
AGENDA ITEM: Surrender Agreement – Pathways KM Charter Schools, Inc.

Issue

Pathways KM Charter Schools, Inc. (“Charter Operator”) has submitted a Voluntary Surrender and Charter Termination Agreement (“Surrender Agreement”).

Background

Pathways KM Charter Schools, Inc. operates Bella Vista Academy serving grades 6 through 8. On September 11, 2019, the Charter Operator notified the Board of its intent to close the school because of low enrollment. According to the Charter Operator, the school did not provide instruction to students during fiscal year 2020. For fiscal year 2019, the Charter Operator reported an average daily membership of 2.0.

For fiscal year 2020, the Charter Operator submitted an estimated count to the Arizona Department of Education (“Department”). The Charter Operator received state equalization assistance and Classroom Site Funds to which the Charter Operator was not entitled since the Charter Operator did not provide instruction to any students in fiscal year 2020. On September 23, 2019, the Department notified the Board that the Charter Operator had repaid the full amount.

On October 10, 2019, the Board became the custodian of Bella Vista Academy’s student records, as well as the student records of Rimrock Public High School and Pathways Preparatory Academy, which are two schools previously operated by Pathways KM Charter Schools, Inc.

A copy of the proposed terms of the Surrender Agreement is included in Appendix A.

Appendix A

VOLUNTARY SURRENDER AND CHARTER TERMINATION AGREEMENT

This Voluntary Surrender and Charter Termination Agreement (“Agreement”) is made by and between Pathways KM Charter Schools, Inc. (“Charter Operator”), a nonprofit corporation organized under the laws of the state of Arizona, and the Arizona State Board for Charter Schools (“Board”), collectively referred to herein as the “Parties”.

RECITALS

1. The Charter Operator operates Bella Vista Academy (“the School”), a charter school established pursuant to A.R.S. § 15-181 *et seq.* In prior years, the Charter Operator also operated Rimrock Public High School, which closed effective May 21, 2015, and Pathways Preparatory Academy, which closed effective June 14, 2006.
2. The School operates pursuant to a renewal charter contract (“Charter”) executed on May 21, 2014 between the Charter Operator and the Board.
3. Donald Brown is the Charter Representative and person authorized to execute documents on behalf of the Charter Operator.
4. On September 11, 2019, the Charter Operator notified the Board of its intent to close the School because of low enrollment and to surrender its Charter. According to the Charter Operator, the School did not provide instruction to students during the 2019-2020 school year.
5. For the 2019-2020 school year, the Charter Operator submitted an estimated count for the School to the Arizona Department of Education (“Department”). The Charter Operator received a total of \$33,951.28 of state equalization assistance and Classroom Site Funds to which the Charter Operator was not entitled since the Charter Operator did not provide instruction to any students in the 2019-2020 school year.

6. On September 23, 2019, the Department notified the Board that the Charter Operator had repaid the \$33,951.28.

AGREEMENT

The Parties agree as follows:

1. The Charter Operator voluntarily tenders and surrenders the Charter to its sponsor, the Board, with the intent to voluntarily terminate its Charter effective 11:59 p.m. on September 23, 2019 for the purpose of further performance.

2. The Board accepts the surrender of the Charter for the operation of the School.

3. The Charter between the Charter Operator and the Board for the operation of the School is terminated effective 11:59 p.m. on September 23, 2019 for the purpose of further performance.

4. This Agreement is not binding on the Parties until both the Board and the Charter Operator's governing board accept it by the number of votes necessary to pass a measure at a public meeting. This Agreement is effective as of 11:59 p.m. on September 23, 2019 upon its approval and execution by the authorized representatives of the Charter Operator and the Board.

5. If the Board rejects this Agreement or any part of it, then this Agreement is null and void, and not binding on the Charter Operator or the Board.

6. The Board and the Charter Operator agree that the Board shall become the custodian of the School's student records, Rimrock Public High School's student records, and Pathways Preparatory Academy's student records. No later than October 11, 2019, the Charter Operator shall deliver to the Board the student records organized alphabetically in lidded banker boxes with an inventory list of students' names and grade levels and to the extent possible maintained in accordance with the Student Records Retention Schedule provided by the Arizona State Library,

Archives and Public Records division of the Arizona Secretary of State's Office.

7. The Charter Operator shall submit any outstanding grant reports and shall refund any outstanding grant monies or allocation of education funds in the amount determined by the Department in the manner directed by the Department.

8. The Charter Operator authorizes the Department to update the School's student level data in the AzEDS system for the purposes of facilitating student enrollment upon closure of the School.

9. Nothing in this Agreement is intended to prevent the Charter Operator from exercising its rights under statutes or regulations to contest amounts determined by the Department to be owed by the Charter Operator.

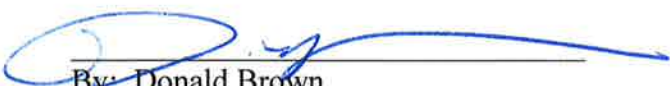
10. The Charter Operator understands that it has the legal right to consult with an attorney prior to entering into this Agreement.

11. The Parties shall be responsible for their own attorneys' fees and costs in this matter.

ARIZONA STATE BOARD FOR CHARTER SCHOOLS

By: Kathy Senseman
President, Arizona State Board for Charter Schools
Date: _____

PATHWAYS KM CHARTER SCHOOLS, INC.



By: Donald Brown
Charter Representative, Pathways KM Charter Schools, Inc.
Date: 10/10/2019

COPY emailed this
_____ day of _____, 2019 to:

Donald Brown
Pathways KM Charter Schools, Inc.
dbrown@bvprep.com

By _____