

**READING SCHOOL DISTRICT  
BOARD OF SCHOOL DIRECTORS**

**In Re: Charter Amendment 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 amendment request submitted by the I-LEAD Charter School.

**I. FINDINGS OF FACT**

**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>1</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. The Amendment Request proposed to amend the Charter School’s existing charter to provide as follows:
  - a. to include new measurable academic goals to assess the performance of the Charter School’s student population;

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<sup>1</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 \_\_\_.

- b. to specify the Charter School currently operates out of 401 Penn Street, Reading, Pennsylvania;
- c. to require the Charter School to employ and/or utilize Highly Qualified Teachers in all core academic subjects; and
- d. to clarify several governance issues, including the independence of I-LEAD, Inc. from the Charter School.

(J-1 at 3-7).

7. On September 23, 2015, the School Board adopted Resolution 7.10 seeking to revoke the charter of Charter School. (J-4).
8. 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).
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. 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).
11. 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>2</sup> and February 2, 5, 8 and 9, 2016. (N.T. at 1-1165).
12. 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).
13. As part of the public hearing process, the School District and Charter School attorneys entered into an agreement whereby the charter amendment and charter revocation requests would be acted upon at separate School Board meetings, and the charter amendment request would be acted upon first. Consistent with the Hearing Officer's recommendation, the School Board is honoring that agreement by separately acting upon these requests subject to the strict understanding that its adoption of separate adjudications for each matter shall not prejudice the consideration or determination of factual or legal issues in the other.
14. The School Board had an opportunity to review all of the aforementioned exhibits entered into evidence, and copies of the public hearing session transcripts as well as the proposed

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<sup>2</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).

findings of fact and conclusions of law submitted by the parties' attorneys and the Hearing Officer before its May 18, 2016 public meeting.

15. On May 18, 2016, the School Board took official action at a publicly advertised meeting to adopt the Hearing Officer's proposed findings of fact and conclusions of law regarding the charter amendment request in this matter.
16. The School Board adopted the Hearing Officer's proposed findings of fact and conclusions of law regarding the charter amendment request without any changes.
17. 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 18, 2016.

**B. Facts Regarding the Charter School Application and Charter**

18. 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).
19. 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).
20. 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>3</sup>
21. 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).
22. 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).
23. The Revised Application identified the Charter School's measurable goals and objectives for student learning relative to the Pennsylvania System of School Assessment ("PSSA") as follows:

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<sup>3</sup> The proposed name of 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 218).

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 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.

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

22. 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).
23. 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).

24. 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).
25. The Revised Application stated the 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).
26. 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 specify the academic degrees or credentials that teachers would need to possess in order to be hired by the Charter School. (*Id.*)
27. The Revised Application proposed 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).
28. 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).
29. After the adoption of Resolution GEN-55, the then-School Board President and 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).
30. 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).
31. 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).

32. 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 Revised Application. (N.T. at 95-97). His opinion as to overall impact of this change is 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, 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 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.
33. The Charter School exceeded its projected student enrollment each school year as contemplated in the Revised Application. (N.T. at 180). The Charter School initially enrolled 205 students when it opened but that increased to 400 students by the end of its first year, (CS-3 at 5; CS-4 at 3); approximately 330 students started in its second year and ultimately that number grew to 400 students by the end of that year, (J-12, CS-3 at 3, 5, 23; N.T. at 180); approximately 425 students enrolled in third year, (J-15; CS-7 at 30); and approximately 520 students were enrolled during both the 2014-2015 and 2015-2016 school years. (N.T. at 286-287, 376).

34. 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. Amendment Request Regarding Student Academic Goals**

35. In the Revised Application, dated June 10, 2010, the Charter School identified for itself 6 academic goals and 3 non-academic goals. (J-5, Revised Application at 4-9). As discussed above, Academic Goals # 1 and 2 specify that 75% of the Charter School’s 12<sup>th</sup> grade students would score proficient or advanced on the PSSA in literature, mathematics, science and social studies. (*Id.* at 4-5).

36. Because the charter amendment request seeks to replace the existing Academic Goals # 1 and 2, which are tied to state mandated assessments, with entirely new assessments tools to evaluate students’ performance in “readiness,” “beginning” and “full” Keystone courses, (J-1 at 3-6), the School Board must consider the Charter School’s available PSSA, PVAAS and Keystone Exam data in order to evaluate the merits of this proposed change.

37. 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:

	Below Basic	Basic	Proficient	Advanced
Mathematics	84%	9%	7%	0%
Reading	57%	20%	17%	5%
Science	58%	37%	4%	0%

(J-9 at 4-6).

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

39. The Keystone Exams are end-of-course assessments, which the Pennsylvania Department of Education currently administer 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).

40. 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).

41. 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).

42. 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).

43. 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).

44. 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).

45. 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).

46. 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).

47. 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 520).
48. 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 521).
49. 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).
50. 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).
51. 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).
52. 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>4</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).
53. 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).
54. The School District's Reading Senior High School ("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).
55. For the 2012-2013 school year, the Charter School had a SPP score of 35.1, (J-12 at 2), and School District's RSHS had a SPP score of 54.5. (J-14 at 2).

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<sup>4</sup> The Charter School and Reading Senior High School 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).

56. 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).
57. 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>5</sup>
58. 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).
59. 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).
60. 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).

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<sup>5</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.

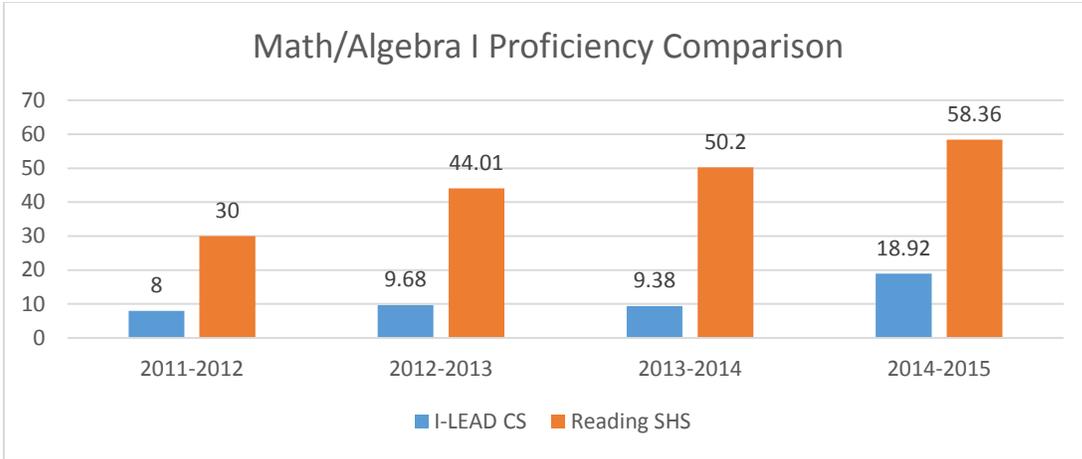
A: What it means is I'd do everything in my power not to comply with that.

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

A: Not yet.

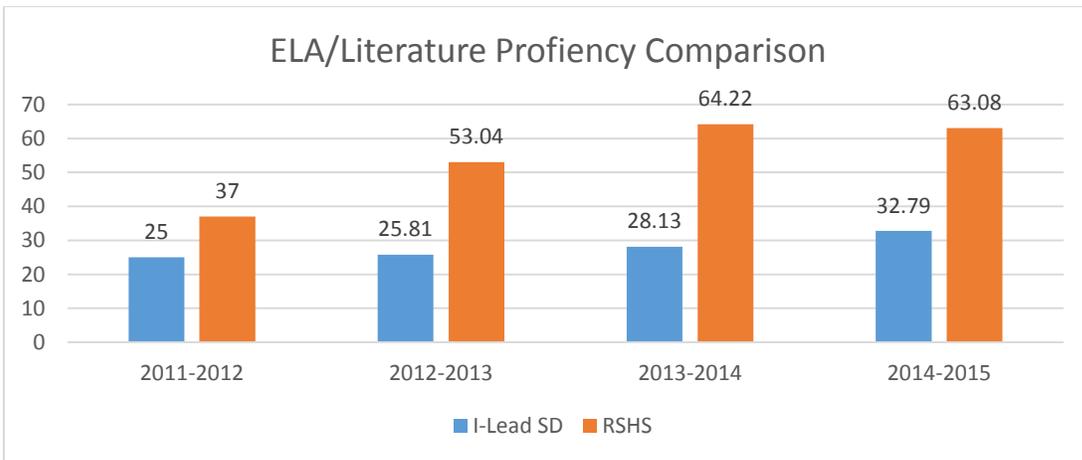
(N.T. at 323-324). Regardless of the veracity of that charge, the School Board finds the Charter School's SPP score still lags considerably behind RSHS' SPP score, and the overall trend of its assessment data discussed in the adjudication, demonstrates a consistent failure of the Charter School to comply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

61. With regards to 2014-2015 SPP scores, Professor Fuller found that the Charter School “had the lowest SPP percentile rank of all highs 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).
62. 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 1114, 1020, 1122).
63. The School Board does not believe that the Charter School’s existing academic goals, which were aligned to the Chapter 4 regulations, should be jettisoned for an alternative assessment system that does not comport with the CSL or the Chapter 4 regulations; therefore, it does not accept or afford any weight to Professor Fuller’s testimony since he advocates the use of a school accountability tool that only reflects his own personal views and is contrary to Pennsylvania law. (N.T. 1010-1011).
64. 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).
65. 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) are used to compare Charter School and RSHS performance, those scores show that RSHS students performed substantially better than those at the Charter School on those state assessments.
66. 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:



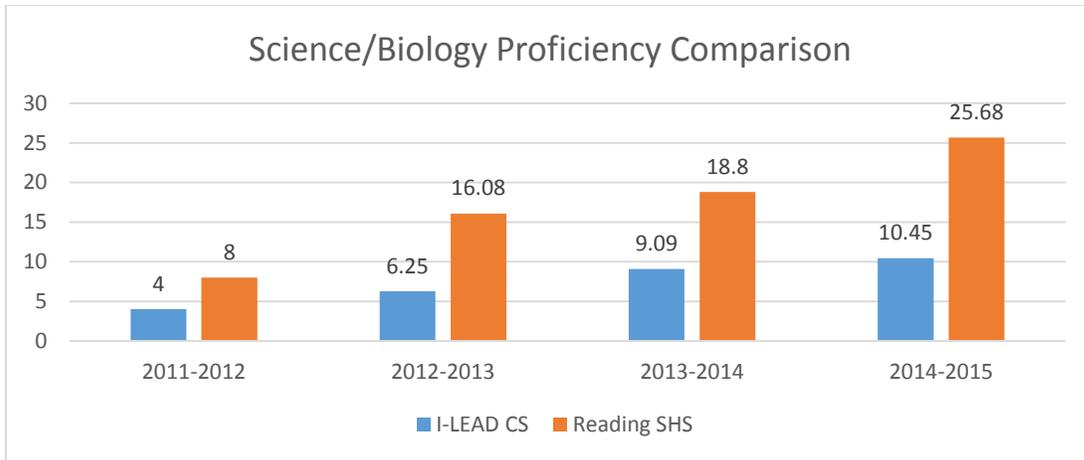
(SD-1 at 6; J-14 at 4; J-17 at 4; J-20 at 4).

b. The results in Literature are as follows:



(SD-1 at 6; J-14 at 4; J-17 at 4; J-20 at 4).

c. The results in Biology are as follows:



(SD-1 at 6; J-14 at 4; J-17 at 4; J-20 at 4).

67. 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 areas:

	Economically Disadvantaged	Minority (non-Caucasian)	English Language Learners	Gifted	Special Education
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).

68. 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).

**D. Amendment Request Regarding Charter School’s Location**

69. In its Amendment Request, the Charter School states it “seeks an amendment to its charter to clarify that the location of the Charter School shall be 401 Penn Street, Reading, Pennsylvania.” (J-1 at ¶ 20).

70. The Revised Application proposed a short-term school site with the goal of obtaining a permanent school site at a later date. (J-5, Revised Application at 57).

71. Upon opening to students, the Charter School was located at 200 North Eighth Street, Reading, Pennsylvania until the completion of the 2013-2014 school year. (N.T. at 147).

72. Prior to the start of the 2014-2015 school year, the Charter School moved into a new facility located at 401 Penn Street, Reading, Pennsylvania. (CS-8 at 4; J-33 at 12).

73. The School District never told the Charter School that it could not move to 401 Penn Street location, and the School District was aware of that site being used by the Charter School. (N.T. at 188).
74. During the proceedings, the School District indicated it is not contesting the Charter School's ability to operate out of the 401 Penn Street location. (N.T. at 187; School District's Proposed Findings of Fact and Conclusions of Law at 108).
75. The School Board finds that stating the Charter School's current location within the existing charter is reasonable and appropriate in light of the Revised Application's representation that a permanent school site was being actively sought.

**E. Amendment Request Regarding Highly Qualified Teachers**

76. In its Amendment Request, the Charter School states it "seeks an amendment to its charter stating that the Charter School shall employ Highly Qualified Teachers ('HQT') in all core academic subjects." (J-1 at ¶ 22).<sup>6</sup>
77. The Revised Application was totally silent regarding the academic credentials or teaching certifications that teachers would be required to possess in order to be hired by the Charter School.
78. The School Board's 2010 Resolution GEN-55 granting a charter to the Charter School did not expressly address or specify the necessary credentials for teachers hired by the Charter School. (J-6).
79. Similarly, the documents entitled "Charter Agreement" and "Addendum," which were executed by both the School Board and Charter School several months after the approval of Resolution GEN-55, did not expressly address or specify the necessary credentials for teachers hired by the Charter School. (J-7 and 8).
80. The School Board's 2013 renewal of the Charter School's charter for another five (5) year period did not address or specify the necessary credentials for teachers hired by the Charter School. (J-8).
81. None of the salient documents relating to the establishment of the Charter School contained any directive or proscription regarding the necessary academic credentials or certifications for teachers to be hired by the Charter School.

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<sup>6</sup> On December 10, 2015, President Obama signed the Every Student Succeeds Act ("ESSA") 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 area 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. Thus, this proposed change in the charter amendment request may be unnecessary. However, since the Charter School has not withdrawn this request and the requirement to employ Highly Qualified Teacher are still found in 22 Pa. Code § 403.4 and PDE Certification and Staffing Policy Guideline No. 301, we address this requested charter change.

82. In Pennsylvania, a “Highly Qualified Teacher” is one who: (i) hold 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).
86. The information set forth in paragraphs 83 through 85 shows that the Charter School was able to increase the overall percentage of teaching staff that satisfied the Highly Qualified Teachers standards without any express requirement within its charter to do so.
87. This information belies any argument that the existing charter must be altered in order to allow the Charter School to be able to hire or employ Highly Qualified Teachers.

**F. Amendment Request Regarding Charter School Governance Issues**

88. In its Amendment Request, the Charter School states it “seeks an amendment to its charter wherein the Charter represents and warrants” the following:
- a. none of its board members either work for and/or serve on the board for I-LEAD, Inc.;

- b. none of its administrators receive compensation from I-Lead, Inc. in connection with work performed for the Charter School;
- c. no management contract exists between the Charter School and I-Lead, Inc.;
- d. the Charter School shall comply with the Sunshine Act; and
- e. the Charter School Board of Trustees shall receive periodic training regarding compliance with the Sunshine Act and Pennsylvania's Ethics Act.

(J-1 at ¶ 23).

89. Article 3.5 of the Charter School's Bylaws states that its Charter Board regular meetings "shall comply with the Sunshine Act." (J-26 at 2).
90. 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).
91. The School Board finds that the Charter School understood that it had a duty to comply with the Sunshine Act, and reinstating that legal obligation within the charter would be unnecessary and redundant since nothing in the charter prevents the Charter School from doing so.
92. The School Board also finds that adding a statement that the Charter Board shall receive periodic training is similarly unnecessary, because it finds nothing in the Revised Application or existing charter that would prevent that from taking place. In absence of a clear and unambiguous statement within the charter that impedes the Charter School from training its Board members, the charter does not need to be modified to authorize training.
93. As noted in Finding of Fact ¶ 27, the Revised Application provides that I-LEAD, Inc. Board of Directors would be the governing board of the Charter School. (J-5, Revised Application at 52).
94. 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).
95. 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).
96. To the extent that the Revised Application could be construed to only permit the Board of Directors of I-LEAD, Inc. to serve as the Charter School's governing board, the School Board agrees a charter amendment would be warranted.

97. The Charter School is an independent corporate entity, and must be permitted to select its own Board of Trustees members in a manner that complies with all applicable laws. Thus, to the extent the existing charter impaired it from doing so, the School Board agrees the charter should be amended to eliminate any requirement that the I-LEAD, Inc. Board of Directors must govern the Charter School.
98. Conversely, the School Board does not find anything in the Revised Application or the existing charter prohibiting or impairing the Charter School from *not* entering a management agreement with I-LEAD, Inc. or otherwise preventing its own employees from working for or receiving compensation from I-LEAD, Inc. for work related to the Charter School.
99. Thus, adding a statement to the existing charter that the no Charter School employees will work for or serve I-LEAD, Inc. is totally unnecessary; the Charter School can make that decision regarding its own employees, even if the charter is silent on that issue. The School Board does not believe such an amendment request needs to be granted for the reasons explained above.

## II. Conclusions of Law

1. The Charter School Law (“CSL”), 24 P.S. § 17-1701-A *et seq.*, does not expressly state that charter schools may request amendments to their charter after they commence operation.
2. However, the Pennsylvania Commonwealth Court has interpreted the CSL as permitting charter schools to seek charter amendments and required chartering school districts to entertain any such requests. *See e.g., Northside Urban Pathways Charter School v. State Charter School Appeal Board*, 56 A.3d 80 (Pa. Cmwlth. 2012); *Lehigh Valley Dual Language Charter School v. Bethlehem Area School District*, 97 A.3d 401 (Pa. Cmwlth. 2014); *Discovery Charter School v. School District of Philadelphia*, 111 A.3d 248 (Pa. Cmwlth. 2015).
3. The Pennsylvania Supreme Court recently granted an appeal in *Discovery Charter School v. School District of Philadelphia*, 2016 WL 1644673, \_\_\_ A.3d \_\_\_ (Pa. April 26, 2016) to decide whether “the Commonwealth Court err[ed] when it created an extra-legislative scheme for amending charters that is not contained in the Charter School Law.” The School Board assumes *arguendo* that the right to request charter amendments exists for purposes of this matter without conceding its right to contest this legal issue in any subsequent appeal.
4. In *Northside*, the Commonwealth Court explained its rationale for permitting a charter school to seek an amendment of its charter as follows:

A charter school application, which is ultimately incorporated into the terms of the charter, is a very detailed document.... ***Inevitably, though, these details will have to be adjusted during the life of a school.***...If a charter school states in its charter application that it will be located in a particular building, then that provision becomes part of the school’s charter. If the school changes its location

during the term of the charter without amending its charter, it is subject to closure under Section 1729-A(1) of the [CSL]...

*Northside*, 56 A.2d at 85-86 (emphasis added).

5. Thus, *Northside* held that charter schools may seek amendments to their charters so necessary adjustments can be made to ensure those schools may continue to operate without running afoul of their unaltered charters and/or the applicable law.
6. The Charter School seeks several charter changes, which do not comply with *Northside* because the proposed changes do not attempt to correct any deficiency within its existing charter nor would the proposed changes address any new or unforeseen problems facing the Charter School.
7. For example, the Charter School seeks to amend its charter to specify it must comply with Pennsylvania's Sunshine Act, 65 P.S. § 701 *et seq.* 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. Thus, the Charter School already has an affirmative obligation to comply with Sunshine Act, regardless whether it is specified in its existing charter.
8. Because the Charter School's existing charter does not impair its ability to comply with the Sunshine Act, and Charter School's existing Bylaws reflect a basic understanding that the Charter School has no choice but to comply with the Sunshine Act, a charter amendment addressing this particular topic is both redundant and unnecessary.
9. Similarly, the Charter School seeks to amend its charter to employ Highly Qualified Teachers in all core academic subjects. 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.
10. As a recipient of Title I funds, the Charter School was and is still presumably 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.
11. Nothing in its existing charter prevents the Charter School from employing "Highly Qualified Teachers" as contemplated by NCLB, and the evidence presented at the public hearing demonstrates that the Charter School clearly understood its responsibility to comply with this mandate.
12. Because a charter amendment is not necessary for the Charter School to be able to hire or employ "Highly Qualified Teachers," it would only reiterate what the Charter School is already required to do; thus, the School Board denies this request.

13. The Charter School also seeks to amend its charter to include representations and warranties regarding the relationship between the Charter School, I-LEAD, Inc. and its employees. Much of this request is wholly unnecessary because the Charter School already has the ability to offer training to its Board of Trustees or place restrictions upon its employees to work for, receive compensation from or otherwise serve I-LEAD, Inc. relative to Charter School matters. Thus, these charter school amendment changes regarding I-LEAD, Inc. are denied to the extent they are not true necessities as contemplated in *Northside*.
14. To the extent that a charter school application is ultimately incorporated into the terms of a charter, *Northside*, 56 A.2d at 85, the School Board believe that the Charter School's request to amend its existing charter to make clear that the I-LEAD, Inc. Board of Directors is not the only body that may serve as the Charter Board is an appropriate one. Thus, that portion of the charter amendment request relating to I-LEAD, Inc. shall be granted.
15. The Commonwealth Court has explained that a charter amendment request in order to permit a charter school to move to a new location is appropriate. *See e.g., Northside*, 56 A.2d at 86; *Lehigh Valley*, 97 A.3d at 407 ("recognizing the benefit and practicality of permitting charter schools to amend their charters" to change locations). In the absence of an objection from the School District, the School Board feels it is appropriate under the law to allow the charter to be amended to specify that the Charter School operates out of 401 Penn Street, Reading, Pennsylvania.
16. In *Penn Hills Charter School of Entrepreneurship v. Penn Hills School District*, Docket No. 2015-02 (2015) at 8, the Charter School Appeal Board ("CAB") held "[t]he criteria for denying a charter school amendment is that which is applicable to a decision to revoke or not renew a charter under Section 1729-A of the CSL." *See also, Discovery*, 111 A.3d at 259 (denials of charter amendments are to be reviewed "in the same manner...[as] a decision revoking or not renewing a charter.").
17. Thus, for purposes of analyzing the Charter School's request to amend the existing charter relative to its academic goals, the School Board relies upon *Penn Hills* to define the standard it must follow in rendering its decision on this proposed change.
18. The CSL requires charter schools to participate in the requirements of 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, and PDE "is now utilizing the SPP to evaluate the performance of a school." *Id.* at 45.
19. 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.

20. Under the applicable *New Hope* standard, 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 Science Academy Charter School v. Philadelphia School District*, 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 notable 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.

21. The Charter School incorrectly suggests that it should be held to different standards 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" 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 different accountability standards 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.
22. 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 the Commonwealth Court’s holding in *New Hope Academy*. 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.
23. The School Board has provided the Charter School with all applicable due process in entertaining its charter amendment request (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 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>7</sup>

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<sup>7</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, it 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 18<sup>th</sup> day of May 2016, based upon the vote of the Board of School Directors for the Reading School District, the charter amendment request is **granted in part** and **denied in part**, as follows:

1. the request to replace the existing measurable academic goals within the existing charter with new ones to assess the performance of the Charter School's student population is **denied**;
2. the request to specify in its existing charter that the I-LEAD Charter School shall operate out of facilities located 401 Penn Street, Reading, PA is **granted**;
3. the request to specify in its existing charter that the I-LEAD, Inc. board members shall not serve on the Charter School's Board of Trustees is **granted** only to the extent to the existing charter specifies that the board of directors I-LEAD, Inc. shall be the Charter School's Board of Trustees, and any other remaining portions of this particular request are **denied**;
4. the request to specify in its existing charter information regarding the relationship between the Charter School, I-LEAD, Inc. and/or its employees is **denied**;
5. the request to specify in its existing charter that the Charter School shall comply with the Sunshine Act and offer compliance training regarding the Sunshine Act and Pennsylvania's Ethics Act is **denied**.

This Adjudication regarding the charter school amendment request is entered into without prejudice to the School District's charter revocation proceedings brought against I-LEAD Charter School, which shall be addressed in a separate adjudication as per the agreement of the parties.

Reading School District  
Board of School Directors

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President

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Secretary