

Freddie Woodson, Deputy Superintendent
District/School Operations

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

COMMITTEE: INSTRUCTIONAL EXCELLENCE AND COMMUNITY ENGAGEMENT

LINK TO DISTRICT STRATEGIC PLAN: GENERAL OPERATIONS

Florida Statutes, § 1002.33(8), 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 Charter On The Beach Middle School, Inc., on behalf of Charter On The Beach Middle School (COTB or School), was approved by The School Board of Miami-Dade County, Florida (School Board), on April 13, 2005, for a term of ten years, commencing with the 2005-2006 school year and ending June 30, 2015. The School Board subsequently approved four contract amendments: three changes to the permanent location and a two-year deferral to open; and one temporary change of location during construction of the current location. The School is currently located at its permanent location of 1211-1219 Marseille Drive, Miami Beach, Florida 33141.

Under the contractual agreement, COTB is authorized to serve a maximum of 250 students in grades seven and eight. Currently, COTB serves approximately 70 students in grades seven and eight.

BASIS FOR IMMEDIATE TERMINATION OF CONTRACT

Florida Statute §1002.33(8)(a), provides that a charter school may be terminated for failure to meet the requirements for student performance stated in the charter; failure to meet generally accepted standards of fiscal management; violation of law; or other good cause. Furthermore, Florida Statute § 1002.33(8)(d), 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 COTB and the School Board, for all of the aforementioned reasons. The basis for good cause for immediate termination is detailed below:

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- (1) Failure to implement a reading curriculum that is consistent with effective teaching strategies grounded in scientifically-based reading research. [Part II, Section D(1)]
- (2) Substantially inadequate student performance. [Part II, Section D(2)]
- (3) Failure to implement a Corrective Action Plan required by the Sponsor. [Part II, Section D(6)]
- (4) Failure to deliver the instructional programs or curricula identified in the application. [Part II, Section D(8)]
- (5) Having substantial debt or delinquency in payments to vendors or having finances in general disarray. [Part II, Section D(10)]
- (6) Failure to have an acceptable annual audit and timely submit financial reports or other reports required by Florida Statute § 1002.33(9) or by this Contract. [Part II, Section D(12)]
- (7) 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)]
- (8) Failure to comply with the timely submission of the School Improvement Plan to the Sponsor. [Part II, Section D(19)(e)]
- (9) Failure to allow the Sponsor reasonable access to facilities and records to review data sources, including collection and recording procedures. [Part II, Section D(19)(g)]
- (10) Failure to provide Special Education (SPED) students and English Language Learners (ELL) with programs and services in accordance with federal, state and local policies. [Part II, Section D(19)(k)]
- (11) Failure of the school to comply with the timely submission of the annual financial audit as required by Florida Statute § 218.39. [Part II, Section D(19)(m)]
- (12) Failure to successfully implement a Financial Recovery Plan submitted to the Sponsor pursuant to Florida Statute § 218.503, within the time specified and approved in the Financial Recovery Plan.
- (13) Receiving a finding of financial emergency, pursuant to Florida Statute § 218.503, for two consecutive years, or more than once during any one fiscal year.
- (14) Failure to fulfill all the requirements for highly qualified instructional personnel as defined by the No Child Left Behind Act (NCLB).
- (15) Failure to provide evidence of participation in the governance training provided by the Department of Education, pursuant to Florida Statute § 1002.33(9)(j)4. and State Board Rule 6A-6.0784 (5) and (6).
- (16) Inadequate materials, equipment, and training to equip students and instructional staff with the tools necessary to achieve the school's mission, objectives and the guiding principles of charter schools, pursuant to Florida Statute § 1002.33(2) and to support approved curriculum and academic plan. Such deficiencies include, but are not limited to:
 - Non-certified or certifiable personnel in core subject teaching positions;
 - Lack of lesson plans for all levels of instruction;
 - Failure to align existing lesson plans with the Sunshine State Standards;
 - Insufficient and/or inadequate textbooks and instructional materials; and
 - Insufficient remedial instruction provided to students performing below grade level.
- (17) Improper recording of student attendance. (District was reimbursed by the School.) [Part V., Section B]

(18) Failure to submit benchmarks in a timely manner as identified in the Charter School Compliance Monitoring System (CSCMS) as highlighted in the chart below. [Part III, Section AA.]

	2007-2008	2008-2009	2009-2010 <i>(as of 9/28/09)</i>
<i>Total No. of Benchmarks Requested:</i>	69	53	34
Did Not Comply:	2	10	2
Late Submission:	26	0	15
Missing Documentation:	0	0	5

FINANCIAL PERFORMANCE

Analysis of audited financial statements of COTB has revealed that, for two consecutive years, the School has met at least one of five of the criteria for the determination of Financial Emergency for the 2008 and 2009 fiscal years, pursuant to Florida Statute §218.503 (2008).

FY 2008: At the conclusion of the 2008 Fiscal Year, the School’s audited financial statements revealed a net asset fund balance deficit of \$106,117 and an overdrawn cash account. Furthermore, the following concerns were noted in the financial statements:

- The School failed to implement a sound internal control system, thus increasing the risk of errors, omissions, or fraud.
- The School had a lack of control over data security.
- The School lost significant portions of its accounting data during the school year, which required reconstruction and re-entering of the data for preparation of the financial statements. As a result, the unaudited statements submitted to the District were inaccurate.

For the 2008 Fiscal Year, the School met the following two criteria for financial distress and was determined to be in financial emergency: (1) Failure to pay uncontested claims from creditors within 90 days after the claim is presented, as a result of a lack of funds; and (2) an unreserved or total fund balance or retained earnings deficit, or unrestricted or total net assets deficit, as reported on the balance sheet or statement of net assets on the general purpose or fund financial statements, for which sufficient resources of charter school, as reported on the balance sheet or statement of net assets on the general purpose or fund financial statements, are not available to cover the deficit. As a result, pursuant to the requirements set forth in Florida Statute §218.503, COTB developed a Financial Recovery Plan which was reviewed and accepted by the District’s Audit Committee on December 2, 2008. The Plan indicated that the School would be in a positive financial position by the conclusion of FY 2009.

FY 2009: COTB failed to achieve the objectives of the prior year’s Financial Recovery Plan. The School’s financial position actually worsened. The School’s audited financial statements revealed a net asset deficit of \$105,718 as well as an increase in long term debt of \$95,760 over the prior year. Additionally, the same audit concern noted in the prior year’s financial statements related to the lack of internal control procedures was

repeated in this year's audit as the condition was not corrected during the previous year. Also noted, were non-payment of payroll taxes in the amount of \$37,300 and outstanding payments due to vendors for a period greater than 90 days. For this fiscal year, the School meets four of the five criteria for financial distress, including the same two from the previous year, based on the criteria indicated in the 2008 statute. To this end, a change in the current statute relegates the determination of financial emergency to the Commissioner of Education but allows the District, as the sponsor, to require the School to submit a corrective action plan since the criteria of emergency has been met.

ACADEMIC PERFORMANCE

COTB has failed to adequately improve student performance, pursuant to the State of Florida's System of School Improvement and Accountability. For the 2007-2008 school year, COTB received a grade of "D" under the State of Florida's System of School Improvement and Accountability and did not meet Adequate Yearly Progress (AYP). Under Florida's Differentiated Accountability (DA) Plan, COTB was designated as a Prevent II school. District staff conducted an Instructional Review on October 22, 2008 which resulted in an action plan, most of which has not been successfully implemented.

For the 2008-2009 school year, COTB received a grade of "F" and did not meet AYP. Under the DA Plan, COTB has been designated as a Correct II school. The School has undergone two site visits by staff from the Florida Department of Education (FLDOE) and the District. An overview of the DA requirements was provided to the School's administration on August 19, 2009, and the School's DA obligations were presented to the School's governing board on August 27, 2009.

The following tables delineate student achievement levels in reading and mathematics on the FCAT, Level 1 and Level 2, and student learning gains, for the last two school years:

Table 1: FCAT, Level 1 and Level 2

	FCAT Reading SSS	FCAT Mathematics SSS	FCAT Reading SSS	FCAT Mathematics SSS
Grade	Spring 2008 Level 1 and 2		Spring 2009 Level 1 and Level 2	
7	67%	87%	70%	70%
8	85%	69%	83%	73%

Table 2: Percent Making Learning Gains

	2007-2008	2008-2009
Reading	57%	54%
Mathematics	57%	49%

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PAST NOTIFICATIONS/TECHNICAL ASSISTANCE

Section 1002.33(20)(a), Florida Statutes, details the services that districts must provide charter schools as a function of the administrative fee retained by the District. The District not only complied with the minimum requirements, but also exceeded the level of support afforded based on the performance based-needs of the School. Subsequent to the approval of the charter school application and contractual agreement, The School Board has mutually agreed to contract amendments to meet the school's requests and District staff has assisted COTB with its issues/concerns and provided technical assistance by phone or in person. Summarized below is the frequency of meetings and/or conferences at which technical assistance was provided:

<u>Type of Technical Assistance</u>	<u>Frequency (Minimally)</u>		
General Operations/Education	Conference calls - 10	Meetings - 46	Emails - 76
Financial/Funding	Conference calls - 15	Meetings - 3	Emails - 20

Additional Notices of Non-Compliance

Four letters of non-compliance were issued to COTB on the following dates: August 29, 2007, October 24, 2007, December 5, 2007, and February 22, 2008. Issues of non-compliance included one or more of the following:

- Certificate of Occupancy
- Certificate of Use
- Fire Permit
- Occupational License
- School Improvement Plan
- Child Study Team Form
- Charter School By-Laws
- Emergency Contact Information
- Safety and Emergency Plan and Staff Training
- Governing Board Meeting Dates
- Documentation of Training/Staff Development Activities
- Parent/Guardian Notification of Compliant/Agenda Item Procedures
- Parent/Guardian Notification of Current Governing Board Members
- Payroll Rosters
- Quarterly Financial Statements
- Property Inventory
- Governing Board Members training Confirmation
- National School Lunch Program Documentation
- On-line Mid-year SIP Reporting
- FLDOE ACES Surveys

Annual Compliance Reviews

The Charter School Operations department conducted an annual compliance review on February 5, 2008, and on April 20, 2009 which revealed deficiencies in the following areas: Student Services, Curriculum and Instruction, Reading Curriculum, Assessment, Personnel, Facilities and Environment, Finance, and Special Education. Due to the deficiencies reported in the annual compliance reviews, District administrators conducted meetings and a more intensive review, an Instructional Review, with the objective of providing COTB with additional information as well as the an action plan, which included District-funded reading and mathematics coaches and various other technical assistance and resources. When there was a lack of significant progress, additional meetings were held on March 10, 2008, August 10, 2009, August 19, 2009, August 27, 2009, and September 17, 2009, with COTB administration to discuss non-compliance issues, internal controls, and/or viability as a going concern.

On October 5, 2009, the FLDOE conducted a school instructional review at COTB, which is a condition for all Correct II schools, under Florida's Differentiated Accountability Program. The results of the instructional review, as submitted to the District from the FLDOE in a letter dated October 6, 2009, indicate the following additional concerns:

- Insufficient instructional minutes or student/teacher "contact time";
- Teachers that are not certified to teach their assigned subjects to subgroups not meeting AYP;
- To-date, no progress reports have been sent home to parents as required;
- Improper reporting of grades (via electronic gradebook) in mathematics for all students at the school;
- Inadequate services provided for English Language Learners and out-of-date student LEP plans;
- Insufficient evidence of the implementation of Florida's Continuous Improvement Model;
- School leadership does not have a clear record of increasing student achievement and overall school performance nor is the School Director certified in education/educational leadership;
- Out of date instructional materials;
- Failure to ensure that students are provided remediation, acceleration, and enrichment as needed;
- Failure to implement the *K-12 Comprehensive Research Based Reading Plan* with fidelity; and
- Failure to monitor fidelity of implementation of the School Improvement Plan.

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Furthermore, the letter from the FLDOE supports this recommendation to terminate this contract and close this charter school for these reasons and states that "the students currently enrolled at [COTB] are not receiving the high quality instructional program that is the expectation of the State of Florida."

Effect of Immediate Termination

Under the statutory provisions governing immediate termination, the School Board must assume the operation of the School and the School Board may not assume any of the debts of the School. COTB's governing board and school director were noticed on October 5, 2009, and October 13, 2009 (revised to include results of FLDOE's review), of the intent to recommend immediate termination to the School Board. Should the Board approve this recommendation, COTB'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 Florida Statute

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§1002.33(6)(f). District Staff will 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.

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Copies of the notices of termination and the letter from the FLDOE 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 of the charter school contractual agreement with Charter on the Beach Middle School, Inc., on behalf of Charter on the Beach Middle School, for failure to meet the requirements of student performance stated in the charter, failure to meet generally accepted standards of fiscal management, violation of law, and other good cause shown.

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