FACSIMILE TRANSMISSION

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DATE: March 27, 2014

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MESSAGE:

Please see attached Motion to Quash.

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ARIZONA OFFICE OF ADMINISTRATIVE HEARINGS

In the matter of: FOUNDING FATHERS ACADEMIES, INC., a non-profit corporation, in the operation of JEFFERSON ACADEMY OF ADVANCED LEARNING, a charter school.	**CASE NO. No. 14F-FSRV-002-BCS** **MOTION TO QUASH** (Administrative Law Judge Tammy Eigenheer)

Pursuant to Rule 2-19-113 of the Arizona Administrative Code, Dr. Ildiko Laczko-Kerr and the Arizona Charter Schools Association move to quash the subpoena requiring her appearance to testify today (March 27, 2014) in the above-captioned proceeding as it is unreasonable and the desired evidence may be obtained by an alternative method. Dr. Laczko-Kerr is not a party to this case and is not being called as a fact witness, as she has no relevant factual information related to the proposed revocation of Founding Fathers Academies, Inc. ("School"). Upon information and belief, the School has subpoenaed Dr. Laczko-Kerr, who is currently employed by the Arizona Charter Schools Association as its Vice President of Academics to compel her to provide expert opinion testimony regarding the AIMS test, even though Dr. Laczko-Kerr has not been retained as an expert or agreed to provide expert testimony in this matter.

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The evidence the School wishes to submit through Dr. Laczko-Kerr's testimony relates to her research and findings regarding the AIMS test, which have been set forth in a paper she jointly authored with Dr. Anabel Aportela entitled "Oh, the Places They'll Go! School Ratings: Improving the Data in Data Driven Decision Making" ("Paper"). This evidence is undoubtedly expert opinion evidence, as it involves testimony regarding scientific, technical or other specialized knowledge possessed by Dr. Laczko-Kerr and her opinion based on her research. This Paper was prepared for the Arizona Charter Schools Association by the Center for Student Achievement. As an employee of the Arizona Charter Schools Association, Dr. Laczko-Kerr does not offer or provide her services as an expert witness to testify on behalf of any party to a revocation proceeding and has not been retained by any party to provide such testimony. Rather than accepting this decision, the School seeks to compel her to provide such testimony, without compensation, by serving her with a subpoena. Allowing the School to compel Dr. Laczko-Kerr to provide such testimony without agreement or compensation will set an untenable precedent, allowing any school facing revocation to force her to provide such testimony. For this reason, the subpoena is unreasonable and inappropriate and should be quashed.

Further, the evidence the School wishes to submit is set forth in the Paper. It is available on the Arizona Charter Schools Association website and readily accessible by the Court and the parties.[1] The Paper may be submitted in lieu of Dr. Laczko-Kerr's testimony. Because there is an alternative method for submitting such evidence, the subpoena should be quashed.

Finally, the subpoena was not served on Dr. Laczko-Kerr until Monday, March 24, 2014, even though the hearing date was set at the end of January, and the subpoena contained the wrong case number. Given the late service, Dr. Laczko-Kerr already had prior commitments and is not available at the date and time listed on the subpoena.

[1] https://azcharters.org/ckeditor_assets/attachments/1161/oh_the_places_they_ll_go_data_driven_decisions_final.pdf?1367380808,

Because Dr. Laczko-Kerr is not a party and was not represented, she was unsure how to respond as the subpoena did not provide any information regarding her rights and responsibilities regarding the subpoena. As a result, she had to engage counsel to determine her rights and responsibilities and to file a motion to quash, placing an unreasonable burden on her to timely respond and object to the subpoena in advance of the hearing.

For all of the reasons set forth herein, the subpoena is inappropriate, unreasonable and unnecessary, and should be quashed, consistent with Rule 2-19-113 of the Arizona Administrative Code.

Respectfully submitted this 27th day of March, 2014.

GORDON & REES LLP

By: /s/ Deanna R. Rader
Deanna R. Rader

Attorneys for Dr. Ildiko Laczko-Kerr
Arizona Charter Schools Association

Copy mailed/e-mailed/faxed this
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