

APR 1 2009

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5
6 **BEFORE THE ARIZONA STATE BOARD**
7 **FOR CHARTER SCHOOLS**

8 IN THE MATTER OF:

Case No. 08F-RV-004-BCS

9 **4-WINDS ACADEMY, INC.**
(A NON-PROFIT CORPORATION), AND
10 (D/B/A **4-WINDS ACADEMY**, A CHARTER
11 SCHOOL),
PETITIONER

**MOTION FOR REHEARING, REVIEW
AND/OR MODIFICATION**

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16 **COMES NOW** 4-Winds Academy, Inc. d/b/a 4-Winds Academy (the "School") by its
17 undersigned counsel, and hereby moves the Arizona State Board for Charter Schools (the
18 "Board"), pursuant to A.R.S. 41-1092.09 either to rehear or review the Revocation Order issued
19 by the Board dated March 11, 2009 or Modify Certain deficiencies in said order and in support
20 of this motion the School asserts as follows:

21 1. The Boards Revocation Order provides:

22 *Consequently, given 4-Wind's violation of federal law and regulation and*
23 *its charter contract, the nature of those violations, and 4-Winds' failure to*
24 *correct the problems associated with the proposed revocation of its charter, the*
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1 *Board adopts the ALJ's recommendation and enters an Order that the charter*
2 *contract between the Board and 4-Winds Academy, Inc. be revoked.*

3 *The Board also further orders that 4-Winds make available a complete*
4 *copy of the School's educational records to each student upon request of the*
5 *student, the student's parents or guardian Admin litem, or the student's receiving*
6 *school.*

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- 8 2. The Order fails to provide a date certain for closing the school.
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- 10 3. The Order fails to provide a date certain for the effective date of the contract
- 11 revocation.
- 12 4. The School is scheduled to end its normal school year (2008-2009) of education for
- 13 its students on May 22, 2009 and would request that the school be permitted to stay
- 14 open until May 22, 2009 for the following reasons:
- 15 a. The students at the School are in K-8 grades and therefore are of tender
- 16 age who would be adversely affected by the abrupt closure and
- 17 transition to a new school for only a few weeks.
- 18 b. The parents have expressed a desire to have the students finish the
- 19 school year at the School instead of having to transition the children to
- 20 another school.
- 21 c. The parents have expressed a fear of sending their students to another
- 22 school this late in the school year and many believe that their children
- 23 may be ostracized, picked-on, or treated in an abusive manner once it is
- 24 discovered they are coming from the School which had its charter
- 25 revoked.

1 d. The parents chose the School as being better for their students than
2 surrounding schools and thus their children will be forced to go to a
3 school that they feel is inferior to their School and thus the children
4 should be allowed to attend the School until the final date of May 22,
5 2009.

6 e. The teachers and staff have contracts which extend to the end of the
7 year and which would have to be terminated causing unemployment
8 with no further chance of employment, due to the financial crisis facing
9 Arizona Education resulting in huge lay-offs and will cause the teaches
and staff financial hardships since this is so late in the school year.

10 f. None of the Violations, asserted in the revocation order indicate any
11 dangerous effect that has been perpetrated against the students and there
12 is no evidence of danger to the students if allowed to continue to attend
13 the School until May 22, 2009.

14 g. It is in the best interests of the students to allow them to finish their
15 2008-2009 education at the school until May 22, 2009.

16 h. prior to its revocation, the School was a "Performing" School.

17 4. The Board's Order should be reviewed or reconsidered because:

18 a. There is new evidence which documents that a payment arrangement
19 has been reached with the Internal Revenue Service that was not
20 available at the time of the Administrative Law hearing which
cures any violation presently.

21 b. There is new evidence showing either compliance or substantial
22 compliance regarding the issues on the Federal Reporting requirements
23 for the grants in question.

24 5. The Board's Order is improper, premature, arbitrary, and contrary to law in that it
25 makes findings and determinations of non-compliance with Federal regulations for
the following reasons:

1 a. The Board not the official arbiter or decision-maker of Federal Statutes
2 of Federal Regulations dealing with funding and grants and thus cannot
3 make final binding decisions or conclusions on compliance with the
4 Federal Statutes and Federal Regulations..

5 b. The Arizona Department of Education and its representatives is not the
6 final arbiter or decision-maker of Federal Statutes and Regulations
7 dealing with federal funding and grants and thus cannot make final or
8 binding decisions or conclusions on compliance with Federal Statutes
and Federal Regulations.

9 c. There has been no Federal Agency, representative or agent which has
10 made a final determination or concluded that the School is not in
11 compliance with the Statutes and Regulations contained in the Findings
12 of Facts used as the basis for the Conclusions of Law and in turn the
13 Revocation Order.

14 d. The record is devoid of any evidence documenting any authority
15 granted to the Arizona Department of Education or the State Board for
16 Charter Schools wherein they have the power to make a determination
17 or conclusion on whether any school can be determined solely by them
18 to be in non-compliance of Federal Regulations and Statutes.

19 **WHEREFORE**, the 4-Winds Academy, Inc. d/b/a 4-Winds Academy, requests that this

20 Board:

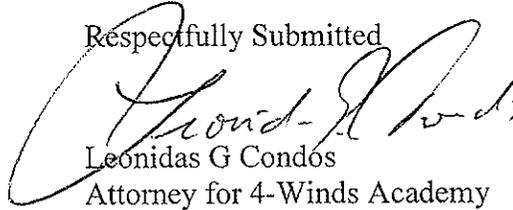
- 21 1. Overturn the Revocation Order;
- 22 2. Set a hearing to review and hear evidence to support the over turning of the
23 Revocation Order issued on March 11, 2009 revoking the 4-Winds Academy
24 Charter.
- 25 3. That, if it Sustains the Order, it be modified establishing that 4-Winds
Academy shall not be forced to close until its scheduled last day of May 22,
2009.

1 4. That, if it Sustains the Order, it be modified to reflect that the revocation shall
2 take effect and the Charter Contract be cancelled on June 30, 2009, the end of
3 the 2008-2009 fiscal school year.

4 5. For any and all other relief, just and proper in the premises.

5 Dated this 10th day of April, 2009

6 Respectfully Submitted

7 
8 Leonidas G Condos
9 Attorney for 4-Winds Academy

10 COPY of the foregoing Order
11 mailed or hand delivered this 10th day of April, 2009, to:

12 4-Winds Academy, Inc.
13 P.O. Box 1210
14 Edgar, Arizona 85925

15 Steve Chavez
16 Charter Representative, 4-Winds Academy
17 Statutory Agent, 4-Winds Academy, Inc.
18 P.O. Box 1210
19 Edgar, Arizona 85925

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