evidence.” (*Id.*)

On appeal, the County Board may reverse the revocation decision if the County Board determines that the findings made by the chartering authority under [Education Code Section 47607(e)] are not supported by substantial evidence. (Education Code Section 47607(f)(2).)

III. SUBSTANTIAL EVIDENCE DOES NOT EXIST TO REVOKE THE CHARTER

Since the ability of the County Board to reverse the revocation is directly linked to whether the County Board finds that substantial evidence exists to support the revocation of the Charter School, it is critical that all matters relating to the evidence be considered. This includes (1) whether the Charter School was provided a fair and reasonable opportunity to remedy the alleged violations, and (2) whether the evidence is based on past violations that have already been cured or appropriately addressed with proposed remedial actions.

The Charter School detailed how it cured, or did not commit, each alleged violation in its responses to the Notice of Violation and the Notice of Intent to Revoke, a summary of which is provided in table form and attached to this correspondence as **Enclosure AA**. We believe the item-by-item responses provided by the Charter School, as well as the attached evidence provided in the revocation appeal packet to the County Board and incorporated herein by reference, demonstrate that the District did not meet the evidentiary burden required to revoke Beacon’s charter, and thus, the County Board must reverse the revocation.

The Charter School contends that there is not substantial evidence to support the revocation of the Charter School because:

A. The Charter School was not provided a reasonable opportunity to remedy the alleged violations as required by Education Code Section 47607(d).

Whenever the reasonable opportunity to remedy as provided in the statute has not been afforded, it is impossible for any evidence to support a revocation under Education Code Section 47607, because provision of a reasonable opportunity to remedy is a prerequisite to the District pursuing any other step in the revocation process. Education Code Section 47607(d) states: “Before revocation, the authority that granted the charter shall notify the charter school of any violation of this section and give the school a reasonable opportunity to remedy the violation...” (Emphasis added.)

The District adopted the Notice of Violation on December 14, 2016, and issued it on December 15, 2016, setting forth approximately 19 different alleged violations. The District required Beacon to refute or remedy all of the alleged violations by February 7, 2017. The alleged violations covered a wide range of issues and varied greatly in how much time would be required to cure them. However, the District determined its own deadline of February 7, 2017, without taking into full consideration the reasonable time needed to remedy some of the alleged violations.

A reasonable opportunity to cure must be judged in relation to each alleged violation, and the time period for a charter school to begin and complete a cure must be reasonable. These requirements are set forth in the California Code of Regulations, which state: “In identifying the time period that will serve as the charter school's reasonable opportunity to remedy the identified violation(s), the chartering authority shall consider the amount of time reasonably necessary to remedy each identified violation, which may include the charter school's estimation as to the anticipated remediation time.” (5 CCR 11965(f)(3); emphasis added.)

Here, the District failed to meet the requirements set forth in 5 CCR Section 11965(f)(3). The Notice of Violation does not provide evidence that the District *considered* the amount of time reasonably necessary to remedy each identified violation. We would expect a thoughtful analysis to be provided in the Notice of Violation that applies a separate and reasonable time period for the charter school to remedy each of the 19 alleged violations. Instead, the District mandated a deadline of February 7, 2017, that was applied across the board to all 19 of the alleged violations—a wholly unreasonable amount of time for alleged violations such as the Lack of Grade-Level Proficiency in English-Language Arts and Mathematics, which would require Beacon to make efforts into the next academic year to see an actual change or result. The District also did not attempt to obtain Beacon’s estimation as to the anticipated remediation time for any of the 19 alleged violations.

B. The Charter School refuted, remedied, or proposed remedies for the alleged violations, and thus no substantial evidence could exist to support revocation.

Education Code Section 47607(e) states: “Before revoking a charter for failure to remedy a violation . . . and after expiration of the school’s reasonable opportunity to remedy without successfully remedying the violation, the chartering authority shall provide a written notice of intent to revoke” (Emphasis added.) The statute clearly sets forth the requirement that a charter school may only be revoked for failing to remedy alleged violation(s). Accordingly, the authorizer must evaluate the charter school’s response to a Notice of Violation and thoroughly investigate the cure for each alleged violation prior to moving forward with the revocation process.

Further, 5 CCR 11968.5.2(c) states: “Upon receipt of a Notice of Violation, the charter school’s governing body . . . shall take the following actions: (1) Submit . . . a detailed, written response addressing each identified violation which shall include the refutation, remedial action taken, or proposed remedial action by the charter school specific to each alleged violation. . . . ; (2) Attach . . . supporting evidence of the refutation, remedial action, or proposed remedial action, if any” (Emphasis added.) The regulation clarifies that a school need not automatically remedy all alleged violations in response to the Notice of Violation, but can provide the District a proposed remedial action of the steps that it would

take to remedy the alleged violations. Thus, a proposed remedial action, provided with supporting evidence, should be given the same review and consideration as remedial actions that have already been taken.

There is no substantial evidence of any *current* and *uncured* material violation of law or charter at Beacon that could support revocation. As above, the District found approximately 19 alleged violations. The Charter School submitted its response to the Notice of Violation, comprised of approximately 387 pages, on February 7, 2017. On April 6, 2017, the District provided a Draft Notice of Intent to Revoke to Beacon, and then the District Board voted to issue the Notice of Intent to Revoke on April 12, 2017. Clearly ignoring the responses, remedies and proposed remedies, and evidence submitted by the Charter School, the District copied most of the alleged violations from the Notice of Violation into the Notice of Intent to Revoke. The District did not effectively evaluate the Charter School's refutations, remedies, and proposed remedies; as such, the revocation action did not meet legal requirements.

C. There was no substantial evidence to support that the District considered increases in pupil academic achievement as the most important factor for revocation.

Education Code section 47607(c)(2) states: "The authority that granted the charter shall consider increases in pupil academic achievement for all groups of pupils served by the charter school as the most important factor in determining whether to revoke a charter."

The Court of Appeal explained in *American Indian Model Schools v. Oakland Unified School District* that "[Education Code section 47607(c)(2)] does not indicate that the District's obligation is satisfied by announcing it has considered increases in pupil academic achievement. Rather, this statute pronounces that this consideration must be made as 'the most important factor' when deciding whether to revoke a charter." ((2014) 227 Cal.App.4th 258, 277-78.) The Court cited from the comments to Senate Bill No. 1290, which stated:

This bill specifies that a charter authorizer *must* consider increases in pupil academic achievement for all groups of pupils served by the school . . . "as the most important factor" for renewal and revocation. *This does not mean the charter school is automatically not renewed or revoked*, but it does mean that the charter authority must consider this information as the most important factor in making its decision. In other words, the charter authority *must give extra weight* to this factor when it considers all the factors for renewal or revocation.

(*Id.* at 282.)

Further, "[t]he chartering authority shall not revoke a charter, unless it makes written factual findings supported by substantial evidence, specific to the charter school, that support its findings." (Ed. Code sec. 47607(e).) As such, the District's consideration of this factor [of pupil academic achievement] must be supported by substantial evidence." (227 Cal.App.4th at 278.) "[C]onclusory statements [such as "these scores have been considered"] do not provide substantial evidence demonstrating that the District considered the increases . . . for all pupil subgroups." (227 Cal.App.4th at 285.)

Proper consideration of this factor requires the District to consider the “*increases* in pupil academic achievement for pupil *subgroups*.” (227 Cal.App.4th at 283.) Thus, the statutory language suggests that to properly evaluate and consider the increases in pupil academic achievement, “a [chartering] authority must consider improvement over time rather than a one-year snapshot of academic performance.” (*Id.* at 273.) Further, according to the bill’s legislative history, “all groups of pupils served by the charter school” is defined as “a numerically significant pupil subgroup . . . served by the charter school.” (*Id.* at 266.) In *American Indian Model Schools*, there was “‘no information’ suggesting that the [District] considered test scores of any ‘numerically significant pupil subgroup’ or that the [District] determined that there were no ‘numerically significant pupil subgroups.’” (*Id.* at 283.)

Lastly, while increases in pupil academic achievement is the most important factor to consider for revocation of a charter, the test scores alone cannot determine whether a charter is revoked. The *American Indian Model Schools* Court stated that “[t]he District must give extra weight and consideration to high test scores, but high test scores would not prevent revocation of a charter when the violations or egregious behavior outweigh this factor.” (227 Cal.App.4th at 282.) Following the Court’s logic then, the test scores (albeit the most important) are still one of many other factors to consider in evaluating whether a school’s charter should be revoked.

Here, there is no substantial evidence to support that the District considered pupil academic achievement as the most important factor in determining whether to revoke Beacon’s charter.

First, the District used incorrect data to reach its conclusion that Beacon did not have an increase in pupil academic achievement. As we have reiterated in our various correspondence to the District, the District incorrectly considered data from the 2014-15 school year, during which Beacon was operating as an independent study charter called BCAE under Julian Union Elementary School District, and *not* as a classroom-based charter called Beacon under NSD. BCAE and Beacon are two separate charter schools, authorized by two different districts, with a different student population; BCAE closed as of June 2015. Only 49% of the students from BCAE transferred to Beacon, and many English-only students did not transfer from BCAE. Thus, Beacon has a higher English Learner population than BCAE had. The District cannot use statistics from the 2014-15 school year for students at BCAE to claim that Beacon’s students had a decline in their English and Mathematics scores because the pool of students, the type of program offered, and the authorizing districts were all different. Further, as we have included in our response to the Notice of Intent to Revoke, Beacon students showed an *increase* in their total Winter RIT MAP Reading scores from 1677.9 to 1717.6 an increase of 39.7 RIT points and a total Winter RIT MAP Math scores from 1727.9 to 1749.3, and increase 21.4 RIT points (Exhibits A1-4 & A1-18).

Although Beacon is still a young school, it has already shown significant growth despite increasing enrollment of students below grade level and/or attrition of higher achieving students. The California Charter School Association (“CCSA”) Team’s Analysis’ chart focused on comparing grade growth of students who are below grade level from Spring 15-16 to Winter 16-17. Table Set 2 of this chart indicates that Beacon had more students make progress this year compared to last year. This information was based on the Winter assessment period. This means that from Fall to Winter this year, more of the students who entered Beacon below grade level are showing growth as compared to all of last year. Specifically, 30% of these students have already made at least one year’s worth of growth, whereas

last year only 23% had made that much progress by the end of the year. Also, due to the loss of the facility, Beacon saw a higher attrition percentage of students from 2016-2017 to 2015-2016 who were at grade level or higher leave, so the weighted average of Beacon's pool of students changed. There were a lot more students in the fall who were below grade level than the year before. Even so despite the less than optimal learning conditions, below than grade level students made more progress than previous years (Exhibits A1-4, A1-5).

The Charter's academic goals state that 85% of the students at grade level will yield at least one year growth and students below grade level would grow at least .5 year's growth may no longer be appropriate goals. Beacon is actually seeing from the 2016-17 Winter MAP reading and math results that students below grade level are exceeding these goals. In reading 57.6% of students below grade level have already reached or exceeded .5 year. On average, these students who started out 1.5 grade levels below grew 1 grade level or more as measured by RIT norms. Moreover, 44.2% of EL students entering BCA below grade level reached or went beyond .5 year (Exhibit A1-13)

In mathematics, 54.5% of students at grade level are making an average growth of 1.5 grades and 68.6% of students below grade level have already reached or exceeded .5 year. Furthermore on average, students below grade level who started out 1.5 grade levels below grew 1 grade level or more as measured by RIT norms. Additionally, 57.8% of EL students entering BCA below grade level reached or went beyond .5 year. Since these growth ELA results are from the 2016-17 Winter MAP assessments, Beacon anticipates more student growth will be evidenced from the Spring 2016-17 results (Exhibit A1-13).

In general this year's 16-17 Winter Reading MAP scores are higher than 15-16's scores for grades K, 1, 3, 4, 6, *7 and *8. Winter 16-17 scores were also higher than 14-15 Winter scores for grades K, 1, 2, 3, 6, and *8. Likewise, this year's 16-17 Winter MAP Math scores are also higher than 15-16's scores for grades K, 1, 3, 4, 5, 6, *7 and *8. Additionally, Winter 16-17 scores were also higher than 14-15 Winter scores for grades K, 1, 2, 3, and 6. *An asterisk indicates that the population for that grade level was less than 10 students. Our public documents (charts) cannot reflect their data, but it is available in private upon a request from the Board.* (Exhibits A1-4, A1-5).

In summary, the facility issue was a once in a life-time unforeseeable circumstance and we pushed through and still showed progress. We saw this growth most notably in below grade level students who have made more than one year's improvement in reading and math. Most important, these results were Winter scores. We can only imagine how much more progress could have occurred if our building hadn't been shut down. The year was not yet finished. We are expecting even more students to increase more than one level by June.

Beacon was awarded the Federal Public Charter Schools Grant Program (PCSGP), a sub-grant program funded by the Charter Schools Program (CSP) and administered by the U.S. Department of Education (ED). The PCSGP is a highly competitive discretionary grant program. These federal funds are awarded to charters to assist in the development and operations of new charter schools to develop high quality and high performing charter schools. Beacon was awarded \$575,000.00. It is a reimbursable grant. First the funds must allocated or sourced from a lender, spent, receipts submitted, and then reimbursement follows. Last year Beacon was able to bring trainers to Beacon that provided math, ELA,

ELD, and other trainings before the school year started and throughout the year. Prior to the commencement of this school year Beacon had two weeks of teacher training in math and ELA, and continues to provide weekly trainings. New curriculum, computers, and classroom teaching tools were purchased. A total of \$385,000 worth of educational improvements have enriched Beacon. Beacon hopes to spend the remaining balance of \$190,000. for school-wide training and development of staff to into a high performing school

Second, the District never discussed its consideration of pupil academic achievement as the most important factor until its Final Resolution to Revoke on May 8, 2017; neither the District's initial Notice of Violation nor its Notice of Intent to Revoke even mentioned that the District was considering Beacon's pupil achievement as the most important factor for revocation. Thus, there is no evidence at all, let alone any substantial evidence, to support that the District gave extra weight to this factor as it reviewed whether to revoke Beacon's charter.

Third, the District's discussion of the pupil academic achievement as the most important factor in its Final Resolution is a conclusory statement that lacks substantial evidence to support that the District truly considered this factor as the most important. While it references the alleged violations of Beacon's charter due to Beacon's allegedly low English and Mathematics scores in the earlier part of the Final Resolution, that discussion incorrectly takes into consideration the 2014-15 data from BCAE and fails to even consider the increased Winter reading scores of Beacon (as discussed above here). The District does not show any effort in weighing this factor in conjunction with other possible factors for or against revocation, and instead simply concludes that it has considered pupil academic achievement as the most important factor in its decision to revoke Beacon's charter.

Here, the District bases its consideration of this factor on merely a snapshot of the limited data available, and does not give Beacon an opportunity to show its change in scores over time. Beacon did not start providing instruction as a classroom-based school until July 2015. As described in Beacon's charter petition. Beacon stated that 85% of students would demonstrate at least one year of growth towards grade-level proficiency in English reading and language arts, and students who are below grade level will make at least .5 years of growth. As evidenced by the Winter reading scores, there is evidence of growth towards grade-level proficiency in English reading and language arts. Even then, student test scores is one aspect that cannot be remedied in a short month or two, as standardized testing takes place at limited times during the school year, and both teachers and students need to be given sufficient time to teach and learn the necessary material to be tested on. Thus, this very narrow and limited snapshot view of the students' scores isn't substantial evidence to support the District's decision to revoke Beacon's charter. In addition, no evidence exists to suggest that the District considered test scores of any "numerically significant pupil subgroup" in considering this factor as the most important factor. The District only provides charts showing the various grades, but doesn't otherwise review the increase in pupil academic achievement for "a numerically significant pupil subgroup."

Lastly, there is no evidence to suggest that the District took into consideration other factors in reaching its decision to revoke Beacon's charter. Even if pupil academic achievement was the most important factor, as discussed above, Beacon refuted, remedied, or proposed appropriate remedies for all of the alleged violations that the District had identified. Taking that into consideration with the fact that

Beacon's reading scores had increased and that BCAE scores should have no bearing on Beacon's revocation decision, the District did not have substantial evidence to support its decision to revoke Beacon's charter.

IV. PROCEDURAL ERRORS BY THE DISTRICT

We urge the County Board to reverse the District's revocation decision if the County Board finds the District has not complied with due process procedural steps outlined in Education Code Section 47607 and in the California Constitution. Education Code Section 47607 expressly requires that a County Board consider whether substantial evidence existed to support the District's findings. It is clear that the due process clause of the California Constitution (Article I, Section 7(a)) is self-executing, and that even without any effectuating legislation, all branches of government are required to comply with its terms (See *Katzberg v. Regents of the University of California*, 29 Cal. 4th 300 (2002)). The County Board is a branch of government. Since the Legislature clearly intended to provide operators of charter schools with due process prior to being deprived of their property right (i.e., a license/charter to operate a charter school), the County Board has an obligation to consider whether due process has been properly provided by the District (i.e., that the District followed all required steps prior to revoking the Charter School).

This is expressly recognized in 5 CCR Section 11968.5.4(a)(7), which requires a charter school in its revocation appeal packet to "identif[y] any procedural omissions or errors the charter school alleges to have occurred in the revocation process." Furthermore, the regulations require the County Board to consider whether procedural due process was afforded to the charter school "in determining whether the district chartering authority's factual findings are supported by substantial evidence." (5 CCR Section 11968.5.4(b)(1).) Thus, if such due process has not been provided, the County Board must reverse the revocation.

A. The District did not timely consider increases in pupil achievement as the most important factor until the Final Resolution to Revoke.

The *American Indian Model Schools* Court reiterated the California Supreme Court's discussion of the importance of requiring administrative agencies to provide findings to support their various decisions, because "the orderly functioning of the process of review requires that the grounds upon which the administrative agency acted be clearly disclosed and adequately sustained." (227 Cal.App.4th at 282.) Further, "a findings requirement serves to conduce the administrative body to draw legally relevant sub-conclusions supportive of its ultimate decision; the intended effect is to facilitate orderly analysis and minimize the likelihood that the agency will randomly leap from evidence to conclusions." (*Ibid.*) Thus, an administrative agency must clearly lay out its findings and conclusions, to support its ultimate decision.

However, as discussed above in section III.C., there was no substantial evidence that the District considered increases in pupil achievement as the most important factor to revoke Beacon's charter until the District provided a short discussion at the end of its Final Resolution to Revoke. Even if the District may have thought to consider that factor as the most important, the District's Notice of Violation and Notice of Intent to Revoke never mentioned the District's consideration of pupil academic achievement as

the most important factor for Beacon’s revocation. As such, there is no evidence to support the District’s decision-making process to reach its conclusion to revoke Beacon’s charter based on the consideration of pupil academic achievement as the most important factor.

B. The District had inconsistencies in its Final Resolution to Revoke.

The District was inconsistent in the content of its Notice of Violation and Final Resolution to Revoke. Notably, there are some errors in the following sections:

1. There was a difference in the number and sum of checks identified as being paid to Daniel Van Nice under the alleged violation that Beacon utilized non-licensed, non-Department of Industrial Relations-certified contractors to perform work;
2. There was difference in the amount of one of the payments issued to Daniel Van Nice under the alleged violation of Apparent Conflict of Interest.
3. NSD failed to acknowledge BCA’s Sage check register report to confirm that checks had never cleared.
4. NSD misrepresented finance information on a slide
5. NSD misrepresented student academic growth data
6. NSD misrepresented data by presenting student academic growth data for only year 1 and did not use this argument in the Notice of Violation or Notice of Intent to Revoke.
7. NSD misrepresented data when only one academic chart of one grade was presented as a reason to revoke.
8. NSD misrepresented data when it presented on a slide the wrong chart comparisons by comparing Winter scores with a Spring Chart to project State results.
9. Response to NSD PowerPoint statements

Notice of Violation	Notice of Intent to Revoke	Final Resolution
Section A		
Section B.1(b) listed \$6,559.57 (Checks #591, 592, 782) was paid to Daniel Van Nice.	Section B.1.(b) listed \$6,250.09 (Checks #591, 592) was paid to Daniel Van Nice.	Section B.1.(a) listed \$6,250.09 (Checks #591, 592) was paid to Daniel Van Nice.
Section B.6 listed that payments to Daniel Van Nice were in the amounts of \$800.09, \$5,450, and \$309.48	Section B.6. listed that payments to Daniel Van Nice were in the amounts of \$309, \$5,450, and \$309.48; it also identifies that Beacon’s statement identifies compensation to Mr. Van Nice in the	Section B.3. listed that payments to Daniel Van Nice were in the amounts of \$309, \$5,450, and \$309.48; it also identifies that Beacon’s statement identifies compensation to Mr. Van Nice in the amount of \$5,540 and \$1,109.57.

	amount of \$5,540 and \$1,109.57.	
Section C.2 Omitted Checks	The \$129,405.02 that were identified by the District in the Notice of Violation as missing were all in the Sage report and in emails provided to the District.	The \$129,405.02 that were identified by the District in the Notice of Violation as missing were all in the Sage report and in emails provided to the District.
Section C.3 Additional Missing Check from Check Register Detail During 2015-2016 Fiscal Year	District failed to acknowledge BCA's Sage check register report that shows the 80 checks and PDFs of the voided checks listed as "is missing." These checks never cleared the bank reconciliation process because they were voided. Of the list of 80 checks, 20 were duplicates previously listed in C.2 of the Resolution to Revoke.	District failed to acknowledge BCA's Sage check register report that shows the 80 checks and PDFs of the voided checks listed as "is missing." These checks never cleared the bank reconciliation process because they were voided. Of the list of 80 checks, 20 were duplicates previously listed in C.2 of the Resolution to Revoke
Section C.3 Additional Missing Check from Check Register Detail During 2015-2016 Fiscal Year	District failed to acknowledge BCA's Sage check register report that shows the 80 checks and PDFs of the voided checks listed as "is missing." These checks never cleared the bank reconciliation process because they were voided. Of the list of 80 checks, 20 were duplicates previously listed in C.2 of the Resolution to Revoke.	NSD misrepresented finance information on a slide presented at the May 8, 2017 Board meeting. The slide was entitled Missing checks... with a subtitle labeled - Manual Check sequence – General bank account. Then it listed ten check numbers, i.e., 411 missing – possible void. These checks were then circled in red and written across in capital letters was the word UNEXPLAINED. Underneath was a footing that stated Missing transactions. Timeline Power Point from May 8, 2017 NSD Board Meeting (Exhibit F1-4)

Not presented in the Notice of Violation.	Not presented in the Notice of Violation.	NSD Misrepresented Data. NSD at the May 8, 2017 Board meeting. NSD presents only last year's Student Growth Summary Report for mathematics when this year's mathematics and reading reports were showing positive growth in both subjects. Timeline Power Point, May 8, 2017 NSD Board Meeting (Exhibit F1-5)
Not presented in the Notice of Violation.	Not presented in the Notice of Violation.	NSD misrepresented data when only one chart was presented. The chart was of one grade that showed a decline when 5 other charts showed an increase. Timeline Power Point, May 8, 2017 NSD Board Meeting (Exhibit F1-6- & A1-17)
Not presented in the Notice of Violation.	Not presented in the Notice of Violation.	NSD misrepresented data when it presented on a slide the wrong chart comparisons: Concordance Between Smarter Balanced Mathematics and MAP Mathematics Cut Scores. NSD categorized BCA students in the wrong Mathematics Smarter Balanced levels by using Spring comparison charts with Winter data and subsequently placing all the grades in level 1 (Standard Not Met.) but when properly categorized the correct level placements were as follows: grade 3 in level 3 (Standard Met) and grades 4, 5 & 6 (Standard Nearly Met). Other grades had less than 10 students. Timeline Power Point from May 8, 2017 NSD Board Meeting. (Exhibit F1-7)
Not presented in the Notice of Violation.	Not presented in the Notice of Violation.	District timeline always refers to Default letter but omits Beacons response (Exhibit F1-8)
Not presented in the Notice of Violation.	Not presented in the Notice of Violation.	NSD presented a slide at the May 8, 2017 That stated "Can Beacon students afford a fourth year of little to no progress? This statement referred to the first charter, which is a not legal reason to revoke the charter. This statement was also misleading and inaccurate. Beacon students have made significant progress. Timeline Power Point, May 8, 2017 NSD Board Meeting (Exhibit F1-9) to
Not presented in the Notice of Violation.	Not presented in the	NSD presented a slide at the May 8, 2017

Violation.	Notice of Violation.	NSD Board Meeting that stated “Can NSD ignore intentional misrepresentation made by Beacon?” This statement was misleading and slanderous. Timeline Power Point from May 8, 2017 NSD Board Meeting (Exhibit F1-10)
Not presented in the Notice of Violation.	Not presented in the Notice of Violation.	According to BCAs NWEA representative, schools can test at any point within the NWEA terms in order to track growth of students. The norm data is an average, which means it is still applicable no matter when you test. Email from NWEA representative was provided to the District in the Intent to to Revoke ResponseResp. (Exhibit A1-6)

V. CONCLUSION

Beacon respectfully requests that the County Board reverse the District’s decision to revoke the charter for the Charter School on the grounds that (1) the District’s factual findings are not supported by substantial evidence, and (2) the District’s actions violated procedural protections for the Charter School. Additionally, Beacon respectfully requests that the County Board immediately reinstate the Charter School and require all funding, grants and resources that have been withheld from the Charter School be immediately reinstated or returned.

If I can answer any questions for the County Board or staff, please do not hesitate to contact me at (619) 267-1294, ext. 104, or avannice@beaconclassical.com.

Sincerely,



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