



Waller Lansden Dortch & Davis, LLP
633 Chestnut Street 423.682.6300 main
Suite 1400 423.682.6301 fax
Chattanooga, Tennessee 37450-4000 wallerlaw.com

James B. Bristol
615.850.8922 direct
james.bristol@wallerlaw.com

May 3, 2022

VIA EMAIL - Tess.Stovall@tn.gov

Tess Stovall
Executive Director
Tennessee Public Charter School Commission
500 James Robertson Parkway
5th Floor, Davy Crockett Tower
Nashville, Tennessee 37243

In Re: Appeal of Emergency Charter Amendment Application of Knowledge Academies, Inc., to Metropolitan Nashville Public Schools

Dear Tess:

I write on behalf of Knowledge Academies, Inc. (“KA”), pursuant to Tenn. Code Ann. § 49-13-110 and the rules of the Tennessee Public Charter Schools Commission, codified at Tenn. Comp. R. & Regs. § 1185-01-01-.04 (2022), to appeal the action of the Board of Education (the “MNPS Board”) of the Metropolitan Nashville Public Schools (“MNPS”), denying KA’s emergency charter amendment application consolidating the charters of Knowledge Academy, KA @ The Crossings, and Knowledge High School (collectively, the “KA Schools”) into the charter of KA @ The Crossings.

KA amendment procedural history. The emergency amendment application has its roots in the April 1, 2021, charter renewal application of Knowledge Academy, a grade 5-8 middle school, to MNPS. From the time we submitted the renewal application until November 22, 2021, we heard nothing of its status from MNPS. During this time, MNPS staff made numerous site visits to KA. The District released KA from its 2020 probationary status. KA’s enrollment rose and academic performance improved. Budgets were balanced, and the schools amassed an operating surplus of \$1 million. Then, on November 22, we learned online that the MNPS Board had scheduled a vote on the renewal application for the next day: November 23, 2021. We were surprised not only by the agenda, but by an attached report regarding KA, which indicated MNPS staff would recommend against granting the application. None of the above facts were in the staff report. Instead, that report was frozen in time, citing matters that had been raised—and decided—before the State Board of Education more than two years prior in October 2019. The November 2021 staff report made it appear as if nothing had occurred since.

This was a clear violation of state law. Tenn. Code Ann. § 49-13-121(c) a charter authorizer **must** provide a charter school up for renewal “a performance report that reflects the renewal evaluation” by January 1 of the year when the renewal application is due. MNPS did not do this by January 1, 2021—or ever. In short, state law required that MNPS provide us 11 month notice of its renewal evaluation. We received 24 hours. The prejudice to KA was material and obvious. We immediately reached out to MNPS, who pledged to work with us to remedy the violation. The MNPS Board deferred action on November 22, 2021. MNPS requested we send a letter proposing a solution for all parties, which we did on January 7, 2022. Our correspondence was clear. “Upon the renewal of the Knowledge Academy charter,” we wrote, our Board would present a plan for consolidation of our three charters into one, a process that would require working on MNPS’ charter amendment calendar. This would avoid costly litigation over the violation of § 121, and provide the MNPS and KA the opportunity to design a new grade 5-12 school to serve the Antioch community, where zoned schools are overcrowded and underperform KA.

The MNPS Board finally voted on January 12, 2022 to deny KA a renewed charter. There was no mention of MNPS' violation of § 121. Instead of presenting the solution we offered to MNPS, the Board publicly accused us of being disingenuous. This is when the Board violated the law a second time regarding our renewal. During the January 12 meeting, Board members asked for, and were given, information regarding KA's 2021 TNReady assessment scores.¹ Board members then disparaged KA's academic performance, and voted shortly thereafter to deny KA's renewal application by a 7-2 vote.

The KA Amendment. KA timely appealed the Board's denial of the renewal application to the Commission. Given our network's two other charters, it became clear as the appeal processed that our best action in the interests of our students, families, and MNPS was to file an emergency amendment application to consolidate the three KA charters into one, pursuant to the plan we had outlined to MNPS in December. Tennessee law provides that a governing body may file an emergency charter amendment "for changes necessary to be reviewed outside the deadlines named" elsewhere in the Commission's regulations, namely February 14 and October 1. Tenn. Comp. R. & Regs. § 1185-01-01-.04(1)(l). "If the governing body of a charter school determines that, due to unanticipated or extraordinary circumstances, good cause exists for the emergency amendment application to be submitted, it shall make a finding by resolution." *Id.* at § 1185-01-01-.04(1)(m). "An emergency amendment application may be submitted to the authorizer at any time."

The emergency application was made necessary by MNPS' violation of §121 and the resulting failure to provide us notice of any timely concerns with Knowledge Academy. KA was, therefore, denied the opportunity to meaningfully evaluate and file a timely amendment application consolidating the schools in the fall. The rules of the Charter Commission do not permit an amendment application, in the normal course, to change enrollment levels or add grade levels to a charter, e.g., grades 5-8 to an existing high school, or grades 9-12 to an existing middle school, in the spring of the year. *Id.* at § 1185-01-01-.04(1)(e)(2). The termination of the Knowledge Academy charter on June 30, 2022,² means there simply is no other way to consolidate the three KA charters under the authorization of MNPS. The KA Board determined, by resolution, therefore, that good cause existed to submit an emergency amendment application to MNPS, and we did so on March 14, 2022. MNPS denied our amendment application on April 26, 2022.

Why the KA Amendment Appeal Should Be Granted. It has been a decade since the original KA charter. The surrounding neighborhoods have changed dramatically since. Antioch is now the fastest-growing and most diverse community in Nashville. Further, the number of KA Charters has resulted in unnecessary duplication of administrative time and expense for both MNPS and KA. There is much to recommend a consolidated KA charter. In the past two years the KA campus has made material progress.

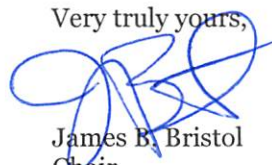
¹ Passed a year ago, Public Chapter 2 of the First Extraordinary Session of the 112th General Assembly "offers the ability for school districts and schools to be held harmless of any negative consequences of accountability."¹ For example, Tenn. Code Ann. § 49-1-609 states, "[S]tudent performance on assessments 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.

² Alarmingly, on April 28, 2022, MNPS acted unilaterally to announce the closure of KA. A letter was sent to families of **all three** Knowledge Academies charters—addressed to the *minor students* of those schools—leading parents of KA @ The Crossings and Knowledge High to fear that their schools were closing, too. Only after our challenge did MNPS admit to an error. Failure to seek our input in this matter was a violation of state requirements for authorizers. See Quality Authorizing Standard 5(e)(2021) ("A quality authorizer, in the event of school closure...works with the school board and leadership in carrying out a detailed closure protocol that ensures timely notification to parents.")

- Both of the KA middle schools—Knowledge Academy and KA @ The Crossings—were TVAAS level 3 schools in the Department of Education’s most recent assessment. No middle school in Nashville posted greater growth.
- In 2019, the U.S. Department of Education had designated Knowledge Academy and 12 other MNPS district and charter schools for Targeted Support and Improvement (“TSI”). In 2021, KA was the only MNPS charter to make sufficient academic progress to **exit the TSI list**. Likewise, in 2019, Knowledge High had been designated for the federal Additional Targeted Support and Improvement (“ATSI”). In 2021, **Knowledge High exited the ATSI list**.³
- The KA Charters have a **cumulative \$1 million fund balance**. KA is budgeted to operate with a surplus again this academic year. The KA budget has been balanced each of the past two years. The auditor’s review of the school’s 2020 and 2021 financial statements contained no audit findings. Consolidating the charters will further provide an improved balance sheet.
- **Enrollment is rising again**, from a cumulative total of 396 at the conclusion of the 2020-21 school year to 430 students. Fifth grade enrollment at KA is up 65% from the end of the 2020-21 school year. Even though MNPS barred Knowledge Academy from participating in MNPS’ 2022-23 open charter enrollment period, applications for KA @ the Crossings have nearly doubled the school’s 2021-22 enrollment.
- MNPS removed the Knowledge Academies schools from their probationary status upon completion of KA’s work plan in December 2020.
- KA has added a federal grants coordinator and a family engagement representative to attract additional federal grant dollars and to provide consistent and frequent communications with students’ families.

The students, faculty, and families of KA are on the right track, and poised, with a collaborative authorizer, to serve the growing and unique needs of the Antioch community. This time in our community’s history requires new thinking and new partnerships to meet the challenges. That need has become clearer than ever as questions have been addressed throughout this process. The Tennessee State Board of Education’s Quality Authorizer Standards provide that an authorizer “periodically reviews compliance requirements and evaluates the potential to increase school autonomy based on flexibility in the law, streamlining requirements, demonstrated school performance or other considerations.”⁴ This is that time. That is why we submitted the emergency amendment application and this appeal. We believe we have an unprecedented opportunity to model collaboration in the best interests of students, the district, and the broader community.

We thank you for your positive consideration of KA’s emergency amendment appeal—and we look forward to new partnerships.

Very truly yours,

James B. Bristol
Chair
Knowledge Academies, Inc.

cc: Sherry A. Hage, Chief Executive Officer, Noble Education Initiative, Inc.

³ See <https://www.tn.gov/education/data/accountability/2021-school-accountability.html>

⁴ State Board Policy 6.111, Standard 4(b)(iii)