



THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

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ROBERT W. RUNCIE
Superintendent of Schools

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August 26, 2019

Ms. Debra Klein, Governing Board Chair
The National Ben Gamla Charter School Foundation, Inc.
Ben Gamla Charter School South Broward – 5392
3397 Hollywood Oaks Drive
Hollywood, Florida 33312

Dear Ms. Klein:

SUBJECT: IMMEDIATE TERMINATION OF THE CHARTER SCHOOL RENEWAL AGREEMENT BETWEEN THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA AND THE NATIONAL BEN GAMLA CHARTER SCHOOL FOUNDATION, INC. (ON BEHALF OF BEN GAMLA CHARTER SCHOOL SOUTH BROWARD-5392)

This letter serves as written notice to the governing board of The National Ben Gamla Charter Foundation, Inc. (on behalf of Ben Gamla Charter School South Broward-5392) that its Sponsor, pursuant to Section 1002.33(8)(c), Florida Statutes, has exercised its authority on August 27, 2019, to immediately terminate the Charter School Renewal Agreement existing between the parties due to the existence of conditions at the Charter School that present an immediate and serious danger to the health, safety, or welfare of the Charter School's students due to the Charter School's failure to comply with and implement the requirements of Section 1006.12, Florida Statutes, entitled *Safe-school officers* at each public school by failing to arrange for the assignment of one or more safe-school officers at the Charter School for the protection and safety of school personnel, property and students, without interruption during all school hours of every school day. The facts and circumstances that necessitated the immediate termination of the Agreement are clearly identified in this letter and also in the enclosed Agenda for the Emergency School Board Meeting Item 1, which is incorporated herein by reference (Attachment). The Sponsor will continue to operate the Charter School subsequent to the immediate termination of its Charter School Renewal Agreement. Section 1002.33(8)(b), Florida Statutes, provides that upon receiving written notice from the Sponsor, the Charter School's governing board has fourteen (14) calendar days after receiving the notice to request a hearing.

Ben Gamla Charter School South Broward-5392 is a charter school currently operating under a Charter School Renewal Agreement ("Agreement") executed on June 11, 2019, between The School Board of Broward County, Florida ("Sponsor") and The National Ben Gamla Charter School Foundation, Inc. This Agreement between the Sponsor and The National Ben Gamla Charter School Foundation, Inc. (on behalf of Ben Gamla Charter School South Broward-5392), became effective on July 1, 2020.

Section 1002.33(8)(c), Florida Statutes, states as follows:

A charter may be terminated immediately if the sponsor sets forth in writing the particular facts and circumstances indicating that an immediate and serious danger to the health, safety, or welfare of the charter school's students exists.

The sponsor's determination is subject to the procedures set forth in paragraphs (b) and (c), except that the hearing may take place after the charter has been terminated. The sponsor shall notify in writing the charter school's governing board, the charter school principal, and the department if a charter is terminated immediately. The sponsor shall clearly identify the specific issues that resulted in the immediate termination and provide evidence of prior notification of issues resulting in the immediate termination when appropriate.

* * *

Section 1006.12(1)-(4), Florida Statutes, is entitled *Safe-school officers at each public school* and states as follows:

For the protection and safety of school personnel, property, students, and visitors, each district school board and school district superintendent shall partner with law enforcement agencies or security agencies to establish or assign one or more safe-school officers at each school facility within the district, including charter schools. A district school board must collaborate with charter school governing boards to facilitate charter school access to all safe-school officer options available under this section. The school district may implement any combination of the options in subsections (1)-(4) to best meet the needs of the school district and charter schools.

(1) SCHOOL RESOURCE OFFICER. —A school district may establish school resource officer programs through a cooperative agreement with law enforcement agencies.

* * *

(2) SCHOOL SAFETY OFFICER. —A school district may commission one or more school safety officers for the protection and safety of school personnel, property, and students within the school district. The district school superintendent may recommend, and the district school board may appoint, one or more school safety officers.

* * *

(3) SCHOOL GUARDIAN. —At the school district's or the charter school governing board's discretion, as applicable, pursuant to s. 30.15, a school district or charter school governing board may participate in the Coach Aaron Feis Guardian Program to meet the requirement of establishing a safe-school officer. The following individuals may serve as a school guardian, in support of school-sanctioned activities for purposes of s. 790.115, upon satisfactory completion of the requirements under s. 30.15(1)(k) and certification by a sheriff...

* * *

(4) SCHOOL SECURITY GUARD. —A school district or charter school governing board may contract with a security agency as defined in s. 493.6101(18) to employ as a school security guard an individual who

holds a Class “D” and Class “G” license pursuant to chapter 493, provided the following training and contractual conditions are met...

* * *

The Agreement between the Sponsor and the Charter School. states in pertinent part as follows:

Section 2.D.3: **Immediate Termination:** This Charter may be terminated immediately by the Sponsor pursuant to Section 1002.33(8)(c), Florida Statutes, if it determines that there is exigent good cause or if the health, safety or welfare of the students is threatened. In making the determination as to whether good cause exists for immediate termination, the Sponsor will consider whether the totality of the circumstances warrant a decision to forego the procedures for a ninety (90) day termination. The Sponsor shall notify in writing the School’s Governing Board, the School’s principal, and the Florida Department of Education if the Charter is immediately terminated. The Sponsor shall clearly identify the specific issues that resulted in the immediate termination and provide evidence of prior notification of issues resulting in the immediate termination when appropriate.

* * *

The School Board of Broward County, Florida, has taken no action to deny any charter school access to any of the safe-school officer options summarized above and more fully detailed in Section 1006.12, Florida Statutes.

Pursuant to Section 1002.33(8)(c), Florida Statutes, The School Board of Broward County, Florida exercised its authority to immediately terminate the Charter School Renewal Agreement existing between the parties for violation of law due to the Charter School’s failure to act to comply with the requirements of Section 1006.12, Florida Statutes, causing an immediate and serious danger to the health, safety or welfare of its students. The Sponsor will continue to operate the Charter School after its immediate termination. The specific grounds for the immediate termination of the Charter School Renewal Agreement are clearly identified hereafter along with a description of the evidence that the Charter School received prior notification of the issues that necessitate immediate termination as required by Section 1002.33(8)(c), Florida Statutes.

Safe-school Officers at each Public School

Charter Schools are required to select and implement one of the following options prescribed by Section 1006.12, Florida Statutes, for the assignment of one or more safe-school officers at the Charter School for the protection and safety of the Charter School’s personnel, property and students:

1. School Resource Officer (SRO) - a law enforcement officer employed by a law enforcement agency other than The School Board of Broward County, Florida (below is an excerpt from the statute for reference):

School resource officers shall undergo criminal background checks, drug testing, a psychological evaluation and be certified law enforcement officers, as defined in Section 943.10(1), Florida Statutes, who are employed by a law enforcement agency as defined in Section 943.10(4), Florida Statutes. The powers and duties of a law enforcement officer shall continue throughout the employee’s tenure as a school resource officer.

School resource officers shall abide by district school board policies and shall consult with and coordinate activities through the school principal but shall be responsible to the law enforcement agency in all matters relating to employment, subject to agreements between a district school board and a law enforcement agency. Activities conducted by the school resource officer which are part of the regular instructional program of the school shall be under the direction of the school principal.

2. Safe-school Officer (SSO) - a law enforcement officer commissioned by the school district (below is an excerpt from the statute for reference):

School safety officers shall undergo criminal background checks, drug testing, a psychological evaluation and be law enforcement officers, as defined in Section 943.10(1), Florida Statutes, certified under the provisions of Chapter 943 and employed by either a law enforcement agency or by the district school board. If the officer is employed by the district school board, the district school board is the employing agency for purposes of Chapter 943 and must comply with the provisions of that chapter.

A school safety officer has and shall exercise the power to make arrests for violations of law on district school board property and to arrest persons, whether on or off such property, who violate any law on such property under the same conditions that deputy sheriffs are authorized to make arrests. A school safety officer has the authority to carry weapons when performing his or her official duties.

3. School Guardian certified by the sheriff to serve under the Coach Aaron Feis Guardian Program (below is an excerpt from the statute for reference):

“...participate in the Coach Aaron Feis Guardian Program, if such program is established pursuant to Section 30.15 Florida Statutes, to meet the requirement of establishing a safe-school officer.”

In addition to the three safe-school officer options the Florida Legislature made the following fourth option for the assignment of safe-school officers available to charter schools through Section 1006.12, Florida Statutes, upon its enactment of Senate Bill 7030 which became effective as of May 8, 2019:

4. School Security Guard, A charter school governing board may contract with a security agency as defined in Section 493.6101(18) to employ as a school security guard an individual who holds a Class “D” and Class “G” license pursuant to chapter 493, provided the following training and contractual conditions are met (Below is an excerpt from the statute for reference):
 - (a) An individual who serves as a school security guard, for purposes of satisfying the requirements of this section [1006.12], must:
 1. Demonstrate completion of 144 hours of required training pursuant to s. 30.15(1)(k)(2).
 2. Pass a psychological evaluation administered by a psychologist licensed under chapter 490 and designated by the Department of Law Enforcement and submit the results of the evaluation to the sheriff’s office, school district, or charter school governing board as applicable. The Department of Law Enforcement is authorized to provide the sheriff’s office, school district, or charter school governing board with mental health and substance abuse data for compliance with this paragraph.

3. Submit to and pass an initial drug test and subsequent random drug tests in accordance with the requirements of s. 112.0455 and the sheriff's office, school district, or charter school governing board, as applicable.
4. Successfully complete ongoing training, weapon inspection, and firearm qualification on at least an annual basis and provide documentation to the sheriff's office, school district, or charter school governing board, as applicable.
 - (b) The contract between a security agency and a school district or charter school governing board regarding requirements applicable to school security guards serving in the capacity of a safe-school officer for purposes of satisfying the requirements of this section shall define the entity or entities responsible for training and the responsibilities for maintaining records relating to training, inspection, and firearm qualification.
 - (c) School security guards serving in the capacity of a safe-school officer pursuant to this subsection are in support of school-sanctioned activities for purposes of s. 790.115, and must aid in the prevention or abatement of active assailant incidents on school premises.

On May 15, 2019, Mr. Brian Katz, Chief Safety, Security & Emergency Preparedness Officer for The School Board of Broward County, Florida, addressed the Principals at the Charter Schools Principals' Meeting. (Exhibit 1) Mr. Katz explained the statutory requirements for charter schools to comply with the law. Additionally, he advised the charter school principals that charter school compliance was mandatory and that it was imperative for each charter school to upload evidence that demonstrated its compliance with this statutory requirement.

On July 9, 2019, Ms. Leslie M. Brown, Chief Portfolio Services Officer, and Mr. Brian Katz, Chief Safety, Security & Emergency Preparedness Office, sent a memo regarding *Safe-school Officers* to all charter schools concerning the recently enacted provisions within Section 1006.12, Florida Statutes, relating to the assignment of safe-school officers, "specifically including charter schools." (Exhibit 2) This memo stated that, "it is imperative for all charter schools to ensure full compliance with this law." The memo also reminded Charter Schools that they had until Thursday, August 1, 2019, to upload into Charter.Tools under the Safe-school Officer Compliance Benchmark, the documentation establishing that the charter school is in compliance with Section 1006.12, Florida Statutes, for the 2019-20 school year. Additionally, the memo referred to and included as an attachment a letter dated June 28, 2019, sent by Richard Corcoran, Commissioner of Education, which stated as follows:

It is imperative for all charter schools to ensure full compliance with this law requiring at least one [School Safety Officer] SSO be present at their school while it is in session.
All charter schools without current coverage have until August 1 to come into compliance for the 2019-20 school year....

For those charter schools that choose to treat our requests for information [about their compliance with the SSO requirement] as optional, our only option going forward will be to use the full extent of the law to ensure compliance. We all share in the responsibility to do everything we can to ensure the safety of our children. We cannot choose to be vague or nonresponsive when we do not like the question that is being asked. [Emphasis furnished in original].

On July 31, 2019, Mrs. Donté Fulton-Collins, Director, Charter Schools Management/Support Department sent an email on behalf of Leslie M. Brown, Chief Portfolio Services Officer and Brian Katz, Chief Safety, Security and Emergency Preparedness Officer regarding the Deadline for Charter School

Compliance Section 1006.12, Florida Statutes (Safe-schools Officer) (Exhibit 3).

On August 1, 2019, Chief Brian Katz addressed principals at the Charter School Principals' Meeting. (Exhibit 4) He reiterated the statutory requirements for charter schools to comply with the law and answered questions posed by the principals. Additionally, he advised the principals that charter school compliance was mandatory and that it was imperative for each charter school to upload evidence that established compliance with this statutory requirement by the end of the day. In this discussion it was made clear that any contract options needed to provide a safe-school officer for all school hours every school day without interruption.

On August 1, 2019, the Charter School failed to upload into Charter.Tools, under the Safe-school Officer Compliance Benchmark, the required documentation establishing that the Charter School was in compliance with Section 1006.12, Florida Statutes. (Exhibit 5). The plan submitted by the Charter School for a detail officer failed to show the establishment of uninterrupted SSO service for the 2019-2010 school year.

Area of Non-compliance:

Section 1006.12, Florida Statutes, states:

For the protection and safety of school personnel, property, students, and visitors, each district school board and school district superintendent shall partner with law enforcement agencies or security agencies to establish or assign one or more safe-school officers at each school facility within the district, including charter schools. A district school board must collaborate with charter school governing boards to facilitate charter school access to all safe- school officer options available under this section. The school district may implement any

combination of the options in subsections (1)-(4) to best meet the needs of the school district and charter schools.

* * *

The Charter School failed to provide evidence that it satisfied the mandate established by Section 1006.12, Florida Statutes, and the material terms of the parties' Charter School Renewal Agreement, by failing to adequately implement one of the safe-school officer options for the assignment of one or more safe-school officers at its charter school facility for all school days.

Evidence of Prior Notification:

As clearly established, the Charter School was repeatedly notified of its need to meet compliance with this mandate by various means of communication as summarized below:

1. Mr. Brian Katz attended the Charter School Principals' Meeting on Wednesday, May 15, 2019, where he explained the statutory requirements for charter schools to comply with Section 1006.12, Florida Statutes;
2. a Memo dated July 9, 2019, regarding *Safe-school Officers* for charter schools for the 2019-2020 school year;
3. an email dated July 31, 2019, regarding the deadline for Charter School Compliance Section 1006.12, Florida Statutes (Safe-schools Officer).

4. Mr. Brian Katz presented at the Charter Principals' Meeting and reiterated the statutory requirements for charter schools to comply with Section 1006.12, Florida Statutes by the deadline of August 1, 2019; and
5. a review of the Safe-School Officer Compliance Benchmark in Charter.Tools indicating that the School security detail officer failing to show the establishment of uninterrupted SSO service for the 2019-2020 school year.

Moreover, The School Board of Broward County, Florida, has taken no action to deny the Charter School access to any of the safe-school officer options detailed in Section 1006.12, Florida Statutes as summarized below:

- *SCHOOL RESOURCE OFFICER* – The Sponsor has collaborated with the Broward County Sheriff's Office to position charter schools to have access to school resource officers through its law enforcement agency.
- *SCHOOL SAFETY OFFICER* - As the Sponsor does not have a district police department, this is not currently an option available for any public school in the school district.
- *SCHOOL GUARDIAN* – The Sponsor has advised charter schools of the training requirements for this option and shared important information regarding training opportunities for certified school guardians.
- *SCHOOL SECURITY GUARD* - The Sponsor has advised charter schools of the newly added option to contract with a security agency and employ a school security guard who holds the appropriate licensing requirements and training.

On August 26, 2019, District staff called the Charter School regarding its Safe-School Officer (SSO), plan that will be in force through Friday, August 30, 2019 as the Charter School's agreement with the Plantation Police Department for a Detail Officer is about to expire. The Charter School's staff notified the District Staff that the Charter School did not have a Safe-School Officer on campus today and would not have a Safe-School Officer on its campus on Tuesday, August 27, 2019 or Wednesday, August 28, 2019.

As a result, the Charter School has failed to meet its obligation under Section 1006.12, Florida Statutes, to provide for the protection, safety and security of its students, faculty and property causing an immediate and serious danger to the health, safety or welfare which necessitates action by The School Board of Broward County, Florida to protect the public interest.

In summary, The National Ben Gamla Charter School Foundation, Inc. (on behalf of Ben Gamla Charter School South Broward-5392), failed to implement one of the options for a safe-school officer as required under state law on August 26, 2019 despite multiple notices of requirements and had no plans for a safe-school officer to be present during all school hours scheduled for August 27 and August 28, 2019; and has failed to make arrangements to establish an assigned safe-school officer on its campus without interruption during all school hours on all school days. The Charter School has violated applicable state laws and the terms of its Charter School Agreement, as more fully specified within this executive summary.

Pursuant to Section 1002.33(8)(c), Florida Statutes, the Sponsor has exercised its authority to terminate the Charter School Renewal Agreement existing between the governing board of The National Ben Gamla Charter School Foundation, Inc. (on behalf of Ben Gamla Charter School South Broward-5392), and the Sponsor, The School Board of Broward County, Florida, effective immediately due to the existence of circumstances that present an immediate and serious danger to the health, safety, or welfare of the Charter School's students. The Sponsor will continue operation of the Charter School subsequent to its immediate termination pending an appeal by the Charter School.

Pursuant to 1002.33(8)(b), Florida Statutes, the Charter School's governing board may, within fourteen (14) calendar days after receipt of this notice, request a hearing upon the proposed termination. Should the Charter School's governing board choose to request a hearing, the Sponsor will then exercise its authority under Section 1002.33(8)(b), Florida Statutes, to have such hearing conducted by an administrative law judge assigned by the Florida Division of Administrative Hearings. Any request by the Charter School for a hearing must be accompanied by a written petition, submitted to the Sponsor that meets the requirements as specified in Section 28-106.201, Florida Administrative Code.

District representatives will be contacting the Charter School to arrange for the orderly operation of the Charter School by the Sponsor during any period of appeal. Please govern yourselves accordingly.

Sincerely,

Robert W. Runcie

RWR/LMB/DFC:ac
Attachments

c: Jeffrey Moquin, Chief of Staff
Robert Paul Vignola, Deputy General Counsel
Leslie M. Brown, Chief Portfolio Services Officer
Brian Katz, Chief Safety, Security & Emergency Preparedness Officer
Donté Fulton-Collins, Director, Charter Schools Management/Support Department
Marla Devitt, Administrative Liaison, Academica
Gur Berman, Principal, Ben Gamla Charter School South Broward-5392