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BEFORE THE ARIZONA STATE BOARD FOR CHARTER SCHOOLS

In the Matter of: **ALLSPORT ACADEMY**, a nonprofit corporation, operating **ALLSPORT ACADEMY,** a charter school.	No. 13F-FSRV-001-BCS **MOTION TO ACCEPT, REJECT OR MODIFY THE ADMINISTRATIVE LAW JUDGE'S DECISION**

Pursuant to A.R.S. § 41-1092.08(B), undersigned counsel requests that the Arizona State Board for Charter Schools ("Board") accept, reject or modify the decision of the Administrative Law Judge ("ALJ") in this matter as follows:

Introduction

1. Modify the second paragraph of the Introduction on page 1 of the Decision as follows[1]:

> *Board staff determined that Allsport did not meet the Board's academic performance expectations.* Allsport submitted to the Board a Demonstration of Sufficient Progress, but the Board's staff determined that Allsport did not demonstrate it was *making sufficient progress toward the Board's academic performance* expectations. At a Board meeting on May 13, 2013, the Board determined that Allsport's charter should be revoked.

[1] Requested modifications are indicated in italics.

This modification is requested for the reason that the background information, as stated in the Decision, is incomplete and does not accurately reflect the processes set forth in the Board's academic performance framework. Nor does it accurately reflect Board staff's determinations with regard to Allsport. Under the Board's framework, an evaluation is first conducted to determine whether a charter operator meets the Board's academic performance expectations. If a charter operator does not meet the Board's academic performance expectations, the charter operator is provided an opportunity to demonstrate that it is making sufficient progress toward the academic performance expectations set forth in the Board's academic performance framework. This modification is supported by the Board's Notice of Intent to Revoke Charter and Notice of Hearing at page 3, ¶ 5, Board Exhibits 4, 9 and 16A, and Findings of Fact Nos. 17 and 18 (as modified).

Findings of Fact

1. Adopt Findings of Fact Nos. 1 through 17 in their entirety.

2. Modify Finding of Fact No. 18 as follows:

> For a school that is not meeting these expectations, the Board will use the academic framework to determine whether the school is making *sufficient* progress toward achieving the expectations.

This modification is requested for the reason that the record reflects that the Board's academic framework is used to determine if the charter holder meets or is making "sufficient" (not "significant") progress toward the academic performance expectations. This modification is supported by Board Exhibit 4 at 159 and 160[2].

3. Modify Finding of Fact No. 19 as follows:

[2] The page numbers referenced within the Board's exhibits are preceded by "BCS."

> For a charter school that the Department has designated as failing, if the school does not show that it is making *sufficient* progress toward meeting the Board's expectations, the charter will be revoked.

This modification is requested for the reasons stated in paragraph 2 of this motion. This modification is also supported by Board Exhibit 4 at 159 and 160.

4. Modify Finding of Fact No. 20 as follows:

> The Board's academic framework guidelines (Exhibit 4, Appendix D) set out detailed information how a charter holder can show that it has made sufficient progress *toward meeting the Board's academic performance expectations.*

This modification is made for the reason that the Board's use of its academic performance framework is not limited to instances in which it considers revocation of a charter. A charter holder's academic performance (whether it meets or makes sufficient progress toward the academic performance expectations set forth in the performance framework) is also evaluated by the Board when considering other actions (e.g., reviews, renewals, expansion). This modification is supported by Board Exhibit 4 at 161-164.

5. Modify Finding of Fact No. 21 as follows:

> In a letter dated January 2, 2013, the Board directed Allsport to submit a Demonstration of Sufficient Progress ("DSP") that would be used by the Board to determine whether the School *demonstrates sufficient progress toward the academic performance expectations set forth in* the Board's academic framework.

This modification is requested for the reason that the Finding, as written, inaccurately reflects the contents of the letter dated January 2, 2013 and the Board's use of the DSP. The Board's letter dated January 2, 2013 informed Allsport that its overall rating "falls far below the standard as set by the Board" but that Allsport "may demonstrate sufficient progress toward the academic performance expectations set forth in the academic framework." This modification is supported by Board Exhibits 4 and 6.

6. Adopt Findings of Fact Nos. 22 through 26 in their entirety.

7. Modify Finding of Fact No. 27 as follows:

> Proficiency for a school is also measured for students in three subgroups: students who qualify for a free *or reduced-price* lunch ("FRL"), English Language Learners ("ELL"), and disabled students ("SPED").

This modification is requested for the reason that "FRL" means students who qualify for a free or reduced price lunch. This modification is supported by Board Exhibit 4 at 153.

8. Adopt Findings of Fact Nos. 28 and 29 in their entirety.

9. Modify Finding of Fact No. 30 as follows:

> For growth, the 2011/2012 Dashboard shows that the School fell far below *the Board's standards* in all measurable categories.

This modification is requested for the reason that under the Board's academic performance framework, the targets establishing the levels of performance place schools into the following rating categories: exceeds standard; meets standard; does not meet standard; falls far below standard. A charter operator meets the Board's academic performance *expectations* if all schools operated by the charter operator receive an Overall Rating of "Meets Standards" or "Exceeds Standard" in the current and prior fiscal year that State Assessment data is available. This modification is supported by Board Exhibit 4 at 148 and 159, Exhibit 5, and Exhibit 16A at 332.

10. Modify Finding of Fact No. 31 as follows:

> For proficiency, the 2011/2012 Dashboard shows that the School fell far below standard when its students were compared to Allsport's "composite" school. In all other growth categories, the School was rated as does not meet *standards.*

This modification is requested for the reasons stated in paragraph 9 of this motion. This modification is supported by Board Exhibits 5 and 16A at 332.

11. Modify Finding of Fact No. 32 as follows:

> For achievement, the 2011/2012 Dashboard shows the School's F rating from the Department caused the School to be rated as "falls far below *standard*."

This modification is requested for the reasons stated in paragraph 9 of this motion. This modification is supported by Board Exhibits 5 and 16A at 332.

12. Modify Finding of Fact No. 33 as follows:

> The 2010/2011 Dashboard shows that the School's overall rating was "falls far below *standard*."

This modification is made for the reasons stated in paragraph 9 of this motion. This modification is supported by Board Exhibits 5 and 16A at 332.

13. Adopt Finding of Fact No. 34 in its entirety.

14. Modify the heading between Findings of Fact Nos. 34 and 35 as follows:

> <u>Demonstration of *Sufficient* Progress</u>

This modification is requested for the reason that under the Board's academic performance framework, the term used is "Demonstration of Sufficient Progress." This modification is supported by Board Exhibit 4 at 160.

15. Modify Finding of Fact No. 35 to modify footnote 2 as follows:

> [2] The term "Demonstration of *Sufficient* Progress" is used to describe both the documentation submitted to the Board and the process itself.

This modification is requested for the reason stated in paragraph 14 of this motion. This modification is supported by Board Exhibit 4 at 181 and testimony of Martha Morgan at 63:1-3.

16. Adopt Findings of Fact Nos. 36 through 39 in their entirety.

17. Modify Finding of Fact No. 40 as follows:

> During the Demonstration of *Sufficient* Progress process, on April 25, 2013, Ms. Weisberg and others from the Board conducted a site visit at the School. Raquel Montoya, Moses Montoya, and Justin Montoya were present for Allsport during the site visit.

This modification is requested for the reason stated in paragraph14 of this motion and to

accurately reflect the testimony of Lisa Weisberg at 81:23 to 82:9.

18. Modify Finding of Fact No. 41 to correct the spelling of "wee" to "were".

19. Adopt Findings of Fact Nos. 42 through 47 in their entirety.

20. Modify Finding of Fact No. 48 as follows:

> Based on the academic framework, Allsport was required to provide *evidence of a sustained improvement plan that includes implementation of* a curriculum aligned with the Arizona Academic Standards prescribed by the Department, which are also known as the Common Core Standards ("Standards"), *that contributes to increased student growth and proficiency*.

This modification is requested for the reason that it more accurately reflects the language contained in the Board's academic performance framework. This modification is supported by Board Exhibit 4 at 184.

21. Adopt Finding of Fact No. 49 in its entirety.

22. Modify Finding of Fact No. 50 as follows:

> Allsport was also required to provide *evidence of a sustained improvement plan that includes implementation of a curriculum that contributes to increased student growth and proficiency* for the bottom 25th percentile of its students, and for each of the FRL, ELL, and SPED subcategories.

This modification is requested for the reason that it more accurately reflects the language contained in the Board's academic performance framework. This modification is supported by Board Exhibit 4 at 184.

23. Adopt Findings of Fact Nos. 51 and 52 in their entirety.

24. Modify Finding of Fact No. 53 as follows:

> Based on the academic framework, Allsport was also required to show the Board that it *had a system or process to create, implement, evaluate, and revise curriculum, as evidenced by* curriculum maps, pacing guides, and instructional material adoptions or committee work. These tools are used to track and ensure that Standards are being met throughout the year.

This modification is requested for the reason that it more accurately reflects the language contained in the Board's academic performance framework. This modification is supported by Board Exhibit 4 at 184.

25. Adopt Findings of Fact Nos. 54 through 68 in their entirety.

26. Modify Finding of Fact No. 69 as follows:

> As such, Allsport was required to *provide evidence of a system to monitor the integration of the Standards into its instruction and evaluate the instructional practices of its teachers, as evidenced by* lesson plan reviews, formal teacher evaluations, effective informal classroom observations, standards checklists, and standards-based teacher assessments. These tools are used to ensure that the instruction being provided to students is aligned with the Standards.

This modification is requested for the reason that it more accurately reflects the language contained in the Board's academic performance framework. Also, the term "Standards" has already previously been defined in Finding of Fact No. 48. This modification is supported by Board Exhibit 4 at 185.

27. Adopt Findings of Fact Nos. 70 through 73 in their entirety.

28. Modify Finding of Fact No. 74 as follows:

> The forms Allsport was using for the teacher evaluations failed to identify the Standard and/or objective being observed, and Ms. Weisberg's opinion was that *Allsport's Classroom Observation – Discussion Form reflected on the back of the Classroom Observation Form* was not directly related to what had been observed in the classroom.

This modification is requested for the reason that it more accurately reflects the testimony of Lisa Weisberg at 103:5-16 with regard to Exhibit 13 at 284 and 285.

29. Adopt Findings of Fact Nos. 75 through 80 in their entirety.

30. Modify Finding of Fact No. 81 as follows:

> The PMP shows that Allsport was going to start using the Study Island program to assess students beginning in 2010 and that the assessments would be done

> every two to three weeks. Allsport did not actually start using *Study* Island until March 2013, at which time it was used only for reading and was administered as a pretest, not as an assessment tool. As used by Allsport, the Study Island program did not allow for the student growth to be measured.

This modification is requested for the reason that it accurately reflects the testimony of Lisa Weisberg at 110:7-17.

31. Adopt Findings of Fact Nos. 82 through 104 in their entirety.

<u>Conclusions of Law</u>

1. Adopt Conclusions of Law Nos. 1 through 4 in their entirety.

2. Modify Conclusion of Law No. 5 as follows:

> The Board has authority to revoke Allsport's charter if Allsport *has failed to meet or make* sufficient progress toward the academic performance expectations set forth in the Board's academic performance framework. A.R.S. § 15-183(I)(3).

This modification is requested for the reason that it accurately reflects relevant provision of A.R.S. § 15-183(I)(3).

3. Adopt Conclusion of Law Nos. 6 in its entirety.

4. Modify Conclusion of Law No. 7 as follows:

> The overwhelming weight of evidence shows that Allsport is not meeting the requirements of *the* Board's academic framework and that Allsport did not meet the Board's requirements to *demonstrate sufficient p*rogress.

This modification is requested for the reason that the Board's academic framework is used to determine if the charter holder meets or is making sufficient progress toward the academic performance expectations of the Board. In clarification, Allsport submitted a DSP; however Allsport failed, in its DSP and site visit, to meet the Board's requirements to demonstrate sufficient progress toward its academic performance expectations. This modification is supported by Board Exhibit 4 and the testimony of Lisa Weisberg at 85:7-18.

5. Adopt Conclusions of Law Nos. 8 through 10 in their entirety.

Order

Adopt the recommended order of the ALJ and order that the Charter Contract between the Board and Allsport Academy be revoked.

The Board should further order that Allsport Academy provide a complete copy of each student's educational record to the student upon request of the student, the student's parent or guardian ad litem, or the student's receiving school, for each student enrolled in the School in the 2013-2014 school year.

DATED this 13th day of November, 2013.

THOMAS C. HORNE
Attorney General

Kim S. Anderson_____
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Assistant Attorney General

COPY of the foregoing Motion submitted
electronically this 13th day of November, 2013 to:

Arizona State Board for Charter Schools
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COPY of the foregoing Motion mailed
electronically this 13th day of November, 2013 to:

Allsport Academy charter school
Attention: Charter Representative Moses Montoya
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Allsport Academy
Attention: Statutory Agent Raquel Montoya
rmontoya@allsportacademy.org

By kim anderson_____
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