

# THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

600 SOUTHEAST THIRD AVENUE • FORT LAUDERDALE, FLORIDA 33301 • TEL 754-321-2600 • FAX 754-321-2701

ROBERT W. RUNCIE  
*Superintendent of Schools*

## SCHOOL BOARD

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February 17, 2012

Fay Douglas, Chair  
Learning Excellence of East Broward, Inc.  
Imagine at North Lauderdale Middle – 5261  
12877 S.W. 49<sup>th</sup> Court  
Miramar, FL 33027

### RE: NOTICE OF PROPOSED NON-RENEWAL OF CHARTER SCHOOL AGREEMENT

Dear Ms. Douglas:

Pursuant to Section 1002.33(8)(b), Florida Statutes, the Sponsor shall notify the governing body of a charter school of the proposed non-renewal of its charter at least 90 days prior to such non-renewal.

As part of its renewal process for charter schools, the District has conducted a review of the school's data and of the charter renewal application submitted by **Learning Excellence of East Broward, Inc. (Imagine at North Lauderdale Middle - 5261)**, as required by Section 1002.33, Florida Statutes. Due to the deficiencies outlined below, I am considering a recommendation to The School Board of Broward County, Florida, at its Regular School Board Meeting of March 20, 2012, that the charter contract with Learning Excellence of East Broward, Inc. (Imagine at North Lauderdale Middle- 5261) not be renewed if your charter school does not accept the special condition for a one-year renewal discussed herein. Following are the anticipated grounds for non-renewal:

#### A. FAILURE TO MEET STATUTORY REQUIREMENTS FOR RENEWAL

In accordance with Section 1002.33 (8)(a)(1), Florida Statutes, "The sponsor may choose not to renew or may terminate the charter for any of the following grounds:

1. Failure to participate in the state's education accountability system created in Section 1008.31, Florida Statutes as required in this section, or failure to meet the requirements for student performance stated in the charter."

#### Findings:

- Imagine at North Lauderdale Middle- 5261 has failed to meet the requirements for student performance stated in the charter.

\* \* \*

**Section 2.D.1 – Nonrenewal Provisions** - At the end of the charter, the Sponsor may choose not to renew the School's Charter for any of the following reasons:

(a) Failure to participate in the state's education accountability system created in Section 1008.31, Florida Statutes, as required in this section, or failure to meet the requirements for student performance stated in the charter.

\* \* \*

(f) Receipt by the School of a designated grade of "F" in any Two (2) of Four (4) years or the School is designated as "a school in need of improvement" for more than Two (2) years [more than 5 years of failure to make Adequate Yearly Progress (AYP)], in accordance with the provisions of the No Child Left Behind (NCLB) Act of 2001 as provided in the State's Differentiated Accountability standards as set forth in Section 1008.33, Florida Statutes and Rule 6A-1.099811, Florida Administrative Code (FAC) as any of these laws or regulations may be amended from time to time. A "school in need of improvement" is one that has failed to Make Adequate Yearly Progress (AYP) for more than Five (5) years in accordance with the provisions of the NCLB Act of 2001. The equivalent of an "F" grade is defined as the School receiving less than 395 points for elementary and middle schools and less than 790 for high schools on the Florida Grades issued by the Florida Department of Education. Schools that receive a school improvement designation of "Declining" will also be considered the equivalent to an "F" grade. The foregoing point designations or school improvement ratings shall be amended during the term of this Charter to conform to current state law or rules;

- Imagine at North Lauderdale Middle– 5261 has failed to make AYP in accordance with the provisions of NCLB for Eight (8) consecutive years, as evidenced by the Florida School Grades Report
- During the 2007-2008 academic year, Imagine at North Lauderdale Middle – 5261 obtained 445 points and received an "C" grade on the School's FLDOE School Accountability Report
- During the 2008-2009 academic year, Imagine at North Lauderdale Middle – 5261 obtained 456 points and received a "C" grade on the School's FLDOE School Accountability Report
- During the 2009-2010 academic year, Imagine at North Lauderdale Middle – 5261 obtained 416 points and received an "D" grade on the School's FLDOE School Accountability Report
- During the 2010-2011 academic year, Imagine at North Lauderdale Middle – 5261 obtained 391 points and received an "F" grade on the School's FLDOE School Accountability Report
- If the school does not make AYP in 2011-2012, this will be the ninth year of not meeting NCLB requirements.

#### **B. FAILURE TO MEET CURRENT CHARTER AGREEMENT REQUIREMENTS**

The Charter School's Agreement with the Sponsor provides as follows:

\* \* \*

**Section 2.D.1.a - Grounds for Good Cause:** "Good Cause" for termination or nonrenewal shall include, but not be limited to, the following:

\* \* \*

(2) Receipt by the School of a designated grade of "F" in any Two (2) of Four (4) years or the School is designated as "a school in need of improvement" for more than Two (2) years [more than 5 years of failure to make Adequate Yearly Progress (AYP)], in accordance with the provisions of the No Child Left Behind Act of 2001 as provided in the State's Differentiated Accountability standards as set forth in Section 1008.33, Florida Statutes and Rule 6A-1.099811, F.A.C. as any of these laws or regulations may be amended from time to time. A "school in need of improvement" is one that has failed to Make Adequate Yearly Progress (AYP) for more than Five (5) years in accordance with the provisions of the No Child Left Behind Act of 2001. The equivalent of an "F" grade is defined as the School receiving less than 395 points for elementary and middle schools and less than 790 for high schools on the Florida Grades issued by the Florida Department of Education. Schools that

receive a school improvement designation of “Declining” will also be considered the equivalent to an “F” grade. The foregoing point designations or school improvement ratings shall be amended during the term of this Charter to conform to current state law or rules;

\* \* \*

(22) Any other good cause shown, which shall include, without limitation, any material breach or violation by the School of the standards, requirements, or procedures of this Charter such as:

\* \* \*

(I) The School’s failure to provide Special Education (SPED) students and English Language Learners (ELL) with programs and services in accordance with federal, state and local school district policies;

- Imagine at North Lauderdale Middle – 5261 has failed to make AYP in accordance with the provisions of NCLB for Eight (8) consecutive years, as evidenced by the Florida School Grades Report
- During the 2007-2008 academic year, Imagine at North Lauderdale Middle – 5261 obtained 445 points and received an “C” grade on the School’s FLDOE School Accountability Report
- During the 2008-2009 academic year, Imagine at North Lauderdale Middle – 5261 obtained 456 points and received a “C” grade on the School’s FLDOE School Accountability Report
- During the 2009-2010 academic year, Imagine at North Lauderdale Middle – 5261 obtained 416 points and received an “D” grade on the School’s FLDOE School Accountability Report
- During the 2010-2011 academic year, Imagine at North Lauderdale Middle – 5261 obtained 391 points and received an “F” grade on the School’s FLDOE School Accountability Report
- If the school does not make AYP in 2011-2012, this will be the Ninth (9th) year of not meeting NCLB requirements.
- Imagine at North Lauderdale Middle– 5261 has failed to implement all required procedures, as stipulated by the Multicultural Education Training and Advocacy (META) Consent Decree, to address the needs of ELLs. Areas of deficiency identified during the October 13 and 14, 2011, English for Speakers of Other Languages (ESOL) Onsite Analysis visit included: programmatic assessment, accurate recordkeeping, monitoring, accommodations, home/school communication, ELL Committee Meetings, and personnel meeting ESOL training requirements, as evidenced by correspondence from the ESOL Services Department dated November 10, 2011.
- Following are specific areas of deficiency identified during the October 13 and 14, 2011, ESOL Onsite Analysis Visit that directly affect the weighted Full Time Equivalent (FTE) funding received by the charter school for providing mandated services to ELLs:
  - Missing and incomplete ELLSEP folders
  - Failure to keep accurate records including signatures, assessment information, accommodations, etc.
  - Failure to ensure that data reported to the state (TERMS) is aligned to student documentation
  - Failure to follow established procedures for conducting ELL Committee meetings
  - Failure to exit students that met exit criteria
  - Failure to provide personnel dedicated and available to provide home language assistance
- A follow-up Onsite Analysis Visit was completed on January 23, 2012 (Exhibit I). Although some of the previous areas of deficiency appear to be improving, curriculum deficiencies were not addressed at the time of the visit and teacher certification deficiencies remain an issue. Additionally, Imagine at North Lauderdale Middle– 5261 has, for the past two years, been found to be noncompliant with the statutory requirements set forth by the META Consent Decree. ELL students were deprived of ESOL services for a substantial portion of time, and the academic progress that they could have achieved, cannot be recovered.

In addition, the Charter School's Agreement with the Sponsor provides as follows:

**ARTICLE 2 – GENERAL PROVISIONS**

\* \* \*

**Section 2.D.1 – Nonrenewal Provisions** - At the end of the charter, the Sponsor may choose not to renew the School's Charter for any of the following reasons:

(a) Failure to participate in the state's education accountability system created in s. 1008.31, F. S. as required in this section, or failure to meet the requirements for student performance stated in the charter.

\* \* \*

(f) Receipt by the School of a designated grade of "F" in any Two (2) of Four (4) years or the School is designated as "a school in need of improvement" for more than Two (2) years [more than 5 years of failure to make Adequate Yearly Progress (AYP)], in accordance with the provisions of the No Child Left Behind (NCLB) Act of 2001 as provided in the State's Differentiated Accountability standards as set forth in Section 1008.33, Florida Statutes and Rule 6A-1.099811, F.A.C. as any of these laws or regulations may be amended from time to time. A "school in need of improvement" is one that has failed to Make Adequate Yearly Progress (AYP) for more than Five (5) years in accordance with the provisions of the NCLB Act of 2001. The equivalent of an "F" grade is defined as the School receiving less than 395 points for elementary and middle schools and less than 790 for high schools on the Florida Grades issued by the Florida Department of Education. Schools that receive a school improvement designation of "Declining" will also be considered the equivalent to an "F" grade. The foregoing point designations or school improvement ratings shall be amended during the term of this Charter to conform with current state law or rules;

**Findings:**

- Imagine at North Lauderdale Middle – 5261 has failed to make AYP in accordance with the provisions of NCLB for Five (5) consecutive years, as evidenced by the Florida School Grades Report
- During the 2007-2008 academic year, Imagine at North Lauderdale Middle – 5261 obtained 445 points and received an "C" grade on the School's FLDOE School Accountability Report
- During the 2008-2009 academic year, Imagine at North Lauderdale Middle – 5261 obtained 456 points and received a "C" grade on the School's FLDOE School Accountability Report
- During the 2009-2010 academic year, Imagine at North Lauderdale Middle – 5261 obtained 416 points and received an "D" grade on the School's FLDOE School Accountability Report
- During the 2010-2011 academic year, Imagine at North Lauderdale Middle – 5261 obtained 391 points and received an "F" grade on the School's FLDOE School Accountability Report
- If the school does not make AYP in 2011-2012, this will be the Ninth (9th) year of not meeting NCLB requirements.

In addition, the Charter School's Agreement with the Sponsor provides as follows:

**ARTICLE 4: STUDENTS**

\* \* \*

**Section 4.H.6: English Language Learners:** Students enrolled at the School who are of limited proficiency in English will be provided with primary instruction in English by personnel who will follow the Sponsor's District Plan for English Language Learners and who either (a) hold a currently-valid State of Florida educator's certificate showing the ESOL subject area or the ESOL endorsement or (b) hold a currently-valid State of Florida educator's certificate in another area of

certification, have been approved by the School's Board of Directors to teach in this capacity, and who complete the required in-service training in ESOL (a minimum of 60 hours each school year assigned to teach an ELL until the ESOL endorsement is added) provided by the school district in compliance with the LULAC, et al. v. State Board of Education Consent Decree. The School will meet the requirements of the Consent Decree entered in LULAC, et al. v. State Board of Education and related rules of the State Board of Education in Chapter 6A-6. The School will comply with the Sponsor's ELL plan in identifying ELL students and for the provision of ESOL services.

**Findings:**

- Imagine at North Lauderdale Middle– 5261 has failed to implement all required procedures, as stipulated by the META Consent Decree, and remedial measures to address the needs of ELLs. Areas of deficiency identified during the October 13 and 14, 2011, ESOL Onsite Analysis visit included: programmatic assessment, accurate recordkeeping, monitoring, accommodations, home/school communication, ELL Committee Meetings, and personnel meeting ESOL training requirements, as evidenced by correspondence from the ESOL Services Department dated November 10, 2011.
- Following are specific areas of deficiency identified during the October 13 and 14, 2011, ESOL Onsite Analysis Visit that directly affect the weighted Full Time Equivalent (FTE) funding received by the charter school for providing mandated services to ELLs:
  - Missing and incomplete English Language Learners Student Education Plan (ELLSEP) folders
  - Failure to keep accurate records including signatures, assessment information, accommodations, etc.
  - Failure to ensure that data reported to the state (TERMS) is aligned to student documentation
  - Failure to follow established procedures for conducting ELL Committee meetings
  - Failure to exit students that met exit criteria
  - Failure to provide personnel dedicated and available to provide home language assistance
- A follow-up Onsite Analysis Visit was completed on January 23, 2012. Although some of the previous areas of deficiency appear to be improving, curriculum deficiencies were not addressed at the time of the visit and teacher certification deficiencies remain an issue. Additionally, Imagine at North Lauderdale Middle – 5261 has, for the past two years, been found to be noncompliant with the statutory requirements set forth by the META Consent Decree. ELL students were deprived of ESOL services for a substantial portion of time, and the academic progress that they could have achieved, cannot be recovered.

Although the Florida Legislature has permitted charter schools to be exempt from various portions of the Florida School Code, this state exemption does not extend to federal requirements nor does it excuse a charter school from certain specified state requirements. For example, Section 1002.33(16)(a)(4), Florida Statutes, requires charter schools to be in compliance with those statutes in Chapters 1000-1013 that pertain to civil rights. Charter schools are obligated by Section 1002.33(16)(a)(4), Florida Statutes, to comply with statutes relating to civil rights including Section 1003.56, Florida Statutes, and its implementing rules, which ensure equal access for ELL students. Section 1002.33(16)(a)(4), Florida Statutes, makes it clear that charter schools serving ELL students in Broward County must be in compliance with those statutes pertaining to civil rights, including Section 1000.05, Florida Statutes, relating to discrimination.

On August 14, 1990, an order was rendered by the United States District Court for the Southern District of Florida in the matter of League of United Latin American Citizens (LULAC) et al. v. Florida Board of Education, et al, Case No. 90-1913, "embodying actions and policies to be undertaken regarding... children's rights to equal educational opportunities." That court order has become known as the META (Multicultural Education and Training Advocacy) Consent Decree. The Florida Board of Education, the Florida Department of Education and the Commissioner of Education were parties to the LULAC case and agreed to the META Consent Decree. While no school districts or charter schools were parties to the LULAC case, all public schools are required to comply with the META Consent Decree which states that it is "binding upon the organizational entities on both sides of this matter, their successors in office, agents, employees, and all persons in active consent or participation with them."

Public schools in Florida include both district and charter schools. Section 1001.32(1), Florida Statutes, provides that the “district school system shall be considered as a part of the state system of public education.” Similarly, Section 1002.33(1), Florida Statutes, provides that “[c]harter schools shall be part of the state’s program of public education.” As parts of the state system or program of public education, both district schools and charter schools are in “active consent or participation” with the State Board of Education, State Department of Education and the Commissioner of Education and are subject to the META Consent Decree.

### **C. DEFICIENCIES FOUND IN THE CHARTER RENEWAL APPLICATION**

The Superintendent’s Charter School Review Committee has reviewed the Charter Renewal Application submitted by Learning Excellence of East Broward, Inc. (Imagine at North Lauderdale Middle – 5261) and has determined that it does not meet the renewal criteria. Following are additional documented grounds for non-renewal:

#### **EDUCATIONAL PERFORMANCE**

##### **Deficiency 1– Federal Accountability**

###### **Findings:**

- Failure to make Adequate Yearly Progress for the past Eight (8) years.

##### **Deficiency 2 – State Accountability**

- The percent of students meeting high standards in reading, math, writing, and science is lower than both the state and district percentages.

	Imagine Mid	District	State
Reading	35	67	62
Math	29	76	68
Writing	63	88	79*
Science	21	48	46*

\*Aggregate Writing and Science are not reported for the state, these numbers represent the average of tested grade levels.

- The percent of students making learning gains in reading and math is lower than the district percentage. Learning gains are not reported for the state.

	Imagine Mid	District
Reading	57	61
Math	46	69

- The number of school grade points earned has decreased from 2008-2009 to 2009-2010 and from 2009-2010 to 2010-2011.

	Imagine Mid
2011	391 (F)
2010	416 (D)
2009	456 (C)

Imagine at North Lauderdale Middle – 5261 has been deemed an *Intervene* school per the State’s Differentiated Accountability guidelines. Following is the criteria that must be met for FLDOE’s intervention at the school to occur.

### **Intervene Criteria:**

“D” Correct II elementary or middle schools or “F” elementary or middle schools or Correct II high schools and high school combination schools with FCAT performance points less than 435 that meet at least 3 of the following criteria:

1. Percentage of non-proficient students in reading has increased compared to the percentage attained five years earlier 51-70
2. Percentage of non-proficient students in math has increased compared to the percentage attained five years earlier 67-75
3. 65 % or more of the students are not proficient in reading 70
4. 65 % or more of the students are not proficient in math. 75

Imagine at North Lauderdale Middle – 5261 is *Intervene* because the school is an F school that also has declined in reading (19 points) and math (8 points) from 2006. Also, more than 65% of the school’s students are non-proficient in both reading (70%) and math (75%). The school was flagged “yes” on all four *Intervene* indicators.

### **Deficiency 3– English for Speakers of Other Languages**

#### **Findings:**

- Failure to implement all required procedures, as stipulated by the META Consent Decree, to address the needs of ELLs. Areas of deficiency identified during the October 13 and 14, 2011, ESOL Onsite Analysis visit included: programmatic assessment, accurate recordkeeping, monitoring, accommodations, home/school communication, ELL Committee Meetings, and personnel meeting ESOL training requirements, as evidenced by correspondence from the ESOL Services Department dated November 10, 2011.
- Following are specific areas of deficiency identified during the October 13 and 14, 2011, ESOL Onsite Analysis Visit that directly affect the weighted Full Time Equivalent (FTE) funding received by the charter school for providing mandated services to ELLs:
  - Missing and incomplete ELLSEP folders
  - Failure to keep accurate records including signatures, assessment information, accommodations, etc.
  - Failure to ensure that data reported to the state (TERMS) is aligned to student documentation
  - Failure to follow established procedures for conducting ELL Committee meetings
  - Failure to exit students that met exit criteria
  - Failure to provide personnel dedicated and available to provide home language assistance
  - Failure to provide Differentiated Instruction particularly at the middle school
- A follow-up Onsite Analysis Visit was completed on January 23, 2012. Although some of the previous areas of deficiency appear to be improving, curriculum deficiencies were not addressed at the time of the visit and teacher certification deficiencies remain an issue. Additionally, Imagine at North Lauderdale Middle– 5261 has, for the past two years, been found to be noncompliant with the statutory requirements set forth by the META Consent Decree. ELL students were deprived of ESOL services for a substantial portion of time, and the academic progress that they could have achieved, cannot be recovered.

## **ORGANIZATIONAL PERFORMANCE**

### **Deficiency 4 – Instructional Staffing**

- Failure to hire instructional staff that meets the qualifications of a Highly Qualified teacher.
- Failure to accurately identify teachers who are not Highly Qualified.
- Failure to accurately identify teachers who are teaching out-of-field.

#### **Findings:**

- Reading Coach is not appropriately certified for the role of Reading Coach, as this requires Reading certification.
  - Not-Highly Qualified teachers include: Teacher 1 (certified in Social Science 6-12, assigned MG World Geography and Civics – needs subject area exam); Teacher 3 (certified in Elementary Education K-6 and ESE w/ESOL Endorsement - assigned ESE Reading, Language Arts, and Math); Teacher 4 (certified in Elementary Education K-6, MG Math, and MG General Science – assigned MG Reading and Comprehensive Science); and Teacher 5 (certified in Elementary Education K-6 – assigned MG Reading).

Learning Excellence of East Broward, Inc.  
Imagine at North Lauderdale Middle - 5261  
Page eight  
February 17, 2012


**D. ALTERNATIVE TO RECOMMENDATION OF NON-RENEWAL**

As an alternative to a non-renewal recommendation, it is proposed, that the current charter be amended to include an automatic termination clause that would allow for this year's FCAT results to determine whether the charter school reopens for the 2012-2013 school year. By agreeing to a one-year renewal with an automatic termination clause, your contract would be renewed for one year, but would automatically terminate should the Charter School's point allocation from the State's assessment program (FCAT), Section 1008.22, Florida Statutes, released the summer of 2012, equate to less than a "C" grade. Should your FCAT points and school grade indicate an improvement to a "C" or better grade, the school would operate under the one-year charter extension. Please note that it is the school's responsibility to inform the parents of the school's status in regard to potential closure and to provide the Sponsor with documentation that such notice has taken place.

Attached is a copy of the proposed Charter Agreement, which includes the automatic termination clause (see Article 2.D.5). If your charter school accepts these terms for renewal, please provide two executed copies of the Charter Agreement to Jody Perry, Director, Charter Schools Support, **no later than Wednesday, February 29, 2012**. The Charter Agreement will be placed on the agenda for The Board's approval at its March 20, 2012, RSBM. Should the District not receive your signed Charter Agreements by **Wednesday, February 29, 2012**, I will instead place the recommendation for non-renewal on the March 20, 2012, RSBM.

If you need additional information, please contact Jody Perry, Director, Charter Schools Support, at 754-321-2135.

Sincerely,



Robert W. Runcie  
Superintendent of Schools

RWR/JWH/LB/JP/MR: jc  
Attachments

c: Dr. Joanne W. Harrison, Deputy Superintendent, Educational Programs & Student Support  
J. Paul Carland II, General Counsel  
Robert Paul Vignola, Deputy General Counsel  
Leslie M. Brown, Executive Director, Educational Programs  
Jody Perry, Director, Charter Schools Support  
Dr. Maria de L. Rodriguez, Coordinator, Charter Schools Support  
Governing Board Members, Learning Excellence of East Broward, Inc.  
Dave Gordon, Principal, Imagine Charter at North Lauderdale Middle - 5261