

January 21, 2022

VIA EMAIL (CharterSchool.Appeals@tn.gov)

Tennessee Public Charter School Commission
Attn.: Tess Stovall, Executive Director
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Nashville, TN 37243
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In re: Appeal of Metropolitan Nashville Public Schools' January 12, 2021, Denial of Knowledge Academy's Charter Renewal

Dear Ms. Stovall:

This law firm represents Knowledge Academies, Inc. Pursuant to Tenn. Code Ann. § 49-13-121(f), Knowledge Academies, Inc., hereby appeals the January 12, 2022, decision of Metropolitan Nashville Public Schools (MNPS) to deny Knowledge Academies' application for a renewal of its charter agreement to operate Knowledge Academy (collectively with Knowledge Academies, Inc., "KA").

KA's renewal application meets or exceeds the metrics outlined in the Commission's application-scoring rubric. Approval of the application is in the best interests of the students and community of Davidson County, most especially the 125 current KA students and their families. The Commission should, therefore, approve KA's renewal.

I. MNPS' decision to deny KA's renewal is contrary to the best interests of KA's students.

Tenn. Code Ann. § 49-13-121, which governs appeals of charter renewal denials, provides: "If the commission finds that the local board of education's decision to deny renewal of a charter agreement *is contrary to the best interest of the students, LEA, or community*, then the commission shall approve the renewal application" (italics added).

KA's renewal application reflects the dramatic academic, fiscal, and operational improvement the school has made since KA retained Noble Education Initiative as its charter management organization in March 2019. As MNPS representatives told the Board at its January 12 meeting, recent site visits to the school found no academic, operational, or financial concerns. Given this dramatic progress, a failure to renew KA's charter would be contrary to the best interests of the school's existing students, families, and community.

Academics.

Since its 2011 chartering by MNPS, KA was a model school for much of its existence. The State honored KA with Reward School designation as recently as 2014. As was documented in KA's 2019 revocation appeal before the State Board of Education, however, the KA board removed the school's founding chief executive officer in February 2019 in part because KA had been identified as a school in need of Targeted Support and Improvement ("TSI"), based on underperforming subgroups of students.

Since the KA board hired NEI in 2019, the school has made dramatic academic progress. KA exited TSI status in 2021 based on significant improvements in growth and student proficiency rates. The school achieved TVAAS 3 status, comparable to many MNPS zoned schools. KA came off academic probation in 2021. While achieving 94 percent student participation rate in the 2020-21 TCAP assessments, KA scored higher in the percent of

students mastering, on track to master, in ELA, Math, and Social Studies than any of the neighboring zoned schools (Antioch Middle, Apollo, JFK, Margaret Allen, Thurgood Marshall). KA's success rate on state accountability testing for 2018-19 also outpaced the schools from which we draw most of our students. KA also outpaced surrounding schools in the success rate percentage of the various subgroups for the 2018-19 school year.

Financial Health.

Since NEI's retention as KA's charter management organization, the CMO's financial services team has restored the schools' financial health. Undocumented legacy vendors have been rejected; professional accountability measures and financial reporting systems installed. As a consequence, KA's financial performance has stabilized demonstrably.

KA has had balanced budgets the past two years, increasing its fund balance to a cumulative \$1 million. KA is projected to operate with a surplus again during the current school year. The school has had no negative audit findings for three years—its status as a “going concern” is not in doubt.

Operational Stability.

With the school's renewed financial health has come operational stability to support students and families. The school hired a Director of Student Services to support rollout of a social/emotional learning (“SEL”) curriculum rollout, and added a college and career readiness coach to support students on college tracks. The school added a school counselor to support with guidance, mental health, and behavioral needs of students. The NEI team supporting KA and its sister schools now includes a Director of School Operations and Compliance and a Director of Curriculum. Enrollment has risen consistently since 2019 to 128 students.

Finally, KA has increased starting teacher pay to \$50,000 annually, plus performance bonus potential—above the MNPS district base pay for starting teachers.

Best interests of students and community.

During two MNPS Board hearings with the KA renewal on the agenda, dozens of KA students, faculty, staff, and community members testified before the Board, all in support of the school's renewal, many with emotional tales of finding true community, academic support, and career purpose and success. No one testified before the MNPS Board in favor of denying KA a renewed charter.

II. MNPS' 2021 performance report omitted all facts relevant to the Board of Education's renewal consideration occurring after April 2019

None of the above information found its way into the MNPS performance report. This Commission's regulations state the Commission will conduct a “de novo on the record review” of KA's full record. Tenn. Comp. R. & Regs. § 1185-01-01-.02(3) (2021). Indeed, none of the information contained in the Performance Report postdates KA's October 2019 appeal of the MNPS Board's attempt to revoke it charter. We look forward to supplying the Commission with documentation of that record, as set forth above.

III. MNPS did not deliver its 2021 performance report to KA until November 22, 2021—a violation of Tennessee law that, combined with the factual omissions, unlawfully prejudiced KA before the MNPS Board.

A charter renewal application must be filed by April 1 of the year before the charter is set to expire. KA did this, filing its renewal application on April 1, 2021. Tenn. Code Ann. § 49-13-121(a). Charter schools, however, are not supposed to make their renewal application blind. Tenn. Code Ann. § 49-13-121(c) provides: “Three (3) months prior to the date on which a public charter school is required to submit a renewal application, the authorizer shall submit to the public charter school a performance report that reflects the renewal evaluation.” In this case, Tennessee law clearly required MNPS to provide KA written notice *three months prior* to April 1, 2021, that is, no later than January 1, 2021 “a performance report that reflects the renewal evaluation.”

This MNPS did not do. In fact, MNPS did not deliver its performance report to KA until an email at 4:21 p.m. on November 22, 2021, *one day* before the MNPS Board was set to vote on the KA renewal. KA was entitled to three months notice of the performance report prior to submitting its own application and ten months notice prior to

the MNPS Board's renewal vote. KA got one day's notice. This act, intentional or not, materially prejudiced KA's right to a fair hearing on its full record.

IV. The MNPS Board unlawfully considered—and disparaged—KA's 2020-21 state assessment scores in deliberating at its January 12 whether to renew KA's charter

During the January 12 meeting, Board members asked for, and were given, information regarding KA's 2021 state assessment scores. Board members disparaged KA's academic performance. The board voted immediately thereafter to deny KA's renewal application.

Public Chapter 2 of the First Extraordinary Session of the 112th General Assembly “offers the ability for school districts and schools to be held harmless of any negative consequences of accountability”¹ stemming from the 2020-21 assessment cycle. For example, Tenn. Code Ann. § 49-1-609 states, “[S]tudent performance on assessments administered in the 2020-2021 school year to assess student readiness for postsecondary education must be excluded from the performance goals and measures required for schools...unless including student performance on postsecondary readiness assessments administered in the 2020-2021 school year results in a higher performance designation for the school...” Likewise, Tenn. Code Ann. § 49-1-602(a)(6) provides that assessment scores for charter schools with an 80% testing participation rate “shall not be used to identify a school as a priority school or to assign a school to the achievement school district.” It is no more appropriate or lawful under Public Chapter 2 for a school district to use testing scores against a charter school at time of renewal.

KA looks forward to a full, open, and transparent process before the Commission. Such a process, we submit, will lead the Commission to the straightforward conclusion that it should vote to renew KA's charter.

Please contact us should you have any questions or require additional information.

Very truly yours,

FROST BROWN TODD LLC



Thomas H. Lee
Member

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¹ <https://www.tn.gov/content/dam/tn/education/2020-21-leg-session/Accountability%20District%20&%20School%20Hold%20Harmless%20FAQs%202-5-21.pdf>