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## Charter School Appeals

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### **The Background:**

Pursuant to Tenn. Code Ann. § 49-13-108, newly-formed charter schools may appeal denial by a local board of education (the authorizer) to the State Board of Education.

Within 60 days of an appeal, the State Board hears the appeal at a public meeting before the Board or a designated representative in the school district in which the charter school sponsor applied for a charter. At that hearing, the Board or its representative reviews the decision of the local board and makes findings. “If the state board finds that the local board’s decision was contrary to the best interests of the pupils, school district or community, the state board shall remand such decision to the local board of education with written instructions for approval of the charter. The decision of the state board shall be final and not subject to appeal. The LEA, however, shall be the chartering authority.” Tenn. Code Ann. § 49-13-108(3).

On January 24, hearings will be held in Memphis to consider the appeals of four charter schools sponsors from the denial of their amended applications by the Memphis City Schools Board of Commissioners and the Shelby County Schools Board of Education. The appeals were heard by the Executive Director of the State Board of Education.

### **The Master Plan Connection:**

By authorizing and monitoring public charter schools, school districts can model the effectiveness of greater accountability in exchange for greater school based autonomy, and allow sponsors to offer more choices to the students and parents in their communities. Public charter schools apply the four foundational principles of the *Master Plan*, using innovative teaching and learning models, to help more Tennessee children prepare for successful post-secondary work, education and citizenship.

### **The Recommendation:**

The Executive Director recommends that the Board affirm the decisions of the Memphis City Schools Board of Commissioners to deny the applications of Global Leadership Academy and City of Life Academy.

The Executive Director recommends that the Board remand the decision of the Shelby County Schools Board of Education with instructions to approve the charter of the New Consortium of Law & Business.

These recommendations are based on the attached findings and recommendations of Dr. Nixon for each proposed public charter school. Additional documents and letters are available for your review online. They include copies of the applications, scoring criteria and application evaluations used by each of the authorizers, as well as written comments submitted at and after the appeal hearings.

Appeals from Memphis City Schools Co.: <http://info.tnanytime.org/sbe/?p=557>.

Appeal from Shelby County Schools: <http://info.tnanytime.org/sbe/?p=558>.

**BEFORE THE TENNESSEE STATE BOARD OF EDUCATION**

**2011 CHARTER SCHOOL APPEAL  
GLOBAL LEADERSHIP ACADEMY**

**FINDINGS AND RECOMMENDATION**

Pursuant to Tenn. Code Ann. § 49-13-108, newly-created charter schools may appeal denial by a local board of education to the State Board of Education (State Board).

On January 24, 2011, a hearing was held at the Memphis City Schools in Memphis, Tennessee, to consider Global Leadership Academy's appeal of the denial of its application by the Memphis City Schools Board of Commissioners (MCSBC).

Based on the following procedural history and findings of fact, I believe that the decision to deny Global Leadership Academy's application was not contrary to the best interests of the pupils, the school district and the community, and therefore recommend that the Board affirm the decision of the Memphis City Schools Board of Commissioners.

**PROCEDURAL HISTORY**

1. On November 22, 2010, the MCSBC denied Global Leadership Academy's initial application, following the recommendation by the district's charter school review committee. The district sent Global Leadership Academy its evaluation with detailed feedback.
2. The MCSBC denied Global Leadership Academy's amended application December 20, 2010.
3. Global Leadership Academy appealed that decision December 21, 2010.
4. On January 24, 2011 the executive director of the State Board presided at a hearing attended by representatives of MCS and Global Leadership Academy.

**FINDINGS OF FACT**

1. The MCS Charter School Review Committee included the following individuals, who reviewed both the initial and amended applications:
  - a. John Nickey, Data Analyst, Research and Assessment
  - b. Angelica James, Research and Assessment
  - c. Tracey Wilson, Research and Assessment
  - d. Cathy Wood, Human Resources
  - e. Trikelles Salvant, Assistant Project Manager, AOTI
  - f. Amelia Anglin, Coordinator, Exceptional Children and Health Services
  - g. Lischa Brooks, Northeast Regional Office
  - h. Suzanne Thomas, Executive Director, PreK-12 Mathematics
  - i. Sonja Sanes, High School Counseling Supervisor
  - j. Kongsouly Jones, Principal, Peabody Elementary
  - k. Beth Stayton, Director of Instruction, MAHS Middle and MAHS High (public charter schools)
  - l. Fred Shuback, Budget Review
  - m. Jo Cunningham, Parent
2. Memphis City Schools employs a rigorous screening process based on the Principles for Quality Authorizing of the National Association of Charter School Authorizers (NACSA).
3. Using the State Department of Education's (SDE) review guide and detailed scoring criteria, the review committee scored the application in each of the four domains outlined on the SDE scoring sheet: Mission, Education Plan, Founding Group, Business/Operations Plan.
4. To be recommended for approval to the MCSBC, applicants must score at least 86% in each of the four domains. Global Leadership Academy did not receive that score in any of the four domains.

5. Global Leadership Academy's initial application earned a total of 14 out of 100 possible points:

- a. Mission – 0 points out of 10 possible (0%)
- b. Education Plan – 0 points out of 40 possible (0%)
- c. Founding Group – 6 points out of 17 possible (35%)
- d. Business/Operations Plan – 8 points out of 33 possible (24%)

6. Global Leadership Academy's amended application earned a total of 22 out of 100 possible points:

- a. Mission – 0 points out of 10 possible (0%)
- b. Education Plan – 0 points out of 40 possible (0%)
- c. Founding Group – 8 points out of 17 possible (47%)
- d. Business/Operations Plan – 14 points out of 33 possible (42%)

7. Global Leadership Academy disregarded the explicit feedback provided by the review committee on the initial application. The amended application still relied heavily on the International Baccalaureate (IB) program, even though becoming an IB school takes up to three years. The review committee was concerned this would be misleading to parents and students. The committee was also concerned that the amended application did not provide an alternative core curriculum in case Global Leadership did not receive approval to use the IB program.

8. The education plan contained inconsistencies and practices the review committee believed were educationally unsound. Double periods of reading and math referred to in the narrative were not reflected in the schedule. The length of classes for high school students and the proposed extended day for tutoring were also not included in the daily schedule. Global Leadership Academy stated that students failing to test proficient on an end of course exam would be retained a whole year. The committee felt that holding

students back a whole year, rather than helping them overcome subject specific deficiencies through targeted intervention, would be detrimental to student progress.

9. The budget contained deficiencies and the business plan was inadequate to begin operation upon approval. The salary for the special education director was extremely low. Other positions in the application were not accounted for in the budget.

**CONCLUSION**

The decision by the Memphis City Schools Board of Commissioners to deny Global Leadership Academy’s amended application was not contrary to the best interests of the pupils, the school district or the community. Memphis City Schools has a mature review process and many applicants have, over the last few years, responded to the district’s high standards by demonstrating operational ability and competence to provide research based learning environments with potential to lead to student success. Despite its founder’s demonstrated passion for combining service learning and a focus on international business, Global Leadership Academy’s 2010 application does not meet those high standards. Therefore, I recommend that the State Board of Education affirm the decision of the Memphis City Schools Board of Commissioners to deny the application of Global Leadership Academy.



Dr. Gary L. Nixon, Executive Director  
State Board of Education

Jan. 27, 2011  
Date

**BEFORE THE TENNESSEE STATE BOARD OF EDUCATION**

**2011 CHARTER SCHOOL APPEAL  
CITY OF LIFE ACADEMY**

**FINDINGS AND RECOMMENDATION**

Pursuant to Tenn. Code Ann. § 49-13-108, newly-created charter schools may appeal denial by a local board of education to the State Board of Education (State Board).

On January 24, 2011, a hearing was held at the Memphis City Schools in Memphis, Tennessee, to consider City of Life Academy's appeal of the denial of its application by the Memphis City Schools Board of Commissioners (MCSBC).

Based on the following procedural history and findings of fact, I believe that the decision to deny City of Life Academy's application was not contrary to the best interests of the pupils, the school district and the community, and therefore recommend that the Board affirm the decision of the Memphis City Schools Board of Commissioners.

**PROCEDURAL HISTORY**

5. On November 22, 2010, the MCSBC denied City of Life Academy's initial application, following the recommendation by the district's charter school review committee. The district sent City of Life Academy its evaluation with detailed feedback.
6. The MCSBC denied City of Life Academy's amended application December 20, 2010.
7. City of Life Academy appealed that decision December 21, 2010.
8. On January 24, 2011 the executive director of the State Board presided at a hearing attended by representatives of MCS and City of Life Academy.

**FINDINGS OF FACT**

2. The MCS Charter School Review Committee included the following individuals, who reviewed both the initial and amended applications:

- n. John Nickey, Data Analyst, Research and Assessment
- o. Angelica James, Research and Assessment
- p. Tracey Wilson, Research and Assessment
- q. Cathy Wood, Human Resources
- r. Trikelles Salvant, Assistant Project Manager, AOTI
- s. Amelia Anglin, Coordinator, Exceptional Children and Health Services
- t. Lischa Brooks, Northeast Regional Office
- u. Suzanne Thomas, Executive Director, PreK-12 Mathematics
- v. Sonja Sanes, High School Counseling Supervisor
- w. Kongsouly Jones, Principal, Peabody Elementary
- x. Beth Stayton, Director of Instruction, MAHS Middle and MAHS High (public charter schools)
- y. Fred Shuback, Budget Review
- z. Jo Cunningham, Parent

6. Memphis City Schools employs a rigorous screening process based on the Principles for Quality Authorizing of the National Association of Charter School Authorizers (NACSA).

7. Using the State Department of Education's (SDE) review guide and detailed scoring criteria, the review committee scored the application in each of the four domains outlined on the SDE scoring sheet: Mission, Education Plan, Founding Group, Business/Operations Plan.

8. To be recommended for approval to the MCSBC, applicants must score at least 86% in each of the four domains. City of Life Academy did not receive that score in any of the four domains.

9. City of Life Academy’s initial application earned a total of 8 out of 100 possible points:

- e. Mission – 0 points out of 10 possible (0%)
- f. Education Plan – 0 points out of 40 possible (0%)
- g. Founding Group – 5 points out of 17 possible (29%)
- h. Business/Operations Plan – 3 points out of 33 possible (10%)

7. City of Life Academy’s amended application earned a total of 14 out of 100 possible points:

- e. Mission – 0 points out of 10 possible (0%)
- f. Education Plan – 0 points out of 40 possible (0%)
- g. Founding Group – 5 points out of 17 possible (29%)
- h. Business/Operations Plan – 9 points out of 33 possible (27%)

10. City of Life Academy’s amended application failed to address the grave concerns of the review committee. The review committee indicated that the initial application did not demonstrate an ability to effectively design a viable education plan. Nor did it illustrate competence to operate a business and remain financially solvent.

11. The education plan was inconsistent and inadequate. For example, the particular academic needs of the potential students were not identified. The teaching and learning methods were not described in sufficient detail. Time periods for classes stated in the narrative were not reflected in the daily schedule. Alignment between the proposed instructional program and testing was not clearly defined.

12. The budget also had serious flaws. For example, the budget in years one and two did not use the correct per pupil allocation. No capital outlay funding was included in some years. Justifications for expenditure amounts were lacking. Retirement, social security and other employer expenses were not included for all positions.

**CONCLUSION**

The founders of City of Life Academy admitted that their application contained numerous flaws. They struggled to adequately amend the application in the statutorily provided time frame, in part because they were not able to engage someone to complete the business plan and budgetary parts of their application in a timely and comprehensive manner.

The founders appreciated the feedback provided by the MCS review committee and remain focused on applying their years of experience as educators to meet the needs of students in a holistic manner. However, the decision by the Memphis City Schools Board of Commissioners to deny the amended application of City of Life Academy was not contrary to the best interests of the pupils, the school district or the community. Therefore, I recommend that the State Board of Education affirm the decision of the Memphis City Schools Board of Commissioners to deny the application of City of Life Academy.



Dr. Gary L. Nixon, Executive Director  
State Board of Education

Jan. 27, 2011

Date

**BEFORE THE TENNESSEE STATE BOARD OF EDUCATION**

**2011 CHARTER SCHOOL APPEAL  
NEW CONSORTIUM OF LAW & BUSINESS**

**FINDINGS AND RECOMMENDATION**

Pursuant to Tenn. Code Ann. § 49-13-108, newly-created charter schools may appeal denial by a local board of education to the State Board of Education (State Board).

On January 24, 2011, a hearing was held at the Shelby County Schools (SCS) in Memphis, Tennessee, to consider New Consortium of Law & Business's appeal of the denial of its application by the Shelby County Schools Board of Education (SCSBE).

Based on the following procedural history and findings of fact, I believe that the decision to deny New Consortium of Law & Business's application was contrary to the best interests of the pupils, the school district and the community, and therefore recommend that the Board remand the decision of the Shelby County Schools Board of Education with instructions to approve the charter.

**PROCEDURAL HISTORY**

1. On November 18, 2010, the SCSBE denied New Consortium of Law & Business's initial application, following the recommendation by the district's charter school review committee. The district sent New Consortium of Law & Business the completed charter school application review guide with comments.

2. The SCSBE denied New Consortium of Law & Business's amended application December 16, 2010.

3. New Consortium of Law & Business appealed that decision December 23, 2010.

4. On January 24, 2011 the executive director of the State Board presided at a hearing attended by representatives of SCS, SCSBE, New Consortium of Law & Business and community members.

**FINDINGS OF FACT**

1. The SCS Charter School Review Committee included the following individuals, who reviewed both the initial and amended applications:

- a. Margaret Gilmore, SCS Instructional Programs Supervisor & Charter School Coordinator
- b. Felicia Turner, SCS Student Services Supervisor
- c. Shawn Pachucki, SCS Communications
- d. Rochelle Douglas, SCS Instructional Supervisor, AYP
- e. Susan Pittman, SCS Elementary School Director
- f. Regina Payne, SCS Human Resources
- g. Dedric McGhee, SCS Instructional Supervisor, Science
- h. Theresa Winters, SCS Finance Director
- i. Karen Woodard, SCS Middle/High School Director

2. The review committee scored the application in each of the four domains outlined on the State Department of Education’s review guide: Mission, Education Plan, Founding Group, Business/Operations Plan.

3. New Consortium of Law & Business’s initial application earned a total of 54.5 out of 100 possible points:

- a. Mission – 8 points out of 10 possible (80%)
- b. Education Plan – 21 points out of 40 possible (52%)
- c. Founding Group – 11.5 points out of 17 possible (68%)
- d. Business/Operations Plan – 14 points out of 33 possible (42%)

4. New Consortium of Law & Business’s amended application earned a total of 71 out of 100 possible points:

- a. Mission – 8 points out of 10 possible (80%)
- b. Education Plan – 24 points out of 40 possible (60%)
- c. Founding Group – 13 points out of 17 possible (76%)
- d. Business/Operations Plan – 26 points out of 33 possible (79%)

5. The review committee used an outdated version of the Charter School Application Review Guide. The copies printed out all included headers from the Department of Education’s website that listed Dr. Lana Seivers as Commissioner. Dr. Seivers left the Department of Education three years ago, February 1, 2008.

6. That outdated version included a line item for facilities, a requirement not included in the version posted on the Department of Education’s website during the summer of 2010. Having a facility prior to approval is not one of the legislatively appointed elements of charter school applications (see Tenn. Code Ann. § 49-13-107).

7. The review committee deducted three points from NCLB’s application because it had not identified a facility where it proposed to operate the school. The three points that used to be in the review guide for facilities are now added to the possible points for items 8 and 13, members of the governing body and sponsors. NCLB was given 10 of 10 possible points for that section. So, assuming the new review guide had been followed, NCLB would have gotten 13 of 13 possible points for that item.

8. The review committee deducted points from the mission and goals portion of the application because the “eligible pool of students cannot be determined.” Eligibility for charter school enrollment can easily be determined at any point in the year by verifying which schools in a given district are on the high priority list and by ascertaining which students failed to test at the level of proficient or above on State standardized tests. In their presentation, SCS staff highlighted the fact that between 40 and 66 percent of its middle school students scored below proficient on the TCAP Reading/Language Arts and/or Math assessments. Presumably, SCS can identify which students those are and compile a list of those students who are thus eligible to attend NCLB.

9. The committee also wrote that the “eligibility requirements for enrollment are not aligned with state guidelines.” The application, however, spends four pages explaining how NCLB will comply with the Tennessee Public Charter School Act’s provisions for student enrollment (and quotes the relevant statutes verbatim). The application did not cite the State Board of Education Rule regarding enrollment lotteries. But that rule follows the quoted statutes, and the application assured that its enrollment process would “follow . . . all provisions of local, state and federal law.” That assurance would include compliance with the SBE rule.

10. The comments provided by SCS to NCLB on the review guide often were not aligned with the criteria required by law to be addressed in an application. For example, in the education plan section of the review guide, SCS noted that NCLB’s proposed “curriculum references courses that are available in the Shelby County Schools course offerings.” Nothing in the Tennessee Public Charter Schools Act requires charter schools to offer courses not offered by other schools in the non-chartered schools in the district. Moreover, unless NCLB seeks waivers from the list of courses approved by the State Board of Education, NCLB must offer courses offered in Shelby County Schools so their students can meet the Tennessee graduation requirements.

11. Some comments provided by the review committee contradicted the actual content of the application. For example, the committee wrote that “insufficient information [was] provided to effectively address the needs of individual subgroups.” The application, in fact, spends six pages outlining how NCLB proposes to develop and implement Individualized Education Programs (IEPs) and Section 504 plans, and provide programmatic benefits to at-risk students, students eligible for special education services and students with

limited English proficiency. The application then spends another six pages articulating fourteen intervention strategies for students from all subgroups. The application includes extensive references to research supporting those plans.

12. Regarding discipline, the committee wrote that the “code of behavior contains rhetoric, rather than a clear, concise plan.” Though the application does include a statement of philosophy regarding the code of behavior on the first page of that section of the application, it then spends twelve pages concretely defining penalties and the procedures for imposing them, the specific grounds that could lead to the penalties, the due process afforded students, a complaint procedure for parents, and methods of encouraging positive behavior.

13. The review committee complained that the section on governance and operations rules and policies contained “methodologies, but no established policies in the document.” The application section does include the procedure for adopting policies. However, it also includes more than half a dozen policies and procedures, including those related to board duties, board meetings, board elections, policy adoption, fiscal oversight, evaluation of master teachers and the president of the corporation, and a conflict of interest policy. Though Shelby County Schools’ [website](#) lists 21 separate policies for its board governance, NCLB’s proposed policies and procedures cover nearly all of the same elements as the SCS board policies, and, in terms of volume, are approximately equal to those of the Shelby County Board of Education.

14. In 2009, the Memphis City Schools Board of Commissioners granted a charter to the New Consortium of Law and Business, based on a nearly identical application, which the Memphis City Schools review committee scored as follows:

- a. Mission – 9 points out of 10 possible (90%)
- b. Education Plan – 35 points out of 40 possible (88%)
- c. Founding Group – 16 points out of 17 possible (94%)
- d. Business/Operations Plan – 32.5 points out of 33 possible (98%)

15. The fact that the Memphis City Schools Board of Commissioners granted NCLB a charter is not dispositive. Because of differing interests of the “pupils, school district or community,” Tenn. Code Ann. § 49-13-108(3), one local board of education may find a charter school application worthy of approval while another may not.

16. However, in its appeal presentation, and in the materials provided to NCLB, Shelby County Schools and its Board of Education did not articulate why its decision was in the best interests of the pupils, school district or community. Instead, SCS seemed focused on complimenting its current schools for the programs they already offer, and for helping some students meet the standards of proficient or advanced on State achievement tests.

17. The list of school and district-wide programs SCS provides in order to help struggling students and provide continuing opportunities for engagement for all students is commendable. SCS staff listed more than a dozen ongoing or one-time programs in SCS middle schools that aim to connect students with businesses and community leaders to help them connect their schoolwork to the needs of the community and the students’ own potential career interests.

18. Tonya Donnell-Boston, a parent of three children enrolled in SCS, praised the availability of teachers to give her children “every opportunity to excel.” The teachers are,

she said, “willing to meet with students outside of class.” And, Mrs. Donnell-Boston enjoys the opportunities she has to participate in the parent organizations at her children’s schools.

19. NCLB’s application for a public charter school is not an indictment of the Shelby County Schools. The Tennessee Public Charter Schools Act was not intended to be applied only in districts with large numbers of failing students or high priority schools (though SCS has thousands of students who failed to achieve proficient or advanced status on the latest TCAP tests).

20. Instead, NCLB’s sponsors propose to expand the kinds of efforts already being made in SCS to meet the needs of all students, particularly those who are struggling academically. The testimony provided by SCS staff and community members show that parents and students in Shelby County are clamoring for the kinds of rigorous curricula and community and career engagement that NCLB proposes to offer.

21. In accordance with the purposes of charter schools outlined in Tenn. Code Ann. § 49-13-102, NCLB proposes to provide “substantial meaningful opportunities to participate in the education of their children,” with a parental governance model. The proposed school, as the NCLB already operating in Memphis City Schools does, will “create new professional opportunities for teachers” with master teachers who have nearly half of their work day to prepare lessons and plan and participate in professional development. And NCLB is willing to accept “greater responsibility for student performance” in “exchange for . . . greater decision making authority” as to how to meet the needs of the 30 to 180 students it aims to enroll during the next five years.

**RECOMMENDATION**

The sponsors of the New Consortium of Law and Business demonstrated that the decision to deny their amended application was contrary to the best interests of the pupils, the school district and the community. Therefore, I recommend that the State Board of Education remand the decision of the Shelby County Schools Board of Education to deny the application of New Consortium of Law & Business with instructions to approve the charter pursuant to Tenn. Code Ann. § 49-13-110.



Dr. Gary L. Nixon, Executive Director  
State Board of Education

Jan. 27, 2011

Date