

Freddie Woodson, Deputy Superintendent  
District/School Operations

**SUBJECT: REQUEST SCHOOL BOARD APPROVAL TO NOTIFY BALERE, INC., ON BEHALF OF BALERE LANGUAGE ACADEMY, OF THE PROPOSED TERMINATION OF ITS CHARTER SCHOOL CONTRACT**

**COMMITTEE: INSTRUCTIONAL EXCELLENCE AND COMMUNITY ENGAGEMENT**

**LINK TO STRATEGIC FRAMEWORK: STUDENT, PARENT, AND COMMUNITY ENGAGEMENT**

Section 1002.33(8)(a)(b), F.S., and the contract between the charter school and the School Board, provide for termination and dissolution of a charter school contract.

**History & Overview**

<b>Legal Entity (School Name)</b>	Balere, Inc. (Balere Language Academy)			
<b>Implementation Year</b>	2004-2005 SY			
<b>Contract Term</b>	10 years (expires June 30, 2014)			
<b>School Address</b>	10875 Quail Roost Dr., Miami, FL 33157			
<b>Maximum Contracted Enrollment</b>	K - 6 / up to 400 students			
<b>Current Enrollment</b>	72 students*/ K - 6			
<b>Status</b>	<b>Enrollment</b>	<b>School Grade</b>	<b>AYP Status</b>	<b>Financial Status/ Financial Position</b>
2010-11	295 Students K - 7	A	Not Met (87% of criteria met)	Financial Emergency*** Net Assets Deficit: (\$229,695) Unrestricted Net Assets Deficit: (\$229,695)
2009-10	306 Students K - 7	F	Not Met (87% of criteria met)	Financial Emergency*** Net Assets Deficit: (\$86,121) Unrestricted Net Assets Deficit: (\$245,241) Operating Deficit: (\$13,434)
2008-09	220 Students K - 6	C	Not Met (87% of criteria met)	Financial Emergency*** Net Assets Deficit: (\$72,687) Unrestricted Net Assets Deficit: (\$212,214) Operating Deficit: (\$162,143)
2007-08*	165 Students K - 5	--	Met (87% of criteria met)	
2006-07*	155 Students K - 4	--	Not Met (87% of criteria met)	
2005-06**	151 Students K - 3	--	Met (87% of criteria met)	
2004-05**	105 Students K - 2	--	--	

\*The number of students tested did not or will not meet the state threshold for the award of an accountability grade

\*\*The grade configuration did not generate students in accountability grades

\*\*\*Met the conditions for financial emergency as specified in § 218.503(1)(e), F.S.

The initial charter school contract for Balere, Inc., on behalf of Balere Language Academy (Balere or School), was approved by The School Board of Miami-Dade County, Florida (School Board), on February 12, 2004 for a term of ten years, commencing with the 2004-2005 school year. The School Board approved the first contract amendment on July 15, 2004 to change the School's location. A second contract amendment was approved on July 16, 2008 to change the School's location to its current address of 10875 Quail Roost Drive, Miami, Florida, 33157.

Despite repeated notices and opportunities to correct or resolve identified issues over the past eight years, Balere has demonstrated persistent, continuous and flagrant disregard for state and federal laws, School Board Policies, and the Contract. Numerous material breaches of contract and serious deficiencies in the areas of financial management, violation of law and other good cause, and governance constitute statutory good cause to terminate the contract.

### **Termination of Contract**

Section 1002.33(8)(a), F.S., provides that a sponsor may terminate the charter for any of the following reasons: (1) failure to meet the requirements for student performance stated in the charter, (2) failure to meet generally accepted standards of fiscal management, (3) violation of law, and/or (4) other good cause shown.

Here, the School Board may terminate this charter school contract for all of the following reasons:

- I. Financial Management** – Failure to meet the generally accepted standards of fiscal management under § 1002.33(8)(a)(2), F.S., as evidenced by the following:
  - A. Failure to correct financial deficiencies as required in § 1002.345(6), F.S., which states that the Sponsor may terminate the contract if the charter school or charter technical career center fails to correct the deficiencies noted in the corrective action plan within one (1) year after being notified of the deficiencies or exhibits one or more financial emergency conditions specified in § 218.503, F.S., for 2 consecutive years.
  - B. Failure to comply with § 218.503, F.S., relating to financial audits and financial emergencies. [Contract, Section 1(G)(7)(c)]
  - C. Failure to meet financial reporting requirements and maintain effective standards that demonstrate sound fiscal management. [Contract, Section II(B)(1)(b)]
  - D. Having substantial debt or delinquency in payments. [Contract, Section II(D)(10)]
  - E. Failure to successfully implement a Financial Recovery Plan submitted to the Sponsor pursuant to § 218.503, F.S. [Contract, Section II(D)(20)]
  - F. Failure to timely submit quarterly financial reports. [Contract, Section II(D)(23)(a)]

- G. Failure to comply with the timely submission of all financial statements in the required format specified by the Sponsor. [Contract, Section II(D)(23)(b)]

#### Key Findings

- Balere has met the conditions for Financial Emergency for three consecutive years, the 2008-09, 2009-10, and 2010-11 school years.
- Because of declining enrollment, the School's current revenue has been severely reduced. The School's independent auditors have indicated that there is substantial doubt that Balere, Inc. can generate and/or raise enough resources to continue as a "going concern". Furthermore, the School is currently in default of multiple mortgages, totaling approximately \$4 million, for the School's facility and the property is listed for a short sale.
- County records indicate that a lien has been placed on the property for non-payment of fines related to violations cited on November 6, 2009.

## **II. Violation of Law and Other Good Cause – Violation of Law and Good Cause pursuant to § 1002.33(8)(2)(3)(4), F.S. [Contract, Section II(D)]**

- A. Failure to comply with Federal Statute 75.731, Records Related to Compliance – the maintenance of records to demonstrate compliance with federal grant program requirements.
- B. Failure to comply with reporting requirements in order to provide continuous data for students participating in the School and failure to utilize the Sponsor's electronic data processing facility and procedures for the processing of student enrollment, attendance, FTE collection and assessment information. [Contract, Section VI(B)(1)]
- C. Failure to employ highly qualified, certified instructional staff as required by Chapter 1012, F.S. [Contract, Section VIII(A)(3)]
- D. Failure to comply with § 112.311 – 112.326, F.S., Code of Ethics for Public Officers and Employees. [Contract, Section II(D)(23)(s)]
- E. Failure to implement a reading curriculum that is consistent with effective teaching strategies grounded in scientifically-based reading research. [Contract, Section II(D)(1)]
- F. Failure to deliver the instructional programs or curricula identified in the application. [Contract, Section II(D)(8)]
- G. Failure to comply with the timely submission of the School Improvement Plan to the Sponsor. [Contract, Section II(D)(23)(e)]
- H. Failure to use records and grade procedures that adequately provide the information required by the Sponsor. [Contract, Section II(D)(23)(j)]

- I. Failure to provide Special Education (SPED) students and English Language Learners (ELL) with programs and services in accordance with federal, state and local policies. [Contract, Section II(D)(23)(k)]
- J. Failure to comply with the Florida Building Code (including Chapter 423) and the Florida Fire Prevention Code, including reference documents, applicable state laws and rules, and federal laws and rules. [Contract, Section II(D)(23)(n)]
- K. Failure to obtain all necessary licenses, permits, zoning, use approval, facility certification, and other approvals required for use and continued occupancy of the facility as required by the local government or other governmental agencies. [Contract, Section II(D)(23)(n)]
- L. Failure to provide the Sponsor with the names and social security numbers of all applicants the School is interested in employing. [Contract, Section VIII(A)(4)]
- M. Failure to conduct level 2 screening of all applicants, pursuant to §§§ 1012.32(2)(a), 1012.465, and 435.04, F.S., School Board Policy 9800, *Charter Schools*, as well as 2005 HB 1877, the Jessica Lunsford Act, for instructional and non-instructional positions, prior to employment. [Contract, Section VIII(A)(8)]
- N. Failure to require that School employees not be hired prior to the Sponsor's receipt and review of the fingerprinting and Level 2 background screening results of the charter school applicants from the Florida Department of Law Enforcement and the Federal Bureau of Investigation. [Contract, Section VIII(A)(10)]
- O. Failure to conduct general drug screening on all applicants for instructional and non-instructional positions with the School, including contracted personnel, in the manner set forth in School Board Policy 9800, *Charter Schools*. [Contract, Section VIII(A)(11)]
- P. Unauthorized assignment of the contract to a third party. [Contract, Section IX(C)]

#### Key Findings

- The School has failed to properly account for the expenditure of federal funds as part of a District grant program which seriously jeopardizes the District's future standing for competitive grant funding.
- The School has also failed to report attendance, student grades, and student schedules in accordance with District requirements and has employed teachers with no certification who have inappropriately awarded academic grades to students.
- The School has threatened the safety and well-being of its students by employing individuals prior to background and drug screening as required by state statute and School Board Policy.
- The School has demonstrated a consistent disregard for the programs and services to which its SPED and ELL students are legally entitled.

- The School threatened the safety and well-being of the School's students by the use of an unpermitted shed as a classroom.

**III. Governance Structure** – Failure to implement a governance structure pursuant to state statute and charter contract.

- A. The Governing Board failed to convene at least once a month as contractually required. [Contract, Section VI(A)]
- B. Failure to properly screen governing board members by (a) failure to comply with § 1002.33(12)(g), F.S., which requires that the School's Governing Board members shall be fingerprinted by the Sponsor prior to the approval of the School's Contract; board members appointed to the governing board after the approval of the School's Contract must be fingerprinted within thirty (30) days of their appointment, and (b) failure to comply with the contract requiring members of the governing board of the charter school to also undergo background screening. The governing board agrees to dismiss governing board members whose fingerprint check results reveal non-compliance with standards of good moral character." [Contract, Section VI(G)]
- C. Failure to convene an Educational Excellence School Advisory Council (EESAC) consistent with § 1001.452, F.S., to facilitate achievement of the mission of the school, and to ensure that the School meets the needs of the children and community it is developed to serve. [Contract, Section VI(I)]

Key Findings

- The governance board is ineffective and has failed to comply with its bylaws which includes, but is not limited to: frequency of meetings, compliance with Corporate Bylaws, and general Board Membership compliance.
- Beginning in the 2008-09 school year, Balere's EESAC failed to operate within state guidelines.

**District Oversight and Compliance**

The District conducts a yearly Curriculum and Compliance review of each charter school to assess compliance in fourteen (14) categories based on state law, School Board Policy, and the charter contract. This document also serves as a guide for continued school improvement and the construction of an Action Plan for Compliance to correct any deficiencies noted in the following school year. The chart below details the repetition of categorical deficiencies which were duly noted and presented to the school.

Curriculum and Compliance Review Deficiency Summary

School Year	Categorical Deficiencies	
2007-2008	<ul style="list-style-type: none"> <li>• Facilities and Environment</li> <li>• Governance</li> <li>• Insurance</li> <li>• Special Education</li> </ul>	
2008-2009	<ul style="list-style-type: none"> <li>• Communication Between Parent/School</li> <li>• ESOL Services</li> <li>• Facilities and Environment</li> <li>• Finance</li> <li>• Food Service</li> </ul>	<ul style="list-style-type: none"> <li>• Governance</li> <li>• Personnel</li> <li>• Special Education</li> <li>• Student Services</li> <li>• Transportation</li> </ul>
2009-2010	<ul style="list-style-type: none"> <li>• Assessment</li> <li>• Curriculum and Instruction</li> <li>• ESOL Services</li> <li>• Reading Curriculum</li> <li>• Special Education</li> <li>• Student Services</li> </ul>	
2010-2011	<ul style="list-style-type: none"> <li>• Assessment</li> <li>• Curriculum and Instruction</li> <li>• ESOL Services</li> <li>• Facilities and Environment</li> <li>• Financial</li> </ul>	<ul style="list-style-type: none"> <li>• Governance</li> <li>• Personnel</li> <li>• Reading Curriculum</li> <li>• Special Education</li> <li>• Student Services</li> </ul>
2011-2012	<ul style="list-style-type: none"> <li>• Assessment</li> <li>• Curriculum and Instruction</li> <li>• ESOL Services</li> <li>• Food Service</li> <li>• Finance</li> </ul>	<ul style="list-style-type: none"> <li>• Governance</li> <li>• Personnel</li> <li>• Reading Curriculum</li> <li>• Special Education</li> <li>• Student Services</li> </ul>

Based on the findings detailed above, it is requested that The School Board, Miami-Dade County, Florida, authorize the Superintendent to notify Balere of the proposed termination of the contract pursuant to § 1002.33(8), F.S. If Balere, Inc., requests a hearing pursuant to § 1002.33(8)(b), F.S., and School Board Policies 9800, *Charter Schools* and 0133, *Quasi-Judicial Proceedings*, the request will be forwarded to the Division of Administrative Hearings (DOAH) to conduct a Chapter 120 Hearing. At the conclusion of any hearing, DOAH will send a recommendation to the School Board for the School Board's approval. The School Board decision will be the Final Order subject to judicial review.

The School has been notified that during the pendency of these proceedings, any unencumbered public funds from the charter school, district school board property and any improvements, furnishings, and equipment purchased with public funds, or financial

or other records pertaining to the charter school, in the possession of any person, entity, or holding company, other than the charter school, shall not be removed, altered, sold, and/or disposed. District staff will closely monitor the operations of the school. If the contract is terminated, District staff is prepared to assist students with enrolling in other district schools for the 2012-2013 school year.

Copies of the charter school contract and audited financial statements 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 N.E. Second Avenue, Miami, Florida 33132.

**RECOMMENDED:** That The School Board of Miami-Dade County, Florida, authorize the Superintendent to notify Balere, Inc., on behalf of Balere Language Academy of the proposed termination of the charter school contract.

FW:nlb