

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the matter of:

No. 10F-RV-001-BCS

CESAR CHAVEZ LEARNING  
COMMUNITY, INC. (a  
non-profit corporation)

ADMINISTRATIVE LAW JUDGE

and

DECISION

CESAR CHAVEZ MIDDLE SCHOOL and  
AZTLAN ACADEMY (charter schools).

**HEARING:** December 7, 8, and 9, 2009. Record closed on March 1, 2010.

**APPEARANCES:** Assistant Attorney General Kim Anderson for the Arizona State Board for Charter Schools; Malcom Ryder, Esq. for Cesar Chavez Learning Community, Inc., Cesar Chavez Middle School and Aztlan Academy.

**ADMINISTRATIVE LAW JUDGE:** Lewis D. Kowal

**FINDINGS OF FACT**

1. On June 28, 2000, Cesar Chavez Learning Community, Inc. ("CCLC"), previously known as Project YES, Inc. d/b/a/ Project YES Middle School, LLC, a nonprofit corporation organized under the laws of the State of Arizona, entered into a Charter Contract (the "Charter Contract") with the Arizona State Board for Charter Schools (the "Board") pursuant to which the charter (the "Charter") issued to CCLC by Higley Unified School District No. 60 ("Higley") to operate a charter school was transferred to the Board and the Board became the sponsor of CCLC. See Exhibit 1.
2. Under the Charter Contract, CCLC currently operates Cesar Chavez Middle School (the "Middle School") and Aztlan Academy (the "High School") as charter schools in Tucson, Arizona (collectively, the "Schools"). The Middle School is currently authorized to serve students in 6<sup>th</sup> through 8<sup>th</sup> grades. The High School is currently authorized to serve students in ninth through twelfth grades. The classes at the

1 Schools are combined (for example, the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> grades in Animal Science and  
2 the ninth and tenth grades in Literature II).

3 3. The Charter Contract was signed by Sister Judy Bisignano ("Sister Bisignano")  
4 as the Charter Representative and person authorized to sign for CCLC. The Charter  
5 Contract includes CCLC's Articles of Incorporation, Application, and prior contract with  
6 Higley, which are fully incorporated into and are part of the Charter Contract.

7 4. In 2005, the Board issued a Notice of Intent to Revoke the Charter of the  
8 Schools based, in part, on the Schools' failure to provide a comprehensive program of  
9 instruction aligned to the Arizona's Academic Standards (the "Standards"). In lieu of  
10 proceeding to charter revocation hearing, the Schools entered into an agreement with  
11 the Board containing the finding that the Schools had breached their charter contract  
12 and A.R.S. § 15-183(E) when they failed to demonstrate provision of a comprehensive  
13 program of instruction. See Exhibit 32; TR 1 at 275:16-23.

#### 14 **Alignment with Arizona Academic Standards**

15 5. CCLC is required to provide a comprehensive program of instruction that is in  
16 alignment with the Standards. The Standards are prescribed by the Arizona State  
17 Board of Education and identify what students need to know and be able to do in  
18 specific content areas (e.g., reading, writing, mathematics, science, social studies) by  
19 grade level. The Standards consist of Strands, Concepts and Performance Objectives.  
20 See A.R.S. § 15-183(E)(3) and the Charter Contract (Exhibit 1).

21 6. All public schools (including charter schools) are required to submit annual  
22 declarations to the Arizona Department of Education ("ADE") affirming the adoption of  
23 a curriculum aligned with the Standards.

24 7. In April 2009, CCLC submitted its Declarations of Curricular & Instructional  
25 Alignment to the Arizona Academic Standards. See Exhibit 29. Pursuant to those  
26 Declarations, CCLC avowed that it had adopted a curriculum that was aligned with the  
27 Standards for the 2008-2009 school year and that it had adopted an evaluation system  
28 that assessed whether its teachers were integrating the Standards into their  
29 instructional practices.

30 8. On May 13, 2009, DeAnna Rowe ("Ms. Rowe"), Executive Director of the Board,  
and other Board staff conducted a site visit at the Schools. The site visit was

1 conducted as part of CCLC's ten-year review and, additionally, to evaluate the Schools'  
2 implementation of a program of instruction aligned to the Standards. TR 1 at page  
3 90:lines 4-10.<sup>1</sup> Ms. Rowe has extensive experience in public education, including high  
4 school teaching experience and background, and experience in curriculum and the  
5 Standards. Ms. Rowe, who also has a Master's degree in curriculum and instruction,  
6 conducted on-site observations in various classrooms at the Schools, spoke with  
7 teachers and administration, and reviewed lesson plans, student work and class  
8 schedules submitted by CCLC during the site visit. TR 1 at 195-196:18-23 and at 199-  
9 200:23-6.

10 9. Ms. Rowe concluded that CCLC did not provide evidence that it was providing a  
11 comprehensive program of instruction aligned to the Standards. TR 1 at 200:7-18.  
12 More specifically, Ms. Rowe determined that CCLC did not differentiate its instruction  
13 for the different grade levels of High School language arts (English) classes, Middle  
14 School Animal Science, and Middle School Social Studies. Further, Ms. Rowe found  
15 that there was no evidence that showed the implementation of an adopted math  
16 curriculum and no evidence that the curriculum of CCLC's Middle School and High  
17 School Project-Based Classes, Middle School Animal Science, and Middle School  
18 Social Studies were aligned to the Standards.

19 10. By letter dated June 4, 2009, Ms. Rowe memorialized her site visit findings and,  
20 as to the School's program of instruction, requested "documentation that demonstrates  
21 compliance." See Exhibit 6 at page 5.

22 11. In response, on June 26, 2009, CCLC submitted to the Board curricular  
23 materials pertaining to the Schools' 2008-2009 program of instruction, entitled  
24 "Evidence of a Comprehensive Program of Instruction."

25 12. On July 13, 2009, the Board voted to issue a Notice of Intent to Revoke the  
26 Charter of CCLC. TR 1 at 207-208:25-5.

27 13. On July 22, 2009, the Board issued to CCLC a Notice of Intent to Revoke  
28 Charter. In that Notice, the Board alleged: (i) CCLC breached its Charter Contract and  
29 state law when it failed to provide a comprehensive program of instruction aligned to the

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30 <sup>1</sup> "TR 1" refers to the transcript from the December 7, 2009 hearing.

1 Standards; (ii) CCLC breached its Charter Contract and state law when it failed to  
2 provide an instructional program that met for a total of at least 1,068 hours for its  
3 seventh and eighth grade students; (iii) CCLC breached its Charter Contract and  
4 federal law when it failed to provide evidence that its teachers were "highly qualified"  
5 under the No Child Left Behind Act (20 U.S.C. § 6301 *et seq.*); (iv) CCLC breached its  
6 Charter Contract and state law when it failed to accurately and timely report student  
7 attendance and student level data to the Arizona ADE; (v) CCLC breached its Charter  
8 Contract and state law when it failed to provide teacher rosters requested by the Board;  
9 (vi) CCLC breached its Charter Contract and federal law when it failed to verify the  
10 identity of and eligibility to work for all employees and to complete and retain an  
11 Employment Eligibility Verification Form ("I-9 Form") for all employees; and (vii) CCLC  
12 breached its Charter Contract and state law when it failed to timely submit the  
13 appropriate remittance of employee and employer contributions to the Arizona State  
14 Retirement System ("ASRS").

15 14. Pursuant to a Notice of Hearing issued by the Board on July 22, 2009, the  
16 matters alleged in the Notice of Intent to Revoke Charter were scheduled for hearing on  
17 December 7, 8 and 9, 2009 before the Office of Administrative Hearings, an  
18 independent state agency.

19 15. At a meeting with CCLC on July 22, 2009, Ms. Rowe discussed the documents  
20 that CCLC could provide to demonstrate that its students had received a  
21 comprehensive program of instruction aligned to Standards for the 2008-2009 school  
22 year (i.e., grade books, lesson plans, report cards, etc.). TR 1 at 209-210:14-6.

23 16. By letter dated August 10, 2009, the Board requested CCLC to submit evidence  
24 that it had provided a comprehensive program of instruction at the Schools aligned to  
25 the Standards for each grade level and content area. See Exhibit 13 at 1.

26 17. On September 4, 2009, CCLC submitted to the Board curricular materials for the  
27 month of August 2009.

28 18. By letter dated October 16, 2009, the Board provided CCLC with its findings  
29 from its review of the submitted materials and again requested that CCLC provide  
30 evidence of its implementation of a comprehensive program of instruction aligned to  
the Standards. See Exhibit 41

High School Language Arts (English)

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19. At the May 13, 2009 site visit, Ms. Rowe observed student activities, reviewed lesson plans, and spoke with the teacher of the High School's language arts (English) instruction (Literature I for 9<sup>th</sup> graders and English Literature for 9<sup>th</sup> and 10<sup>th</sup> graders). Ms. Rowe concluded that there was no evidence that CCLC was providing a comprehensive program of instruction aligned to the Standards for its High School language arts (English) classes because it had failed to demonstrate the implementation of a differentiated curriculum for the different grade levels. TR 1 at 202-206:13-11.

20. On June 26, 2009, CCLC submitted to the Board lesson plans of the instruction provided to its High School language arts (English) students during the 2008-2009 school year. TR 1 at 206-207:12-1. Upon evaluating the materials provided by CCLC, Ms. Rowe did not alter the conclusions she arrived at from the May 13, 2009 site visit. TR 1 at 207:4-9.

21. On September 4, 2009, CCLC submitted material to the Board pertaining to the High School language arts (English) program provided to its students during the first several weeks of the 2009-2010 school year. TR 1 at 212:5-14. Ms. Rowe evaluated the material and concluded that CCLC had not made progress in moving forward with providing differentiated instruction to its 9<sup>th</sup> and 10<sup>th</sup> graders. TR 1 at 212-213:15-1.

22. In mid-November 2009, the Board received Exhibit FF, which contained High School English curricular materials for August through mid-September of the 2009-2010 school year. See Exhibit FF at High School English. Ms. Rowe evaluated the materials and concluded that CCLC continued to fail to differentiate the instruction being provided to its 9<sup>th</sup> and 10<sup>th</sup> graders. TR 1 at 214:5-21.

23. CCLC's witness, Mike Dunbar ("Mr. Dunbar"), an independent contractor for teligentCHARTER, a consulting company hired by CCLC in late August 2009 to November 16, 2009, testified as to instances in which he disagreed with Ms. Rowe's findings contained in Exhibit 41 that CCLC's September 4, 2009 High School English materials did not contain evidence of the Performance Objectives stated in the lesson plans. However, CCLC did not present any evidence to rebut Ms. Rowe's conclusion that CCLC failed to provide a comprehensive program of instruction in English because

1 it had failed to differentiate its 9<sup>th</sup> and 10<sup>th</sup> grade curriculum in the 2008-2009 and  
2 2009-2010 school years.

3 24. Mr. Dunbar agreed that he did not see evidence of differentiation in the  
4 instruction and assessment of 9<sup>th</sup> and 10<sup>th</sup> graders in the High School English lesson  
5 plans of August 17 through August 27, 2009 contained in Exhibit FF. TR 2 at 426:3-9  
6 and 20-22<sup>2</sup>.

#### 7 High School Chemistry

8 25. On June 26, 2009, CCLC submitted to the Board lesson plans of the instruction  
9 provided to its High School Chemistry students during the 2008-2009 school year. TR  
10 1 at 220:10-25. Upon comparing the Standards covered in the lesson plans with the  
11 Standards required to be covered in High School Chemistry, Ms. Rowe found that  
12 approximately 40% of the content that should have been covered was not incorporated  
13 into the Chemistry lesson plans. Ms. Rowe concluded that CCLC did not provide a  
14 comprehensive program of instruction aligned to the Standards in Chemistry. TR 1 at  
15 221:1-25.

16 26. On September 4, 2009, CCLC submitted to the Board a 2009-2010 bell  
17 schedule to the Board. The schedule did not list Chemistry as a subject being offered  
18 in the 2009-2010 school year and no High School Chemistry curricular materials were  
19 included in the submission. See Exhibit 14; TR 1 at 222:7-25.

20 27. In mid-November 2009, the Board received Exhibit FF, which contained High  
21 School Chemistry lesson plans and grade books for August 17 through mid-September  
22 of the 2009-2010 school year. See Exhibit FF at High School Chemistry. Ms. Rowe  
23 evaluated the material and concluded that there were instances in which Chemistry  
24 students were provided the same labs, assignments and tests as the Biology students.  
25 TR 1 at 223-224:12-16.

26 28. Sister Bisignano testified that, following the departure of the Biology teacher on  
27 the first day of the 2009-2010 school year, she converted one of the three Biology  
28 classes into a Chemistry class and, until she could write the lesson plans for

29 <sup>2</sup> "TR 2" refers to the transcript from the December 8, 2009 hearing.  
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1 Chemistry, instruction on the scientific method was covered by both the Biology and  
2 Chemistry students. TR 2 at 488:1-25 and 489:8-13.

3 29. CCLC did not present any evidence to rebut Ms. Rowe's conclusion that CCLC  
4 failed to provide a comprehensive program of instruction aligned to the Standards in  
5 Chemistry in the 2008-2009 school year.

6 High School Mathematics

7 30. At the May 13, 2009 site visit, Ms. Rowe observed classes and spoke with the  
8 teachers of two High School Algebra classes at CCLC. Ms. Rowe concluded that the  
9 curriculum was not consistently being implemented, finding that the same content was  
10 not being taught at the same time, the teachers did not have access to the same  
11 resources, and the teachers were not communicating with each other as to what was  
12 being taught. TR 1 at 227-228:5-3.

13 31. On June 26, 2009, CCLC submitted to the Board curricular material of the  
14 instruction provided to its High School mathematics students during the 2008-2009  
15 school year. Ms. Rowe evaluated the material and concluded that CCLC failed to  
16 provide evidence that its lesson plans had been implemented or were consistent  
17 between the two different teachers teaching the same High School Algebra course. TR  
18 1 at 228-229:5-13.

19 32. On September 4, 2009, CCLC submitted material to the Board pertaining to the  
20 High School mathematics program provided to its students during the first two weeks of  
21 the 2009-2010 school year. TR 1 at 229:20-23 and 230:2-9. Ms. Rowe evaluated the  
22 material and concluded that CCLC failed to provide evidence that what its lesson plans  
23 and curriculum map stated would be covered during that time period had, in fact, been  
24 covered. TR 1 at 231:6-11.

25 33. In mid-November 2009, the Board received Exhibit FF, which contained High  
26 School mathematics curricular materials for the first month of the 2009-2010 school  
27 year. Ms. Rowe evaluated the materials and concluded that they were inconsistent with  
28 those provided in September 2009. TR 1 at 232:10-24.  
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1 34. Mr. Dunbar testified that, while employed by the Board as Academic Program  
2 Specialist, he participated in the May 13, 2009 site visit at CCLC. TR 2 at 428:15-20.  
3 He testified that he "interviewed teachers and tried to gain evidence that there was a  
4 curriculum that was aligned to the state [S]tandards [a]nd, frankly, didn't find any." TR  
5 at 429:2-5.

6 35. Mr. Dunbar testified as to instances in which he disagreed with Ms. Rowe's  
7 findings contained in Exhibit 41 that CCLC's September 4, 2009 High School  
8 geometry, AIMS Prep Algebra, and Algebra lesson plans did not contain evidence of  
9 the Performance Objectives identified in the lesson plans. However, CCLC did not  
10 present any evidence to rebut Ms. Rowe's conclusion that CCLC failed to demonstrate  
11 that it had provided the instruction identified in its lesson plans and curriculum maps  
12 submitted for the 2009-2010 school year. Nor did CCLC present any evidence to rebut  
13 Ms. Rowe's conclusion that CCLC failed to demonstrate implementation of lesson  
14 plans or consistency in its High School algebra curriculum in the 2008-2009 school  
15 year.

#### 16 Middle School Science

17 36. On June 26, 2009, CCLC submitted to the Board curricular material of the  
18 instruction provided to its Middle School science students during the 2008-2009 school  
19 year. TR 1 at 236:15-24. Ms. Rowe evaluated the material provided and concluded  
20 that CCLC did not provide a program of instruction aligned to the Standards to its  
21 Middle School Animal Science students during the 2008-2009 school year and that its  
22 instruction incorporated only two of the six Strands of the Standards required for Middle  
23 School science. TR 1 at 236-238:25-21.

24 37. On September 4, 2009, CCLC submitted material to the Board pertaining to the  
25 Middle School science program provided to its students during the first two weeks of  
26 the 2009-2010 school year. TR 1 at 239:4-18. Ms. Rowe evaluated the material and  
27 concluded that CCLC had failed to differentiate its instruction for its different grade  
28 levels and had failed to provide evidence that what its lesson plans and curriculum map  
29 stated would be covered during that time period had, in fact, been covered. TR 1 at  
30 241-245:2-1.



1 38. In mid-November 2009, the Board received Exhibit FF, which contained Middle  
2 School science materials for the first month of the 2009-2010 school year. TR 1 at  
3 245-246:20-4. Ms. Rowe evaluated the materials and determined that CCLC  
4 continued to fail to demonstrate the implementation of differentiated curriculum for its  
5 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> grade science students and that the students were not being taught the  
6 appropriate skill level required for the grade level. TR 1 at 246:5-17 and 247:3-9.

7 39. CCLC did not present any credible evidence to rebut Ms. Rowe's conclusions  
8 that it did not provide a program of instruction aligned to the Standards to its Middle  
9 School Animal Science students during the 2008-2009 school year. Nor did CCLC  
10 present any evidence to rebut Ms. Rowe's conclusions that it continued to fail to  
11 demonstrate the implementation of a differentiated curriculum for its 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup>  
12 grade science students in the 2009-2010 school year and, further, that the students  
13 were not being taught the appropriate skill level required for the grade level.

#### 14 High School Project-Based Learning

15 40. At the May 13, 2009 site visit, Ms. Rowe observed the High School's Project-  
16 Based Learning ("PBL") classes, spoke with the teachers and concluded that, while  
17 students in those classes were awarded a high school credit for core content area(s),  
18 CCLC failed to provide documentation showing that any of the PBL classes were a  
19 comprehensive course that would warrant the awarding of a graduation credit in the  
20 core content area(s). TR 1 at 247-248:12-14.

21 41. On June 26, 2009, CCLC submitted to the Board curricular material of the  
22 instruction provided to its High School PBL students during the 2008-2009 school year.  
23 TR 1 at 248-249:17-1. Ms. Rowe evaluated the material and concluded that it was  
24 insufficient to support the awarding of a credit for a core content graduation  
25 requirement. TR 1 at 249:2-13.

26 42. On September 4, 2009, CCLC submitted material to the Board pertaining to the  
27 High School PBL classes provided to its students during the first month of the 2009-  
28 2010 school year. TR 1 at 249:19-22 and 250: 1-3. Ms. Rowe evaluated the material  
29 and concluded that the classes were not aligned to the Standards to support awarding  
30 a credit in a core content area. TR 1 at 250:6-16.

1 43. In mid-November 2009, the Board received Exhibit FF. No new materials were  
2 provided pertaining to the High School PBL classes. TR 1 at 251:9-13.

3 44. CCLC did not present any credible evidence to rebut Ms. Rowe's conclusions  
4 that the High School PBL classes were not comprehensive courses that warranted the  
5 awarding of a graduation credit in the core content area(s) in the 2008-2009 school  
6 year. Nor did CCLC present any credible evidence to rebut Ms. Rowe's conclusions  
7 that it continued to fail to demonstrate that its High School PBL classes were aligned to  
8 the Standards to support awarding a credit in a core content area in the 2009-2010  
9 school year.

#### 10 Middle School Project-Based Learning

11 45. At the May 13, 2009 site visit, CCLC failed to provide documentation showing  
12 that the Middle School PBL classes provided all of the appropriate content for a  
13 required core content course such as English, Reading or Math. TR 1 at 251-252:14-3.

14 46. On June 26, 2009, CCLC submitted to the Board curricular material of the  
15 instruction provided to its Middle School PBL students during the 2008-2009 school  
16 year. TR 1 at 252:4-11. Ms. Rowe evaluated the material provided and concluded that  
17 it did not evidence that the PBL classes satisfied a comprehensive course or content  
18 area for middle school classes. TR 1 at 252-253:16-4.

19 47. Ms. Rowe evaluated additional material submitted by CCLC to the Board on  
20 September 4, 2009 regarding the 2009-2010 school year and in mid-November in  
21 Exhibit FF and concluded that it continued to fail to evidence that the Middle School  
22 PBL classes provided comprehensive instruction in any core content area. TR 1 at  
23 253-254:10-14.

24 48. CCLC did not present any credible evidence to rebut Ms. Rowe's conclusions  
25 that CCLC failed to provide evidence that its Middle School PBL classes provided all of  
26 the appropriate content for a required core content course in the 2008-2009 school  
27 year. Nor did CCLC present any credible evidence to rebut Ms. Rowe's conclusions  
28 that it continued to fail to demonstrate that its Middle School PBL classes provided  
29 comprehensive instruction in any core content area in the 2009-2010 school year.

#### 30 Middle School Mathematics

1 49. At the May 13, 2009 site visit, lesson plans for the Middle School mathematics  
2 were not available for review. TR 1 at 254:16-21.

3 50. On June 26, 2009, CCLC submitted to the Board curricular material of the  
4 instruction provided to its Middle School mathematics students during the 2008-2009  
5 school year. TR 1 at 254:22-25. Ms. Rowe evaluated the material and concluded that  
6 it did not evidence implementation of the lesson plans or that the performance  
7 objectives identified were being taught or assessed. TR 1 at 255:6-20. Documentation  
8 of student work or assessments completed by the students was not provided. TR 1 at  
9 255:16-18.

10 51. On September 4, 2009, CCLC submitted material to the Board pertaining to the  
11 Middle School mathematics instruction provided to its students during the 2009-2010  
12 school year. Ms. Rowe evaluated the material and concluded that the performance  
13 objectives identified by CCLC in its curriculum maps, lesson plans, and documentation  
14 to be covered in August 2009 were not, in fact, covered during that month. TR 1 at  
15 256-257:18-6.

16 52. In mid-November 2009, the Board received Exhibit FF, which contained Middle  
17 School mathematics materials for August and September 2009. Ms. Rowe evaluated  
18 the material pertaining to the Middle School mathematics program and concluded that  
19 it failed to demonstrate that CCLC had implemented a program of instruction aligned to  
20 the Standards. TR 1 at 257:7-24.

21 53. CCLC did not present any credible evidence to rebut Ms. Rowe's conclusions  
22 that CCLC failed to provide evidence of the implementation of its 2008-2009 Middle  
23 School mathematics lesson plans or that the performance objectives identified in those  
24 lesson plans were being taught or assessed. Nor did CCLC present any credible  
25 evidence to rebut Ms. Rowe's conclusions that it continued to fail to demonstrate the  
26 implementation of a program of instruction aligned to the Standards for its Middle  
27 School mathematics in the 2009-2010 school year.

#### 28 Middle School Social Studies

29 54. At the May 13, 2009 site visit, Ms. Rowe had discussions with the Middle School  
30 social studies instructor and reviewed the class schedule. From the information  
obtained, Ms. Rowe concluded that instruction was not differentiated for 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup>

1 grade social studies students and that the appropriate content required under the  
2 Standards for a middle school social studies class was not being provided. TR 1 at  
3 258-260:17-7.

4 55. On June 26, 2009, CCLC submitted to the Board curricular materials of the  
5 instruction provided to its Middle School social studies students during the 2008-2009  
6 school year. TR 1 at 260:11-22. Ms. Rowe evaluated the material and concluded that  
7 CCLC did not provide a comprehensive social studies curriculum aligned to the  
8 Standards. TR 1 at 260-261:23-14.

9 56. On September 4, 2009, CCLC submitted material to the Board pertaining to the  
10 Middle School social studies program provided to its students during the first month of  
11 the 2009-2010 school year. TR 1 at 261-262:21-6. Ms. Rowe evaluated the material  
12 and concluded that, for 7<sup>th</sup> and 8<sup>th</sup> grade American history, not all material and  
13 performance objectives identified in curriculum map were covered. TR 1 at 262-  
14 263:19-6. No material was provided for 6<sup>th</sup> grade social studies. TR 1 at 262:17-18.

15 57. In mid-November 2009, the Board received Exhibit FF, which contained Middle  
16 School social studies curricular materials for the first month of the 2009-2010 school  
17 year. Ms. Rowe evaluated the material and concluded that, although CCLC had stated  
18 that 6<sup>th</sup> grade social studies was not scheduled to begin until second semester  
19 (January 2010), student rosters for 7<sup>th</sup> and 8<sup>th</sup> grade social studies also contained the  
20 name of 6<sup>th</sup> grade students. See Exhibit R at 1; TR 1 at 263-264:18-13. Also, for  
21 some students, the material provided conflicting attendance information. TR 1 at 264-  
22 266:18-12.

23 58. CCLC did not present any credible evidence to rebut Ms. Rowe's conclusions  
24 that CCLC failed to differentiate its 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> grade social studies curriculum and  
25 failed to provide a comprehensive Middle School social studies curriculum aligned to  
26 the Standards in the 2008-2009 school year. Nor did CCLC present any credible  
27 evidence to rebut Ms. Rowe's conclusions that it failed to cover the material and  
28 performance objectives identified in its curriculum map in the 2009-2010 school year.

29 59. Ms. Rowe acknowledged that CCLC did provide some evidence of student work  
30 (Exhibit 34A). However, Ms. Rowe testified that she was looking for samples of  
everything CCLC did during the first couple weeks of school to show that each of the

1 performance objectives was covered and CCLC did not show that the lesson plans  
2 were implemented. TR 3 at 565-568:14-5.<sup>3</sup>

3 60. Based on the above, the Administrative Law Judge finds that CCLC failed to  
4 provide a comprehensive program of instruction aligned to the Arizona Academic  
5 Standards.

### 6 Instructional Program Hours

7 61. A.R.S. § 15-901(A)(2)(b)(i) and the Charter Contract require that CCLC provide  
8 at least 1,068 hours of instruction each year to its 7<sup>th</sup> and 8<sup>th</sup> grade students.

9 62. As part of the site visit on May 13, 2009, Andrea Leder ("Ms. Leder"),  
10 Government and Financial Services Manager for the Board, examined CCLC's School  
11 Calendar and class schedules. That analysis revealed that CCLC was not meeting the  
12 minimum hours of instruction requirement for its seventh and eight grades. CCLC fell  
13 242.08 hours short of the 1,068 hours of instruction requirement for the 2008-2009  
14 school year. See Exhibit 5.

15 63. On May 19, 2009, the Board received a copy of a May 15, 2009 letter from  
16 CCLC to parents/guardians of its 7<sup>th</sup> and 8<sup>th</sup> grade students offering "a unique summer  
17 program for our 7<sup>th</sup> and 8<sup>th</sup> graders in the month of June 2009" that would "focus on our  
18 beautiful Grand Canyon." In the letter, CCLC stated it was "strongly encouraging all of  
19 our 7<sup>th</sup> and 8<sup>th</sup> grade students to participate." See Exhibit 7.

20 64. By letter dated June 4, 2009, the Board advised CCLC that in the event CCLC  
21 intended that the summer program supplement the shortfall of instruction hours  
22 through the school calendar year, the summer program was not sufficient to do so.  
23 See Exhibit 6. Ms. Leder testified that the information contained in CCLC's May 15,  
24 2009 letter (Exhibit 7) did not change her determination of the 242.08 hours shortfall  
25 because participation in the program was not mandatory for 7<sup>th</sup> and 8<sup>th</sup> grade students,  
26 CCLC did not extend the last day of instruction on its school calendar from May 21<sup>st</sup> to  
27 June 25, 2009, the conclusion of the summer program and there was no indication that  
28 the summer program would include the subject matter that was missed during the  
29 school year because of the shortfall of instructional hours. TR 1 at 98-99:21-19.

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<sup>3</sup> "TR 3" refers to the transcript from the December 9, 2009 hearing.

1 65. While CCLC's May 15, 2009 letter to parents/guardians of its seventh and eighth  
2 grade students stated that "[t]here will be lots of hands on science, history and art  
3 projects with focused time for Language Arts and math" in the summer program, Sister  
4 Bisignano testified that the summer program was focused on science. See Exhibit 7;  
5 TR 2 at 483:16 and 515:8-12.

6 66. On June 26, 2009, CCLC submitted additional material to the Board in which it  
7 accepted the Board's calculations of the shortfall in instructional hours but stated that  
8 the Board failed to count CCLC's "homeroom period and extended retreats as viable  
9 instructional hours." CCLC provided a copy of character building program materials  
10 used during its "homeroom period." CCLC's materials also included a statement that  
11 "thirty-six of forty-four seventh and eighth grade students (81%) attended summer  
12 school for a total of 138 instructional hours." See Exhibit 9 at 1 and 6. CCLC did not  
13 provide information to the Board regarding the "extended retreats" that CCLC alleges  
14 were provided to its seventh and eighth grade students during the 2008-2009 school  
15 year to warrant adding in that time to its instructional hours. TR 1 at 102:22-25. Nor  
16 did CCLC amend its School Calendar through ADE for the 2008-2009 school year to  
17 reflect a change in its last day of instruction for its seventh and eighth grade students  
18 from May 21, 2009 to June 25, 2009,. See Exhibit 8; TR 1 at 107:10-14.

19 67. Ms. Leder re-calculated CCLC's instructional hours to include homeroom and  
20 passing time to first period. That analysis revealed that CCLC had still not met the  
21 minimum hours of instruction requirement for its 7<sup>th</sup> and 8<sup>th</sup> grades. CCLC fell 151.58  
22 hours short of the 1,068 hours of instruction requirement for the 2008-2009 school  
23 year. See Exhibit 10.

24 68. Based on the foregoing, the Administrative Law Judge finds that CCLC failed to  
25 provide an instructional program that met a total of at least 1,068 hours for its 7<sup>th</sup> and  
26 8<sup>th</sup> grade students in the 2008-2009 school year.

27 69. On July 22, 2009, CCLC submitted a Daily Schedule and School Calendar for  
28 the 2009-2010 school year. See Exhibit 11. Ms. Leder analyzed these documents.  
29 That analysis revealed that CCLC was not meeting the minimum hours of instruction  
30 requirement for its 7<sup>th</sup> and 8<sup>th</sup> grades required by statute and the Charter Contract.

1 CCLC fell 48.08 hours short of the 1,068 hours of instruction requirement for the 2009-  
2 2010 school year. See Exhibit 12.

3 70. By letter dated August 10, 2009, the Board advised CCLC of the continuing  
4 shortfall in the hours of instruction that was required for its 7<sup>th</sup> and 8<sup>th</sup> grade students in  
5 the 2009-2010 school year. CCLC was requested to "provide evidence of an amended  
6 schedule and calendar that demonstrates that Cesar Chavez Middle School will be  
7 providing the minimum number of hours of instruction to its students during the 2009-  
8 2010 school year." See Exhibit 13 at 3.

9 71. Based on information and further clarification provided by CCLC on November  
10 17, 2009, Ms. Leder determined that CCLC was providing more than the requisite  
11 number of hours of instruction required for its 7<sup>th</sup> and 8<sup>th</sup> grade students in the 2009-  
12 2010 school year. TR 1 at 116-117:12-3.

13 72. CCLC raised a concern that the May 13, 2009 site visit occurred approximately  
14 one week prior to the scheduled close of the school year and, thus, there was  
15 insufficient time to address the hours of instruction deficiency. However, evidence was  
16 presented that established that CCLC had an opportunity for CCLC to address this  
17 issued by extending the school year and providing summer school courses and that  
18 CCLC did not extend the school year or provide summer school courses sufficient to  
19 count towards student instructional hours.

### 20 "Highly Qualified" Teachers

21 73. The No Child Left Behind Act of 2001 (20 U.S.C. § 6301 *et seq.*) and the  
22 Charter Contract require that CCLC's teachers of core academic subjects (English,  
23 reading or language arts, mathematics, science, foreign languages, civics and  
24 government, economics, arts, history, and geography) must be "highly qualified." For  
25 charter schools, "highly qualified" means that these teachers hold a bachelor's degree  
26 and have demonstrated subject matter competency in each of the core academic  
27 subjects taught. 20 U.S.C. § 7801(23).

28 74. To teach a single core academic subject to a 6<sup>th</sup> grade student, the teacher must  
29 have demonstrated subject matter competency through having achieved one of the  
30 following: (i) Passed the Elementary Education Subject Knowledge AEPA (Arizona  
Educator Proficiency Assessment); (ii) Earned a minimum of 100 points on the AZ

1 HOUSSE for Elementary Teachers prior to June 30, 2007 (documentation required<sup>4</sup>);  
2 (iii) Earned a minimum of 100 points on the AZ HOUSSE for Veteran Teachers  
3 Returning to the Profession (documentation required); or (iv) Highly Qualified Teacher  
4 Reciprocity (documentation required).

5 75. To teach a single core academic subject to a student in grades seven through  
6 twelve, the teacher must have demonstrated subject matter competency through  
7 having achieved one of the following: (i) Passed the AEPA Subject Knowledge Test in  
8 the core academic subject area being taught; (ii) Hold an advanced degree in the core  
9 academic subject area being taught; (iii) Hold National Board Certification in the core  
10 academic subject area being taught; (iv) A degree with a major or 24 credit hours in the  
11 core academic subject area being taught; (v) Earned a minimum of 100 points on the  
12 AZ HOUSSE for middle, junior high, high school, Visual Arts or Music Teachers prior to  
13 June 30, 2007 (documentation required); (vi) Earned a minimum of 100 points on the  
14 AZ HOUSSE for Veteran Teachers returning to the Profession – middle, junior high,  
15 high school, Visual Arts, Music (documentation required); or (vii) Highly Qualified  
16 Teacher Reciprocity (documentation required).

17 76. A school and its teachers must complete an Arizona Highly Qualified Attestation  
18 (“HQ Attestation”) Form setting forth the manner in which a teacher of a core academic  
19 area meets the highly qualified teacher requirements. TR 1 at 33:9-13. There are  
20 separate HQ Attestation Forms for a teacher of elementary grades and for a teacher of  
21 middle and high school grades. (TR 1 at 33:18-21.) Teachers teaching more than one  
22 core content area must complete an HQ Attestation Form for each core content area.  
23 TR 1 at 70:8-15. The HQ Attestation Forms are specific to the core content area,  
24 grade level, and manner in which the teacher claims to demonstrate subject matter  
25 competency. TR 1 at 71:9-10.

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26 <sup>4</sup> Satisfactory documentation for the AZ HOUSSE Rubric is: for years of experience claimed, a resume or  
27 copies of the teacher’s prior teaching contracts; for coursework claimed, a transcript from a university or  
28 community college reflecting a passing score in the courses that relate to the content area; for  
29 professional development and activities related to the content area, documentation reflecting professional  
30 development specific to the content area (e.g., a certificate that specifically lists the content date); for  
related service, documentation from the school to support the claims (e.g., a letter or documentation from  
the superintendent or principal); and for award, presentations and publications, a certificate, award or  
other evidence. (TR1 at 38-39:17-9 and at 56-57:14-21.)



1 77. CCLC's School Calendar and class schedules obtained by Board staff at the  
2 May 13, 2009 site visit reflected that Jill Hroza ("Ms. Hroza") was teaching mathematics  
3 to middle school students and that Veronica (Vero) Galaz Antonio ("Ms. Antonio") was  
4 teaching language arts to 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> grade students in May of the 2008-2009  
5 school year. See Exhibit 4 at 1. Lesson Plans for August 31 through September 11,  
6 2009 that were provided by CCLC reflect that Ms. Hroza was teaching mathematics to  
7 High School students in the 2009-2010 school year. See Exhibit FF at H.S. Algebra  
8 Prep.

9 78. In its Preliminary Corrective Action Plan dated July 25, 2009, CCLC stated that  
10 Ms. Hroza and Ms. Antonio were not yet highly qualified for the 2009-2010 school year.

11 One of the not yet HQ teachers is waiting for her AEPA scores; the  
12 other teacher will take the AEPA in August, 2009. These teachers are:

- 13 a. Jill Hroza, our middle school math teacher. Jill took  
14 the AEPA exam in early July, 2009 and is waiting for  
15 the results of this test.
- 16 b. Veronica "Vero" Antonio, a part-time middle school  
17 English teacher, will take the AEPA on 8-22-09. . . .

18 Exhibit 25 at 3, ¶ 3.

19 79. Ms. Hroza took and subsequently passed the AEPA Subject Knowledge Test in  
20 Middle Grades Mathematics on July 11, 2009. See Exhibit BB at 18.

21 80. In her 2009-2010 Elementary HQ Attestation Form, signed November 16, 2009,  
22 Ms. Hroza stated that she would be taking the Elementary Education Subject  
23 Knowledge AEPA on November 21, 2009 and that she was a Non-Highly Qualified  
24 Teacher for sixth grade. See Exhibit BB at 19-21.

25 81. Ms. Antonio took and subsequently passed the AEPA Subject Knowledge Test in  
26 Middle Grades Language Arts/Reading on August 22, 2009. (TR1 at 58:10-14.) In her  
27 2009-2010 HQ Attestation Form dated September 1, 2009, Ms. Antonio attested that  
28 she met the subject matter competency requirement to teach English to grades six  
29 through eight because she had earned a minimum of 100 points on the AZ HOUSSE  
30 for Veteran Teachers Returning to the Profession. See Exhibit 37B.

82. By letter dated October 16, 2009, Ms. Rowe advised CCLC that additional  
documentation was needed to support the highly qualified determination for Ms.  
Antonio; specifically, an attestation form for elementary (6<sup>th</sup> grade), a copy of the AZ

1 HOUSSE that documents Ms. Antonio's name and date of origin, and documentation  
2 verifying how the points were determined for each column identified on the AZ  
3 HOUSSE document. See Exhibit 41 at 3. Included in CCLC's Exhibit BB was a 2009-  
4 2010 HQ Attestation Form dated November 10, 2009 in which Ms. Antonio attested  
5 that she met the subject matter competency requirement to teach English to grades six  
6 through eight because she had earned a minimum of 100 points on the AZ HOUSSE  
7 for Elementary Teachers prior to June 30, 2007. No supporting documentation was  
8 included with the HQ Attestation Form. See Exhibit BB at 9. The documentation  
9 requested by Ms. Rowe in her letter of October 16, 2009 was not provided by CCLC  
10 prior to the hearing. TR 1 at 272:1-11.

11 83. Marilyn Gardner ("Ms. Gardner") is a Program Specialist at the ADE, Highly  
12 Qualified Professionals Unit, whose duties include monitoring Arizona district and  
13 charter schools for their compliance with the highly qualified teacher requirements of  
14 the No Child Left Behind Act. TR 1 at 31-32:20-19. Ms. Gardner evaluated Ms.  
15 Hroza's 2009-2010 HQ Attestation Forms and documents contained in CCLC's "Proof  
16 of HQ" Exhibit BB (pages 16-21) and concluded that Ms. Hroza was not highly qualified  
17 to teach mathematics to 6<sup>th</sup>, 7<sup>th</sup> or 8<sup>th</sup> grade students at CCLC in the 2008-2009 school  
18 year and is not highly qualified to teach mathematics to High School students at CCLC  
19 in the 2009-2010 school year. TR 1 at 47:16-22; 49:4-8; TR 1 at 71:11-15.

20 84. CCLC's witness, Lindsay Puccetti ("Ms. Puccetti"), Client Relations Director of  
21 teligentCHARTER, a consulting company hired by CCLC in late August 2009, testified  
22 that Ms. Hroza was not highly qualified to teach mathematics to 7<sup>th</sup> and 8<sup>th</sup> grade  
23 students during the 2008-2009 school year. TR 2 at 397-398:12-2 and 398-399:19-4.  
24 Ms. Puccetti also testified that Ms. Hroza was not highly qualified to teach 6<sup>th</sup> grade in  
25 the 2008-2009 school year. TR 2 at 398:12-17.

26 85. Ms. Gardner evaluated Ms. Antonio's 2009-2010 HQ Attestation Forms and  
27 documents contained in CCLC's "Proof of HQ" Exhibit BB (pages 9-10) and in the  
28 Board's Exhibit 37B. Ms. Gardner concluded that Ms. Antonio was not highly qualified  
29 to teach language arts to 6<sup>th</sup>, 7<sup>th</sup> or 8<sup>th</sup> grade students at CCLC in the 2008-2009 school  
30 year. TR 1 at 59:5-9.