

Freddie Woodson, Deputy Superintendent
School Operations

SUBJECT: REQUEST SCHOOL BOARD APPROVAL OF THE TERMINATION OF THE CHARTER SCHOOL CONTRACTUAL AGREEMENT WITH EXCEL ACADEMY, INC., ON BEHALF OF EXCEL ACADEMY MIDDLE CHARTER SCHOOL

COMMITTEE: INSTRUCTIONAL EXCELLENCE AND COMMUNITY ENGAGEMENT

LINK TO DISTRICT STRATEGIC PLAN: GENERAL OPERATIONS

Section 1002.33(8), Florida Statutes, and the contract between the charter school and the School Board, provide guidelines for the termination of a charter school contract and for the dissolution of a charter school.

History & Overview

The initial charter school contractual agreement for EXcel Academy, Inc., on behalf of EXcel Academy Middle Charter School (EXcel Middle or School), was approved by The School Board of Miami-Dade County, Florida (School Board), on April 18, 2007, for a term of five years, commencing with the 2007-2008 school year. The School Board subsequently approved contract amendments to relocate the School to 1140 NW 62 Street, Miami, Florida 33150 and to permanently relocate to 3650 North Miami Avenue, Miami, Florida 33128.

Under the current contractual agreement, EXcel Middle is authorized to serve a maximum of 750 students in grade six through eight, through June 30, 2012. EXcel Middle currently serves approximately 93 students in grade six through eight on the same campus as EXcel Academy.

Good Cause Basis for Immediate Termination of Contract

Section 1002.33(8)(d), Florida Statutes, provides that a charter may be terminated immediately "if the sponsor determines that good cause has been shown or if the health, safety, or welfare of the student is threatened." Here, the School Board may terminate this charter school contractual agreement between EXcel Middle and the School Board, for the following good cause reasons:

- (1) Having substantial debt or delinquency in payment to vendors or having finances in general disarray [Part II, section D(10)];
- (2) Failure to have an acceptable annual audit and timely submit financial reports or other reports required by section 1002.33(9)(g), Florida Statutes, or by the contractual charter school agreement [Part II, section D(12)];

- (3) Failure of the school to comply with the timely submission of the annual financial audit as required by section 218.39, Florida Statutes [Part II, section D(18)(m)];
- (4) Failure to meet generally accepted accounting principles [Part II, section D(13)];
- (5) Failure to manage public funds in a prudent or legal manner [Part II, section D(14)];
- (6) Failure to comply with the timely submission of all financial statements in the required format specified by the Sponsor [Part II, section D(19)(b)];
- (7) Substantially inadequate student performance [Part II, section D(2)];
- (8) Failure to implement a Corrective Action Plan required by the Sponsor [Part II, section D(6)];
- (9) Failure to make progress toward the stated mission of the School pursuant to the charter school application and this contract [Part II, section D(7)];
- (10) Failure to deliver the instructional programs or curricula identified in the application [Part II, section D(8)];
- (11) Failure to comply with the timely submission of the School Improvement Plan to the Sponsor [Part II, section D(19)(e)]; and
- (12) Failure to provide Special education (SE) and Limited English proficient (LEP) students with programs and services in accordance with federal, state and local policies [Part II, section D(19)(k)].

Additional Areas of Non-Compliance

- (1) Failure of all governing board members to successfully undergo fingerprinting, pursuant to s. 1002.33(12)(g), F.S. [Part VI, section G]; and
- (2) Failure to hire properly certified instructional staff as required by Chapter 1012, F.S. or meet all requirements for highly qualified instructional personnel as defined by the No Child Left Behind Act (NCLB) [Part VII, section A(3)].

Financial Performance

2008 FY: EXcel Middle failed to submit audited financial statements until October 24, 2008; the deadline was September 1, 2008. A preliminary staff review of the audited financial statements for 2008 revealed that the statements were not in accordance with generally accepted accounting principles (GAAP). Without proper and accurate financial statements, specifics as to current financial position cannot be determined. However, the following is an estimation of the School's financial position:

- The School appears to be in a state of financial emergency, pursuant to Section 218.503, Florida Statutes;
- EXcel Middle owed \$37,360 in payroll tax, as of June 30, 2008;
- Net asset fund balance of \$14,774;
- Owner's Contributions of \$36,800 which is possibly misclassified;
- Year-end audit adjustments were not recorded, resulting in an understatement of expenses in 2007; and
- Numerous deficiencies in financial management exist, which were delineated in the management letter statement of findings, such as: no bank reconciliations performed throughout the entire year, missing invoices for several

disbursements, and poor internal financial controls.

Academic Performance

For the 2007-2008 school year, EXcel Middle received a grade of "F" under the Florida's System of School Improvement and Accountability and did not meet AYP. The School has undergone two site visits by staff from the Florida Department of Education and the District: an overview of Florida's Differentiated Accountability (DA) requirements was provided on September 22, 2008, and an Instructional Review was conducted on October 30, 2008. In addition, District staff met with the School's governing board chairperson and principal on October 17, 2008, to acquaint the school's governance with the School's DA obligations. The instructional review indicated that EXcel Academy has not made any significant progress in implementing the prescribed interventions or in meeting any of the applicable additional requirements. Below are several examples of several areas in which the School has been cited as deficient:

- No interventions in place;
- No evidence of Sunshine State Standards being taught;
- Assessments not being administered;
- Data not being utilized to guide instruction; and
- Inadequate textbooks.

Effect of Immediate Termination

Under the statutory and contractual provisions governing immediate termination, the School Board must assume the operation of the School and continue operating the School at least through any timely appeal by the School to the State Board of Education. The School Board may not assume any of the debts of the School.

EXcel Middle's governing board and principal were noticed on November 10, 2008, of the intent to recommend immediate termination to the School Board. Should the Board approve this recommendation, EXcel Middle's governing board may, within 30 days after receiving the School Board's decision to terminate the charter school contractual agreement, appeal the decision pursuant to the procedure established in section 1002.33(6)(f), Florida Statutes (2008). Should the School not appeal or should an appeal be unsuccessful, District Staff would work with the parents and/or guardians of the School's students to minimize the impact of this situation by transitioning the students into other quality educational programs provided by M-DCPS.

Copies of the notice of termination will be transmitted to the School Board Members under separate cover and will be available for inspection by the public in the Office of Board Recording Secretary, Room 924, and in the Citizen Information Center, Room 158, 1450 NE Second Avenue, Miami, Florida 33132.

RECOMMENDED: That The School Board of Miami-Dade County, Florida approve the immediate termination for good cause of the charter school contractual agreement with EXcel Academy, Inc., on behalf of EXcel Academy Middle Charter School.

MB/EOW/TP:elg