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8 **BEFORE THE ARIZONA STATE BOARD  
FOR CHARTER SCHOOLS**

9  
10 In the Matter of:

No. 14F-FSRV-003-BCS

11 KIN DAH LICHI'I OLTA', Inc. a non-,  
profit corporation, operating  
12 KIN DAH LICHI'I OLTA', a charter  
school

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

13  
14 Kin Dah Lichi'i Olta' ("KDLO"), by and through its undersigned counsel, hereby  
15 submits its Response to the Motion to Accept, Reject or Modify the Administrative Law  
16 Judge's Decision and Recommended Order ("KDLO's Response").

17 Specifically, KDLO objects to the following modifications of the Administrative Law  
18 Judge's ("ALJ") Decision as proposed under the Arizona State Board for Charter Schools'  
19 ("Arizona State Board") Motion to Accept, Reject or Modify the Administrative Law Judge's  
20 Decision and Recommended Order ("Arizona State Board's Motion"):

- 21 1. KDLO objects to the entirety of the modifications of the ALJ's Conclusions of Law  
22 No. 8 as proposed in the Arizona State Board's Motion. [Arizona State Board's  
23 Motion, Conclusions of Law, ¶ 2 at pg. 4.].  
24

1 2. KDLO objects to the entirety of the modifications of the ALJ's Recommended  
2 Order as proposed in the Arizona State Board's Motion. [Arizona State Board's  
3 Motion, Order, pg. 7.]

4 KDLO objects to the proposed modifications cited above because they are contrary to  
5 the findings and conclusions made by the ALJ. The parties have had an opportunity to fully  
6 present evidence and testimony in this matter. The ALJ is in the best position regarding this  
7 matter to issue a fair and appropriate Order that should not be ignored or circumvented by legal  
8 maneuvering. Furthermore, the ALJ's Recommended Order is supported by his finding under  
9 Conclusion of Law No. 8.

10 KDLO requests that the Recommended Order of the ALJ be adopted in its entirety as  
11 issued by the ALJ in his April 22, 2014 Administrative Law Judge Decision with the following  
12 single modification:

13 Based on the foregoing, ~~it is recommended~~ *it is ordered* that the *revocation of the*  
14 *charter issued to Charter Holder to operate the School be* ~~revoked on the effective date~~  
15 ~~of the Order entered in this matter~~ *placed under a moratorium of High Density Native*  
16 *American Charter Schools until such time as it is determined that the Charter Holder*  
17 *has established that it is performing academically based on the standards and*  
18 *conditions established under the moratorium.*

19 KDLO's proposed modification is based on the disparate impact of current Arizona  
20 Department of Education ("ADE") standards which have resulted in de facto prohibition of  
21 Arizona Native American Charter schools from participating in the Arizona State Charter  
22 school system. This disparate impact has prompted Senator Carlyle Begay of the Arizona State  
23 Legislature to organize on behalf of Arizona's High Density Native American Charter schools,  
24 of which KDLO is one, by calling for a moratorium to halt the revocation of any additional

1 charters from High Density Native American Charter schools until this issue can be addressed  
2 and corrective measures put in place to preserve these schools for the Native American children  
3 they serve. It would be manifestly unjust to preclude KDLO from the benefit of this  
4 moratorium because it has been victimized by the inapplicable standards which Senator Begay  
5 seeks to correct.

6 This proposed modification for the High Density Native American Charter school  
7 moratorium to apply to KDLO, is in keeping with the ALJ's Recommended Order to reject the  
8 revocation of KDLO's charter if KDLO receives a grade of A, B, or C for the 2013-2014  
9 school year by recognizing that KDLO has made academic progress and that preservation of its  
10 charter is vital to the lives of the children it serves.

11 RESPECTFULLY SUBMITTED this 6<sup>th</sup> day of May, 2014 .

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14 HUFFORD, HORSTMAN, MONGINI,  
PARNELL & TUCKER P.C.

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COPY of the foregoing submitted electronically this 6<sup>th</sup> day of May, 2014, to each of the following:

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By: 