

**READING SCHOOL DISTRICT  
BOARD OF SCHOOL DIRECTORS**

**In Re: Charter Revocation Request  
for the I-LEAD Charter School**

**ADJUDICATION**

Pursuant to the Charter School Law, 24 P.S. § 17-1701-A *et seq.*, and the Local Agency Law, 2 Pa. C.S. §§ 551-555, the Reading School District Board of School Directors adopts these findings of fact and conclusions of law with regard to the charter revocation request involving the I-LEAD Charter School.

**I. FINDINGS OF FACT**<sup>1</sup>

**A. Background Information**

1. The Reading School District (“School District”) is a school district of the third class comprised of the City of Reading, Berks County, Pennsylvania, with its principal administrative offices located at 800 Washington Street, Reading, PA 19601.
2. The I-LEAD Charter School (“Charter School”) is a charter school with its principal place of business located at 401 Penn Street, Reading, PA 19061. (SD-1, 2, 3; J-16)<sup>2</sup>.
3. On October 27, 2010, the School District’s Board of School Directors (“School Board”) granted the Charter School a three (3) year charter commencing July 1, 2011 and ending June 30, 2014. (J-7; N.T. at 107).
4. On October 30, 2013, the School Board voted to renew the Charter School’s charter for another five (5) year term beginning July 1, 2014 and ending June 30, 2019. (J-8; N.T. at 119).
5. On September 21, 2015, the Charter School submitted to the School Board a document entitled, “Request for an Amendment to its Charter” (“Amendment Request”). (J-1; N.T. at 99).
6. On September 23, 2015, the School Board adopted Resolution 7.10 seeking to revoke the charter of Charter School. (J-4).

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<sup>1</sup> The School Board approved a separate adjudication regarding the request by I-LEAD Charter School to amend its charter. Some findings of facts, footnotes and legal conclusions contained herein may be identical to those found in its earlier adjudication. To make it easier to read this adjudication, the School Board includes those identical provisions in lieu of incorporating them by reference.

<sup>2</sup> The exhibits admitted into evidence at the public hearing sessions are referenced as follows: Joint Exhibits as J-\_\_\_, Hearing Officer Exhibits as HO-\_\_\_, School District Exhibits as SD-\_\_\_, and Charter School Exhibits as CS-\_\_\_. The Notes of Testimony from the public hearing sessions are as referred as “N.T.” with reference to the corresponding page number being cited as N.T. at \_\_\_.

7. The School Board's Resolution 7.10 delineated the reasons in support of the revocation of Charter School's charter, as follows:

1. Failure to meet the requirements for student performance set forth in 22 PA Code Ch. 5 (relating to curriculum) or subsequent regulations promulgated to replace 22 PA Code Ch. 5, or failure to meet any performance standards set forth in the written charter.

A. During the 2011-12, 2012-13 and 2013-14 school years, despite the fact that I-LEAD enrolled students who did not meet the enrollment criteria set forth in the revised application (i.e. students who were 17 years or older and who were dropouts), the percentage of I-LEAD's students scoring advanced or proficient in Reading and Math on the PSSA or Keystone Exams, as applicable, has been significantly lower than State targets; in the lowest performance category on the School Performance Profile ("SPP"); and significantly lower than the proficiency scores of students attending Reading Senior High School ("RSHS"). The academic proficiency of I-LEAD's students has not consistently or substantially improved over the course of those three years for which the State has reported data for I-LEAD.

B. I-LEAD did not make Adequate Yearly Progress during the 2011-12 school year.

C. For the 2012-13 school year, I-LEAD's SPP score was a 35.1 out of app. 100, and its federal designation was "Priority." In comparison, the SPP score for RSHS was 54.5 out of 100 and RSHS had no federal designation.

D. For the 2013-14 school year, I-LEAD's SPP score was a 33.5 out of app. 100, and its federal designation was "Priority." In comparison, the SPP score for RSHS was 60.2 out of 100 and RSHS had no federal designation. Upon information and belief, I-LEAD has the lowest SPP score of any high school in Berks County and has one of the lowest SPP scores of any public school in the Commonwealth of Pennsylvania.

E. I-LEAD's cohort graduation rate for the 2012-13 school year was 18.33% in comparison to RSHS's cohort graduation rate of 61.09%.

F. I-LEAD's cohort graduation rate for the 2013-14 school year was 27.10% in comparison to RSHS's cohort graduation rate of 66.64%.

G. I-LEAD is also failing to progress towards meeting the academic and non-academic performance goals and standards set forth in its written charter, specifically those having to do with academic

performance, attendance and graduation, which are represented on pages 4-9 of the revised application.

2. Violations of provisions of the Charter School Law and/or any provisions of law which the charter school has not been exempted, including federal laws and regulations governing children with disabilities.

A. I-LEAD failed to meet the 100% highly qualified teacher (“HQT”) requirement of the No Child Left Behind Act. In 2012-13 school year, 42.1% of I-LEAD’s classes were not taught by HQTs. In the 2013-14 school year, 22.47% of I-LEAD’s classes were not taught by HQTs.

B. I-LEAD failed to ensure that its operations are independent from that of its management company and/or vendor, I-LEAD, Inc. The two entities have common board members and/or administrators in violation of the Charter School Law and/or the Public Official and Employee Ethics Act, and do not have a written contract that delineates each entity’s responsibilities to the other, or payment terms even though money has been exchanging hands between the two entities.

C. In violation of the Public Official and Employee Ethics Act, Statements of Financial Interest filed by I-LEAD board members do not disclose their relationships and/or income received from I-LEAD, Inc. In addition, public employees, as that term is defined by the Ethics Act, of I-LEAD did not provide Statements of Financial Interest.

D. I-LEAD has violated the Charter School Law, the Sunshine Act and its own Bylaws in that decisions relegated to the Board of Trustees are being made by others outside the public realm, including decisions about budgeting, contracts and leases, expenditures and employment of professional and nonprofessional employees.

3. Failure to meet generally accepted standards of fiscal management or audit requirements.

A. I-LEAD failed to complete timely audits for the years ending June 30, 2013 and June 30, 2014, as the audits were not completed until June 5, 2014 and March 5, 2015, respectively.

(J-4 at 3-5).

8. On September 29, 2015, the School District sent to the Charter School a copy of School Board’s Resolution 7.10 via certified mail. (J-4 at 1, 4).

9. On December 16, 2015, the School Board passed a resolution appointing Jeffrey D. Litts as Hearing Officer with respect to the proceedings regarding the proposed amendment and revocation of the charter for the Charter School. (HO-3; N.T. at 6).
10. The School District and the Charter School attorneys agreed to bifurcate the charter amendment and charter revocation issues within a single public hearing in which all evidence and testimony regarding both matters would be presented. (N.T. at 9-11).
11. On January 9, 2016, the School District published in a newspaper of general circulation an announcement stating the dates, times and location for public hearing sessions regarding the proposed amendment and revocation of the charter for the Charter School. (HO-1; N.T. at 4).
12. Consistent with the aforementioned public hearing notice, public hearing sessions were held at the School District's administrative offices on the following dates: January 21, 22, 2016<sup>3</sup> and February 2, 5, 8 and 9, 2016. (N.T. at 1-1165).
13. The following exhibits were admitted into evidence during the public hearing sessions: HO-1 through 5; J-1 through 30 and 32-34; SD-1 through 10; and CS-1 through 4, 7-10, 13-19, 25-26 and 28-35. (N.T. at 1154-1160).
14. On February 11, 2016, the School District published in a newspaper of general circulation an announcement explaining the manner in which the public may submit comments to the hearing officer until March 14, 2016 regarding the proposed revocation of the Charter School's charter. (HO-5).
15. The Hearing Officer received nine hundred and eighty-seven (987) letters, emails or other written communications in support of the Charter School by the March 14, 2016 submission deadline. (HO-6). A CD-ROM of these letters, petitions and other communications were provided to the parties' attorneys and the School Board, and entered into evidence by the Hearing Officer. (*Id.*)
16. The School Board had an opportunity to review all of the aforementioned exhibits entered into evidence, copies of the public hearing session transcripts, copies of the public comments, as well as the proposed findings of fact and conclusions of law submitted by the parties' attorneys and the Hearing Officer before its May 25, 2016 public meeting.
17. On May 18, 2016, the School Board granted in part, and denied in part, the Charter School's request to amend its charter.
18. The School Board adopted the Hearing Officer's proposed findings of fact and conclusions of law regarding the proposed charter revocation without any changes at May 25, 2016 public meeting.

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<sup>3</sup> The hearing session scheduled for January 26, 2016 was cancelled subject to the mutual agreement of counsel for the School District and Charter School. (N.T. at 423-424).

19. The School Board has directed the Hearing Officer to provide the parties' attorneys with a signed copy of this adjudication which was approved on May 25, 2016.

### **B. The Charter School Application and Charter**

20. I-LEAD, Inc., a non-profit entity, submitted a charter school application to the School District during the 2009-2010 school year, and this initial application was denied. (N.T. at 82, 85-87, 166).

21. At the time the initial application was filed, I-LEAD, Inc., had been operating a leadership training program for older learners and high-school dropouts in Reading, Pennsylvania, for several years. (J-5, Revised Application at 45; N.T. at 82-83).

22. On June 4, 2010, I-LEAD, Inc. filed a Revised Application with the School District, for a charter school to be called, "Reading Leadership Institute Charter School." (J-5; N.T. at 86, 89-92).<sup>4</sup>

23. The Revised Application identified that the proposed charter school aimed "to recruit only students age 17 and older who have dropped from the District's rolls and no longer attended school. The Founding Coalition recognizes that these students may have dropped from the District's rolls as early as the 9<sup>th</sup> and 10<sup>th</sup> grades." (J-5, Cover letter; J-5, Revised Application at 1, 46, 59; N.T. at 116-117, 166-167).

24. The Revised Application projected that the Charter School would enroll 175 students in its first school year, and 350 students in each school year thereafter. (J-5, Revised Application at 45).

25. The Revised Application identified the Charter School's measurable goals and objectives for student learning relative to the Pennsylvania System of School Assessment ("PSSA") and school attendance as follows:

#### Academic Goal #1

RLICS learners will develop competency in the content areas of literacy and mathematics.

#### *Objectives and Performance Indicators:*

- By the end of the school's fifth year of operation, 75% of exiting 12<sup>th</sup> grade learners will score as Proficient or Advanced on representative, internally administered sections of the reading comprehension and writing

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<sup>4</sup> The proposed name of the charter school listed in the Revised Application was the "Reading Leadership Institute Charter School" or "RLICS," (J-5, Revised Application at 5); however, the final name of charter school which was approved was the I-LEAD Charter School. (J-7; N.T. at 97-98, 174). For purposes of this adjudication, the Revised Application's use of the original proposed name was not changed. Thus, the use of terms "Reading Leadership Institute Charter School" and "RLICS" would be the same as referring to the Charter School. (N.T. at 174, 218).

components of the PSSA or will have increased their literacy skills by at least four functioning levels as measured by the Test of Adult Basic Education (TABE).

- By the end of the school's fifth year of operation, 75% of exiting 12<sup>th</sup> grade learners will score as Proficient or Advanced on representative, internally administered sections of the mathematical reasoning and computation components of the PSSA or will have increased their mathematics skills by at least four functioning levels as measured by the TABE.

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Academic Goal #2

RLICS learners will develop competency in the content areas of science, technology, and social studies.

*Objectives and Performance Indicators:*

- By the end of the school's fifth year of operation, 75% of exiting 12<sup>th</sup> grade learners will score as Proficient or Advanced on the science and social studies components of the PSSA.

\* \* \*

Non-Academic Goal #1

RLICS learners will attend regularly and punctually all classroom and experiential learning activities.

*Objectives and Performance Indicators:*

- The average daily attendance rate will be at least 85% in the first year of the school's operation, will improve to 90% by the third year, and to 95% by the fifth year, according to daily records . . . .

\* \* \*

Baseline: The graduation rate for Reading Senior High School was 65% in 2007-2008. Although the founders were unable to uncover daily attendance and tardiness data for the school, research has consistently linked low graduation rates to low levels of school attendance and punctuality.

(J-5, Revised Application at 4-5, 8; N.T. at 97, 99).

26. The Revised Application further stressed with regards to school attendance: “School attendance is mandatory and an exceptionally high rate of attendance is one of the targeted performance goals of the school. High levels of school attendance are not only important in meeting targets, but they are vital to the achievement of the school’s mission and vision.” (J-5 at 68).
27. The Revised Application observed “because not all learners will start their academic work at the same point of progress,” the Charter School would develop “intermediate academic goals benchmarking progress toward completion/graduation.” (J-5, Revised Application at 4).
28. However, the Revised Application made clear that the Charter School established its academic goals to be “meaningful performance indicators,” which its graduating students “*will meet...regardless of where they start at the time of their enrollment* in RLICS.” (*Id.*; see also, CS-7 at 6) (emphasis added).
29. In establishing the Charter School’s academic goals, the Revised Application specifically observed the potential challenges facing the student population targeted by the Charter School in taking the PSSA based upon the School District’s own published 2007-2008 PSSA scores, which indicated the percentage of students achieving either Advanced and Proficient scores in 11<sup>th</sup> grade Mathematics, Reading and Science were 21%, 33%, and 11%, respectively. (J-5, Revised Application at 5-6).
30. The Revised Application stated that I-LEAD, Inc. “will allow the [charter] school to use its Penn Street space rent-free until a permanent site is found.” (J-5, Revised Application at 57, Appendix 10). The Revised Application also stated that a property at 600 Spring Street, Reading, Pennsylvania was targeted for a permanent school site. (*Id.*; N.T. at 143-145).
31. The Revised Application stated the Charter School’s “proposed faculty of learning facilitators has not yet been identified,” (J-1, Revised Application at 65), and did not otherwise specific the academic degrees or credentials that teachers would need to possess in order to be hired by the Charter School. (*Id.*)
32. The Revised Application indicated that the Board of Directors of I-LEAD, Inc. would serve as the Board of Trustees of the Charter School (“Charter Board”). (J-5, Revised Application at 52; N.T. at 136-137).
33. On October 27, 2010, the School Board adopted Resolution GEN-55, which approved the Revised Application for an initial Charter term of three years. (J-6 at 2). Resolution GEN-55 stated, in pertinent part, that the Charter School “will comply with all requirements of the Charter School Law,” and its “student body will reflect Grades 9-12.” (*Id.*; N.T. at 94).
34. After the adoption of Resolution GEN-55, the then-School Board President and Charter School Board of Trustees (“Charter Board”) Chairperson executed a document entitled “Charter Agreement.” (J-7; N.T. at 107, 174-175). The Charter Agreement reflected a change in name for the Charter School, which is referenced as “I-LEAD Charter School.” (J-7). The Charter Agreement also contained different language from Resolution GEN-55 in describing the

proposed student population: “The Charter School will provide education for grades 9 through 12 ***but will give preference in enrollment to Drop Out students consistent with its application.***” (*Id.*, ¶ 10; N.T. at 177) (emphasis added).

35. With regards to the School Board’s reasoning for approving a charter containing a provision that the Charter School would educate students from grades 9 through 12, Karen McCree, a former member of the School Board from 1999 until January 2014, testified to her own concern that students were dropping out of school earlier than 11<sup>th</sup> grade, and she felt that the Charter School “needed to look at the kids who were actually dropping out at the 9<sup>th</sup> grade.” (N.T. at 395, 405).

36. According to Ms. McCree, her understanding of the language that was added to the charter documents in Resolution GEN-55 about allowing students in grades 9-12 was as follows: “That the Charter School will be providing education for kids in Grades 9 through 12 given that any student coming from the Reading School District would have credits that would only be a kid who would be in the 9<sup>th</sup> grade or the 10<sup>th</sup> grade and would have been considered a dropout or otherwise from the Reading School District, and that was the provision that is stated as allowed.” (N.T. at 407-408).

37. David Castro, former Chairman of the Charter Board, testified that the School Board’s inclusion of 9<sup>th</sup> and 10<sup>th</sup> grades within the Charter School’s grade offerings was a “significant modification” to the plan set forth in the Revised Application. (N.T. at 95-97). His opinion as to the overall impact of this change is not shared by the School Board and substantially undermined by several points:

a. He conceded that the applicant group “did not have a complete plan for... [the] eventuality” of enrolling students who were 17 years of age or older that might have dropped out of school as early as the 9<sup>th</sup> or 10<sup>th</sup> grades “but we were willing to acknowledge that it was something that we needed to think about.” (N.T. at 167-169).

b. He acknowledged that the applicant group did not withdraw the Revised Application or decline to sign the Charter presented by the School District, in the face of the School Board’s request to educate 9<sup>th</sup> and 10<sup>th</sup> graders. (N.T. at 107, 172).

c. Mr. Castro testified that the Charter School “went to extraordinary lengths” to recruit students who previously dropped out of school during its first two years of operation. (N.T. at 112-113). Thus, the Charter School was able to specifically target the very students identified in the Revised Application that it sought to serve, and even with the addition of the other grade levels Mr. Castro still considered all students who did enroll at the Charter School during that period as being “at risk” students. (N.T. at 116).

d. A former Charter School administrator, Dr. Tamara Smith, who served as both Acting Principal and Chief Academic Officer (“CAO”) during her tenure,

testified that enrolling the maximum number of students possible was the Charter School's "highest priority" during her tenure, and the Charter School did not restrict student admissions or place any enrollment limit upon a particular group of students. (N.T. at 630-631, 639-643).

e. The Charter School operated under the grade level conditions specified in the existing charter for more than *four* school years before the filing date of its charter amendment request to change its academic goals.

38. The Charter School's fifth year of operations is the 2015-2016 school year, which is the current school year. (N.T. at 98).

**C. Student Information for the Charter School and School District's RSHS**

39. The Charter School exceeded its projected student enrollment each school year as otherwise contemplated in the Revised Application. (N.T. at 180).

40. The Charter School's student enrollment figures were as follows:

a. **2011-2012 school year:** The initial enrollment was 205 students but increased to 400 students by the end this school year, (CS-3 at 5; CS-4 at 3);

b. **2012-2013 school year:** Approximately 330 students started the school year and that number ultimately grew to 400 students by the end this year, (J-12, CS-3 at 3, 5, 23);

c. **2013-2014 school year:** Approximately 425 students were enrolled in this school year, (J-15; CS-7 at 30);

d. **2014-2015 school year:** Approximately 520 students were enrolled during both this school year, (N.T. at 286-287, 376, 802-803); and

e. **2015-2016 school year:** Approximately 520 students were enrolled during both the this school year as well. (*Id.*)

41. The overwhelming majority of the Charter School's student body is from the School District. According to the Charter School, as of February 5, 2016, 500 of the 509 students enrolled at the Charter School are from the School District. (N.T. 801-803).

42. After carefully considering the testimony of Mr. Castro, Dr. Bohan, Mr. Turman and Dr. Smith from the hearing, the School Board finds that student populations enrolled at the Charter School and the School District's Reading Senior High School ("RSHS") are substantially similar in many respects. While some differences in their respective school populations can inevitably be found, the common characteristics between these two student groups considerably outweigh them. Specifically, based upon the testimony, the School Board finds: (i) virtually all of these students reside within the City of Reading; (ii) almost all of these students are classified as minorities and economically disadvantaged for purposes of state and federal education laws; (iii)

the percentage of special education students in both schools is almost identical; (iv) their school populations have a considerable number of students who are not at grade level academically; and (v) both schools have a significant number of students who can be classified as “at-risk” for a variety of reasons, including pregnancy, homelessness, mental health issues, court placements and other challenges. (N.T. at 106, 113 196-203, 257, 286-289, 308-310, 462-463, 465-467, 472-477, 483-484, 573-574, 594-595, 597, 639-642, 673).

43. According to the SPP profiles for the 2014-2015 school year, the student demographics of the Charter School and RSHS are similar to one another in several group classifications:

|                | <b>Economically Disadvantaged</b> | <b>Minority (non-Caucasian)</b> | <b>English Language Learners</b> | <b>Gifted</b> | <b>Special Education</b> |
|----------------|-----------------------------------|---------------------------------|----------------------------------|---------------|--------------------------|
| Charter School | 99.61%                            | 98.06%                          | 26.16%                           | 0.58%         | 21.9%                    |
| RSHS           | 100%                              | 93.1%                           | 16.36%                           | 5.95%         | 21.58%                   |

(J-19 at 1; J-20 at 1).

**D. Charter School Academic Performance Information**

*i. Annual Yearly Progress (“AYP”) and PSSA*

44. For the 2011-2012 school year, the Pennsylvania Department of Education (“PDE”) reported that the Charter School achieved the following scores on the 11<sup>th</sup> grade PSSA in Mathematics, Reading and Science:

|             | <b>Below Basic</b> | <b>Basic</b> | <b>Proficient</b> | <b>Advanced</b> |
|-------------|--------------------|--------------|-------------------|-----------------|
| Mathematics | 84%                | 9%           | 7%                | 0%              |
| Reading     | 57%                | 20%          | 17%               | 5%              |
| Science     | 58%                | 37%          | 4%                | 0%              |

(J-9 at 4-6).

45. As a result of these 2011-2012 PSSA scores, the Charter School was placed on “Warning” status. (J-9 at 7).

*ii. Keystone Exams*

46. The Keystone Exams are end of course assessments, which PDE currently administers for three subjects: Algebra I, Literature and Biology. (N.T. at 434-435). A student must take the applicable Keystone Exam at the end of the course that triggers the exam, which is designated by the school. (N.T. at 435).

47. All high school students have to make at least one attempt at each Keystone Exam by the end of their 11<sup>th</sup> grade year. (N.T. 436-437). If a student takes a Keystone Exam prior to their 11<sup>th</sup> grade year, the student’s score is “banked” and attributed to whatever school the student is enrolled in during the student’s 11<sup>th</sup> grade year, regardless of the school that the student was enrolled in when the student took the Keystone Exam. (N.T. at 440-441).

48. For the 2012-2013 school year, PDE reported that the Charter School achieved the following scores on the 11<sup>th</sup> grade Keystone Exams in Mathematics, Reading and Science:

|             | Below Basic | Basic | Proficient | Advanced |
|-------------|-------------|-------|------------|----------|
| Mathematics | 52%         | 40%   | 8%         | 0%       |
| Reading     | 36%         | 41%   | 23%        | 0%       |
| Science     | 75%         | 20%   | 5%         | 0%       |

(J-13 at 6-8).

49. For the 2013-2014 school year, PDE reported that the Charter School achieved the following scores on the 11<sup>th</sup> grade Keystone Exams in Mathematics, Reading and Science:

|             | Below Basic | Basic | Proficient | Advanced |
|-------------|-------------|-------|------------|----------|
| Mathematics | 44%         | 48%   | 8%         | 0%       |
| Reading     | 30%         | 50%   | 18%        | 2%       |
| Science     | 78%         | 14%   | 8%         | 0%       |

(J-16 at 6-8).

50. For the 2014-2015 school year, PDE reported that the Charter School achieved the following scores on the 11<sup>th</sup> grade Keystone Exams in Mathematics, Reading and Science: 18.92% Proficient or Advanced in Mathematics; 32.79% Proficient or Advanced in ELA/Literature; and 10.45% Proficient or Advanced in Science/Biology. (J-19 at 1).

51. As early as its 2012-2013 Annual Report, the Charter School identified that one of its challenges was “increasing performance of standardized test measures,” and its stated solution to address it was to “continue to enroll 11<sup>th</sup> grade learners in Test Prep class.” (CS-3 at 12).

**iii. PVAAS average growth index**

52. Average Growth Index (“AGI”) is a component of the Pennsylvania Value Added Assessment System (“PVAAS”), and it determines whether cohorts of students meet the Pennsylvania growth standard. A score of “0.0” equals the Pennsylvania growth standard; if a school has 0.0 growth, the cohort of students within the school have made one year’s worth of growth. (J-21; N.T. at 363, 370). The farther the AGI is below 0.0, the more evidence there is that students did not meet Pennsylvania academic growth standards. (J-18).

53. For the 2013-2014 and 2014-2015 school years, the Charter School’s PVAAS AGI data indicated that its students were not showing academic growth in Algebra I, Literature or Biology:

| School Year | Algebra I | Biology | Literature |
|-------------|-----------|---------|------------|
| 2013-2014   | -7.02     | -4.39   | -2.00      |
| 2014-2015   | -4.95     | -6.84   | -1.48      |

(J-18; J-21).

54. The Charter School’s PVAAS AGI data for Algebra I and Biology for the 2013-2014 and 2014-2015 school years signified “significant evidence that the school did not meet the standard for Pennsylvania growth.” (J-18; J-21, N.T. at 372, 520).

55. The Charter School’s PVAAS AGI data for Literature for the 2013-2014 and 2014-2015 school years signified “moderate evidence that the school did not meet the standard for Pennsylvania growth.” (J-18; J-21, N.T. at 373, 521).

**iv. School Performance Profiles (“SPP”)**

56. Beginning with the 2012-2013 school year, the PDE introduced a new building-level metric to measure academic achievement called School Performance Profiles (“SPP”), which was approved by the U.S. Department of Education and replaced AYP. (N.T. at 437; see also, *Imani Education Circle Charter School v. School District of Philadelphia*, Docket No. CAB 2014-08 (2016) at 33-34 (explanation of the SPP system)).

57. The SPP uses multiple academic measures for which schools receive points based on student performance, student growth, historically underperforming student movement, graduation and attendance, among other things. (N.T. 437-438). PDE publishes information on its website explaining the components of the building level score and how that score is calculated. (J-11; SD-10; N.T. at 438-439, 531-532).

58. All schools receive a SPP Score, which ranges from a low of 0 to a high score of 100+. PDE would like to see schools score within the category of 70 or higher. (N.T. at 503).

59. The SPP profiles for all Title I schools with a high percentage of low-income students also contain a Federal designation of “Priority”, “Focus”, “No Designation” or “Reward.” (N.T. 438).<sup>5</sup> A “Priority” designation means a school is in the lowest 5% of all Title I schools in Pennsylvania based upon Algebra I and Literature Keystone Exam scores. (J-12 at 2; N.T. 504). A “Reward” designation means a school is in the highest 5% of all Title I schools in the Pennsylvania in terms of progress each year on Algebra I and Literature Keystone Exam scores. (J-20 at 2; SD-7; N.T. at 517, 532).

60. The Charter School received a “Priority” designation for the 2012-2013 and 2013-2014 school years as one of the lowest ranked Title I schools. (J-12 at 2; J-15 at 2).

61. The School District’s RSHS received “No Designation” for the 2012-2013 school year and a “Reward/High Progress” designation for the 2013-2014 school years as one of highest ranked Title I schools. (J-14 at 2; J-17 at 2; SD-7).

62. For the 2012-2013 school year, the Charter School had a SPP score of 35.1, (J-12 at 2), and the School District’s RSHS had a SPP score of 54.5. (J-14 at 2).

63. For the 2013-2014 school year, the Charter School had a SPP score of 33.5, (J-4; J-15), and the School District’s RSHS had a SPP score of 60.2. (J-14 at 2).

64. For the 2014-2015 school year, the Charter School had a SPP score of 40.0, (J-19; SD-10 at 1), and the School District’s RSHS had a SPP score of 65.2. (J-20 at 2; SD-10 at 3).<sup>6</sup>

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<sup>5</sup> The Charter School and RSHS are both designated as Title I schools. (J-12 at 1; J-14 at 1; J-15 at 1; J-17 at 1; J-19 at 1; J-20 at 1).

<sup>6</sup> The School District argues that the School Board should discount any improvement in the Charter School’s SPP score from the 2013-2014 to the 2014-2015 school year, because it may have been as a result of the Charter School selectively choosing students to take the Keystone Exams. (School District’s Proposed Findings of Fact ¶ 77). The current Charter School Principal’s own testimony at the hearing suggests that not all 11<sup>th</sup> grade Charter School students may have taken the Keystone Exams:

Q: Is it your understanding that Chapter 4 requires every student to take at least one attempt on the Keystone exam by the end of 11<sup>th</sup> grade?

A: Correct.

Q: But I-LEAD Charter School is not going to do that?

A: Well, I would attempt as much as I can to deviate from that.

Q: I’m not sure I understand what that means.

A: What it means is I’d do everything in my power not to comply with that.

Q: Have you talked to PDE regarding whether you have the authority to not comply with Chapter 4?

A: Not yet.

65. The Charter School's SPP scores for the 2013-2014 and 2014-2015 school years were the lowest of the 19 public high schools serving Berks County, Pennsylvania. (SD-8; SD-9; CS-26 at 3, 4-5).

66. SPP scores for the 2015-2016 school year and Title I designations for the 2014-2015 school years have not been released yet.

*vi. Fuller Testimony regarding SPP "alternative"*<sup>7</sup>

67. Dr. Edward Fuller, a Pennsylvania State University associate professor, testified regarding SPP scores of high schools within the Reading Core-Based Statistical Area ("CBSA"). (CS-26 at 1). The Reading CBSA is comprised of all the school districts serving Berks County, Pennsylvania. (CS-26 at 3).

68. Professor Fuller observed that the Charter School's SPP score for the 2013-2014 school year demonstrated that the Charter School "was the lowest performing high school in the Reading CBSA and one of the lowest performing high schools in the Commonwealth." (CS-26 at 3-5; N.T. at 1106-1107, 1124-1125).

69. With regards to 2014-2015 SPP scores, Professor Fuller found that the Charter School "had the lowest SPP percentile rank of all high schools in the Reading CBSA," and ranked in the bottom 5% of all high schools in Commonwealth. (CS-26 at 5-6; N.T. at 1125).

70. Professor Fuller advocated the use of an alternative approach to calculate SPP to "remove the influence of school inputs, student characteristics and community characteristics from the SPP score." (CS-27 at 6-12). Professor Fuller conceded that his SPP "alternative" advocated in his report has not been accepted by PDE, the State Board of Education or the Pennsylvania General Assembly. (N.T. at 1010-1011). Nor has his SPP "alternative" been sanctioned by PDE for school accountability purposes. (N.T. at 1020, 1114, 1122).

71. The School Board does not accept or afford any weight to Professor Fuller's testimony since his SPP "alternative" to evaluate the Charter School's effectiveness reflects only his own personal views and is contrary to the established SPP system mandated by Pennsylvania law. (N.T. 1010-1011).

72. Even if the School Board were to consider Professor Fuller's SPP "alternative," his report indicates that RSHS considerably outperformed the Charter School in both the 2013-2014 and 2014-2015 school year, (CS-26 at 13-14; N.T. 1111-1113), and that RSHS was the second-highest performing high school within the Reading CBSA only behind Wyomissing Junior-Senior High School during the 2014-2015 school year. (CS-26 at 14).

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*(footnote 6 cont'd)* (N.T. at 323-324). Regardless of the veracity of that charge, the School Board finds the Charter School's SPP score still lags considerably behind RSHS' SPP score, and the overall trend of its assessment data discussed in the adjudication, demonstrates a consistent failure of the Charter School to comply with Chapter 4 of the State Board of Education regulations.

<sup>7</sup> The phrase "SPP 'alternative'" is not found in Dr. Fuller's testimony, and is simply used as a label to refer to Dr. Fuller's proposal to make statistical adjustments to PDE-issued SPP data to measure school effectiveness.

**vii. Average Daily Attendance**

73. The Charter School indicated in its 2012-2013 Annual Report that its “average daily attendance will be at least 85% in the first year of the school’s operation, will improve to 90% by the third year, and to 95% by the fifth year...” (CS-3 at 7).

74. The Charter School reported its average daily attendance rate for its students was 76% during the 2011-2012 school year. (*Id.* at 8; CS-4 at 25; CS-7 at 28).

75. The available PDE-issued “SPP – Academic Performance Data,” which was entered into the record, reported the Charter School’s attendance rates were as follows: 2012-2013 school year – 83.41%; 2013-2014 school year – 80.71%; and 2014-2015 school year - 83.60%. (J-12 at 2; J-15 at 2; J-19 at 2).

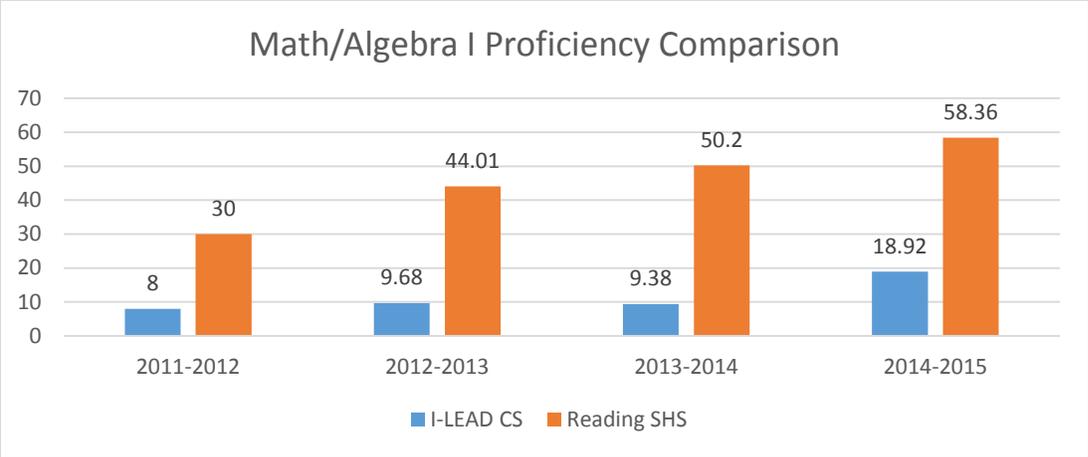
76. The Charter School’s daily attendance figures do not conform to Non-Academic Goal # 1 stated in the Revised Application. (J-5, Revised Application at 8). The Charter School promised that its daily attendance rate would be “at least 85% in the first year of the school’s operation, will improve to 90% by the third year, and to 95% by the fifth year...” (*Id.*) The Charter School has never satisfied the first year attendance standard that it set forth itself, let alone the higher daily attendance rates promised for its subsequent years of operation.

**viii. Comparison of Charter School and RSHS proficiency and growth data**

77. When the “traditional” PSSA and Keystone Exam proficiency ratings (i.e. the overall percentage of a school’s students who achieved proficiency or higher when taking those assessments as reported by PDE) are used to compare Charter School and RSHS performance, those scores show RSHS students performed substantially better than those at the Charter School on those state assessments.

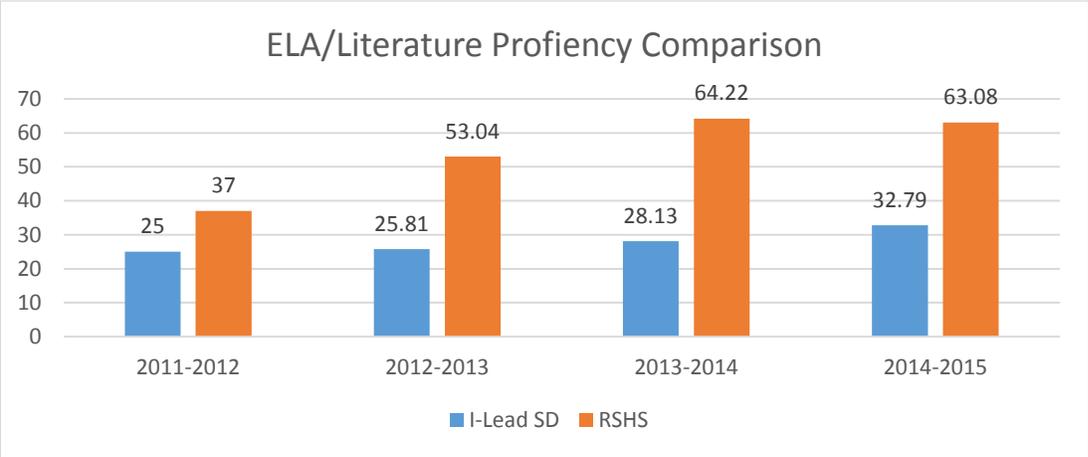
78. The available PDE-issued “District Reports Cards” and “SPP – Academic Performance Data,” which was entered into the record, show a greater percentage of RSHS students are proficient on state assessments than Charter School students, and RSHS has experienced greater growth in its overall proficiency percentage during the last four school years in Math/Algebra I, Literature and Biology:

- a. The results in Algebra I are as follows:



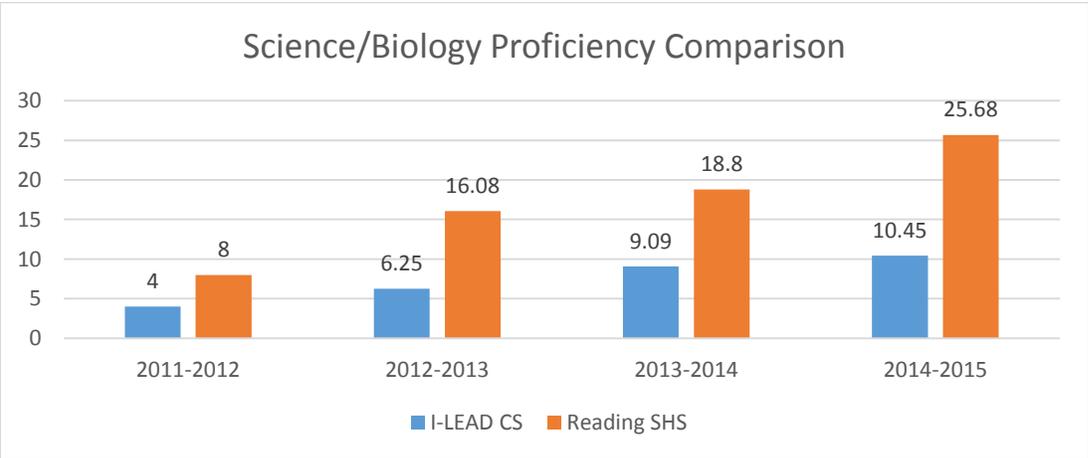
(SD-1 at 6; J-9 at 3, 5; J-14 at 4; J-17 at 4; J-20 at 4).

b. The results in Literature are as follows:



(SD-1 at 5; J-8 at 3, 6; J-14 at 4; J-17 at 4; J-20 at 4).

c. The results in Biology are as follows:



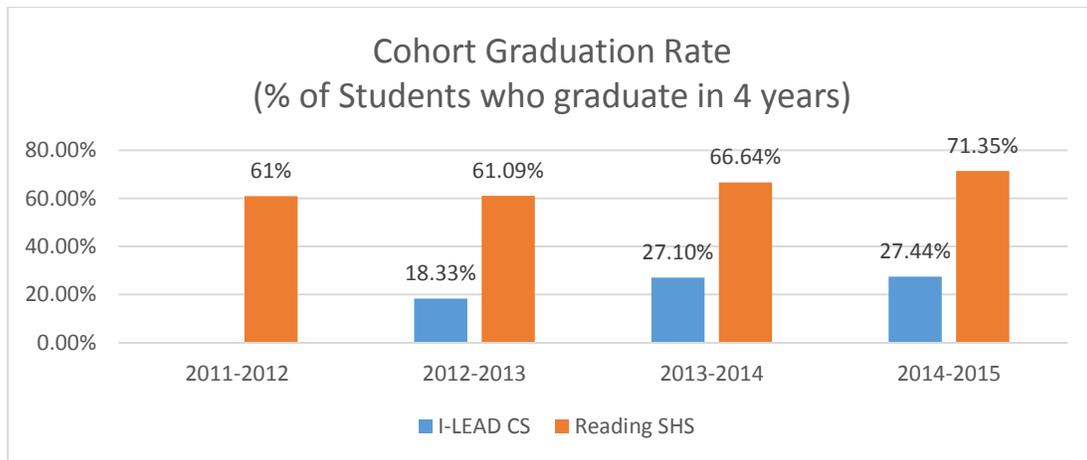
(SD-1 at 7; J-8 at 7; J-14 at 4; J-17 at 4; J-20 at 4).

79. The 2014-2015 SPP scores likewise show that RSHS did better than the Charter School is closing the achievement gap for all students and historically underperforming students:

| Keystone Exam  | Charter School | RSHS   |
|--|----------------|--------|
| <i>Indicators of Closing the Achievement Gap – All Students</i>                          |                |        |
| Mathematics/Algebra I  | 61.39%         | 100%   |
| ELA/Literature   | 56.46%         | 100%   |
| Science/Biology  | 26.87%         | 69.04% |
| <i>Indicators of Closing the Achievement Gap – Historically Underperforming Students</i> |                |        |
| Mathematics/Algebra I  | 61.39%         | 100%   |
| ELA/Literature   | 56.46%         | 100%   |
| Science/Biology  | 26.87%         | 82.28% |

(J-19 at 2; J-20 at 2).

80. The RSHS’s cohort graduation rates as reported by the PDE-issued “SPP – Academic Performance Data,” are substantially better than the Charter School:



(SD-1 at 8; J-12 at 2, J-14 at 2, 4; J-15 at 2; J-17 at 2; J-19 at 2; J-20 at 2).

81. The School Board finds that all of the above data in paragraphs 74 through 76 clearly demonstrates that RSHS’ proficiency rates and closing the achievement gap on Pennsylvania assessment, as well as cohort graduation rate is substantially better than those of the Charter School.

### E. Charter School’s Highly Qualified Teachers

82. In Pennsylvania, a “Highly Qualified Teacher” is one who: (i) holds a PDE-issued teaching certificate in a core content area; and (ii) demonstrates subject matter competency within that core content area. *See*, PDE *Certification and Staff Policy Guidelines* (“CSPG”) No. 301, entitled “Highly Qualified Determination.”

83. The PDE “*School Performance Profiles*” and “*School Required Federal Reporting Measures*” reports issued for the Charter School stated as follows regarding Charter School teachers’ HQT status:

a. During the 2012-2013 school year, 57.90% of classes were taught by Highly Qualified Teachers, (J-12 at 1), and 42% of course assignments were taught by *non*-Highly Qualified Teachers, (J-13 at 10);

b. During the 2013-2014 school year, 77.53% of classes were taught by Highly Qualified Teachers, (J-15 at 1), 22% of course assignments were taught by *non*-Highly Qualified Teachers, (J-16 at 10); and

c. During the 2014-2015 school year, 72.08% of classes were taught by Highly Qualified Teachers. (J-19 at 1).

84. In its August 2014 report, entitled “*I-Lead Charter School 2013-2014: Growing Its Students Success*” the Charter School reported that 77.5% of its instructional staff “were deemed highly qualified.” This report further stated in the 2014-2015 school year, the Charter School’s ‘HQT’ (Highly Qualified Teacher) status will be near 95% or better with the exception of three instructors who will complete their certifications within two years.” (CS-7 at 21).

85. The Charter School’s Principal testified, as of the date of the hearing, all Charter School teachers are Highly Qualified except for one substitute English teacher. (N.T. at 294-295).

#### **F. Charter School Governance Issues**

86. The Revised Application provided that I-LEAD, Inc. Board of Directors would serve as the Charter School’s Board of Trustees (“Charter Board”). (N.T. 136-137).

87. The Charter School’s Bylaws provide, in part, as follows regarding the powers of its governing board:

##### Article III: BOARD OF TRUSTEES

3.1 **Powers.** The Board of Directors shall be the Board of Trustees as contemplated by the Charter School Law and the Board of Directors under the Pennsylvania Non Profit Corporation Act. The Board shall have the authority to decide all matters regarding the operation and functioning of the corporation, including but not limited to the authority to:

\* \* \*

c. Approve the appointment of a Principal;

\* \* \*

g. Appoint or dismiss school administrators or staff members;

h. Adopt the annual budget and conduct an annual independent audit of the School's finances;

\* \* \*

j. Locate new buildings or change the location;

k. Create or increase indebtedness;

\* \* \*

o. Determine compensation and terms and conditions of employment of administrators, teachers and other employees of the School . . . .

(J-26 at 1; N.T. at 693).

88. Article 3.5 of the Charter School's Bylaws further states that its Charter Board regular meetings "shall comply with the Sunshine Act." (J-26 at 2).

89. On February 16, 2015, the School District wrote to the Charter School requesting copies of various documents, including, but not limited to: (i) Charter Board's meeting minutes "from July 2013 through the current time;" (ii) Statements of Financial Interest filed with the Charter School in the last 12 month; and (iii) its financial audit for the 2012-2013 fiscal year. (J-24; N.T. at 691).

90. On February 26, 2015, in response to the School District's request, the Charter School supplied copies of Charter Board meeting minutes from the following dates: September 26, 2013, March 25, 2014, May 20, 2014, August 20, 2014, September 25, 2014, and December 11, 2014. (J-27; N.T. 700-701).

91. The Charter School's Chief Financial Officer ("CFO"), Barbara Wilkinson-Sykes, testified the Charter Board typically holds four (4) meetings per year, but in one year only three meetings were held. (N.T. at 797).

92. Ms. Sykes testimony regarding the frequency of the Charter Board's meeting schedule is consistent with the Charter School's 2012-2013 Annual Report indicating four meetings were scheduled during that particular school year, (CS-3 at 22), as well as the Charter Board's 2015 meeting schedule announced in the December 11, 2014 meeting minutes. (J-27 at 14-15).

93. None of the above-referenced Charter Board meeting minutes, which span almost a 15 month period, reflect that any action was taken on any of the following items: (i) the adoption of an annual budget; (ii) the hiring, removal or setting of compensation terms for any Charter School

employees; (iii) the approval of a lease for school facilities; or (iv) the acceptance or repayment of loans to finance Charter School operations.

94. The December 11, 2014 Charter Board meeting minutes reference reports by Dr. Smith that additional learning facilitators and educational assistants were hired and two consultants would be used to help increase math scores. The minutes, however, do not reflect action by the Charter Board to approve the hiring of these employees or consultants or any contracts with the consultants. (J-27 at 14-15).

95. Ms. Wilkinson-Sykes testified that the Charter Board approved the Charter School's annual budget each year at a public meeting, (N.T. at 779, 798); however, she could not find any reference in the aforementioned Charter Board meeting minutes regarding the approval of the annual budget. (N.T. at 799-801).

96. Ms. Wilkinson-Sykes also testified that I-LEAD, Inc. provided the Charter School with \$1.5 million in interest-free loans during the 2014-2015 school year, and the Charter School repaid \$890,000 of that amount during that period, (N.T. at 807-808); however, she could not find anything in the aforementioned Charter School meeting minutes where the Charter Board approved the entry of the loan and/or its repayment. (N.T. at 808-809).

97. The Charter School's Audit for 2013-2014 school year states as follows regarding the loans between I-LEAD, Inc. and the Charter School:

As has been done in years past, I-LEAD, Inc. provided the School with unsecured interest-free loans during the year for certain expenses paid by the School. Loans in the amount of \$1,500,000 were available to the School throughout 2014, with the largest balance outstanding at any one time being \$450,000. All loan balances were paid off during the year ended June 30, 2014; including \$2,100 due to I-LEAD, Inc. from the year ended June 30, 2013.

The School also incurred expenses which are to be repaid by I-LEAD, Inc. These costs amounted to \$7,593; of this, \$5,541 is due to the School as of June 30, 2014.

(J-33 at 11). The 2012- 2013 Audit likewise reflects loans being made from I-LEAD, Inc. to the Charter School for the payment of start-up costs, with a balance remaining as of June 30, 2013, of \$2,100. (J-32 at 11).

98. None of the loan-related transactions referenced in the 2013-2014 Audit are reflected in the Charter Board meeting minutes supplied for the 2013-2014 school year. (J-27; N.T. 715).

99. In fact, Charter Board authorization for the borrowing of money and the approval of a promissory note with I-LEAD, Inc. was not "ratified" at any Charter Board meeting until October 15, 2015, (CS-33), even though no-interest loans totaling over \$4 million had already been made to the Charter School before that Charter Board vote. (CS-28; N.T. at 786-788).

100. On October 2, 2013, Mr. Castro executed a one-page lease agreement for the Charter School to rent space at 401 Penn Street from I-LEAD, Inc. (J-30 at 17; N.T. at 148). He signed this lease while simultaneously serving as the I-LEAD, Inc. President and Charter Board Chairperson. (*Id.*; N.T. 154-155). There is nothing in the aforementioned Charter Board meeting minutes showing that this lease was approved by a vote of the Charter Board.

101. The Charter School and I-LEAD, Inc. entered into a second lease for 401 Penn Street commencing April 1, 2014 and ending June 30, 2015. (J-30 at 1-16; CS-34; N.T. at 964). This lease obligated the Charter School to make payments in excess of \$33,000 per month beginning August 1, 2014. (N.T. 871-872). There is nothing in the aforementioned Charter Board meeting minutes showing that this second lease was approved by a vote of the Charter Board.

102. In fact, the second lease between Charter School and I-LEAD, Inc. lease for 401 Penn Street was not “ratified” at any Charter Board meeting until October 15, 2015, (N.T. at 867-868, 959-960; CS-33), which was 17 months after it commenced.<sup>8</sup>

103. All but one of the Charter Board’s meeting minutes in 2013, 2014 and 2015, which were entered into evidence during the public hearing contained the same statement: “Public notice were posted as required; Board is in compliance with the Sunshine Law.” (J-27; CS-33 at 1).

104. The Charter School’s audit report for the 2012-2013 school year was dated June 4, 2014. (J-32; N.T. at 781). Ms. Wilkinson-Sykes testified the receipt of the final receipt of the audit report was delayed due to a fee dispute for services with the auditing firm. (N.T. at 781-782).

105. The Charter School’s audit report for the 2012-2013 school year reported “the President and CEO of I-LEAD, Inc. serves as the Board Chair of [the Charter School]” and “Two executives of I-LEAD, Inc. serve of the [Charter School] Board.” (J-32 at 8).

106. The Charter School’s audit report for the 2013-2014 school year was dated March 5, 2015. (J-32; N.T. at 783). Ms. Wilkinson-Sykes testified the receipt of the final receipt of this audit report was delayed because the same auditing firm was engaged to do audit for the Charter School as I-LEAD, Inc. used. (N.T. at 783).

107. The Charter School’s audit report for the 2013-2014 school year reported, “[p]ursuant the [Charter] School’s by-laws, I-LEAD, Inc. appoints a majority of the [Charter] School’s Board. Three executives of I-LEAD, Inc. serve on the Board of the [Charter] School.” (J-33 at 11).

108. Ms. Wilkinson-Sykes testified Audit Certification Forms were filed with PDE by December 31<sup>st</sup> deadline for the 2012-2013 and 2013-2014 audits for the Charter School. (CS-32 at 2-3). She testified that the Charter School’s auditing firms advised that “the December 31<sup>st</sup> deadline has to do with filling the form, not that the audit has to be completed.” (N.T. at 804).

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<sup>8</sup> The Charter Board Chairperson testified he did not recall whether this second lease had ever been approved at an earlier Charter Board meeting. (N.T. at 961-963). Absent any recollection, the School Board finds the Charter Board meeting minutes speak for themselves.

109. The Charter School provided five Statements of Financial Interest in response to the School District's request for copies of the same filed with the Charter School in the 12 months before February 16, 2015. (J-28).

110. All five Statements of Financial Interests were for Charter Board members, and signed between September 9, 2014 and October 15, 2014. (*Id.*) Statements of Financial Interest were supplied by the Charter School for Dr. Robert Natalini, Philip Thomas, Denise Kirkland-Nash, Robert Jefferson and Mr. Castro. (*Id.*).

111. Ms. Nash-Kirkland did not identify I-LEAD, Inc. as a direct source of income on her Statement of Financial Interest. (J-28 at 3). She is, however, employed by I-LEAD, Inc. as its Chief Operating Officer or Vice President of Operations. (N.T. 164, 812). Ms. Nash-Kirkland served on the Charter Board until her resignation in June 2015. (N.T. 811-812).

112. At the time as the Statements of Financial Interests were provided to the School District, the Charter School also disclosed the members of the Charter School's administration to be Dr. Smith, Chief Academic Officer; Angel Figueroa (CEO/COO); Barbara Wilkinson-Sykes, CFO; and Lizette Flowers, Director of Business and Human Resources. (J-29).

113. No Statements of Financial Interest were supplied for Mr. Figueroa, Ms. Wilkinson-Sykes, Dr. Smith, Ms. Flowers, or any other person. (N.T. at 697-99). Mr. Figueroa testified that he and Sykes filed Statements of Financial Interest after February 2015, but those have never been supplied by the Charter School or offered as evidence during the hearing. (N.T. at 833-34). He did not know when his Statement was filed. (N.T. at 859). Mr. Figueroa admitted that, prior to February 2015, he had never filed a Statement of Financial Interest. (N.T. at 859). He did not know if Ms. Wilkinson-Sykes had ever filed one prior to February 2015. (N.T. at 861-62).

114. Mr. Figueroa has been employed by the Charter School in various capacities since its inception. He first served as Vice President of Resource Development. In January 2015, he became CEO of the Charter School. (N.T. at 829, 833, 854-58). At all times until June 2015, Mr. Figueroa was also employed by I-LEAD, Inc., as Vice President of Resource Development. (N.T. 829, 856). In June 2015, Mr. Figueroa "phased out" of his I-LEAD, Inc. role. (N.T. 857). He earned \$31,000 from I-LEAD, Inc. and \$72,000 from the Charter School prior to "phasing out" of his role. (N.T. at 856-57). Mr. Figueroa currently earns \$140,000 from the Charter School. (N.T. at 857).

115. Sykes has been the CFO for the Charter School since its inception. (N.T. at 777). Sykes served as the CFO for I-LEAD, Inc. from 2008 until she resigned in August 2015. (N.T. at 794-95). Prior to her resignation in August 2015, Sykes earned \$35,000 from I-LEAD, Inc. and \$110,000 from the Charter School. (N.T. at 796).

116. Mr. Thomas served on the Charter Board and resigned in June 2015. (N.T. at 161). Mr. Thomas is the Vice-President of Higher Education Programs for I-LEAD, Inc. (N.T. at 164).

117. Mr. Castro served as a Charter Board member from the inception of the Charter School until June 2015, and he served as Chair of the Charter Board from inception until August 2014. (N.T.

at 77-78, 154-55). Since June 2015, Castro has served as pro bono legal counsel for the Charter School, providing advice to the Charter Board. (N.T. at 77, 153). Castro also works as the Executive Director, President and CEO of I-LEAD, Inc., positions that he has held for the last 20 years. (N.T. at 78, 153).

## II. Conclusions of Law

1. The Charter School Law (“CSL”), 24 P.S. § 17-701-A *et seq.*, governs the application process, the operation and revocation/renewal process and appeals process for charter schools in Pennsylvania.
2. Pursuant to § 17-1729-A of the CSL, a school district may revoke a charter school’s charter for any of the following reasons:
  - a. One or more material violations of any conditions, standards or procedures contained in the written charter signed pursuant to section 1720-A, 24 P.S. § 17-1729-A(a)(1);
  - b. Failure to meet the requirements for student performance set forth in 22 Pa. Code Ch. 5 (relating to curriculum) or subsequent regulations promulgated to replace 22 Pa. Code Ch. 5 or failure to meet any performance standard set forth in the written charter signed pursuant to section 1716-A, 24 P.S. § 17-1729-A(a)(2);
  - c. Failure to meet generally-accepted standards of fiscal management or audit requirements, 24 P.S. § 17-1729-A(a)(3);
  - d. Violations of provisions of the CSL, 24 P.S. § 17-1729-A(a)(4);
  - e. Violation of any provision of law from which the charter school has not been exempted, including Federal laws and regulations governing children with disabilities, 24 P.S. § 17-1729-A(a)(5); or
  - f. The charter school has been convicted of fraud, 24 P.S. § 17-1729-A(a)(6).
3. The School Board must initially respond to Charter School’s argument that the School Board is foreclosed from considering the revocation of its charter because the School District did not assess or comprehensively review the Charter School’s performance as contemplated in Section 1728-A of the CSL and/or School Board Policy No. 140. That argument is without merit. The same argument was rejected by the Charter School Appeal Board (“CAB”) in *Imani Education Circle Charter School v. School District of Philadelphia*, Docket No. CAB 2014-08 (2016) at 26-29). Therein, CAB explained “there is no provision in the...CSL that requires an annual report to be delivered to a charter school or that delivery of an annual report to a charter school is a necessary prerequisite to a nonrenewal.” *Id.* at 28. Because the Charter School offers no authority to legally support its argument outside of the same statutory language analyzed in

*Imani*, and the *Imani* holding would apply with equal weight in charter revocation cases,<sup>9</sup> the School Board concludes the School District is not estopped from revoking the charter for any of the reasons alleged in Resolution 7.10.

4. The School District has the burden of proof to present substantial evidence to support its reasons to revoke the charter. *24 P.S. § 17-1729-A*.

*i. Audits*

5. The CSL, *24 P.S. § 17-1719(9)*, requires a charter school to be audited in accordance with Section 437 of the School Code, which states as follows: “The accounts of the school treasurer shall be audited annually as hereinafter provided.” *24 P.S. § 4-437*.

6. The annual independent audit of a charter school’s financial statements must be completed on or before December 31, which is a statutory obligation. *Graystone*, CAB No. 2012-01, at 60; *Graystone*, 99 A.3d at 140-41.

7. The School Board finds the evidence regarding the Charter School’s noncompliance with the audit submission deadline is distinguishable from *Graystone*. Unlike *Graystone*, where the completion of proper charter school audits was a chronic problem, the Charter School’s CFO credibly testified that she reasonably relied upon Charter School’s auditing firms to decide when audit paperwork must be submitted or completed.

8. Under these circumstances, the School Board declines to revoke the charter on the basis that the Charter School failed to complete timely audits for the years ending June 30, 2013 and June 30, 2014.

*ii. Sunshine Act*

9. Section 1716-A of the CSL explicitly requires all charter schools to comply with the Sunshine Act. *24 P.S. § 17-1716-A; In re: Thurgood Marshall Academy Charter School v. Wilkinsburg School District*, Docket No. CAB 2001-05 (2002) at 16.

10. The Sunshine Act, *65 P.S. § 701 et seq.* requires the Charter School’s Board of Trustees to conduct its business publicly and to maintain proper minutes of those public meetings, as follows:

a. All “official actions,” which is defined as decisions on agency business or votes taken on any motion, proposal resolution or report, shall be taken at a public meeting, *65 P.S. §§ 703, 704*; and

b. Written minutes of public meetings must be kept and shall include: (i) the date, time and place of the meeting; the names of members present; (iii) the

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<sup>9</sup> Both CAB and our courts recognize the same legal standards apply in charter non-renewal and charter revocation cases.

substance of all official actions and a record of how each member voted; and (iv) the names of citizens attending the meeting, 65 P.S. § 706.

11. The term “official action” within the Sunshine Act includes any decision by the Charter Board that commits it to a “particular course of conduct.” *Preston v. Saucon Valley School District*, 666 A.2d 1120, 1123 (Pa. Cmwlth. 1995). In *Preston*, the Commonwealth Court found a school board signing a contractual addendum for its superintendent must be done in compliance with the Sunshine Act. (*Id.*). In *Patriot News Co. v. Empowerment Team of Harrisburg School District*, 763 A.2d 539 (Pa. Cmwlth. 2000), the same court concluded an official advisory team conveyed under Educational Empowerment Act engaged in “official action” in making recommendations to the school district.

12. When applying the holdings of *Preston* and *Patriot News* to the present facts, it seems clear that the Charter Board had a duty to comply with the Sunshine Act when it committed the Charter School to an annual budget, the expenditure of funds to lease school facilities or to borrow money to pay operating expenses.

13. The Charter Board repeatedly violated the Sunshine Act by failing to take the necessary “official action” to approve important decisions relating to Charter School operations or to maintain proper meeting minutes as evidenced by the following:

a. The Charter Board approved an annual operating budget for the Charter School without any official action to approve the budget as reflected in the Charter Board meeting minutes;

b. The Charter Board entered into leases for the 401 Penn Street property with I-LEAD, Inc. without any official action to approve those leases as reflected in the Charter Board meeting minutes;

c. The Charter Board entered into millions of dollars of loans arrangements with I-LEAD, Inc. without any official action to authorize such borrowing (or the repayment of the same) as reflected in the Charter Board meeting minutes; and

d. The Charter School hired employees without any official action being taken by the Charter Board authorization as reflected in its meeting minutes.

14. Therefore, the School Board finds the Charter Board violated the Sunshine Act by failing to conduct public business on fundamental operational issues in a manner that complies with this law.

**iii. Highly Qualified Teachers – 20 U.S.C. § 6319(a)(2)**

15. Section 1119(a) of the No Child Left Behind Act (“NLCB”) mandated that all teachers of core academic subjects in Title I schools must be “highly qualified” starting with the 2005-2006 school year. 20 U.S.C. § 6319(a)(2); 22 Pa. Code § 403.4; CSPG No. 301.

16. On December 10, 2015, the Every Student Succeeds Act (“ESSA”) was signed into law as part of the reauthorization of the Elementary and Secondary Education Act. The ESSA repealed the requirement to employ Highly Qualified Teachers in core content areas as set forth in 20 U.S.C. § 6319(a)(2). *See*, ESSA, Pub. L. No. 114-95, Title I, § 1000(1), December 10, 2015, 129 Stat. 1814.<sup>10</sup>

17. As a recipient of Title I funds, the Charter School was required to employ “Highly Qualified Teachers” working in core academic subjects unless they are exempt from certification requirements under Section 1724-A of the CSL. *22 Pa. Code § 403.4*.

18. The evidence shows that the Charter School violated NCLB’s “Highly Qualified Teacher” standards during the 2012-2013, 2013-2014 and 2014-2015 school years. If this violation was the only evidence of noncompliance with state or federal laws applicable to charter schools, the School Board may be inclined to excuse it due to the passage of the ESSA. However, since it reflects a wider pattern of significant violations of law by the Charter School, the School Board cannot ignore it for the purpose of deciding whether Section 1729-A(e) of the CSL has been satisfied in this case.

***iv. Public Official and Employee Ethics Act (“Ethics Act”)***

19. The CSL provides that charter school trustees and administrators of charter schools are “public officials” who must comply with the Public Official and Employee Ethics Act (“Ethics Act”). *24 P.S. § 17-1715-A(11)-(12)*.

20. The Ethics Act, 65 Pa. C.S. § 1101, *et seq.*, requires public officials to file statements of financial interest by May 1 of each year. *65 Pa.C.S. § 1104(a)*.

21. Trustees of a charter school are required to file statements of financial interest. *Renewal Application of the Lincoln Charter School*, Docket No. CAB 2005-3 (2005) at 12-13; *Thurgood Marshall Academy Charter School*, Docket No. CAB 2001-5 at 16.

22. Failure to file Statements of Financial Interest may serve as a proper basis for non-renewal or revocation of a charter, as it is a violation of both the CSL and the Ethics Act. *Renaissance Charter School*, Docket No. CAB 2008-07 (2009) at 13-14; *Thurgood Marshall*, Docket No. CAB 2001-5 at 16.

23. The failure of the CEO, CFO and Principal of the Charter School to file such Statements each year is a violation of the Ethics Act.

24. The Ethics Act requires various items of information to be included on the Statement of Financial Interest by those public officials and employees who are required to submit such documentation in accordance with 65 Pa. C.S. § 1104.

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<sup>10</sup> ESSA was signed into law after School Board Resolution 7.10 was adopted and transmitted to the Charter School. Neither party addressed the relevance of ESSA in their proposed findings of fact and conclusions of law.

25. One of the pieces of information that must be included on the Statement of Financial Interest is the “name and address of any direct or indirect source of income totaling in the aggregate \$1,300 or more.” *65 Pa.C.S. § 1105(b)(5)*.

26. Ms. Nash-Kirkland, one of the Charter Board members who also served as the COO of I-LEAD, Inc., did not disclose her relationship with I-LEAD, Inc. on her Statement of Financial Interest. That non-disclosure is a violation of the Ethics Act. *See, 65 Pa.C.S. § 1105(b)(8)*.

27. The Ethics Act likewise provides: “No public official or public employee shall engage in conduct that constitutes a conflict of interest.” *65 Pa.C.S. § 1103(a)*.

28. A “conflict of interest” as defined by the Ethics Act is the “[u]se by a public official or public employee of the authority of his office or employment or any confidential information received through his holding public office or employment for the private pecuniary benefit of himself, a member of his immediate family or a business with which he or a member of his immediate family is associated . . . .” *65 Pa.C.S. § 1102*.

29. The Ethics Act requires that an “open and public process” be used whenever public official or public employee enters into a contract valued at \$500 or more with “his spouse or child or any business in which the person or his spouse or child is associated.” *65 Pa.C.S. § 1103(f)*.

30. The Charter Board does not appear to have complied with the Ethics Act’s “open and public process” when it entered the leases to rent 401 Penn Street from I-LEAD, Inc. The testimony shows that Mr. Castro was involved in the lease negotiations while serving on the Charter Board and working for I-LEAD, Inc. Regardless how favorable the Charter School may view the financial terms of final lease, Mr. Castro was clearly associated with both parties throughout negotiations for the lease and, thus, had a conflict of interest. There is no evidence that the Charter Board or Mr. Castro complied with Ethics Act’s “open and public process” in negotiating or approving this lease.

31. While a single Ethics Act violation standing alone does not constitute grounds to non-renew or revoke a charter, *In re: Renewal Application of Lincoln Charter School*, Docket No. 2005-3 (2005) at 13, serious ones in conjunction with other serious violations do support non-renewal or revocation of a charter. *Renaissance Charter School*, Docket No. CAB 2008-07 (2009) at 13-14.

32. The School Board finds that the Charter School’s noncompliance with the Sunshine Act, Ethics Act and NCLB are material because it evidences a lax management system wherein adherence to the laws that apply to charter school is not valued, according the School Board a basis to revoke the charter under Section 1729-A(a)(5).

## ***B. Academic Performance***

33. The legislative intent of the CSL is to “[i]mprove pupil learning,” “[i]ncrease learning opportunities for all pupils,” and “[h]old the schools established under this act accountable for

meeting measurable academic standards and provide the school with a method to establish accountability systems.” 24 P.S. § 17-1702-A(1), (2), (6).

34. The CSL requires charter schools to participate in the requirements of the PSSA found in Chapter 4 of the State Board of Education regulations, *Community Academy of Philadelphia Charter School v. School District of Philadelphia*, CAB Docket No. 2013-12 (2015) at 42-43.

35. The School Board is authorized to revoke the charter here if the standards for student achievement as set forth in Chapter 4 or its charter are not met. 24 P.S. § 17-1729-A(a)(2); *Career Connections Charter High School v. School District of Pittsburgh*, 91 A.3d 736 (Pa. Cmwlth. 2014); *Graystone Academy Charter School v. Coatesville Area School District*, 99 A.3d 125, 139 (Pa. Cmwlth. 2014); *Truebright Science Academy Charter School v. School District of Philadelphia*, 115 A.3d at 922-923.

36. In *New Hope Academy Charter School v. School District City of York*, 89 A.3d 731 (Pa. Cmwlth. 2014), the Commonwealth Court explained that poor student performance on the PSSA may serve as justification to revoke or non-renew a charter under Section 1729-A(a)(2) of the CSL:

consistently low percentage of students scoring proficient or better on the PSSA constitutes a failure to satisfy Chapter 4 student performance requirements and is a valid ground for nonrenewal of a school’s charter...where the charter school’s proficiency rates are lower than those of its school district’s schools as a whole and no clear pattern of significant improvement in its PSSA results is shown.

*New Hope*, 89 A.3d at 737.

37. The Charter School Appeal Board (“CAB”) has likewise found reliance upon PVAAS data and SPP data is appropriate when determining whether a charter school has complied with Chapter 4 student performance standards requirements for purposes of Section 1729-A(a)(2) of the CSL. *Truebright Science Academy Charter School v. School District of Philadelphia*, Docket No. CAB 2013-11 (2015) at 18; *Imani Education Circle*, Docket No. CAB 2014-08 (2016) at 33-36.

38. Under the applicable *New Hope*, *Truebright* and *Imani Education Circle* standards, the School Board finds a justification exists under Section 1729-A(a)(2) of the CSL to revoke the Charter School’s charter for the following reasons:

a. Consistent low percentage of proficiency scores: As evidenced by the Findings of Fact ¶¶ 37, 41-43 and 65 the Charter School has consistently struggled to have its students score proficient or better on the PSSA or Keystone Exams.

b. Charter School scores are lower than those of School District: Finding of Fact ¶ 65 illustrates that School District’s RSHS proficiency rates on the PSSA and Keystone Exams are far superior to those of the Charter School in Math/Algebra I, ELA/Literature and Science/Biology. The fact that the Charter

School and RSHS may have slightly different grade configurations is irrelevant when making that comparison. *Truebright*, 115 A.3d 919, 923 (Pa. Cmwlth. 2015); *New Hope*, 89 A.3d at 737. Moreover, RSHS's SPP scores for the past three school years are significantly higher than those for the Charter School, which are the lowest for any high school in Berks County, Pennsylvania.

c. No clear pattern of significant improvement: While some improvement was observed in the Charter School's 2014-2015 SPP score, that change was offset by the PVAAS AGI data indicating students were not showing academic growth in Algebra I, Literature and Biology during the same exact school year. *See*, Findings of Fact ¶¶ 46-48.

d. The Charter School has not met its own academic and non-academic goals as set forth in the Revised Application, as evidenced by its PSSA or Keystone Exams scores which lag considerably behind the 75% proficiency target it had for graduates this school year, and the daily attendance rate which still has not satisfied the first year goal of 85%.

39. The Charter School incorrectly suggests that it should be held to a different standard than other schools when assessing its academic performance because it targets for enrollment an "at-risk" student population. This argument is not supported by the law for three reasons:

a. First, in *Community Academy of Philadelphia Charter School v. School District of Philadelphia*, CAB Docket No. 2013-12 (2015), CAB reviewed whether a charter school serving "at risk" students should have its charter revoked for violating Section 1729-A(a)(2) of CSL. In rendering its decision, CAB never suggested that charter schools serving "at risk" students should be held to different academic standards than other schools. Quite the contrary, CAB exhaustively compared the PSSA, PVAAS and SPP data for the charter school to nearby public and charter schools serving similar grade levels, before reaching its conclusion that Community Academy is as good as or better than many School District schools and significantly better than most Neighborhood Schools in its catchment area." *Id.* at 45. Thus, *Community Academy* stands for the propositions that PDE-mandated assessment results should not, and cannot be ignored, when reviewing a charter school's performance under Section 1729-A(a)(2).

b. Second, the Charter School freely chose to adopt Academic Goals # 1 and 2, which required 75% of its graduates to be proficient on state-mandated assessments. Thus, the Charter School not only promised to participate in PDE's assessment system, but also indicated its graduates would excel in them.

c. Finally, the legislative intent behind the CSL, in part, was to "improve student learning" and to "hold schools established under this act accountable for meeting measurable academic standards..." 24 P.S. § 17-

1702-A. Allowing a charter school to be held to a different accountability standard solely because of the students it targets is contrary to that legislative intent. The courts and CAB have consistently applied the *New Hope* standard in assessing performance under Section 1729-A(a)(2) of the CSL, and any charter change to move away from that standard is contrary to established law.

40. Unlike the charter school in *Community Academy*, the Charter School's student performance stands in sharp contrast to that of RSHS, which is the only other public school serving high school-aged students within the School District. Because the evidence discussed above clearly demonstrates that the Charter School has a "consistently low percentage of students scoring proficient or better" on the PSSA and/or Keystone Exams, and its overall proficiency rate is lower than RSHS' and no clear pattern of significant improvement can be observed, the School Board finds a justification to revoke or non-renew a charter under Section 1729-A(a)(2) of the CSL.

41. Therefore, the School Board denies the request to amend the charter to create new measurable academic goals to assess the performance of the Charter School's students.

42. The School Board fully complied with Section 1729-A(c) of the CSL by providing the Charter School with a written revocation notice; scheduling a public hearing to receive evidence and testimony from the parties relative to the charter revocation charges; providing the public more than 30 days to submit comments regarding the proposed charter revocation; and thereafter approving this adjudication at its publicly advertised May 23, 2016 School Board meeting.

43. The School Board has provided the Charter School with all applicable procedural due process during the charter school revocation proceeding: (i) by appointing a hearing officer to hold a hearing where the parties were represented by counsel and both had the opportunity to present and cross-examine witnesses; (ii) the School Board reviewed the hearing officer's proposed findings of facts, conclusions of law and recommendation; and (iii) the School Board made an independent ruling based upon the entire record. *Lewis v. School District of Philadelphia*, 690 A.2d 814 (Pa. Cmwlth. 1997); *Graystone Academy Charter School v. Coatesville Area School District*, 99 A.3d 125 (Pa. Cmwlth. 2014).<sup>11</sup>

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<sup>11</sup> The Charter School formally objected to the School Board's use of a hearing officer at the public hearing. (N.T. at 8). However, the Charter School did not address this legal argument in its Proposed Findings of Fact and Conclusions of Law or in its accompanying Memorandum of Law.

**III. ORDER**

AND NOW, this 25<sup>th</sup> day of May 2016, based upon the vote of the Board of School Directors for the Reading School District the charter of the I-LEAD Charter School is revoked based upon Charges # 1 and 2 (and their subparagraphs therein) set forth in School Board Resolution 7.10 for the reasons explained above.

Reading School District  
Board of School Directors

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President

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Secretary