BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF ARIZONA

In the Matter of: **KIN DAH LICHI'I OLTA', Inc.,** a non-profit corporation, operating **KIN DAH LICHI'I OLTA'**, a charter school	No. 14F-FSRV-003-BCS **ARIZONA STATE BOARD FOR CHARTER SCHOOLS' NOTICE OF INTENT TO REVOKE CHARTER AND NOTICE OF HEARING** (Honorable Brian Brendan Tully)

YOU ARE HEREBY NOTIFIED that pursuant to A.R.S. §§ 15-241(U) and 15-183(I)(3) and (Q) and Title 41, Chapter 6, Article 10, a charter revocation hearing will be held in the above-captioned matter on March 18, 19 and 20, 2014, beginning at 8:00 a.m. **This matter is set from 8:00 a.m. to 5:00 p.m.** The hearing will be held before Administrative Law Judge Brian Brendan Tully at the Office of Administrative Hearings, an independent state agency, located at 1400 West Washington, Suite 101, Phoenix, Arizona 85007, (602) 542-9826.

The hearing is to determine whether grounds exist to revoke the charter held by Kin Dah Lichi'i Olta', Inc. to operate Kin Dah Lichi'i Olta' charter school.

I. STATEMENT OF LEGAL AUTHORITY AND JURISDICTION UNDER WHICH THE HEARING IS TO BE HELD AND REFERENCE TO THE STATUTES AND RULES INVOLVED.

Charter schools are established by contract ("charter" or "contract") between a sponsor and a public body, private person or private organization to provide learning that will improve pupil achievement. A.R.S. §§ 15-101(4), -181(A), -183(B), -183(C). The Arizona Department of Education ("ADE") compiles an annual achievement profile for each public school and school

district. A.R.S. § 15-241(A). The achievement profile used to determine a school and school district classification uses a letter grade system as follows: (1) A school or school district assigned a letter grade of A shall demonstrate an excellent level of performance; (2) A school or school district assigned a letter grade of B shall demonstrate an above average level of performance; (3) A school or school district assigned a letter grade of C shall demonstrate an average level of performance; (4) A school or school district assigned a letter grade of D shall demonstrate below average level of performance; and (5) A school or school district assigned a letter grade of F shall demonstrate a failing level of performance. A.R.S. § 15-241(H)[1]. If a charter school is assigned a letter grade of F, the charter school's sponsor must either take action to restore the charter school to acceptable performance or revoke the charter school's charter. A.R.S. § 15-241(U). In implementing its oversight and administrative responsibility for the charter schools that it sponsors, the sponsor must ground its actions in evidence of the charter holder's performance in accordance with the performance framework adopted by the sponsor. A.R.S. § 15-183(R). A sponsor must review a charter at five year intervals using a performance framework adopted by the sponsor and may revoke a charter at any time if the charter school breaches one or more provisions of its charter or if the sponsor determines that the charter holder has failed to meet or make sufficient progress toward the academic expectations set forth in the performance framework. A.R.S. § 15-183(I)(3). The final determination of whether to revoke the charter shall be made at a public hearing called for such purpose. *Id.*

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[1] Prior to September 1, 2011, the achievement profiles used to determine a school classification designated schools as one of the following: (1) an excelling school; (2) a highly performing school; (3) a performing school; (4) an underperforming school; and (5) a school failing to meet academic standards ("legacy label"). A.R.S. § 15-241(H)(2011). For academic year 2010-2011, schools were designated a legacy label and a letter grade. A.R.S. § 15-241(H)(2011), amended by 2012 Ariz. Sess. Laws, 2nd Reg. Sess., ch. 67, sec. 3.

II. STATEMENT OF MATTERS ASSERTED BY THE BOARD

1. Kin Dah Lichi'i Olta' ("the School") is a charter school established pursuant to A.R.S. § 15-181 and sponsored by the Arizona State Board for Charter Schools ("Board").

2. The School operates pursuant to a charter contract ("charter" or "contract") between Kin Dah Lichi'i Olta', Inc. a non-profit corporation of the same name ("Kin Dah Lichi'i Olta'"), and the Board.

3. Ronald Arias and Linda Youvella are the Charter Representatives and persons authorized to act on behalf of Kin Dah Lichi'i Olta'.

4. The School began operating in the 1999-2000 school year and is currently authorized to serve students in grades 7-8.

5. The School is located east of Ganado and reports an average daily membership of approximately 37 students for the 2013-2014 school year.

6. On September 9, 2013, ADE notified the Board that the School had been assigned an achievement profile letter grade of F.

7. On December 9, 2013, the Board voted to issue a Notice of Intent to Revoke Kin Dah Lichi'i Olta''s charter to operate the School on the basis of the School's 2012-2013 achievement profile designation as an F school and its failure to meet or demonstrate sufficient progress toward the Board's performance expectations as set forth in the Board's Academic Performance Framework when it failed to provide evidence of a system to evaluate and revise curriculum aligned with Arizona College and Career Ready Standards, failed to provide a comprehensive assessment system based upon clearly defined performance measures aligned with the curriculum, and failed to provide a comprehensive professional development plan that was

aligned to teacher needs, provides for monitoring and follow-up strategies and is supported by data and analysis.

A. FOR THE 2012-2013 SCHOOL YEAR, KIN DAH LICHI'I OLTA' WAS ASSIGNED AN ACHIEVEMENT PROFILE LETTER GRADE OF "F"

8. On October 12, 2011, the 2010-2011 achievement profile assigned to the School was a legacy label of "an underperforming school."[2]

9. On August 2, 2012, the 2011-2012 achievement profile assigned to the School was a letter grade of D.

10. On August 30, 2013, having been assigned a combination "underperforming" legacy label and letter grade of D for the third consecutive year, the 2012-2013 achievement profile assigned to the School was a letter grade of F, demonstrating a failing level of performance.

B. KIN DAH LICHI'I OLTA' FAILED TO MEET THE BOARD'S ACADEMIC PERFORMANCE EXPECTATIONS

11. In administering its oversight and administrative responsibilities for the charter schools that it sponsors, the Board is required to ground its actions in evidence of the charter holder's performance in accordance with the performance framework adopted by the Board. A.R.S. § 15-183(R).

12. The Board's performance framework ("academic framework" or "Academic Performance Framework") includes its academic performance expectations of the charter schools it sponsors and the measurement of sufficient progress toward the academic performance expectations, and the intervention schedule for improvement. A.R.S. § 15-183(R)(1).

13. For elementary schools, the Board's academic framework rates and weights each measure within three indicators to calculate each charter school's overall academic performance:

[2] As a "small school," the School was assigned only a legacy label by ADE for the 2010-2011 school year.

(1) student progress over time (growth); (2) student achievement (proficiency); and (3) the assigned letter grade achievement profile.

14. The charter school's overall level of performance is established as follows:

- *Exceeds standard* - The charter holder's overall rating for each school operated by the charter holder exceeds academic performance expectations and shows exemplary performance.
- *Meets standard* - The charter holder's overall rating for each school operated by the charter holder meets minimum expectations for academic performance.
- *Does not meet standard* - The charter holder's overall rating for any school operated by the charter holder fails to meets minimum expectations for academic performance.
- *Falls far below standard* - The charter holder's overall rating for any school operated by the charter holder is far below the Board's academic performance expectations and on par with the lowest-performing schools in the state.

15. A charter holder that has one or more schools that did not receive an overall rating of "Meets Standard" or "Exceeds Standard" does not meet the Board's academic performance expectations.

16. The School's overall level of performance for its 2011-2012 academic year (also known as "FY2012") was "Does Not Meet Standard" and its overall level of performance for its 2012-2013 academic year (also known as "FY 2013") was "Falls Far Below Standard." Kin Dah Lichi'i Olta' failed to meet the Board's academic performance expectations.

C. KIN DAH LICHI'I OLTA' FAILED TO DEMONSTRATE SUFFICIENT PROGRESS TOWARD THE BOARD'S ACADEMIC PERFORMANCE EXPECTATIONS

17. A charter holder that does not meet the Board's academic performance expectations may demonstrate sufficient progress toward the academic performance expectations of the Board.

18. A charter holder demonstrates its progress by submitting a Demonstration of Sufficient Progress ("DSP") detailing its previous efforts to improve academic performance in each of the measures rated or identified in the current dashboard[3] as not meeting the Board's expectations (where the measure was rated "No Rating," "Does Not Meet Standard," or "Falls Far Below Standard").

19. Evidence of success (or progress) may be derived from any implemented improvement plan and must be presented using graphs, tables or data charts that demonstrate, with specificity, improved academic performance based on data generated from valid and reliable assessment sources[4].

20. The charter holder's DSP is evaluated to determine whether its efforts in each of the measures rated or identified as "Does Not Meet Standard" or "Falls Far Below Standard" in the current or prior year document the implementation of an improvement plan that demonstrates evidence of success.

21. The charter holder is provided two months to complete and submit its DSP. An initial evaluation of the DSP is conducted and its results are provided to the charter holder. Board staff

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[3] A dashboard is color-coded graphic of a charter school's academic performance and includes a rating for each measure and an overall rating for the charter school pursuant to the Board's Academic Performance Framework.

[4] A valid assessment measures what it is intended to measure. A reliable assessment would produce the same results when given under the same conditions.

then schedules a site visit to meet with the leadership team of the school. The site visit provides the charter holder a second opportunity to demonstrate that the school is making sufficient progress toward meeting the Board's academic performance expectations. The charter holder is provided an additional 48 hours following the site visit to submit additional documentation. A second evaluation of the DSP is conducted, using the information and documents collected at and following the site visit.

22. In a letter dated October 17, 2013, in accordance with the Board's processes and based on the School's performance in FY 2013, Kin Dah Lichi'i Olta' was notified of its requirement to submit a DSP. Kin dah Lichi'i Olta' was also notified that the determination by the Board of whether to restore or to revoke Kin Dah Lichi'i Olta''s charter would be based on the evidence of Kin Dah Lichi'i Olta''s performance in accordance with the performance framework adopted by the Board, including Kin Dah Lichi'i Olta''s demonstration of sufficient progress toward the academic performance expectations of the Board. Kin dah Lichi'i Olta' submitted its DSP to the Board on November 12, 2013.

23. Board staff notified Kin Dah Lichi'i Olta' of the results of its initial evaluation of Kin dah Lichi'i Olta''s DSP and a site visit was held with the School's leadership team on November 21, 2013. Kin Dah Lichi'i Olta' timely provided additional information to the Board. Board staff conducted a subsequent DSP evaluation and, again, found all measures "Not Acceptable."

1. <u>STUDENT PROGRESS OVER TIME (GROWTH)</u>

24. Kin Dah Lichi'i Olta' failed to demonstrate its implementation of a sustained improvement plan that includes evidence that the School is making adequate growth[5] based on

[5] "Adequate growth" means that at least half of the students in the charter school are showing growth that is greater than their academic peers across the state.

the school's median growth percentiles ("SGP") in Math and Reading both School-wide and for the lowest performing students (bottom 25%).

25. Kin Dah Lichi'i Olta' failed to demonstrate its implementation of a system supported by analysis of data to evaluate and revise curriculum aligned to the Arizona College and Career Ready Standards ("Standards") that contributes to increased student growth in Math and Reading both School-wide and for the lowest performing students (bottom 25%) . Kin dah Lichi'i Olta' failed to demonstrate or evidence ongoing evaluation and revision of the implemented curriculum and analysis of data.

26. Kin Dah Lichi'i Olta' failed to demonstrate its implementation of a comprehensive assessment system for Math and Reading based on clearly defined performance measures aligned with the curriculum and instructional methodology that includes data analysis and instructional decisions based on results collected from multiple assessments that contributes to increased student growth in Math and Reading both School-wide and for the lowest performing students (bottom 25%). Kin Dah Lichi'i Olta' failed to demonstrate its analysis of data or evidence of instructional planning or realignment of instruction based on analysis of data.

27. Kin Dah Lichi'i Olta' failed to demonstrate the implementation of a professional development plan that included follow-up and monitoring strategies supported by analysis of data and specific to professional development topics that contribute to increased student growth in Math and Reading. Kin dah Lichi'i Olta' failed to demonstrate or evidence follow-up to professional development, including classroom observations for monitoring of instructional practices related to professional development topics.

2. STUDENT ACHIEVEMENT (PROFICIENCY)

28. Kin Dah Lichi'i Olta' failed to demonstrate its implementation of a sustained improvement plan that includes evidence that the School is increasing its proficiency rates on the state assessment in Math and Reading overall and by subgroups[6] to be on par with corresponding statewide average proficiency rates.

29. Kin Dah Lichi'i Olta' failed to demonstrate its implementation of a system supported by analysis of student data to evaluate and revise curriculum aligned to the Standards that contributes to increased student proficiency on the state assessment in Math and Reading or to increased student proficiency to expected performance levels on the state assessment in Math and Reading for subgroups. Kin dah Lichi'i Olta' failed to provide evidence of ongoing evaluation and revision of the implemented curriculum and analysis of data.

30. Kin Dah Lichi'i Olta' failed to demonstrate its implementation of a comprehensive assessment system for Math and Reading based on clearly defined performance measures aligned with the curriculum and instructional methodology that includes data analysis and instructional decisions based on results collected from multiple assessments that contributes to increased student proficiency in Math and Reading or to increased student proficiency to expected performance levels in Math and Reading for subgroups. Kin dah Lichi'i Olta' failed to demonstrate its analysis of data or evidence of instructional planning or realignment of instruction based on analysis of data.

31. Kin Dah Lichi'i Olta' failed to demonstrate its implementation of a professional development plan that included follow-up and monitoring strategies supported by analysis of data and specific to professional development topics that contributes to increased student

[6] "Subgroups" are English Language Learner students ("ELL"), Free and Reduced Lunch eligible students ("FRL"), and students with disabilities as compared to similar schools.

proficiency in Math and Reading or to increased student proficiency to expected performance levels in Math and Reading for subgroups. Kin dah Lichi'i Olta' failed to demonstrate or evidence follow-up to professional development including classroom observations for monitoring of instructional practices related to professional development topics.

32. Kin Dah Lichi'i Olta''s DSP failed to demonstrate sufficient progress toward the Board's academic performance expectations.

III. ORDER

YOU ARE HEREBY NOTIFIED that, based on the foregoing, and pursuant to A.R.S. §§ 15-241(U) and 15-183(I)(3), this Notice of Intent to Revoke Charter and Notice of Hearing serves as Kin Dah Lichi'i Olta' and the School's official written notice of the Board's intent to revoke the charter of Kin Dah Lichi'i Olta' to operate the School.

YOU ARE FURTHER NOTIFIED that the Office of Administrative Hearings, on behalf of the Board, will conduct a hearing to determine whether the allegations in the Notice are true and to determine whether grounds exist to revoke the charter of Kin Dah Lichi'i Olta'. The hearing will be conducted, under the authority of, and in accordance with, A.R.S. §§ 15-241(U), 15-183(I)(3), 15-183(Q), and Title 41, Chapter 6, Article 10. After the hearing is concluded, the Administrative Law Judge shall submit a written decision to the Board for review pursuant to A.R.S. § 41-1092.08. The Board shall then decide whether to accept, reject or modify the decision and will issue a final administrative decision accordingly.

YOU ARE FURTHER NOTIFIED that appearance in an administrative proceeding is considered the practice of law, which under most circumstances may only be undertaken by an active member of the Arizona State Bar. Ariz. R. S. Ct. 31(a)(2)(A)(3) and (b). Under Ariz. R. S. Ct. 31(d)(11):

> Unless otherwise specifically provided for in [Ariz. R. S. Ct. 31], in proceedings before the Office of Administrative Hearings, a legal entity may be represented by a full-time officer, partner, member or manager of a limited liability company, or employee, provided that: the legal entity has specifically authorized such person to represent it in the particular matter; such representation is not the person's primary duty to the legal entity, but secondary or incidental to other duties relating to the management or operation of the legal entity; and the person is not receiving separate or additional compensation (other than reimbursement for costs) for such representation.

IT IS FURTHER ORDERED that as part of the hearing process, pursuant to A.R.S. § 41-1092.06, you have the right to request an informal settlement conference. If you request an informal settlement conference, the Board must hold the conference within fifteen (15) days after receiving the request. This request must be in writing and must be filed no later than twenty (20) calendar days before the hearing. The request for an informal settlement conference shall be in writing and mailed to:

The Arizona State Board for Charter Schools
Executive Director DeAnna Rowe
P.O. Box 18328
Phoenix, Arizona 85009

IT IS FURTHER ORDERED that within forty-eight (48) hours of receipt of this Notice of Intent to Revoke Charter and Notice of Hearing, Kin Dah Lichi'i Olta' shall notify, in writing, all staff and all parents or guardians of students enrolled in the School that a Notice of Intent to Revoke Charter and Notice of Hearing has been received, the School location at which a copy of the Notice may, upon request, be inspected, and the date, time, and location of the hearing set in this matter.

IT IS FURTHER ORDERED that within twenty (20) days of receipt of this Notice, Kin Dah Lichi'i Olta' shall provide to the Board copies of all correspondence and communications used to comply with the preceding provision of this Order above.

IT IS FURTHER ORDERED that within twenty (20) days of receipt of this Notice, Kin Dah Lichi'i Olta' shall provide the Board with the names and mailing addresses of parents or guardians of all students enrolled at the School.

YOU ARE ADVISED that the original of all correspondence and pleadings to be filed in this matter should be directed to the Office of Administrative Hearings, 1400 W. Washington, Suite 101, Phoenix, AZ 85007, with copies to the Board and to the Assistant Attorney General at the address listed below.

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Office of Administrative Hearings, 1400 W. Washington, Suite 101, Phoenix, AZ 85007, (602) 542-9826. Requests should be made as early as possible to allow time to arrange the accommodation.

DATED this 27 day of December, 2013.

Deborah Rowe for

Jake Logan
President
Arizona State Board for Charter Schools
P.O. Box 18328
Phoenix, Arizona 85009

ORIGINAL filed this
27 day of December, 2013 with:

Office of Administrative Hearings
1400 West Washington Street
Phoenix, Arizona 85007

COPIES of the foregoing Notice sent via certified mail, return receipt requested, this
27 day of December, 2013 to:

Kin Dah Lichi'i Olta'
Attention Charter Representative: Ronald Arias
PO Box 800
Ganado, AZ 86505
Email: rarias@kdlo.net

Kin Dah Lichi'i Olta'
Attention Charter Representative: Linda Youvella
PO Box 800
Ganado, AZ 86505
Email: layne414@yahoo.com

COPIES of the foregoing Notice sent via regular mail this 27 day of December, 2013 to:

Kim S. Anderson
Assistant Attorney General
Civil Division/Education and Health Section
1275 West Washington
Phoenix, AZ 85007
Email: kim.anderson@azag.gov

By DR
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