



CHARTER SCHOOL

L A W G R O U P

May 16, 2022

Joe A. Peters, Senior Assistant Attorney General
K-12 Education Unit, State Services Section
Colorado Department of Law
Colorado Attorney General Office
1300 Broadway, 10th Floor
Denver, Colorado 80203

Sent Via Email: Joe.Peters@coag.gov

RE: Notice of Breach

Dear Mr. Peters:

I am writing this letter on behalf of Colorado Springs Charter Academy (“CSCA”) in response to your letter of April 22, 2022 (“Letter”). At its Board meeting on May 14, 2022, the CSCA Board voted on the contents of this letter and instructed me to submit it on its behalf.

The Board of CSCA understands the need to protect the assets of CSCA, the role the Charter School Institute (“CSI”) has in overseeing the operations of CSCA, and the need of CSI to investigate the allegations discussed in your Letter. However, the CSCA Board is appalled by the manner in which CSI has addressed its concerns. The CSCA Board believes the allegations in the Letter are unsubstantiated, slanderous, and based on false information from limited sources. The Board of CSCA will continue to give the benefit of the doubt to its Board members and expects that they be treated with respect by both the CSCA community and CSI. Nonetheless, because of the public manner CSI chose to address these matters, prior to an investigation being conducted in earnest, the Board believes that the Letter has unnecessarily caused harm to the accused Board members and undermined the authority of the CSCA Board as a whole. The Board expects that the accused Board members will be fully exonerated, but their reputations will remain tarnished.

CSCA requests that CSI provide the full results of its investigation to the CSCA Board as soon as possible. After the investigation is complete, the CSCA Board respectfully requests that CSI aid CSCA in disseminating any information that is discovered that exonerates the accused Board members. The CSCA Board further requests that CSI apologize for the manner in which it handled this matter and for the damage it needlessly caused to the accused Board members’ reputations.

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If this letter does not resolve all outstanding items addressed in the Letter to CSI's satisfaction, the Board of CSCA is open to further discussion and is willing to work with CSI to find mutually acceptable resolutions that respect both the autonomy of the CSCA Board and the oversight authority of CSI. Below are excerpts of the demands and action items contained in the Letter, followed by CSCA's response in bold font.

I. Ground One: Financial Improprieties

The CSCA Board has investigated the relationships between CSCA Board members and CSCA employees and has no reason to believe that favoritism has been displayed or that any decisions have been made based on any personal relationships that exist between current CSCA Board members and employees. The CSCA Board is unaware of any personal relationships between CSCA Board members and CSCA employees beyond the casual relationships that develop through work done for CSCA.

CSI demands the following remedies to cure the breach:

- Pause payment on all facilities-related expenses other than those strictly necessary for the health and safety of those using school buildings, until notified of the conclusion of CSI's investigation.

CSCA agrees to this demand, with the exception that, if there is an expense that the CSCA Board deems necessary, which is not a health and safety matter, the expense will be submitted to the full CSCA Board for approval.

- Disseminate a copy of the school's formal financial policies to all noninstructional staff, requiring such staff members to sign and return the policy. The copies delivered to, and signed by, the school's financial staff shall include a cover letter explaining that individual board members have no authority to unilaterally direct payment of any bills or invoices. CSCA shall certify in writing that it has completed these steps within 14 days of the date of this letter.

CSCA agrees to disseminate its financial policies as requested but will first update said financial policies to reflect how CSCA operates and update who has authority to address different approvals based on current job titles. CSCA anticipates adopting updated financial policies at a Board meeting in June 2022 and will then promptly provide said policy updates to CSI for review and comment. CSCA is committed to disseminating the updated policies to the requested staff persons before the start of school in August 2022.

- My understanding is that board member Summer Groubert's inappropriate access to bank accounts, accounting, and purchasing authority have been removed. Please confirm this understanding in writing within 14 days of the date of this letter.

The CSCA Board disagrees that Ms. Groubert has ever had "inappropriate access to bank accounts, accounting, and purchasing authority." CSCA was without a

permanent Head of School and other administrators for several months and, therefore, the Board empowered Board members, in accordance with CSCA's Bylaws, to conduct more of the daily operations of CSCA than Board members would customarily perform. The Board of CSCA is grateful to the Board members who volunteered so much of their time to aid CSCA. The CSCA Board is not aware of Ms. Groubert or any other Board member having access to bank accounts, accounting software, or exercising spending authority without the express approval of the CSCA Board. CSCA has used an external financial advisor to help ensure oversight of CSCA's funds and does not believe there have been any improprieties.

The CSCA Board does confirm that Ms. Groubert has been removed from CSCA's bank accounts and that she does not currently have purchasing authority.

II. Ground Two: Governance Improprieties

CSI demands the following remedies to cure the breach:

Provide evidence of the method of appointment and reappointment of each current board member, with an explanation of whether the appointment or reappointment conformed to the CSCA board by-laws. This evidence shall include evidence of the formal board actions or of the parental election results, as applicable, and shall be provided within 14 days of the date of this letter.

The information below is based on the meeting minutes on CSCA's website and information provided to me by Board members during an executive session on May 11, 2022. All CSCA Board members were present during that executive session and were all in agreement with the information provided below.

i. Breck Merkle, President

- 1. Currently holding a Parent-elected Board position.**
- 2. Elected to Board in October 2021; the meeting minutes are vague, but all Board members with firsthand knowledge agreed that Mr. Merkle was elected at this time through a parent election. (See 10.21.21 Minutes).**
- 3. Elected by Board as President in November 2021 (See 11.18.21 Minutes).**
- 4. Term Expires October 2023.**
- 5. Elected to Board in compliance with CSCA's Bylaws.**

ii. Summer Groubert, Treasurer

- 1. Currently holding a Board-appointed Board position.**
- 2. Appointed to Board on March 19, 2020 (See 3.18.20 Minutes).**
- 3. Motion passed to approve her transition from parent member to a community member (See 9.17.20 Minutes).**
- 4. Motion passed to approve her as Treasurer (See 9.17.20 Minutes).**

5. Appointed by Board to serve another term on the Board and elected by Board as Treasurer in October 2020. The meeting minutes only mention the election to the Treasurer position, but all Board members with firsthand knowledge agreed that Ms. Groubert was reappointed to the Board at this same meeting (*See 10.15.20 Minutes*).
 6. Elected by Board to serve another term as Treasurer in October 2021. (*See 11.18.21 Minutes*).
 7. Term Expires October 2022.
 8. Appointed to Board in compliance with CSCA's Bylaws.
- iii. **Najah Lamborn, Member**
1. Currently holding a Parent-elected Board position.
 2. Appointed to Board (*See 3.18.21 Minutes*).
 3. Elected to Board in October 2021; the meeting minutes are vague, but all Board members with firsthand knowledge agreed that Ms. Lamborn was elected at this time through a parent election. (*See 10.21.21 Minutes*).
 4. Term Expires October 2023.
 5. Elected to Board in compliance with CSCA's Bylaws
- iv. **McCrea Andersen, Member**
1. Currently holding a Parent-elected Board position.
 2. Elected to Board in October of 2020; the meeting minutes are vague, but all Board members with firsthand knowledge agreed Ms. Anderson was elected at this time through a parent election. (*See 10.15.20 Minutes*, which state, "There were two Board positions that were open for holding elections. Two applicants applied; both of the applicants are current Board members. There is no contest, and these positions are continued for 2 more years.")
 3. Motion passed to make her Vice President (*See 8.20.20 Minutes*).
 4. Motion passed for her to continue as Vice President (*See 10.15.20 Minutes*).
 5. Stepped in as interim Board President when current President, Deanna Shrewsbury, stepped down from her position to become a part-time substitute teacher for the school. (*See 3.18.21 Minutes*).
 6. Term Expires October 2022.
 7. Elected to Board in compliance with CSCA's Bylaws.
- v. **Anna Mitchell**
1. Currently holding a Board-appointed Board position.

2. Serving the unexpired term of former Board member Kobi Chumash, who was reappointed to the Board in October 2021. (See 10.21.2021 Minutes).
 3. Appointed in April 2022.
 4. Term Expires October 2023.
 5. Appointed to Board in compliance with CSCA's Bylaws.
- vi. Gary Laxson
1. Currently holding a parent-elected Board position.
 2. Serving the unexpired term of former Board member Amanda Duplantis, who was elected in October 2020 and whose term was more than half served before she resigned.
 3. Appointed in April 2022.
 4. Term Expires October 2022.
 5. Appointed to Board in Compliance with CSCA's Bylaws.
- vii. Open Board Position
1. The parent-elected Board position previously held by Eric Fedders, who was elected in October 2020, is vacant. Mr. Fedders resigned more than halfway through his term so, in accordance with the Bylaws, the remainder of Mr. Fedder's position is to be filled through an appointment by the Board.
 2. Term Expires in October 2022.

III. Call a special election to fill any posts currently improperly filled, within 30 days of the date of this letter.

All current Board members were either appointed or elected to the CSCA Board in accordance with CSCA Bylaws. The remaining unfilled position is for a parent-elected position, but more than half of the term was served, so CSCA's Bylaws specify that the position shall be filled for the remainder of the term through a Board appointment. The Board intends to fill the position as soon as a person is nominated who is acceptable to a majority of the currently serving Board members.

IV. Ground Three: Failure to Cure Feb. 15th Notice of Concern

CSCA's spending has not and is not anticipated to exceed the budget previously adopted by the Board and submitted to CSI; thus, CSCA does not need to adopt an amended budget. If, at a later date, CSCA determines that spending will exceed the approved budget, the Board will promptly adopt an amended budget and send the updated budget to CSI. If CSI thinks an amended budget is required by law or CSCA's charter contract at this time, the CSCA Board is open to discussing that matter with CSI. The Board of CSCA does not believe any further action is necessary to address the February 15, 2022, Notice of Concern. However, if CSI disagrees, the Board of CSCA will gladly work with CSI to address any unresolved matters contained in that letter.

Effective as of the date of this letter, CSI must expand the concerns to include the school's building corporation as well. It appears that the building corporation has been delinquent with the Secretary of State's office for nearly a decade, does not have a properly constituted or regularly meeting board of directors, and has not been filing required bond disclosures. These oversights put the school in substantial financial jeopardy. As remedy, CSI demands that the school provide a comprehensive written report on the status of its building corporation's legal compliance (specifically including compliance with the terms of its bonds) within 30 days of the date of this letter.

A copy of the Bylaws for the Colorado Springs Charter Academy Building Corporation ("Building Corporation") could not be located after a thorough search was conducted. The bond transcript for Colorado Springs Charter Academy Project Series 2010 Bonds states that the Board of CSCA has the authority to appoint Board members to the Board of the Building Corporation. The CSCA Board relied on the available documentation as to how Building Corporation Board members are to be appointed, followed my legal counsel, and appointed three people to serve on the Board of the Building Corporation at its meeting on May 11, 2022. The CSCA Board appointed Breck Merkle, Summer Groubert, and Anna Mitchell to serve on the Board of the Building Corporation. The Building Corporation will hold a meeting soon to adopt bylaws, hire legal counsel, and vote on all matters needed to address bringing the Building Corporation into compliance with both law and the CSCA bonds.

CSCA has instructed its Head of School, financial advisor, and legal counsel to work with the trustee for CSCA's bonds on filing needed information to bring CSCA into compliance with its bonds.

V. Cease-and-Desist Demand

CSI demands that the CSCA board abstain from appointing new members, beginning immediately and lasting until (1) CSI has concluded its investigation into the financial matters detailed above and (2) CSCA has otherwise cured the breaches in this letter.

This response letter has provided the basis under which each current CSCA Board was elected or appointed and the reason the Board has the authority to appoint a Board member to the currently open seat on the Board for the unexpired term of the parent-elected position that expires in October 2022. CSCA disagrees with CSI that it should abstain from making this appointment that is permitted under its Bylaws and hereby respectfully requests that CSI promptly withdraw its Cease-and-Desist Demand and permit CSCA to govern its Board operations in accordance with CSCA's Bylaws.

Sincerely,

A handwritten signature in black ink that reads "Dustin R. Sparks". The signature is written in a cursive, flowing style.

Dustin R. Sparks, Esq.

BCC: CSCA Board of Directors
Zoe Ann Holmes, Head of School