

1 MARK BRNOVICH  
2 Firm State Bar No. 14000  
3 Attorney General

4 Kim S. Anderson (#010584)  
5 Assistant Attorney General  
6 Education and Health Section  
7 1275 West Washington Street  
8 Phoenix, Arizona 85007  
9 Telephone: (602) 364-0402  
10 Facsimile: (602) 364-0700  
11 Email: [EducationHealth@azag.gov](mailto:EducationHealth@azag.gov)  
12 [kim.anderson@azag.gov](mailto:kim.anderson@azag.gov)  
13 *Attorneys for the Arizona State Board for Charter Schools*

14 **BEFORE THE ARIZONA STATE BOARD**  
15 **FOR CHARTER SCHOOLS**

16 In the Matter of:

No. 17F-RV-001-BCS

17 **HILLCREST ACADEMY, INC., an**  
18 **Arizona non-profit corporation,**  
19 **operating HILLCREST ACADEMY, a**  
20 **charter school.**

**MOTION TO ACCEPT, REJECT**  
**OR MODIFY THE**  
**ADMINISTRATIVE LAW**  
**JUDGE’S DECISION AND**  
**RECOMMENDED ORDER**

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

24 **FINDINGS OF FACT**

- 25 1. Adopt Finding of Fact No. 1 in its entirety.  
26 2. Modify<sup>1</sup> Finding of Fact No. 2 as follows:

On or about January 18, 2012, the Board entered into a *Renewal* Charter Contract with Hillcrest Academy, Inc., *previously known as DCS Partners, Inc.* (hereinafter “Hillcrest”). ~~Danielle Connolly~~ *Kris Holcomb* executed the *Renewal* Charter Contract on behalf of Hillcrest as its Charter Representative. *The current* ~~As the~~ Charter

<sup>1</sup>Proposed language is *italicized*. Language removed is ~~stricken~~.

1 Representative for Hillcrest, *Danielle Connolly*, ~~was~~ *is*  
2 responsible for communications between it and the Board  
and for accountability to the terms of the Charter Contract.

3 This modification is requested for the reason that, while Danielle Connolly is the current  
4 Charter Representative for Hillcrest, she did not execute the Renewal Charter Contract on  
5 behalf of Hillcrest. Moreover, as current Charter Representative, Ms. Connolly is  
6 responsible for Hillcrest's compliance with its Charter Contract. This modification is  
7 supported by Exhibit 1 at pages BCS00001 and BCS 00006, Exhibit 2, Exhibit 3, and the  
8 testimony of Andrea Leder, the Board's Assistant Director of Operations and Finance, at  
9 page 13, lines 18-22 and page 14, lines 7-9.  
10  
11

12 3. Adopt Findings of Fact Nos. 3 through 5 in their entirety.

13 4. Modify Finding of Fact No. 6 as follows:

14 On or about June 29, 2016, Hillcrest ~~field~~ *filed* for bankruptcy  
15 under Chapter 11 of the United States Bankruptcy Code.

16 This modification is requested for the reason that the word "field" is a typographical error  
17 and should read "filed." This modification is supported by the testimony of Andrea  
18 Leder at 13:11-12 and by exhibit 9 at BCS00030.

19 5. Adopt Findings of Fact Nos. 7 through 10 in their entirety.

20 6. Consider modifying Finding of Fact No. 11 as follows:

21 On August 1, 2016, ~~Hillcrest received~~ a payment of state monies in  
22 the amount of \$74,547.77 *was received for, or on behalf of,*  
*Hillcrest.*"

23 While Hillcrest was advised of and declined to attend the charter revocation hearing, its  
24 counsel in the bankruptcy proceedings objected to the statement contained in paragraph  
25 14 of the Notice of Intent to Revoke Charter<sup>2</sup> and Notice of Hearing, stating:

26 A reference is made in the Notice of Intent to Revoke Charter that

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<sup>2</sup> Paragraph 14 states: "On August 1, 2016, Hillcrest received a payment of state monies in the amount of \$74,547.77."

1 Hillcrest received a payment of state monies in the amount of  
2 \$74,547.77 on August 1, 2016. Such is not a correct statement.  
3 The payment was made by the state to BOKE NA, dba Bank of  
4 Arizona (“BOKE”), a secured creditor of Hillcrest Academy, Inc.  
5 by wire transfer. The funds were never transferred from BOKE to  
6 Hillcrest. Attached is a Stipulation Regarding Equalization  
7 Assistance Payment in the Amount of \$74,547.77 signed by  
8 Matthew Silverman, Assistant Attorney General, and Terry Dake,  
9 representing the Trustee. The Stipulation does provide the return of  
10 the \$74,547.77 is an issue between the State of Arizona and BOKE.  
11 . . . .

12 *See* the Board’s Notice of Service, filed November 8, 2016, at Exhibit 7.

13 Subsequent to the charter revocation hearing, the same counsel notified  
14 undersigned counsel that:

15 Erroneous statements were made in the transcript. The August  
16 payment of \$74,547.77 was never received by Hillcrest Academy.  
17 Such amount was sent to BOKF, dba, Bank of America, bond  
18 trustee. BOKF did not forward such payment to Hillcrest Academy  
19 but retained the same. Hearings have been held in the Bankruptcy  
20 Court as to if (sic) the State of Arizona or BOKF is the proper entity  
21 to retain the funds . . .

22 In any event, it was the unrefuted testimony of Andrea Leder that by July 15,  
23 2016, Hillcrest had submitted an estimated student count of 137 students to attend the  
24 School for the 2016-2017 school year to the Arizona Department of Education. *See*  
25 Findings of Fact Nos. 7 and 8 and the testimony of Andrea Leder at 16:25 to 17:5. The  
26 submission was used as the basis for calculating Hillcrest’s state aid for the payment date  
of August 1, 2016. *See* exhibit 4 at BCS00011. In response to Hillcrest’s submission, on  
August 1, 2016, a payment of state aid monies in the amount of \$74,547.77 was received,  
if not directly by, then for or on behalf of Hillcrest. *See* Exhibit 6 at BCS00022.

7. Adopt Findings of Fact Nos. 12 through 16 in their entirety.

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

On September 22, 2016, the Board received additional student records from ~~Ms. Connolly~~ *Hillcrest’s facilities*. However, the record were disorganized and failed to contain the transcripts of the students’ final grades, copies of the students’ standardized test

1 scores, and placement, evaluations and testing data for students with  
2 disabilities.

3 This modification is requested for the reason that the additional student records were not  
4 received from Ms. Connolly, but, rather, were retrieved by Board staff from the building  
5 previously occupied by Hillcrest. This modification is supported by Exhibit 11 at pages  
6 3-4, ¶ 11.

7 9. Adopt Finding of Fact No. 18 in its entirety.

### 8 CONCLUSIONS OF LAW

9 1. Adopt Conclusions of Law Nos. 1 through 9 in their entirety.

### 10 ORDER

11 Adopt the recommended order of the Administrative Law Judge revoking the  
12 charter of Hillcrest Academy, Inc.

13 Respectfully submitted this 6th day of April, 2017.

14 MARK BRNOVICH  
15 Attorney General

16 /s/ Kim S. Anderson  
17 Kim S. Anderson  
18 Assistant Attorney General

19 COPY of the foregoing Motion submitted  
20 electronically this 6th day of April, 2017 to:

21 The Arizona State Board for Charter Schools  
22 [ashley.berg@asbcs.az.gov](mailto:ashley.berg@asbcs.az.gov)

23 COPY of the foregoing Motion  
24 emailed this 6th day of April, 2017 to:

25 Danielle Connolly  
26 Hillcrest Academy, Inc.  
daniellejoym.ed@gmail.com

By Kim Anderson  
P0012016003210/5870529